MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Scott Simpson	**Portfolio**	Commerce and Consumer Affairs
Title of Cabinet paper	Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025	**Date to be published**	27 November 2025

List of documents that have been proactively released		
Date	**Title**	**Author**
November 2025	Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025	Minister of Commerce and Consumer Affairs
20 November 2025	Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025 LEG-25-MIN-0238 Minute	Cabinet Office
8 August 2025	Stage 2 Cost Recovery Impact Statement: Commerce Commission Funding for Water Services Regulation	MBIE

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 (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025

Proposal

1 This paper seeks authorisation for submission to the Executive Council of the Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025 (the Regulations).

Executive Summary

2 In August 2025, the Commerce Act 1986 (the Act) was amended to bring local government water services into Part 4 (Regulated goods and services) of the Act, with the Commerce Commission (the Commission) as the responsible regulator. The proposed Regulations prescribe levies that recover the Commission's costs of regulating water services from 1 July 2025 onwards.

3 In anticipation of water services becoming regulated, in November 2024, the Cabinet Expenditure and Regulatory Review (EXP) Committee approved a new $6.5 million per annum appropriation for the Commission, increasing to $7 million per annum in outyears, and authorised the Minister of Commerce and Consumer Affairs to initiate consultation on the design of a new cost-recovery levy [EXP-24-MIN-0068 refers]. The EXP Committee also authorised the Minister of Commerce and Consumer Affairs to take decisions on the levy design in response to consultation and to instruct the Parliamentary Counsel Office to draft regulations to enable the recovery of the Commission's costs from 1 July 2025 onwards.

4 The levy proposal for consultation was based on the existing Part 4 levy regime, which apportions the Commission's costs for classes of activity to the regulated suppliers to which the activity relates. For regulated water services suppliers, this apportionment is to be based on the residing population in the district the regulated supplier serves as a proportion of the total population. The Commission's costs will be capped by the appropriation and an end-of-year wash-up ensures regulated suppliers pay no more than actual Commission costs.

5 This paper confirms the proposed levy design and notes further technical decisions taken under delegated authority. Agreement is also sought to revise the date for the first review of the regulations by June 2028 to no later than June 2030 (unless requested earlier by the Minister of Commerce and Consumer Affairs) to better align with the local government planning cycle. The Regulations will come into force on 1 January 2026.

Background

Regulations to prescribe levies to enable the recovery of the Commission's costs to regulate water services

6 From August 2025, Part 4 (Regulated goods and services) of the Act provides the Commission functions and powers to regulate local government water services suppliers (regulated suppliers).

7 Section 53ZE (Levies) of the Act enables regulations to be made that specify the amount of levies, or method of calculating or ascertaining the amount of levies, that suppliers of regulated goods or services must pay. Section 53ZE(4) requires that the Minister of Commerce and Consumer Affairs consult with the suppliers of regulated goods or services, or representatives of those suppliers, before recommending the making of regulations.

8 In November 2024, the EXP Committee [EXP-24-MIN-0068 refers]:

8.1 agreed to establish a new Non-Departmental Output Expense annual appropriation in Vote Business, Science and Innovation, initially at $6.5 million per annum, on the basis of it being fiscally neutral with no impact on the operating balance or net core Crown debt;

8.2 agreed to the release of the *Commerce Commission levy for the economic regulation of water services - Discussion Document* (the Discussion Document) to consult on a proposed levy to recover the Commission's costs to regulate water services; and

8.3 authorised me to make policy approvals consistent with the policies set out in the Discussion Document, and to instruct the Parliamentary Counsel Office to draft regulations prescribing the levies to recover the Commission's costs from 1 July 2025.

Feedback raised during consultation

9 The former Minister of Commerce and Consumer Affairs consulted on the design of the levy between November 2024 and February 2025. The levy proposal for consultation was based on the existing Part 4 levy regime that applies to electricity lines, gas pipelines and specified airports. The levy apportions the Commission's costs for classes of activity to the regulated suppliers to which the activity is attributable. For example, only those regulated suppliers subject to price-quality regulation bear the Commission's costs of that activity.

10 For regulated water services suppliers, this apportionment of Commission costs by activity is to be based on the residing population in the district the regulated supplier serves as a proportion of the total population. The Commission's costs will be capped by the appropriation and an end-of-year wash-up ensures regulated suppliers pay no more than actual Commission costs.

11 About one-third of submitters supported a levy to recover the Commission's costs, but many submitters advocated for the Crown to contribute at least some of the Commission's costs. I have proposed no change to the levy structure as full cost

recovery is consistent with the user-pays principle, whereby regulated suppliers drive the need for the Commission's functions and therefore should bear the costs.

12 Many submitters raised concerns with the population-based apportionment approach, however alternative approaches have significant data limitations, are complex to administer, or are more inequitable in effect.

Policy decisions taken under delegated authority to improve implementation

Measures to introduce greater flexibility to the levy

13 Consistent with my delegated authority from the EXP Committee, I have agreed to the following measures to introduce greater flexibility to the levy.

14 The levy would be payable by regulated water services suppliers. Under the Act, a regulated supplier, in relation to water services, is a local government water service supplier that makes core decisions on water services which includes capital and operating expenditure and the level of charges or revenue recovery.

15 There could be more than one regulated supplier within a geographic location if councils:

15.1 choose a split decision-making model, or

15.2 retain some delivery of water services.

16 For drinking water and wastewater, newly established water organisations are likely to be conferred key decisions. However, this will not be certain until transfer agreements are produced and reviewed.

17 It is also uncertain whether some councils will retain some water services, for example to a small group of properties. The Act provides the Commission with powers to exempt local authorities from the economic regulation framework if the costs outweigh the benefits, but it will take the Commission time to process and grant these exemptions.

18 For regions that have two regulated suppliers, the increased levy cost could be material and may not reflect the actual cost of the Commission regulating two entities. Therefore, if there is more than one regulated supplier in a geographic region providing the relevant regulated services, the levy will be split between the regulated suppliers. A council may choose to pass the levy cost to the water organisation.

19 I have also included the ability for the Minister of Commerce and Consumer Affairs to exempt or waive the levy if:

19.1 the amount of the levy is less than the reasonable cost of recovering the levy; or

19.2 it would be unreasonable or unfair to require payment of the levy.

Amend the wash-up deadline to 'as soon as practicable'

20 The levy will recover the Commission's estimated costs over a financial year, with a wash-up at the end of the year to return any unspent funds or address any under recovery, from regulated suppliers. This is consistent with the levy that applies to electricity lines services, gas pipeline services and specified airport services under Part 4.

21 Currently, MBIE (as delegated from the Minister of Commerce and Consumer Affairs) is required to complete this process within 1 month after the Commission's audited financial statements for a financial year are presented to the House of Representatives (usually in late October/November).

22 This deadline is often a challenge to meet with the existing Part 4 levy due to the approvals and financial processes required in the lead up to the end of the calendar year. Adding local government water services to this process risks this deadline being missed on an ongoing basis.

23 To address this, I agreed to amend the 'wash-up' deadline from 'within 1 month', to 'as soon as practicable', after the Commission's audited financial statements for a financial year are presented to the House of Representatives.

I seek agreement to amend the first levy and appropriation review deadline

24 In November 2024, the EXP Committee directed MBIE officials to review the levy and appropriation after it has been in effect for two years [EXP-24-MIN-0068, rec 10]. The Discussion Document outlined an intention to undertake the review in FY2027/2028, unless issues are identified earlier.

25 Many submitters suggested the review period should better align with Long Term Plan (LTP) and Water Service Strategy (WSS) cycles, to give councils time for changes to be factored into council planning.

