



LOCAL BOARD SERVICES

E mahi ana mātou i te mahi mō Tāmaki Makaurau

Local Board input to Auckland Councils submission on:

Economic Regulation and Consumer Protection for Three Waters Services in New Zealand

December 2021, Version 1.0



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Please note, not all local boards provided feedback.

Summary of local board feedback

The common areas of feedback from local boards on the discussion paper “Economic Regulation and Consumer Protection for Three Waters Services in New Zealand” are as follows:

1. The need for economic regulation

All the local boards that submitted supported the need for economic regulation.

2. The type of regulation and who would pay the costs

On the type of regulation, many of the local boards supported the proposal that the regulator be a price-quality regulator but that “quality” should include factors such as the social, cultural, environmental, and financial wellbeing of communities.

On who would pay the costs, many of the local boards supported the proposal that the administrative costs of the regulator be recovered through levies. Many noted that this was a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.

3. What parts of three waters the regulation would apply to

The most common position from the local boards was that more information was required to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation would be net beneficial to consumers.

4. Should the regulation apply to all providers

Most local boards supported the position that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.

5. How and when should regulation be implemented

Most local boards support a graduated approach to implementing a conventional price-quality path, providing that this considered the social, cultural, environmental, and the financial wellbeing of communities.

6. What should be the statutory objectives of the regulation regime

The most common statutory objectives supported by local boards were those that would:

- a. incentivise innovation and investment.
- b. improve efficiency.
- c. share efficiency gains with consumers.
- d. consider the impacts of climate change.
- e. consider Te mana o te Wai.
- f. ensure the interests of vulnerable consumers are protected.

7. What should compliance and enforcement look like

Most local boards supported the need for effective compliance and enforcement to ensure the regulation is successful.

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8. Who the economic regulator should be

Most of the local boards had no opinion on who the economic regulator should be. However, of those that expressed an opinion the majority supported the view that the Commerce Commission should be the regulator.

9. Whether we need additional consumer protections and how those are regulated

Most of the local boards supported the following additional consumer protections:

- a. support the provisions in the proposal to ensure the regulator is responsive to its customers.
- b. provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
- c. consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

10. Other feedback

Some local boards submitted feedback noting that in providing a response to this discussion paper it should not be taken as an acceptance of the proposals set out in the Water Services Bill.

Albert-Eden Local Board

That the Albert-Eden Local Board:

a) note that Ministry of Business, Innovation and Employment is consulting on how economic regulation and consumer protection for the future Three Waters system should be designed independently of the Water Regulator (Taumata Arowai) and the four delivery entities.

b) support the separation of Economic and Consumer Protection Regulation from the Three Waters Bill so that supervision of pricing and security of supply is conducted at "arms length" from the delivery agencies (the four yet to be named entities) and water quality standards.

c) support the focus on ensuring price and quality regulation, but expect that the new agency will be guided by the four well beings (economic, cultural, social and environmental) as defined in and required by the Local Government Act, and noting that economic does not just mean financial.

d) consider that economic regulation should apply to drinking water and waste water, but not storm water.

e) note that the regulation should not come fully into effect until 2027 to allow pricing information to be available post Three Waters reform.

f) support the creation of a new water consumer protection agency to be the regulator, noting the two-year set up period but this will be easily accommodated by the 2027 timeframe, and that the agency should have:

i) clear, simple processes to give consumers a strong voice and resolve consumer disputes similar to the Utilities Dispute Limited model.

ii) an obligation to ensure the interests of vulnerable consumers are protected and the regulator contributes to equitable outcomes, and mitigates unintended consequences to Māori and other vulnerable groups.

iii) minimum service level requirements.

iv) a key education component, for example about avoiding or minimising wastage or contamination of water.

g) request that the hard lessons learnt from the so-called Bradford reforms of the electricity supply system in 1998 be taken fully into account, in order to avoid similar problems with the new Three Waters regime.

h) consider that small water providers should not be completely exempt from oversight by the Regulator, but should be able to use a simplified form of reporting and subject to auditing at intervals of (say) 3-5 years.

i) consider that the Regulator should be subject to oversight by the Ombudsman as the ultimate consumer watchdog, where disputes cannot otherwise be resolved.

j) thank Emma Reed – Local Board Advisor, for her assistance and advice to the local board regarding this report.

Aotea / Great Barrier Local Board

That the Aotea / Great Barrier Local Board:

- a) receive the Three Waters Economic Regulation Submission report.

Devonport-Takapuna Local Board

The Devonport-Takapuna (the local board) considered the Three Waters Economic Regulation Submission at their 16 November 2021 business meeting, where it was resolved:

Resolution number DT/2021/187

MOVED by Chairperson R Jackson, seconded by Member G Wood:

That the Devonport-Takapuna Local Board:

- A. *reiterate the local board's strong opposition to the proposed Three Waters model, as resolved by the board at its September 2021 business meeting (resolution number DT/2021/134)*
- B. *delegate members George Wood, Toni van Tonder and Jan O'Connor to prepare the local boards feedback on the Three Waters Economic Regulation Submission, noting that all members will have the opportunity to provide input in that the boards feedback will be brought to the local board's December business meeting for retrospective approval.*

This document outlines the feedback prepared by deputy chair O'Connor, and members Wood and van Tonder, in accordance with recommendation B.