26 I agree with this feedback and propose that the first review is completed by no later than 30 June 2030. MBIE will report to me in mid-2026 on whether the review should be commenced earlier and may provide guidance to councils to give certainty ahead of the next LTP and WSS reset for 1 July 2027. As this matter is outside the delegated authority conferred on me by the EXP Committee, I seek approval for this change. I note that the review requirement is not prescribed in the Regulations and this decision can be taken independent of the decision to submit the Regulations to Executive Council.

Technical drafting change by Parliamentary Counsel

27 Parliamentary Counsel has amended regulation 13(3) and (4) in clause 17 of the Regulations to make clear when a change in supplier status after the end of a financial year must be included as part of the levy reconciliation for that financial year. Consistent with existing policy, this is where that change in supplier status (eg ceasing to be a consumer-owned supplier) is only disclosed after the end of the financial year in which it occurred and too late to be dealt with in the normal way. This change is to improve clarity and reflects existing practice.

Timing and 28-day rule

28 Following Executive Council, the Regulations will be notified in the New Zealand Gazette and come into force on 1 January 2026. This timeline will comply with the 28-day rule.

Compliance

29 The Regulations comply with each of the following:

29.1 the principles of the Treaty of Waitangi;

29.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

29.3 the principles and guidelines set out in the Privacy Act 2020;

29.4 relevant international standards and obligations;

29.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

30 Section 53ZE(4) of the Act specifies consultation obligations as prerequisites for the making of the levy regulations. The Minister of Commerce and Consumer Affairs must consult with the suppliers of regulated goods or services, or representatives of those suppliers, before making a recommendation that levy regulations are made under section 53ZE(2). Clause 32 in new Part 6 in Schedule 1AA of the Act provides that consultation undertaken between 1 November 2024 and 28 February 2025, which included local councils, is treated as consultation under section 53ZE(4).

31 The Minister of Commerce and Consumer Affairs consulted on the design of the levy between November 2024 and February 2025.

32 The Regulations are also consistent with the Office of the Auditor-General's publication on *Setting and administering fees and levies for cost recovery: Good practice guide*.

Regulations Review Committee

33 There are no grounds under Standing Order 327(2) for the Regulations Review Committee to draw this Order to the attention of the House.

Certification by Parliamentary Counsel

34 The Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

35 A Stage 2 Cost Recovery Impact Statement (CRIS), entitled *Commerce Commission Funding for Water Services Regulation*, is submitted with this paper. A Quality Assurance Panel from MBIE reviewed the CRIS. The Panel considers that the

information and impact analysis summarised in the CRIS meets the Quality Assurance criteria.

Publicity and implementation

36 The Regulations will be notified in the New Zealand Gazette, and MBIE will communicate with councils to advise them of the new provisions.

37 Part 2 of the Schedule of the Regulations deals with levy arrangements in the initial year, 2025/26, to enable the Commission's costs from 1 July 2025 to be recovered. The first invoice is anticipated to be sent to regulated suppliers in April 2026 relating to the first three quarters of the 2025/26 financial year and a final invoice (for the last quarter of the financial year) would be issued in July 2026. After the end of the financial year, the levies paid by regulated suppliers for 2025/26 will be reconciled against the Commission's actual costs in a wash-up. In and from the 2026/27 financial year, invoices will be issued quarterly.

Proactive release

38 I propose to release this paper proactively.

Consultation

39 Consultation was undertaken between November 2024 and February 2025 with local councils and their representatives, existing Part 4 regulated suppliers, and the public.

40 The Treasury, the Department of Internal Affairs, the Commerce Commission, and the Water Services Authority – Taumata Arowai have been consulted on this paper and the Regulations.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1 **note** that in November 2024, the Cabinet Expenditure and Regulatory Review (EXP) Committee approved an appropriation to fund the Commerce Commission's (the Commission) new functions for regulation of water services under Part 4 of the Commerce Act 1986 (the Act), and agreed to the recovery of those costs through a levy on regulated water services suppliers from 1 July 2025 [EXP-24-MIN-0068 refers];

2 **note** that, at the same meeting, the EXP Committee:

2.1 agreed to the release of a Discussion Document, entitled *Commerce Commission levy for the economic regulation of water services*, to consult on a proposed levy to recover the Commission's costs to regulate water services [EXP-24-MIN-0068, rec 4 refers];

2.2 authorised the Minister of Commerce and Consumer Affairs to make decisions consistent with the policies set out in that Discussion Document and instruct the Parliamentary Counsel Office to draft regulations prescribing levies to

recover the Commission's costs from 1 July 2025 onwards [EXP-24-MIN-0068, rec 8 refers];

Technical policy matters consistent with delegated authority

3 **note** the Minister of Commerce and Consumer Affairs made the following policy decisions consistent with the delegated authority to provide greater flexibility in the levy design:

3.1 splitting the cost of the levy where there is more than one regulated supplier in a region;

3.2 enabling the Minister of Commerce and Consumer Affairs to waive or exempt the levy if the amount is less than the reasonable cost of recovering the levy or it would be unreasonable or unfair to require payment of the levy; and

3.3 amending the levy 'wash-up' deadline after the end of the financial year from 'within 1 month', to 'as soon as practicable', after the Commission's audited financial statements for a financial year are presented to the House of Representatives;

Authorise submission to Executive Council

4 **note** that the Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025 (the Regulations) will give effect to the policy decisions referred to in paragraphs 1 and 3 above;

5 **note** that section 53ZE(4) of the Act requires the Minister of Commerce and Consumer Affairs to consult with the suppliers of regulated goods or services, or representatives of those suppliers, before making a recommendation, and that section 32 in Part 6 of Schedule 1AA of the Act provides that consultation undertaken between 1 November 2024 and 28 February 2025, which included local councils, is treated as consultation for this purpose;

6 **note** the advice of the Minister of Commerce and Consumer Affairs that the consultation requirement has been met;

7 **authorise** the submission to the Executive Council of the Commerce (Levy on Suppliers of Regulated Goods and Services) Regulations 2025;

8 **note** that the Commerce (Levy on Suppliers of Regulated Goods and Services) Regulations 2025 will come into force on 1 January 2026;

Other matters

9 **note** that the EXP Committee directed officials at the Ministry of Business, Innovation and Employment (MBIE) to review the Commission's levy and appropriation after it had been in effect for two years [EXP-24-MIN-0068, rec 10 refers]; and

10 **agree** to rescind the decision referred to in paragraph 9 above, and instead direct officials at MBIE to complete a review of the Commission's levy and appropriation by 30 June 2030 (noting the Minister of Commerce and Consumer Affairs may direct that a review be undertaken earlier) to better align with local government Long Term Plan and Water Service Strategy cycles.