The local board delegates provide the following feedback:

1. **Strong Support for Economic Regulator.** The local board strongly supports the concept of an Independent Pricing and Management Regulator to exercise oversight of the four Three Waters Companies on a nationwide basis. This independent audit role must extend across all aspects of the delivery of potable water, processing of wastewater, oversight of the handling of trade waste and management of storm water.
2. **What agency should handle this role?** The local board wishes to see a strong and standalone agency handling this role. It must be **totally independent** and not have any operational or management role. It will be a role similar to that undertaken by the Commerce Commission but working in the exclusive role of being the economic regulator of Three Waters throughout New Zealand. The organisational structure will be similar to the Commerce Commission.
3. **Not tasked with setting environmental standards.** Taumata Arawai is tasked with setting standards and the role, functions and responsibilities of that agency should remain. National beach water standards and consistent standards for the water in our creeks, streams and rivers must be maintained. This work must continue under Taumata Arawai.
4. **Economic Regulator role only for Three Waters.** This work is exclusively based on handling the oversight role of the new Water Companies.
5. **Best outcomes for consumers are being sought.** The Economic Regulator must negotiate with the Three Waters companies to get the best water pricing. In the event of a dispute the Economic Regular will follow best international benchmarking and local New Zealand pricing models to set the best prices and systems standards for the local communities.
6. The local board believes that economic regulations should also apply to storm water as well as drinking and wastewater, noting that:
 - omitting storm water could result in a decrease in investment in the storm water network and that the incentive for improving storm water quality would be removed by creators of storm water runoff;

- it would be difficult to regulate only two-thirds of the Three Waters and ensuring the best regulation is applied to all elements of the 3 waters will ensure the absolute best water, infrastructure and environmental outcomes; and
 - we believe stormwater service levels can be set and measured by the quality of water entering our coastal environment, and the frequency of small and big flooding events.
7. The local board supports the regulatory regime coming into force in 2027, which will give the new water entities time to be established and operational.
 8. The local board supports the proposed statutory obligations of the Water Regulator which are to:
 - incentivize innovation and investment;
 - improve efficiency;
 - share efficiency gains with consumers; and
 - consider the impacts of climate change.
 9. The local board supports the establishment of a compliance pathway to ensure the new entities are accountable for their actions and that consumers are protected.
 10. The local board requests that any future water regulator considers the role of Local Boards as well as our Governing Body, Auckland Council, and develops an engagement policy with Local Boards in order to actualize local board aspirations.
 11. The local board requests that an accessible investment ‘dashboard’ be made available for public review so that all communities can see how a fair priority is being given to their area when compared to other areas.

The Devonport-Takapuna Local Board (D-T LB) is one of the Auckland Council’s 21 local boards. At the 2018 census the population of this board was 57,975.

Prior to the creation of the Auckland Council in 2010 the D-T LB came under the jurisdiction of the former North Shore City Council.

Franklin Local Board

That the Franklin Local Board:

(a) provide the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper:

Stormwater regulations

i) agree that stormwater networks that are currently operated by local authorities should be economically regulated, alongside drinking water and wastewater

Economic regulation regime

ii) recommend that this be implemented gradually from 2024 to 2027

Treaty of Waitangi principles, and the rights and interests of iwi/Māori

iii) agree that Treaty of Waitangi principles should be factored into the design of an economic regulatory regime for the three waters sector

Responsibility for determining the structure of three waters prices

iv) recommend that the primary responsibility for determining the structure of three waters prices should sit with the water services entity, following engagement with their governance group, communities, and consumers

Economic regulator

v) consider that Taumata Arowai is the most suitable body to be the economic regulator for the three waters sector on the basis that they are more likely to have wider social and environmental considerations.

vi) recommend that the regulator also take responsibility to regulate private providers services (of scale)

Vulnerable consumers

vii) agree that the regulatory regime include a positive obligation to protect vulnerable consumers

viii) agree that the Commerce Commission is the most suitable body to be the consumer protection regulator for the three waters sector.

Henderson-Massey Local Board

That the Henderson-Massey Local Board:

- a) welcome the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper
- b) support that the regulator has an obligation to consider vulnerable consumers and communities and that an equity lens is able to be employed to assist with matters that need addressing for communities of need.
- c) make the following points in the administrative areas of:
 - i) the need for economic regulation – the board support the need to regulate the new water authorities to ensure they are responsive to the people they serve. Large companies with no competition can lead to bad outcomes
 - ii) the type of regulation and who would pay the costs:
 - A) support the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities
 - B) support the proposal that the administrative costs of the regulator be recovered through levies as there are a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.
 - iii) what parts of three waters the regulation would apply to – without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers
 - iv) should the regulation apply to all providers – support the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits
 - v) how and when should regulation be implemented – support a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities
 - vi) what should be the statutory objectives of the regulation regime – support statutory objectives that would:
 - A) incentivise innovation and investment
 - B) improve efficiency
 - C) share efficiency gains with consumers
 - D) considers the impacts of climate change
 - E) considers Te mana o te Wai.
 - vii) what should compliance and enforcement look like – support the need for effective compliance and enforcement to ensure the regulation is effective

- viii) who the economic regulator should be – has no opinions on who the economic regulator should be
- ix) whether we need additional consumer protections and how those are regulated:
 - A) support the provisions in the proposal to ensure the regulator is responsive to its customers.
 - B) further, request provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
 - C) request further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Hibiscus and Bays Local Board

That the Hibiscus and Bays local board:

1. welcomes the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper
2. notes that providing a response to this discussion paper should not be taken as an acceptance by the Hibiscus and Bays Local Board of the proposals set out in the Water Services Bill as they relate to Auckland
3. makes the following points in the administrative areas of:

Need for economic regulation

- a. supports the need to regulate the new water authorities to ensure they are responsive to the people they serve
- b. notes that as the proposed providers will be natural monopolies, economic regulation will be crucial to ensure that water services are affordable for consumers in the face of significant infrastructure deficit, as well as more generally protecting and promoting the long-term interests of consumers

Type of regulation and who would pay the costs

- c. supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities
- d. supports the proposal that the administrative costs of the regulator be recovered through levies as these are a straightforward, transparent, and standard way of recovering these costs, providing that the regulations are designed to be of net benefit to consumers

What parts of three waters the regulation would apply to

- e. recommends that economic regulation should extend to storm water as it is essential that stormwater is considered as a holistic part of water management and investment, and to the same standards.
- f. do not support the exclusion of stormwater in the proposed model as, if not included, it is possible that the investment priority may inadvertently be lowered, and it would also likely be challenging to monitor and achieve quality environmental outcome expectations when there are multiple agencies involved in this regulation.

Should the regulation apply to all providers

- g. support the proposal that the framework only apply to new water entities created by the Water Services Bill

How and when should regulation be implemented

- h. support the implementation of a transitional price-quality path by the economic regulator, due to the independence from Government and avoids the perception of political interference

What should be the statutory objectives of the regulation regime

- i. supports statutory objectives that would:
 - i. incentivise innovation and investment
 - ii. improve efficiency
 - iii. share efficiency gains with consumers
 - iv. considers the impacts of climate change
 - v. considers Te mana o te Wai.

- j. support the establishment of an effective, robust compliance framework, that is monitored by a well-resourced body, to ensure the new entities are accountable for their actions and that consumers are protected

Who the economic regulator should be

- k. support a new regulatory authority to be established specifically for the economic regulation of three waters.

Whether we need additional consumer protections and how those are regulated

- l. recommends that there are safeguards providing an assurance of continuity of supply as a human right for those who cannot pay and limits of the duration of supply outages.
- m. requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
- n. requests an engagement policy and practice developed that gives regard to Local Boards as well as the Governing Body of Auckland Council.

Howick Local Board

Howick Local Board would like to submit that we suggest that a new central government entity similar to NZTA is set up, where this new agency would manage funding on behalf of central government in a similar way that Waka Kotahi - NZTA does for transport infrastructure. Our proposal is that it would work with councils across New Zealand in partnership to deliver this. Waka Kotahi works very well having internal discipline and assessment of projects, while councils put forward requirements and it is all prioritised to deliver the best possible outcome for the country as a whole.

This would still give the opportunity for central government to provide the assistance it feels is needed in this important infrastructure area, and still allow for the opportunity for Iwi/Māori to have a greater role in a new Three Waters system at perhaps a regional level, while continuing to have clear accountability back to the current owners of these assets and the local governance that currently exists.

Also the proposal we suggest would also help deal with economic regulation to protect consumers and would also remove much of the concern from the problems that can occur in markets with little or no competition and/or a large amount of market power. The regulation would be entrenched in such an organisation as similar requirements are in the example we have provided in the transport sector with Waka Kotahi.

We feel this would remove any “natural monopoly” as councils would continue to work as they do but also with a state regulator which would bring better accountability to the table.

Such a set up would advance the long-term interests of consumers. This would ensure that suppliers deliver high-quality services that reflect consumer demand and incentivize improved efficiency and consistency across the country.

All matters such as price-quality, information disclosure, and quality in general would be required with the set up of such an entity.

With a government entity in place working with local authorities, there would not be any additional cost of economic regulation as it would be part of policy and any agreements between bodies.

Again the structure we are proposing should drive efficiencies and therefore reduce or eliminate cost to the supplier of complying with regulation to the end consumers. This would allow for the integral design of the regulations to ensure they are net beneficial to consumers.

Our proposal would remove any increase in the market power of the water providers, and would allow for the continuation of obligations to promote to social, cultural, environmental, and financial wellbeing of communities while also allowing a focus on ensuring delivery of effective and efficient three waters service. Therefore we agree there is probably a case for economic regulation, even in the absence of the proposed three waters amalgamation and our proposal for a central government entity working alongside local government would address this.

We acknowledge that the delivery of stormwater services is fundamentally different to drinking water and wastewater, with more of a focus on the environment and flooding. This could easily be one of the very important criteria or pillars that a central body could be tasked with addressing jointly with local councils and local iwi.

With one central entity, regulation would be made much easier, therefore regulation and also a national environmental standard could and should apply to all providers.

We note that the Three Waters Reform Programme has found that the scope and quality of the available information is not currently at the level that would be required to implement an effective economic regulation regime. Our proposal of a central entity would bring the sector together and align for better consistent standards of information, this would be an opportunity to align this even better than could possibly be achieved under the proposal for the four main entities.

Again under our proposal for a central entity there would be clear opportunity to meet regulatory regime goals such as: There must be incentives to innovate and invest, there should be incentives to improve efficiency and that the efficiency gains must be shared with consumers.

We would expect a government entity as we propose, to include other outcomes such as climate change and Te mana o te Wai and also to align with Te Tiriti o Waitangi.

The need for the regulators to be at arms-length from government, transparent, accountable, credible, freely share information, and act in a coordinated way with policy agencies would be surpassed by the fact that this healthy tension would be provided by the local councils that any new entity would need to work with.