Authorised for lodgement

Hon Scott Simpson

Minister of Commerce and Consumer Affairs

LEG-25-MIN-0238

Cabinet Legislation Committee

Minute of Decision

Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025

Portfolio **Commerce and Consumer Affairs**

On 20 November 2025, the Cabinet Legislation Committee:

1 **noted** that in November 2024, the Cabinet Expenditure and Regulatory Review Committee (EXP) approved an appropriation to fund the Commerce Commission's (the Commission) new functions for regulation of water services under Part 4 of the Commerce Act 1986 (the Act), and agreed to the recovery of those costs through a levy on regulated water services suppliers from 1 July 2025 [EXP-24-MIN-0068];

2 **noted** that EXP also:

2.1 agreed to the release of a Discussion Document, entitled *Commerce Commission levy for the economic regulation of water services*, to consult on a proposed levy to recover the Commission's costs to regulate water services;

2.2 authorised the Minister of Commerce and Consumer Affairs (the Minister) to make decisions consistent with the policies set out in that Discussion Document and instruct the Parliamentary Counsel Office to draft regulations prescribing levies to recover the Commission's costs from 1 July 2025 onwards;

[EXP-24-MIN-0068]

Technical policy matters consistent with delegated authority

3 **noted** that the Minister made the following policy decisions, consistent with the delegated authority above, to provide greater flexibility in the levy design:

3.1 splitting the cost of the levy where there is more than one regulated supplier in a region;

3.2 enabling the Minister of Commerce and Consumer Affairs to waive or exempt the levy if the amount is less than the reasonable cost of recovering the levy or it would be unreasonable or unfair to require payment of the levy;

3.3 amending the levy 'wash-up' deadline after the end of the financial year from 'within 1 month', to 'as soon as practicable', after the Commission's audited financial statements for a financial year are presented to the House of Representatives;

Submission to Executive Council

4 **noted** that the Commerce (Levy on Suppliers of Regulated Goods and Services) Amendment Regulations 2025 will give effect to the policy decisions referred to in paragraphs 1 and 3 above;

5 **noted** that section 53ZE(4) of the Act requires the Minister to consult with the suppliers of regulated goods or services, or representatives of those suppliers, before making a recommendation, and that section 32 in Part 6 of Schedule 1AA of the Act provides that consultation undertaken between 1 November 2024 and 28 February 2025, which included local councils, is treated as consultation for this purpose;

6 **noted** the advice of the Minister that the above consultation requirement has been met;

7 **authorised** the submission to the Executive Council of the Commerce (Levy on Suppliers of Regulated Goods and Services) Regulations 2025 [PCO 28217/9.0];

8 **noted** that the above regulations will come into force on 1 January 2026;

Other matters

9 **noted** that EXP directed officials at the Ministry of Business, Innovation and Employment (MBIE) to review the Commission's levy and appropriation after it had been in effect for two years [EXP-24-MIN-0068];

10 **rescinded** the decision referred to in paragraph 9 above; and instead

11 **directed** MBIE officials to complete a review of the Commission's levy and appropriation by 30 June 2030 (noting that the Minister may direct that a review be undertaken earlier) to better align with Local Government Long Term Plan and Water Service Strategy cycles.

Tom Kelly
Committee Secretary

Present:
Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Paul Goldsmith
Hon Judith Collins KC
Hon Shane Jones
Hon Tama Potaka
Hon Nicole McKee
Hon Casey Costello
Hon Penny Simmonds
Hon Scott Simpson
Stuart Smith MP
Todd Stephenson MP
Jamie Arbuckle MP

Officials present from:
Officials Committee for LEG
Office of the Leader of the House

Stage 2 Cost Recovery Impact Statement

Commerce Commission Funding for Water Services Regulation

Agency Disclosure Statement

This Stage 2 Cost Recovery Impact Statement (**CRIS**) has been prepared by the Ministry of Business Innovation and Employment (**MBIE**).

It provides analysis to support final decisions on the design of a levy to recover the cost of the funding of the Commerce Commission's (**the Commission's**) regulation of local government water service providers.

Our cost estimates assume that only Watercare will be exposed to price-quality regulation in the first five years. Similarly, all other providers will only be subject to core regulation requirements for the same time period. Wider application of price-quality regulation or earlier application of other regulatory tools would increase the Commission's costs, subject to Cabinet approval to increase the appropriation.

The overall cost estimates for core regulation are based on the Commission regulating 50 water service providers. There are currently 67 local government water service providers, but we expect the number of water service providers will likely decrease. Many councils have indicated they are likely to deliver water services through a multi-council owned organisation which services multiple districts.

The overall level of cost for the Commission's new functions is subject to some uncertainty. The Commission is still building experience around water service regulation. Detailed cost information on the business processes that will be used by the Commission to deliver on its new functions is not yet available. Apportionment of the levy is proposed to be based on population data as there is limited and variable information on the number of households connected to council water service providers. Many councils do not directly charge for water services and there is no consistent information at a national level yet on the number of households connected to council water services.

Our estimates for the apportionment of the levy across the council districts also assume one regulated supplier per district. As noted above, it is unlikely there will be one regulated supplier for each district once final decisions are made on preferred water service delivery models by councils. The design and implementation of the levy account for this.

This is the third CRIS published to support decisions on the funding of the Commission's regulation of local government water service providers. This CRIS focuses on seeking agreement to how the Commission's costs (which are capped by a set appropriation) are recovered from regulated suppliers, with a focus on noting and addressing the issues raised in consultation.

Catherine Montague

Manager, Competition Policy

8 August 2025

Executive summary

- Following the enactment of the Local Government (Water Services) Bill (**the Bill**), the Commission will have new functions under the Commerce Act 1986 to set and enforce local government water services economic regulation and consumer protection requirements.
- The Commission will need to be resourced to carry out these new functions. A levy to fully recover the costs of the Commission's new functions from 1 July 2025 onwards is proposed, with invoicing to start as soon as practicable.
- The levy will be used to recover the Commission's costs, not to directly fund the Commission, and is fiscally neutral for the Crown. The proposed approach of 100 percent levy recovery is consistent with other regulated services under Part 4 of the Commerce Act 1986 (for example, electricity lines and gas pipeline services), and supports the principle that regulated suppliers drive the need for the Commission's functions and should bear the costs.
- It is proposed that the levy will specify a method for calculating the levies, rather than be a fixed levy amount. There will be six different activities for which the levy is payable, reflecting that there will be different groups of regulated suppliers depending on the type of regulation being applied by the Commission.
- The Commission's overall costs for the first five years of the regulatory regime are expected to be a maximum of $34.5 million. This comprises $32.5 million for core regulation of water services (applying to all regulated suppliers) and $2 million for price-quality regulation (applying to Watercare in Auckland).
- The levy is funded in advance by the Crown through an appropriation administered by MBIE. This appropriation is capped, meaning that the Commission will need to operate efficiently and effectively within the cap for delivery of its new functions. It is proposed that there is a levy wash-up process which will ensure that regulated suppliers only pay the Commission's actual costs. Any unspent funds will be returned to the Crown.
- Costs will be allocated in proportion to the normally residing population served by each regulated supplier, based on the latest census data. If there is more than one supplier in a region, there is flexibility for MBIE to split the cost between regulated suppliers or for the Minister to exercise a waiver if certain conditions are met.
- The Commission will need to meet new annual performance measures for delivery of its water service regulation functions. Additionally, the Commission will account to Parliament for its activities and expenditure - including through its Statement of Intent, Annual Report, and Annual Statement of Performance Expectations.
- Consultation was undertaken between 26 November 2024 and 7 February 2025. MBIE received 34 submissions, with 33% of those submissions supporting a levy to recover the Commission's costs.
- It is proposed that a levy review be completed by 30 June 2030. This timing is to align with the three-yearly setting of the Long-Term Plans (**LTPs**) and Water Service Strategies (**WSS**) by councils. This would not rule out MBIE commencing a review earlier.

Status quo

Local Water Done Well sets out a direction for financially sustainable water services, underpinned by a robust regulatory system. It puts an emphasis on meeting regulatory standards, and the transparent and financially sustainable performance of local water services – but provides for local choice about the form of service delivery structures.

The current water services regulatory system has gaps and weaknesses. These shortcomings, when combined with other factors, have contributed to decades of underinvestment in water services infrastructure – stifling growth and contributing to the chronic infrastructure deficit this country is facing.

The regulatory system currently includes:

- drinking water quality regulation and standards – regulated by the Water Services Authority - Taumata Arowai (**the Authority**); and
- environmental regulation – regulated by regional councils, with a national oversight role by the Authority in respect of the environmental performance of drinking water, wastewater and stormwater networks.