We also feel that all further points touched on in the discussion documents would be alleviated or no longer required with an option of a central government entity working with local government across New Zealand and would be far less disruptive and far more complementary to the existing structure than what is being proposed. We feel that Waka Kotahi (NZTA) is a good example of local and central government working in a true partnership for the country and community and would add that this model has refined over the years from Land Transport New Zealand and prior to that Transit New Zealand and now demonstrates a model to how three waters could be managed in a very similar way.

Further points we would like to make in support of one central entity and reasons for it rather than the 4 new entities being proposed are:

Storm water, drinking water and sewage standards are not consistent throughout NZ and a single authority would help with this.

The negative environmental impacts of poor systems affect all of New Zealand.

The costs to achieve this is not attainable for some councils and government funding will be required.

The government has much better borrowing power than councils to get these projects under way.

The Government may have better negotiation powers for contractors.

If there is an issue with a large international contractor not meeting the requirements, small councils will not have the significant powers required to hold those contractors to account.

The governance structure should include all councils along with government in decision making.

The governance structure must still allow for significant local decision making.

Kaipātiki Local Board

That the Kaipatiki Local Board

1. Welcome the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper. Three Waters is an important piece of legislation, to ensure careful consideration is taken to ensure the best water, infrastructure and environmental outcomes are achieved
2. Make the following points in the administrative areas of
 - a. The need for economic regulation, the Kaipatiki Local Board supports the need to regulate the new water authorities to ensure they are responsive to the people they supply. Large companies and or entities with no competition and or poor governance structures can lead to poor outcomes
 - b. Economic and consumer protection regulation plays a critical role in delivering better outcomes
 - c. The type of regulation and who would pay the costs –
 - i. supports the proposal that the regulator be a price-quality regulator
 - ii. regulating certain aspects of pricing, for example, requiring prices to be geographically consistent or averaged across consumers in each water services entity
 - iii. support the social cultural, environmental and the financial wellbeing of communities
 - iv. supports the proposal that the administrative costs of the regulator be recovered through levies. They are a straightforward, transparent, and a standard way of recovering costs. Providing that the regulations are designed to ensure they are beneficial to consumers

What parts of three waters the regulation would apply to – without further information it is difficult to know how the provision of stormwater could be regulated (including environmentally or economically) and be able to demonstrate how the cost of that regulation is beneficial to consumers.

- d. Should the regulation apply to all providers – Yes
However, support the proposal that small community or existing organisations (currently 8 nationally) should only be regulated if the cost of regulation is outweighed by the benefits. For example, the existing New Zealand Defence force based in the Wairarapa and small community organisations such as Marae
- e. How and when should regulation be implemented – support a graduated approach to implementing a conventional price-quality path and a compliance pathway. Providing that this supports the social, cultural, environmental, and the financial wellbeing of communities

- f. What should be the statutory objectives of the regulation regime – supports statutory objectives that would:
 - i. incentivise innovation and investment for regional entities
 - ii. improve efficiency
 - iii. share efficiency gains with consumers
 - iv. considers the impacts of climate change
 - v. supports the concept of Te mana o te Wai
 - vi. Provide water quality data that is accessible to the public
 - g. What should compliance and enforcement look like – The Kaipatiki Local Board supports the need for compliance and enforcement to work with those agencies to ensure follow up is effective and enduring.
 - h. The Kaipatiki Local Board supports using a credible and reputable organisation like the Commerce Commission. The organisation tasked should be effectively able to measure the success. Also be resourced to assume regulatory responsibility for outcomes
 - i. Whether we need additional consumer protections and how those are regulated –
 - i. support the provisions in the proposal to ensure the regulator is responsive to the people it supplies to
 - ii. support that the economic regulator be required to set strong criteria for efficiency and effectiveness.
 - iii. further, requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards and councillors
 - iv. Note that the role of Local Boards has not been defined, The role of Local Boards has not been defined in the information provided. How will local boards engage regularly with regulators to share views on local issues. Suggest information be provided on an annual basis
3. Recommend that the regulator
- (1) Provide consumer protection through the setting of minimum standards for both private and industry developed codes
 - (2) Meet community expectations and legislative requirements for the environmental quality of streams, rivers, lakes, and sea environments that receive discharges from wastewater and stormwater networks

Māngere-Ōtāhuhu Local Board

That the Māngere-Ōtāhuhu Local Board:

- a) provide the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper
 - i) support in principle the Three Waters Economic Regulation intentions to appoint a new economic regulator of water to protect consumers from potential price-gouging and high-cost behaviour flowing from its proposed new water entities
 - ii) note that: while the governance arrangements and consumer engagement requirements will ensure that consumer voices are heard by the entities, the scale of the entities and the absence of competition means there are still significant risks that the entities do not act in the long-term interests of consumers, and need a regulator that would act on behalf of consumers who will buy water services from monopoly providers
 - iii) continue to support Auckland Council’s position on this matter and objection to some parts of the 3 Waters Reform placed on all 67 territorial authorities in New Zealand
 - iv) continue to request from central government the precise nature of both council ownership and control in the new system which is still currently unclear.

Manurewa Local Board

That the Manurewa Local Board:

a) provides the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper:

The need for economic regulation

1) The board supports the need to regulate the new water authorities to ensure they are responsive to the communities they serve.

The type of regulation and who would pay the costs

2) The board supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities.

3) The board supports the proposal that the administrative costs of the regulator be recovered through levies as this is a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.

What parts of three waters the regulation would apply to

4) The board contends that without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers.

Should the regulation apply to all providers

5) The board supports the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.

How and when should regulation be implemented

6) The board supports a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities.