There is a significant gap regarding economic regulation of water services. Councils currently face few requirements relating to the management of water infrastructure, and none for infrastructure investment. Those requirements that are in place – such as the transparency and accountability provisions in the Local Government Act 2002 (**LGA02**) – have failed to result in adequate levels of investment, or charges that reflect the costs of providing water services. While council long-term plans, infrastructure and financial strategies are reviewed by auditors, they are not reviewed by an economic regulator – and there are no independent experts overseeing the levels of investment.

To address this weakness, Cabinet has agreed that economic regulation is needed to safeguard the interests of consumers in local water services. Cabinet has agreed to an economic regulation framework for council water services providers similar to Part 4 of the Commerce Act 1986 to come into force mid-2025 [ECO-24-MIN-0107 refers]. This is to provide incentives and regulatory oversight to increase investment in and improve the financial performance of council water services.

The Bill will provide for a comprehensive, flexible, and risk-based approach to regulation tailored to the characteristics of local water services. Features of the regime include the Commission being able to tailor regulatory requirements based on the water service provider and type of service [ECO-24-MIN-0107].

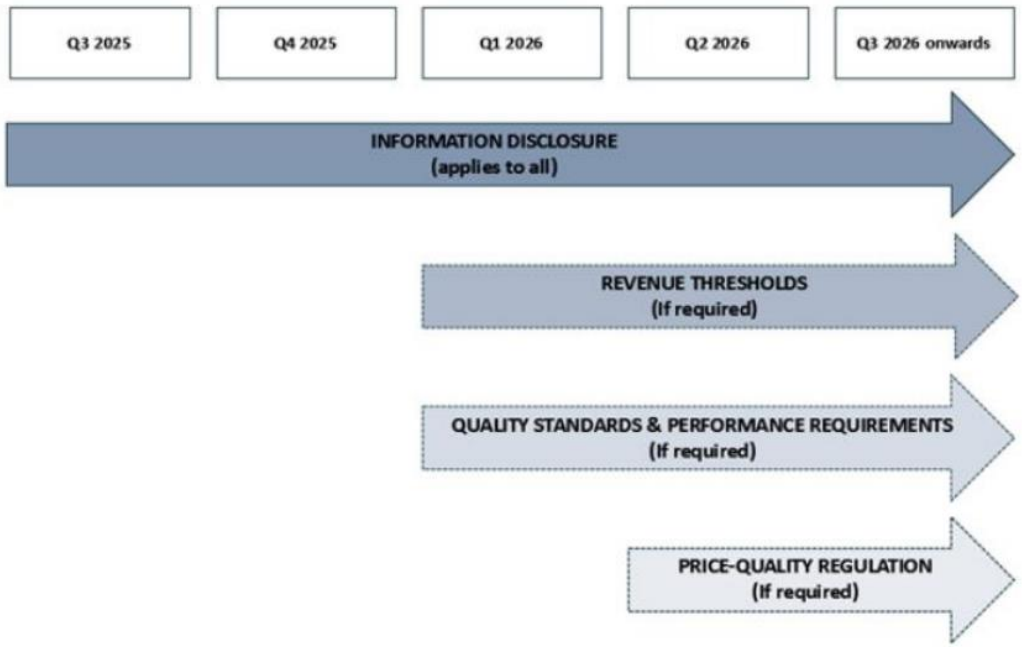
The Bill is intended to provide the Commission with an appropriate and flexible set of regulatory tools, backed by enforcement provisions similar to those provided for in Part 4 of the Commerce Act. The main regulatory tools are:

- information disclosure
- the setting of maximum and minimum revenue thresholds
- quality regulation
- performance requirements, and
- price-quality regulation.

Information disclosure will be the first tool to come into effect. It will provide the means for the Commission to promote transparency regarding the performance of council water service providers. It will also help to inform when and how to apply other regulatory tools to improve the performance of individual water service providers. The application of these tools will be sensitive to the performance and characteristics of each water service provider and could include the Commission's setting of revenue thresholds, quality standards, specific performance requirements, and price quality regulation. The application of these tools will vary across water service providers.

It is anticipated that information disclosure requirements will be set by the Commission six months after the enactment of the Bill.

The diagram below outlines when each of the proposed tools is expected to come into effect, starting with information disclosure provisions from the date of enactment of enabling legislation in late-2025.



Economic regulation is designed to put incentives on council water service providers to better deliver their water services. Councils will be free to decide how best to structure and organise the delivery of their water services. This includes through establishing organisations designed to operate independently of councils or through organisations owned by multiple councils or consumer trusts. As a result, there will likely be a variety of types of organisations providing local water services, and this mix of organisations will likely change and evolve over time.

Initially economic regulation will only apply to the delivery of drinking water and wastewater services, but there will be provision to extend its scope in the future to include stormwater services.

Legislation will provide authority to charge a levy

Cabinet agreed that the Bill will also provide for regulations to be made for levies to fund the Commission's costs of carrying out its functions and duties. It is intended that this will be through Order in Council, made on the recommendation of the Minister of Commerce and Consumer Affairs (**the Minister**). It is expected that the Bill will enable the levy making power (section 53ZE of the Commerce Act) to be applied to regulated water services suppliers.

Levy regulations may be made (or amended) on the recommendation of the Minister, after the Minister consults with the suppliers of regulated goods or services, or representatives of those suppliers (section 53ZE(4)).

It is expected that the Local Government Water Services Bill will also enable regulations to be made specifying the amount of levies, or method of calculating the amount of levies on the basis that the estimated costs for an appropriation period of performing the Commission's functions, powers, and duties, and of collecting the levy money, should be met fully out of levies.

If the levy regulations come into force after 1 July 2025, the levy making power includes provisions that allow for the recovery of the Commission's costs incurred before the regulations were made and/or before regulated suppliers became subject to Part 4 of the Commerce Act. These provisions will ensure the Commission's costs for the full 2025/26 financial year may be recovered.

Previous cost recovery impact assessments

This is the third CRIS to support decisions for the funding of the Commission's regulation of local government water service providers.

It is a Final Stage 2 CRIS, which is designed specifically to seek agreement to cost recovery levels and replaces the Regulatory Impact Statement requirements. The main focus of this CRIS is on noting and addressing any issues raised in consultation, as well as finalising the analysis that was provided in the Interim Stage 2 CRIS.

The table below provides an overview of the cost recovery impact assessments undertaken to date and the scope of each.

Policy Agreement to cost recover **(Stage 1 CRIS)**	**Stage 1 Cost Recovery Impact Assessment**	12 June 2024	In this CRIS the option of levy versus Crown funding was assessed and levy funding was recommended. See: Annex Two of RIS-Paper-2-12-June-2024- Local-Government-Water-Serivces-Bill.pdf
The design of new cost recovery charge levels **(Stage 2 CRIS)**	**Interim Stage 2 Cost Recovery Impact Assessment**	21 November 2024	This CRIS provided interim analysis to support agreement on final cost recovery levels and approach (including structure, design, apportionment, and implementation). See: Interim Stage 2 Cost Recovery Impact Statement: Commerce Commission Funding for Water Services Regulation
	Final Stage 2 Cost Recovery Impact Assessment	Current	This CRIS provides analysis to support agreement on final cost recovery levels and approach (including structure, design, apportionment, and implementation). It builds on the interim analysis provided in the interim Stage 2 CRIS. In particular, it notes and addresses any issues raised in consultation.

Cost Recovery Principles and Objectives

Principles

The overarching principles for cost recovery are that,

- the Commission will have independence in its economic regulation of council water service providers; and
- to the extent possible, all of the Commission's costs in administering the economic regulation of council water service providers will be recovered from those that give rise to the need for economic regulation and benefit from it.

Guiding objectives

The design and administration of the recommended levy funding option is informed by the following objectives:

- Equity – levy charges should be distributed fairly and equitably among regulated water service suppliers, so that those who create the need for, or benefit from, the Commission's economic regulation of water service providers bear the costs associated with its activities. This is based on the 'exacerbator pays' principle that public organisations should administer and manage fees and levies in ways that are administratively fair and ensure that they do not seek to recover costs from one group that might benefit a previous or future group.

- Efficiency – the approach to charging should support the financially sustainable and efficient delivery of water services by encouraging compliance with regulatory requirements. It should also be simple and low cost to administer.
- Justifiability – the costs recovered through levy should reasonably relate to the regulatory services being charged for, and, where possible, cross-subsidisation should be eliminated.
- Transparency – the approach to setting and administering the levy should be open and understandable and support the accountability of the Commission to Parliament and the public for its funding and its regulation of water service providers. This requires transparent processes in place for setting and managing fees and levies. Enough information should be provided to fee and levy payers so they can understand and assess the charges.
- Authority – the approach to charging should be consistent with the legal authority to charge a levy for the services provided. This requires the levy design to be consistent with the empowering provisions for the levy in the Bill.

These objectives and principles are based on the *Treasury's Guidelines for Setting Charges in the Public Sector* [1].

These are the same objectives and principles as were consulted on as part of the Stage 2 Interim CRIS and have informed our final analysis. We have added an extra objective of 'authority' to reflect that the levy design will needs to consistent with the levy provisions of the Bill.

Policy Rationale: Why a user charge? And what type is most appropriate?

Cost recovery is appropriate for the economic regulation of council water services

This Stage 2 final CRIS confirms that cost recovery is the most appropriate option for funding the Commission's economic regulation of water services.

The Stage 1 CRIS assessed funding options including full Crown funding, fees and levy funding. It concluded that cost recovery via a levy to be paid by regulated water service suppliers, as provided for in the Commerce Act, is the most appropriate option for the recovery of the Commission's costs in regulating water services. The Stage 2 Interim CRIS sets out that recovery of the Commission's costs in regulating water services from water service suppliers, rather than direct Crown funding, is appropriate because:

- Water service suppliers have given rise to the need for economic regulation of their locally provided water services. This is because many councils have underinvested in their water services and have generally undercharged households and business for the water services they provide.

[1] Guidelines for Setting Charges in the Public Sector - April 2017

- The benefits of economic regulation will be realised by water service suppliers, their ratepayers and the local households and businesses that are connected to the water services they provide.
- Economic regulation will only apply to council water services. The Commission's outputs and activities will be confined to the regulation of council water service providers (regulated parties).

As discussed in the section on 'Consultation' some submitters advocated for the Crown to contribute at least some of the Commission's costs. We considered whether it would be appropriate to contribute Crown funding. However, this model would not promote the principle of equity, and the 'exacerbator pays' principle, whereby those whose actions give rise to costs and those who benefit from regulation should pay most of the costs associated with the regulation.

To be paid by regulated water service suppliers

This Stage 2 final CRIS confirms that the levy should be paid by regulated water service suppliers.

The stage 1 CRIS recommended that the levy should be paid by regulated water service suppliers, on the basis that councils and their water service suppliers have given rise to the need for economic regulation because of poor past financial performance, and that they will pass the costs of the levy on to their consumers who will benefit from the regulation.

We set out in the Stage 2 Interim CRIS that this is consistent with the levy power under section 53ZE of the Commerce Act, which provides that every supplier of regulated goods or services (or prescribed class of suppliers of regulated goods or services) must pay to the Minister the levy determined in accordance with regulations made under the section.

We considered the option of a levy payable by the council of the regulated water service supplier (where those entities are different). However, this option is not feasible due to the requirements of section 53ZE that the supplier of regulated goods or services must pay the levy. It would not be consistent with the 'authority' principle that the levy design must be consistent with the legal authority for charging. This option would also not be consistent with the 'exacerbator pays' principle, whereby those whose actions give rise to costs and those who benefit from regulation should pay most of the costs associated with the regulation.

As discussed in the section on '**consultation**', some submitters have suggested that this approach may not be appropriate if private or Crown suppliers become suppliers of water services in the future. We agree and anticipate that the levy would need to be reviewed to reflect this, should that scenario eventuate. We include more data on who will pay the levy in the section on '**Impact analysis'**.

Cost recovery will be in full

This Stage 2 final CRIS confirms that the levy will fully (i.e. 100 per cent) recover the costs of the Commission's new function from regulated service suppliers – excluding litigation and Crown Monitor costs for Watercare. This approach was set out in the Interim Stage 2 CRIS. 100 per cent levy recovery is consistent with other regulated services under Part 4 of the Commerce Act (i.e. electricity lines, gas pipeline services and specified airport services). In relation to the Commission's economic regulation functions under Part 4 of the Commerce Act, the Commission receives annual or multi-year non-departmental appropriations from the

Crown which are fully recovered from regulated entities (to the extent it reflects their actual costs).

This approach reflects that the regulated suppliers (i.e. the water service providers) give rise to the need for the Commerce Commission's functions in relation to water regulation and that there is predominantly a private benefit to consumers served by the water service providers. This approach is consistent with the principle of equity - that those who create the need for, or benefit from, the Commission's regulation of water service providers should bear the costs.

The following functions will not be recovered through the levy:

- Litigation and engagement with policymakers. The Commission receives separate Crown funding for these functions, including in relation to economic regulation of water services. These functions are Crown funded as there are identifiable public benefits that are more suited to funding from general taxation rather than a levy.
- Crown Monitor costs for Watercare: These are directly recoverable from Watercare under the Preliminary Arrangements Act [2] as it is Watercare that gives rise to the need for the Crown Monitor.

The level of the proposed levy and its cost components (cost recovery model)

Overall levy for the first five years

The Commission's overall costs (and the overall levy) for the first five years of the regulatory regime are expected to be:

Activities for which levy payable	2025/26 ($000)	2026/27 ($000)	2027/28 ($000)	2028/29 ($000)	2029/30 ($000)	Total ($000)
Core regulation of water services	$6,500	$6,500	$6,500	$6,500	$6,500	$32,500
Performance requirements	0	0	0	0	0	0
Quality only regulation	0	0	0	0	0	0
Price quality regulation	0	0	$1,000	$500	$500	$2,000
Consumer protection measures	0	0	0	0	0	0
Stormwater regulation	0	0	0	0	0	0
Forecast cost ($000)	**$6,500**	**$6,500**	**$7,500**	**$7,000**	**$7,000**	**$34,500**

The forecast costs are the same as set out in the discussion document for public consultation and the Interim Stage 2 CRIS.

[2] Under s89 of the Preliminary Arrangements Act

These costs align to the multi-year appropriation from the Crown that has already been agreed by Cabinet for the Commission's regulation of water services. These cost estimates for 'core regulation of water services' and 'price quality regulation' were informed by the Commission's costs regulating other utilities (electricity, gas pipelines and specified airport services) and are based on the Commission regulating 50 water service providers. Further details on key assumptions and limitations for these cost estimates are outlined in the table below.

The overall level of cost for the Commission's new functions is subject to some uncertainty. The Commission is still building experience around water service regulation. Detailed cost information on the business processes that will be used by the Commission to deliver on its new functions is not yet available. As noted in the section below on '**expenses and revenue will align**', regulated suppliers will only pay the actual costs incurred by the Commission. The above costs are listed exclusive of GST, but recent amendments to the Goods and Services Tax Act 1985 mean that GST will be incurred with respect to levies on local government water service providers from 1 July 2025 onwards.