What should be the statutory objectives of the regulation regime

7) The board supports statutory objectives that would:

- i) incentivise innovation and investment
- ii) improve efficiency
- iii) share efficiency gains with consumers
- iv) consider the impacts of climate change
- v) consider Te mana o te Wai.

What should compliance and enforcement look like

8) The board supports the need for effective compliance and enforcement to ensure the regulation is effective.

Who the economic regulator should be

9) The board has no view on who the economic regulator should be.

Additional consumer protections and how those are regulated

10) The board supports the provisions in the proposal to ensure the regulator is responsive to its customers.

11) The board requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.

12) The board requests further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Maungakiekie-Tāmaki Local Board

The Maungakiekie-Tāmaki Local Board provides the following input:

- a) welcome the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper.
- b) note that providing a response to this discussion paper should not be taken as an acceptance by the Maungakiekie-Tāmaki Local Board of the proposals set out in the Water Services Bill as they relate to Auckland.
- c) make the following points in the administrative areas of:
 - i) the need for economic regulation – the board supports the need to regulate the new water authorities to ensure they are responsive to the people they serve. Large companies with no competition can lead to bad outcomes.
 - ii) The type of regulation and who would pay the costs:
 - A) supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities.
 - B) supports the proposal that the administrative costs of the regulator be recovered through levies as these are a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.
 - iii) What parts of three waters the regulation would apply to – without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers. However, changes do need to be made to improve our stormwater outcomes.
 - iv) Should the regulation apply to all providers – support the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.
 - v) How and when should regulation be implemented – support a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities.
 - vi) What should be the statutory objectives of the regulation regime – supports statutory objectives that would:
 - A) incentivise innovation and investment
 - B) improve efficiency
 - C) share efficiency gains with consumers
 - D) considers the impacts of climate change
 - E) considers Te mana o te Wai.
 - vii) What should compliance and enforcement look like – supports the need for effective compliance and enforcement to ensure the regulation is effective.

- viii) Who the economic regulator should be – has no opinions on who the economic regulator should be.
- ix) Whether we need additional consumer protections and how those are regulated
 - A) support the provisions in the proposal to ensure the regulator is responsive to its customers.
 - B) Further, requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
 - C) Request further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Ōrākei Local Board

Much has been written on this central government proposal and this commentary will not repeat the widely circulated base data.

The Board comments:

1. Nationally, investment in water infrastructure has been inadequate. Costs are high and “Up-front” with long lead times to see ROI. Repeatedly, Councils and government have “kicked the water bottle down the road”.
2. There is substantial variation in need and the current state of infrastructure across councils within New Zealand.
3. Auckland has a plan and structure in place that is working
4. The Minister proposing these reforms cannot be trusted to not, again, unilaterally change any aspect of the reform (eg; Voluntary becomes compulsory)
5. The biggest hurdle to developing replacement infrastructure is the ability to borrow – solve this problem without destroying (in Auckland’s case) a plan and structure that is working

The Orakei Local Board wishes to put on record and asks Auckland Council to submit to Central Government and to the working group on which the Mayor sits that:

1. We do not support the four-structure model for future governance. It does not acknowledge the unique factors that set Auckland far, far apart from any other area of the country including the multi-billion dollar investment already created, the current governance structure of Watercare which allows appropriate transparency and local control, the current and constant effort to include Iwi in all decision making processes and the planning for the anticipated growth the city will experience in the next decades.
2. There is no “One-size-fits-all” solution for Auckland that includes Northland. Northland’s challenges are vastly different and should not be funded by Auckland City.
3. We do not support any governance structure that gives fifty percent control to 16 percent of the population. There are much better ways to involve and engage with Iwi in the wider context of strategy, direction setting, implementation and adopting different world view opportunities on how we respect and treat water.
4. We do not support the transfer of Auckland’s water assets (paid for by Aucklanders over previous decades) to a new entity paying a massively reduced value for them only to borrow money and charge Aucklanders again for same asset.
5. We are concerned that existing projects in the Auckland Council Ten Year Plan will be differently prioritized and/or dropped and are particularly concerned that long-overdue renewals in the Hobson Bay catchment area will be affected – this will have significant and possibly irreparable effects on the bay and the Waitemata Harbour. There has been a lack of detail and transparency in this regard.

6. We do not support, due to a lack of detail, the reporting, consultation processes, veto-powers and accountability processes of the new entities which have been given relatively scant regard in the discussions to date.
7. We are disappointed with the consultation process and propaganda campaign mounted by central government (some of which was withdrawn and is subject to Advertising Standards review). The briefing material for Council was often biased (Scottish Water presentations not discussing public discord, price hikes and systemic failures or Australian presentations that didn't address Three Water's governance from mostly Two Waters governors)
8. In conclusion, we do not accept that central government has the inalienable right or doctrine of parliamentary sovereignty to implement these reforms – **our constituents tell us repeatedly** they are fundamentally poorly drafted and short on detail, ill-conceived, not fit for purpose and, most importantly, not in the best interests of an Auckland community that has unique challenges and opportunities to the rest of the country. We urge Council to request government mandate a “Stop and Reset” action to allow for better democracy and better regulation.

The Board also makes the following points in the administrative areas of:

- o. The need for economic regulation – the board supports the need to regulate the new water authorities to ensure they are responsive to the people they serve. Large companies with no competition can lead to bad outcomes.
- p. The type of regulation and who would pay the costs –
 - i. supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities.
 - ii. Supports the proposal that the administrative costs of the regulator be recovered through levies as there are a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.
- q. That in response to the question “What parts of three waters the regulation would apply to” – without further information it is difficult for the Board to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers.
- r. That in response to the question “Should the regulation apply to all providers” – the Board supports the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.
- s. That in response to the question “How and when should regulation be implemented” – the Board supports a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities.