Cost components

The Commerce Act provides that different levies may be specified for different classes of suppliers or goods or services (section 53ZE(2)(d)).

This Stage 2 final CRIS confirms that the levy will be payable for six different activities, reflecting that there will be different groups of regulated suppliers depending on the type of regulation being applied by the Commission. The table below sets out the different activities for which the levy is payable, who will pay, cost drivers for the activity, and any key assumptions

Activities for which levy payable	Who pays the levy	Cost drivers for the activity	Key assumptions
Core regulation of water services	All regulated suppliers	Information disclosure: The Commission will set and maintain requirements relating to when information must be collected and disclosed. This includes setting rules on core metrics such as asset valuation and cost allocation, and performance monitoring and reporting. Revenue thresholds: The Commission will be able to set revenue thresholds at its discretion, so that providers have a clear understanding about the level of revenue they need to collect and invest in water infrastructure. Financial ringfencing: The Commission will monitor the requirement that water services revenue is spent on water services alone. Compliance monitoring and reporting: The Commission will monitor compliance with the above regulatory requirements and, where necessary take enforcement action.	Initial information disclosure requirements set in 2025/26 with summary and analysis beginning from 2026/27. From 2026/27, the Commission may also develop methods and approaches to determine revenue thresholds and develop core metrics such as asset valuation and cost allocation.

		<u>Preparatory work on price quality regulation:</u> The Commission will undertake preparatory work for setting a price-quality path in 2026/27 that will be relevant to setting future price-quality paths.	
Performance requirements	Only regulated suppliers subject to performance requirements	The Commission could in the future set requirements on water service suppliers to perform certain action to improve network service quality. For example, to make investments in their water services infrastructure.	No performance requirements regulations designated in the first five years
Quality only regulation	Only regulated suppliers subject to quality only regulation	The Commission could in the future set quality standards and / or quality incentives to improve services.	No quality-only regulations designated during the first five years
Price-quality regulation	Only regulated suppliers subject to price-quality regulation	From 1 July 2028, Watercare will become subject to a price-quality path under the Bill. A year before Watercare's price-quality path under the Bill comes into effect (i.e. 2027/28), the Commission will incur direct costs in preparing Watercare's price-quality path. Once price-quality paths are in place, ongoing monitoring costs will be incurred.	Only Watercare subject to price-quality regulation
Consumer protection measures	Only regulated suppliers subject to consumer protection measures	The Commission will administer regulations to address any issues in relation to how consumers are being treated by regulated suppliers, including provision for complaints process and for the Commission to develop a service quality code.	No consumer protection measures introduced in the first five years
Stormwater regulation	Only regulated suppliers of stormwater services	The Commission will develop and apply tailored regulatory tools (for example, information disclosure requirements) for regulated suppliers of stormwater services.	No stormwater designation in the first 5 years

Councils have never been exposed to economic regulation in the delivery of water services and the Commission is still building experience in regulating council water service providers. Consequently, detailed information on the outputs of the above activities and the business processes that will be used by the Commission to deliver on its new functions is not yet available. Similarly, detailed breakdowns between direct costs and indirect costs expected to be incurred by the Commission are not yet available.

These are the same activities and cost components that were set out in the Interim Stage 2 CRIS.

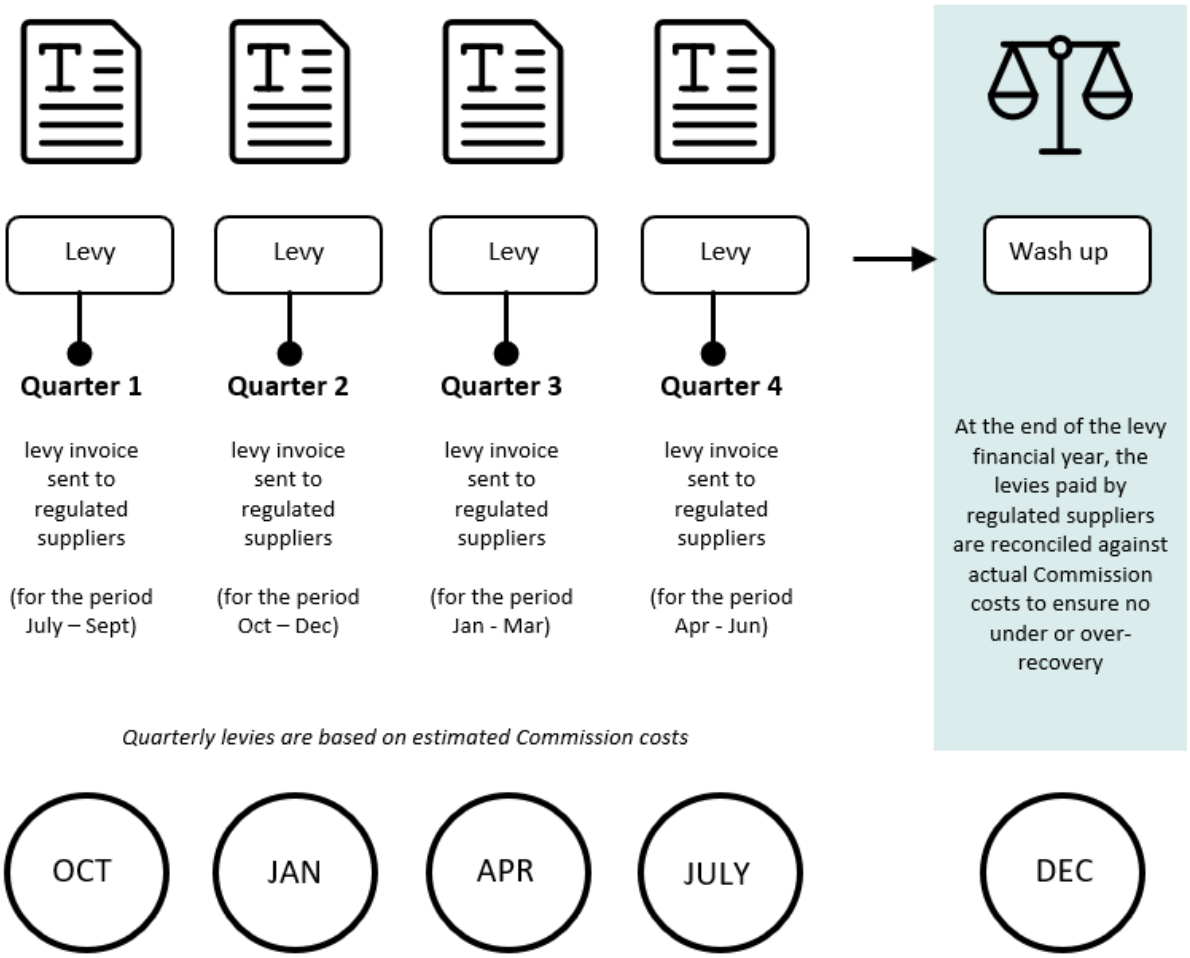
The Interim Stage 2 CRIS considered an alternative to the above approach of charging each water service supplier a single flat levy to recover all of the Commission's costs in regulating all water service providers. This would better meet the principle of efficiency as it is a more simple and cost-efficient approach to administer. However, we assessed this alternative as less equitable, less transparent and less justifiable when assessed against the other guiding principles. It would disadvantage water service providers that are only subject to core regulatory requirements and would result in some regulated suppliers being levied for the costs of regulatory tools that they are not subject to.

As discussed later in the **'Consultation'** section, many submitters raised that there is inadequate information on how some of the new regulatory tools will be applied in the future. We acknowledge that there is limited information in this CRIS. The Bill provides more details on how further tools can be applied, including consultation requirements by the Commission before further regulation is applied.

Expenses and revenue will align

Consistent with the existing levy recovery regime under Part 4 of the Commerce Act, it is proposed that MBIE will administer a levy wash-up process annually to ensure the regulated suppliers only pay the Commission's actual costs. This was signalled in the Stage 2 Interim CRIS.

Below is an overview of the levy process, including the wash up.



The levy wash up process is the same as for other regulated services under Part 4 of the Commerce Act (which applies to electricity lines services, gas pipeline services, and specified airport services).

Changes in assumptions that will affect the financial estimates

The main changes in assumptions that will affect the financial estimates relate to timing and application of different regulatory tools by the Commission in the first five years:

- Wider application of price-quality application. If price-quality regulation is applied to regulated suppliers other than Watercare, there would be a significant increase in the levy for price-quality regulation.
- Earlier application of other regulatory tools would also increase the Commission's costs. For example, if stormwater designation occurred within the next five years, the estimated levy for stormwater regulation would not be $0.

The Bill provides for further processes before additional regulation can be applied. In particular, the Commission must make a recommendation to the Minister of Local Government, take into account specified matters before making a recommendation, and would need to consult.

Any appropriation increases are subject to Cabinet approval.

Impact analysis

Impact of the levy on council districts

The allocation of costs has been estimated across the 67 council districts based on the resident population of each district (and using an assumption of one regulated supplier for each district).

This apportionment approach is the same as we set out in the Stage 2 Interim CRIS.

Regulated supplier (eg Council or water service organisation)	2023 Census Population	Percentage of Total Population	Indicative levy 2025/26 ($)	Indicative levy 2026/27 (S)	Indicative levy 2027/28 ($)
Ashburton district	34,746	0.70%	45,231	45,231	45,231
Auckland (Watercare)	1,656,486	33.20%	2,156,341	2,156,341	3,156,341
Buller district	10,446	0.20%	13,598	13,598	13,598
Carterton district	10,107	0.20%	13,157	13,157	13,157
Central Hawke's Bay district	15,480	0.30%	20,151	20,151	20,151
Central Otago district	24,306	0.50%	31,640	31,640	31,640
Christchurch city	391,383	7.80%	509,485	509,485	509,485
Clutha district	18,315	0.40%	23,842	23,842	23,842
Dunedin city	128,901	2.60%	167,798	167,798	167,798
Far North district	71,430	1.40%	92,984	92,984	92,984
Gisborne district	51,135	1.00%	66,565	66,565	66,565
Gore district	12,711	0.30%	16,547	16,547	16,547
Grey district	14,043	0.30%	18,281	18,281	18,281
Hamilton city	174,741	3.50%	227,470	227,470	227,470

Hastings district	85,965	1.70%	111,905	111,905	111,905
Hauraki district	21,318	0.40%	27,751	27,751	27,751
Horowhenua district	36,693	0.70%	47,765	47,765	47,765
Hurunui district	13,608	0.30%	17,714	17,714	17,714
Invercargill city	55,599	1.10%	72,376	72,376	72,376
Kaikoura district	4,215	0.10%	5,487	5,487	5,487
Kaipara district	25,899	0.50%	33,714	33,714	33,714
Kapiti Coast district	55,914	1.10%	72,786	72,786	72,786
Kawerau district	7,539	0.20%	9,814	9,814	9,814
Lower Hutt city (Wellington Water)	107,562	2.20%	140,020	140,020	140,020
Mackenzie district	5,115	0.10%	6,658	6,658	6,658
Manawatu district	32,415	0.60%	42,196	42,196	42,196
Marlborough district	49,431	1.00%	64,347	64,347	64,347
Masterton district	27,678	0.60%	36,030	36,030	36,030
Matamata-Piako district	37,098	0.70%	48,293	48,293	48,293
Napier city	64,695	1.30%	84,217	84,217	84,217
Nelson city	52,584	1.10%	68,452	68,452	68,452
New Plymouth district	87,000	1.70%	113,253	113,253	113,253
Ōpōtiki district	10,089	0.20%	13,133	13,133	13,133
Ōtorohanga district	10,410	0.20%	13,551	13,551	13,551
Palmerston North city	87,090	1.70%	113,370	113,370	113,370
Porirua city (Wellington Water)	59,445	1.20%	77,383	77,383	77,383
Queenstown-Lakes district	47,808	1.00%	62,234	62,234	62,234
Rangitikei district	15,663	0.30%	20,389	20,389	20,389
Rotorua district	74,058	1.50%	96,405	96,405	96,405
Ruapehu district	13,095	0.30%	17,046	17,046	17,046
Selwyn district	78,144	1.60%	101,724	101,724	101,724
South Taranaki district	29,025	0.60%	37,783	37,783	37,783
South Waikato district	25,044	0.50%	32,601	32,601	32,601
South Wairarapa district	11,811	0.20%	15,375	15,375	15,375
Southland district	31,833	0.60%	41,439	41,439	41,439
Stratford district	10,149	0.20%	13,212	13,212	13,212
Tararua district	18,660	0.40%	24,291	24,291	24,291
Tasman district	57,807	1.20%	75,251	75,251	75,251
Taupō district	40,296	0.80%	52,456	52,456	52,456
Tauranga city	152,844	3.10%	198,966	198,966	198,966
Thames-Coromandel district	31,995	0.60%	41,650	41,650	41,650
Timaru district	47,547	1.00%	61,895	61,895	61,895
Upper Hutt city (Wellington Water)	45,759	0.90%	59,567	59,567	59,567
Waikato district	85,968	1.70%	111,909	111,909	111,909
Waimakariri district	66,246	1.30%	86,236	86,236	86,236
Waimate district	8,121	0.20%	10,572	10,572	10,572
Waipa district	58,686	1.20%	76,395	76,395	76,395

Wairoa district	8,826	0.20%	11,489	11,489	11,489
Waitaki district	23,472	0.50%	30,555	30,555	30,555
Waitomo district	9,585	0.20%	12,477	12,477	12,477
Wellington city (Wellington Water)	202,689	4.10%	263,852	263,852	263,852
Western Bay of Plenty district	56,184	1.10%	73,138	73,138	73,138
Westland district	8,901	0.20%	11,587	11,587	11,587
Whakatane district	37,149	0.70%	48,359	48,359	48,359
Whanganui district	47,619	1.00%	61,988	61,988	61,988
Whangarei district	96,678	1.90%	125,851	125,851	125,851
Total	4,993,254	100.00%	6,500,000	6,500,000	7,500,000

Note
1– the Chatham Islands will be exempt from economic regulation
2 – the increase for Auckland (Watercare) in 2027/28 is because price-quality regulation is anticipated to be applied to Watercare from 207/28 onwards. This CRIS assumes that only Watercare is subject to price-quality regulation in the first five years.

The above is an indicative estimate only. The above estimates will be affected by the future shape of water services delivery, which is still evolving.

There is unlikely to be one regulated supplier for each district once final decisions are made on preferred water service delivery models by councils. A large number of councils have indicated a preference or made a decision to establish a stand-alone or multi-council owned water services organisation. Local authorities are required to submit their plans for water service delivery (including establishment dates for any new water service organisations) by 3 September 2025. It is anticipated that different local authorities will identify different dates for transferring responsibility for water service delivery, with some water service organisations expected to be operation from 1 July 2026 and others planned for implementation by 1 July 2027.