- t. That in response to the question “What should be the statutory objectives of the regulation regime” – the Board supports statutory objectives that would:
 - i. incentivise innovation and investment
 - ii. improve efficiency
 - iii. share efficiency gains with consumers
 - iv. considers the impacts of climate change
 - v. considers Te mana o te Wai.

- u. That in response to the question “What should compliance and enforcement look like” – the Board supports the need for effective compliance and enforcement to ensure the regulation is effective.

- v. That in response to the question “Who the economic regulator should be “– the Board currently has no opinions on who the economic regulator should be.

- w. That in response to the question “Whether we need additional consumer protections and how those are regulated” the Board –
 - i. supports the provisions in the proposal to ensure the regulator is responsive to its customers.
 - ii. Further, requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
 - iii. Request further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Ōtara-Papatoetoe Local Board

The Ōtara-Papatoetoe Local Board welcomes the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper, and makes the following points in the administrative areas of:

- a. The need for economic regulation – the board supports the need to regulate the new water authorities to ensure they are responsive to the people they serve. In particular, the board supports an economic and consumer protection regulation regime that promotes consumer interests as the paramount objective. This is important to achieve at least one of the Government’s objectives of the wider Three Waters Reform, of ensuring all New Zealanders have equitable access to affordable water services.
- b. The type of regulation and who would pay the costs –
 - i. supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities. The board also supports consumer involvement in the governance of entities to complement economic regulation. The board supports information disclosure regulation.
 - ii. supports the proposal that the administrative costs of the regulator be recovered through levies as there are a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.
- c. What parts of three waters the regulation would apply to – without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers.
- d. Should the regulation apply to all providers – support the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.
- e. How and when should regulation be implemented – support a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities. This option keeps the process independent from the Government and gives stability to water suppliers during the transition period.
- f. What should be the statutory objectives of the regulation regime – supports statutory objectives that would:
 - i. incentivise innovation and investment
 - ii. improve efficiency
 - iii. share efficiency gains with consumers
 - iv. considers the impacts of climate change
 - v. considers Te mana o te Wai.

The board agrees with the wider objectives to provide all players in a regulatory system with a common set of objectives and promotes regulatory coherence. The board strongly supports an economic regulatory regime designed in a way that contributes to equitable outcomes and mitigates unintended

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impacts on Māori, but also on economically deprived communities with fixed incomes and more vulnerable to price shocks.

g. What should compliance and enforcement look like – supports the need for effective compliance and enforcement to ensure the regulation is effective.

h. Who the economic regulator should be – the board has no strong preference on who the economic regulator should be, but generally would support the Commerce Commission fulfil this role.

i. Whether we need additional consumer protections and how those are regulated –

i. support the provisions in the proposal to ensure the regulator is responsive to its customers. In particular, but not limited to, the board supports:

1. Consumer protection regulations, which should include requirements around billing practices, in particular for vulnerable consumers.
2. A strong complaint process must also be implemented.
3. Mandatory minimum service level codes.
4. Te Tiriti o Waitangi obligations must be factored into the design of the consumer protection regulation.

ii. requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.

iii. request further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Papakura Local Board

That the Papakura Local Board:

- a) provide the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper:

The need for economic regulation

- 1) The board supports the need to regulate the new water authorities to ensure they are responsive to the communities they serve.

The type of regulation and who would pay the costs

- 2) The board supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities.
- 3) The board supports the proposal that the administrative costs of the regulator be recovered through levies as this is a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.

What parts of three waters the regulation would apply to

- 4) The board contends that without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers.

Should the regulation apply to all providers

- 5) The board supports the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.

How and when should regulation be implemented

- 6) The board supports a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities.

What should be the statutory objectives of the regulation regime

- 7) The board supports statutory objectives that would:
- i) incentivise innovation and investment
 - ii) improve efficiency
 - iii) share efficiency gains with consumers
 - iv) considers the impacts of climate change
 - v) considers Te mana o te Wai.

What should compliance and enforcement look like

- 8) The board supports the need for effective compliance and enforcement to ensure the regulation is effective.

Who the economic regulator should be

- 9) The board has no views on who the economic regulator should be.

Additional consumer protections and how those are regulated

- 10) The board supports the provisions in the proposal to ensure the regulator is responsive to its customers.
- 11) The board requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
- 12) The board requests further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.

Puketāpapa Local Board

That the Puketāpapa Local Board:

- a) welcome the opportunity to provide feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper.
- b) note that providing a response to this discussion paper should not be taken as an acceptance by the Puketāpapa Local Board of the proposals set out in the Water Services Bill as they relate to Auckland.
- c) make the following points in the administrative areas of:
 - i) the need for economic regulation – the board supports the need to regulate the new water authorities to ensure they are responsive to the people they serve. Large companies with no competition can lead to bad outcomes. The fact that there is a perceived need for economic regulation of, and consumer protection from, the four new entities is further evidence that the Water Services Bill is not needed in Auckland. We currently have an adequate oversight and regulatory system in place.
 - ii) The type of regulation and who would pay the costs:
 - A) supports the proposal that the regulator be a price-quality regulator, provided “quality” includes factors such as the social, cultural, environmental, and the financial wellbeing of communities.
 - B) supports the proposal that the administrative costs of the regulator be recovered through levies as these are a straightforward, transparent, and standard way of recovering these costs providing that the regulations are designed to ensure they are net beneficial to consumers.
 - iii) What parts of three waters the regulation would apply to – without further information it is difficult to understand how the provision of stormwater could be economically regulated or to demonstrate how the cost of that regulation is net beneficial to consumers. The board believes including stormwater in the same regulatory system as drinking water and wastewater does not make sense when there are so many sources contributing to the SW network not under the control of the entity.
 - iv) Should the regulation apply to all providers – support the proposal that small community or private schemes should only be regulated if the cost of regulation is outweighed by the benefits.
 - v) How and when should regulation be implemented – support a graduated approach to implementing a conventional price-quality path, providing that this considers the social, cultural, environmental, and the financial wellbeing of communities.
 - vi) What should be the statutory objectives of the regulation regime – supports statutory objectives that would:
 - A) incentivise innovation and investment
 - B) improve efficiency
 - C) share efficiency gains with consumers
 - D) considers the impacts of climate change

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- E) considers Te mana o te Wai.
- vii) What should compliance and enforcement look like – supports the need for effective compliance and enforcement to ensure the regulation is effective.
- viii) Who the economic regulator should be – has no opinions on who the economic regulator should be.
- ix) Whether we need additional consumer protections and how those are regulated
 - A) support the provisions in the proposal to ensure the regulator is responsive to its customers.
 - B) Further, requests provisions to ensure the regulator is responsive to the plans and priorities of local communities as expressed through the local boards.
 - C) Request further consideration of the role of local boards in advocating for their communities and how this will be reflected in the statutory objectives of the regulator.
- 4) thank Member H Doig and Deputy Chair J Turner for their mahi on the Three Waters Economic Regulation Submission.

Rodney Local Board

That the Rodney Local Board:

- a) provide the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper:
 - i) support the need for economic regulation and consumer protection for Three Waters services in New Zealand
 - ii) support the regulation of stormwater networks, alongside drinking water and wastewater
 - iii) support economic regulation from the inception of the three waters sector
 - iv) consider that the economic regulator should have the primary responsibility of determining the structure of three water prices, and not the Government or Ministers
 - v) consider the Commerce Commission to be the most suitable body to be the economic regulator for the three waters sector
 - vi) agree with the preliminary view that the Commerce Commission is the most suitable body to be the consumer protection regulator for the three waters sector
 - vii) support the inclusion of a positive obligation to protect both under-served and vulnerable consumers, and supports special considerations to protect traditionally under-served or vulnerable consumers
 - viii) support mandatory provision of a consumer disputes resolution process
 - ix) request more information about what the regulatory cycle means in this situation, and if a five-year regulatory cycle only enables prices to be reviewed every five years, the local board supports a three year cycle for the first twelve years
 - x) support the proposal that the administrative costs of the regulator be recovered through levies
 - xi) support the proposal that the regulator be a price-quality regulator.

Upper Harbour Local Board

That the Upper Harbour Local Board:

- a) provide the following feedback for inclusion in Auckland Council’s submission on the Economic Regulation and Consumer Protection for Three Waters Services in New Zealand discussion paper:
 - i) support in principle the need for economic regulation
 - ii) the regulator should acknowledge the unique governance environment in Auckland’s local government in its engagement policies to ensure the growth, social, cultural and environmental aspirations of Auckland are met
 - iii) acknowledge that stormwater has a public good component that needs to be recognized and have a different treatment by the economic regulator.

Waitematā Local Board

General Feedback

The Waitematā Local Board believes that regulation is necessary as the four water entities are essentially monopolies in their geographic area. However, regulation must address all the wellbeings: social, environmental and cultural as well as economic.

The regulators should be charged with ensuring reliable quality supply; achieving efficiency and sharing such gains with consumers; equity of access, supply and price; responding to climate change impacts; and taking account of Te mana o Te Wai.

The regulator should be empowered to ensure the quality and reliability of the service and any gains should be passed on to consumers in the form of improved services or lower prices. The costs should be related to ability to pay so should be paid for by other taxation or rates. Regulation should apply fully to those providers with more than five hundred consumers and to some extent to smaller providers where it would be practicable, beneficial and cost effective.

Feedback on Questions Identified for Local Board Feedback (MEMO: Three Waters Economic Regulation Submission – Paragraph 63)

a) What are your views on whether the stormwater networks that are currently operated by local authorities should be economically regulated, alongside drinking water and wastewater?

We believe standards need to be implemented and met to reduce stormwater runoff and ensure our stormwater systems aren't contributing to the pollution of our waterways and environment. Economic regulation is unlikely to be the best path to achieve this. Instead, the setting out of standards and the provisioning of Councils and Local Authorities with the resources they need to achieve these standards is more likely to lead to desired outcomes. Once these outcomes have been met, economic regulation may or may not be suitable to ensure compliance in the long term.

Regulation under the new water entities should involve drinking water and wastewater only.

Stormwater regulation would only apply to those stormwater responsibilities the provider entity has, to the extent practicable

b) Do you consider that the economic regulation regime should be implemented gradually from 2024 to 2027, or do you consider that a transitional price-quality path is also required?

We would like price and service provision regulation to be coupled with future-proofing initiatives to ensure that New Zealanders have reliable access to and use of safe, affordable drinking and waste water into the future. This means that pricing and service regulations need to factor in improving pipe quality, planning for future changing in population numbers, locations and behaviours, and improving the water provision of vulnerable and underserved communities. We would support either method, provided it meets these outcomes.

c) If you consider a transitional price-quality path is required, do you consider that this should be developed and implemented by an independent economic regulator, or by Government and implemented through a Government Policy Statement?

No view.

d) What are your views on how Treaty of Waitangi principles, as well as the rights and interests of iwi/Māori, should be factored into the design of an economic regulatory regime for the three waters sector?

Ensuring the new entities are regulated in line with the principles of te Tiriti o Waitangi will strengthen the resilience and suitability of these entities and will help ensure they deliver great price-service outcomes across generations.

e) Who do you consider should have primary responsibility for determining the structure of three waters prices: a. The Water Services Entity, following engagement with their governance group, communities, and consumers; b. The economic regulator; or c. The Government or Ministers?

No view

f) Who do you think is the most suitable body to be the economic regulator for the three waters sector? Please provide reasons for your view.

Provided the regulation is appropriate and allows for capacity building and future-proofing of existing water networks, we have no view as to which body should be the economic regulator.

g) What are your views on whether minimum service level requirements should be able to vary across different types of consumers?

People should be able to opt to have alternative water provisions on their properties, i.e. water tanks, appropriate sewage systems, etc. However, safe, reliable drinking and wastewater services should be guaranteed for all.

h) What are your views on whether the regulatory regime should include a positive obligation to protect vulnerable consumers, and that minimum service level requirements are flexible enough to accommodate a wide range of approaches to protecting vulnerable consumers?

We strongly support an obligation to protect vulnerable consumers and are also supportive of flexibility in approach.

i) What are your views on how Treaty of Waitangi principles, as well as the rights and interests of iwi/Māori, should be factored into the design of a consumer protection regime for the three waters sector?

We strongly support including principles of te Tiriti o Waitangi into the design of a consumer protection regime for the three waters sector. This should include iwi/Māori being actively involved in the decision making and design of such a regime.

j) Do you agree with the preliminary view that the Commerce Commission is the most suitable body to be the consumer protection regulator for the three waters sector?

We recognise there may be cost savings in adding capacity to an existing regulator, rather than setting up a new one just for this purpose.

Although the Government has indicated a preference for the Commerce Commission that body has so far proved ineffective in dealing with the monopsonies of the electricity suppliers and the supermarkets. We would probably prefer Taumata Arowai, the new regulator of water quality because their specialist knowledge will inform questions about service quality as they are closely related

k) Do you consider that there should be special considerations for traditionally under-served or vulnerable communities? If so, how do you think these should be given effect?

This should be given effect via active planning to address the service needs of these communities as a priority. In addition, there needs to be an assurance of continuity of water supply as a human right for

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those who can't pay; limits on the maximum duration of any supply outages; and ensuring cultural appropriateness of services.

Whau Local Board

That the Whau Local Board:

- a) welcome the opportunity to give feedback on the Three Waters Economic Regulation Regime but note that, in providing this feedback, local board is not endorsing the Three Waters proposal.
- b) note its view that the economic regulation regime should not focus solely on financial aspects and consumer protection, but should have the four well-beings as its primary objectives.
- c) request that the economic regulator liaise with local government to ensure that social, cultural and environmental aspirations are met, and in particular with Auckland Council to ensure its growth aspirations are met.
- d) note its view that stormwater networks currently operated by local authorities should be included in the economic regulation regime, alongside drinking water and wastewater, because of its public good aspect, noting in particular:
 - i) water quality has consistently been identified as an issue of high importance to residents of the Whau Local Board area.
 - ii) there are significant issues with water quality in the Whau River and Manukau Harbour and these problems are at least partly caused and are certainly compounded by inadequate stormwater infrastructure, noting in particular that wastewater intrusion into the stormwater system creates major environmental and health issues.
 - iii) well managed stormwater systems can have positive environmental effects, as well as prevent or lessen the impacts of flooding events.
 - iv) because of the impact of stormwater runoff transport on networks, Auckland Transport, Waka Kotahi and KiwiRail should also be included in this process.
- e) note that it has no specific preference around the process for implementation of this transition and how this is guided, provided that the social, cultural, environmental and financial well beings of communities are prioritised as a key part of this process.
- f) note its view that the economic regulator should have responsibility to ensure a consistent approach to consumer protection.
- g) note that because the four water entities will be new bodies, it is essential that the economic regulation regime has expertise and experience in impartial monitoring and compliance and that the Whau Local Board therefore considers the Commerce Commission to be the most suitable body to be the economic regulator.
- h) support the regulator to have the ability to vary minimum service levels across different types of consumers, noting that this system needs to be responsive to the communities it is serving.
- i) support the inclusion of a positive obligation to protect vulnerable consumers, with minimum service level being flexible enough to accommodate a wide range of approaches to protecting vulnerable consumers.
- j) support the prominent inclusion Treaty of Waitangi principles as a fundamental part of the design of this regime, noting in particular that while the formal involvement and representation of mana whenua is of critical importance, this must be balanced against consideration of the needs and preferences of Māori people in the community including those who are not represented by any recognised mana whenua entity.

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- k) support the development of special considerations for traditionally under-served or vulnerable communities and recommend that the economic regulator liaise with local government to bring this into effect.
- l) request that, in the Auckland context, provisions be included to ensure that the regulator is responsive to the plans and priorities of local communities as expressed through local board plans, and that the role of local boards in advocating for their communities is reflected in the statutory objectives of the regulator.