An additional complexity is that there may be more than one regulated supplier within a geographic location. For example, if councils retain some delivery of water services to a small group of properties. The final proposed levy design allows for the levy to be split between regulated suppliers[3]. Alternatively, the Minister may waive one of the regulated parties from paying if certain criteria are met. These additional implementation features are updates following consultation.

Other apportionment options were considered

As we note in the '**Consultation**' section later, many submitters raised concerns that the population-based apportionment does not adequately account for regulated suppliers with a high proportion of rural residents that are not connected to water services or regulated suppliers that have a small resident population but have systems that are geared towards peak seasonal loading.

[3] The levy could be divided equally between the regulated suppliers if one is a council that retains local government water services. The council may choose to pass this levy cost on to the water organisation.

We acknowledge the limitations with the population-based apportionment method. We considered the alternative options in the table below. However, these alternatives did not perform as well against our guiding objectives for a mixture of the following reasons -

- There were significant data limitations (meaning it is less transparent than the population-based apportionment approach)
- It would be complex to administer (meaning it is less efficient to implement at this time than the population-based apportionment method)
- It would be inequitable (meaning it is distributed less fairly among regulated water service suppliers than the population-based method)

We anticipate that number of connections could be a better option in the future, once current data limitations are addressed following the introduction of information disclosure regulation. We are likely to consider apportionment options again as part of a future review of the levy – see the section on '**Review**'.

Other options apportionment	**Reason for not recommending at this time**
Serviced population of each regulated supplier	There is a lack of accurate data on the proportion of the population in each council district on self-supply or not connected. It would also be more complex to administer.
Number of connections each regulated supplier is responsible for	The available data on water connections is currently inaccurate and methods of counting connections are not standardised.
The value of the regulated asset base of each supplier	This is the method used to apportion Commission costs in the calculation of the levy for regulation of electricity lines, gas pipelines and specified airports. Therefore, it would have the benefit of consistency. However, it will be some years before valuations of regulatory assets are standardised, verifiable, and have Commission oversight.
Annual gross revenue of each regulated supplier	Similar to the above option, we expect it will be some years before revenue for each regulated supplier is collected and verifiable.
A flat charge for each regulated supplier	This method results in a higher charge per consumer of smaller regulated suppliers. It would be inequitable for consumers in smaller networks.
Costs allocated based on time spent by the Commission on regulation of each regulated supplier	This method would be administratively difficult for the Commission to assign costs, and result in costs of regulation varying significantly for regulated suppliers year by year depending on the action taken by the Commission in relation to regulation.

Impact of the levy on consumers

Ultimately, the levy costs are likely to be passed on to consumers through rates or water charges. It will be up to regulated suppliers to determine how best to recover their levy costs and how best to ensure these costs are recorded (for example, whether to include levy charges as an explicit line in rates bills).

Councils are the main providers of drinking water (and wastewater services) to people in New Zealand. Councils supply approximately 4.294 million people[4] with drinking water (out of a total population in New Zealand of 5.25 million people) – meaning that more than 80% of the population will potentially be impacted by the levy.

However, the overall cost change for consumers is anticipated to be very small. For example, the annual amount of the levy relative to councils' annual budgets represents approximately 0.08% of council rates and even less when all council revenue is considered. As demonstrated by the example below, estimating the impact on consumers is dependent on factors such as how water services are charged and the proportion of residents connected to the water supply.

The demand for drinking water and wastewater is unlikely to be materially impacted by this levy. Changes in price typically have a very small effect on demand for drinking water and wastewater. They are essential services and there are few substitutes (making it difficult for consumers to switch to alternative suppliers when prices from councils change). We have included an example of how the levy might be passed on to consumers below.

Example of how the levy may be passed on to consumers

A council district has a population of 35,000. Within its district, it supplies 12,500 homes and businesses with safe drinking water. The council has a targeted rate for water supply that is only charged to properties that are connected to, or able to be connected to, a council-operated drinking water supply. The council charges a fixed amount per connected property, that is not based on property value or water usage.

For the 2025/26 year the rate is $740 per property and the annual levy is $45,000.

If the annual levy was fully passed through in the targeted rate, it would be an annual increase of approximately $3.60 (for each of the 12,500 homes and businesses that are connected to a council-operated drinking supply). This is a 0.48% increase on the existing targeted rate.

Impact on the regulator

There is low service performance risk. The Commission is an experienced regulator, with similar functions to regulate electricity lines, gas pipeline and telecommunication services. The Commission has been building its knowledge and expertise on the water services sector during a transitional period, and in February 2025 published a discussion paper on proposed approaches to the application of information disclosure regulation for water services.

[4] Taumata Arowai Drinking Water Regulation Report 2023, see p13 Taumata-Arowai-Drinking-Water-Regulation-Report-2023_online.pdf

Consultation

Consultation was undertaken between 26 November 2024 and 7 February 2025.

MBIE received 34 submissions. The majority were from territorial authorities, with submissions also from a Council Controlled Organisation,[5] Water New Zealand, the Water Users Group, and the Hawkes Bay Regional Recovery Agency.

The Interim Stage 2 CRIS was published prior to consultation and this Final Stage 2 CRIS now notes and addresses the issues raised in consultation.

Key themes

The following key themes came through submissions:

Structure

About 33% of submitters supported a levy to recover the Commission's costs, but many submitters advocated for the Crown to contribute at least some of the Commission's costs, even for a transitional period, as they consider the levy would fund a public benefit

Design

Some submitters supported the intent behind the flexible design of the proposed levy, but many raised concerns regarding transparency and inadequate information on how regulatory tools would be applied in the future.

Cross subsidisation between councils was raised as a concern, including Auckland Council who consider the design unfairly burdens the Auckland region as the 'first mover' for price-quality regulation.

Apportionment

Some submitters supported the use of population-based apportionment noting the data limitations with alternative approaches, but many submitters raised concerns with this approach

Implementation.

Many submitters raised that the levy is an unbudgeted expense that is not provided for in Annual or LTP budgets and will need to fall within existing baselines. Many requested guidance on how to pass on costs, delayed or phased implementation, and amending the levy review period to better align with LTP and WSS cycles.

[5] Waikato Local Authority Shared Services, trading as Co-lab

More detailed comments and response

The table below provides further details on the key themes and how the proposal has been altered to address these concerns (or if not, why not)

Comments	Response
Levy structure	
Many submitters advocated for the Crown of contribute at least some of the Commission's costs.	Cost recovery is appropriate where there is a clearly identifiable group giving rise to the need for the Commission's activities. Unlike the Authority, the Commission will not be providing services to non-regulated suppliers.
Levy design	
Many submitters raised that there is inadequate information on how these tools will be applied and to which councils in the future.	The Bill sets out how further tools can be applied to regulated suppliers in the future. This includes requirements on the Commission to consult and recommendations on further regulation to the Minister of Commerce and Consumer Affairs.
Many submitters raised concerns regarding how the levy would be utilised and the benefit it would provide (with some requesting that the levy be split into drinking water, wastewater and stormwater categories).	See the section below on Monitoring and Evaluation The Commission's core functions (for example information disclosure and monitoring) are not specific to drinking water or wastewater services, which is why the levy design has not been split by type of water supply.
Auckland Council raised concerns that the proposed design unfairly burdens the Auckland region as the 'first mover' for price-quality regulation.	Only the direct costs associated with Watercare's price-quality path from 2027/28 onwards will be recovered through the 'price-quality regulation levy'. Preparatory work for setting a price-quality path (relevant to setting future price-quality paths) will be recovered through the 'core regulation levy'.
Many submitters raised concerns of cross-subsidisation between councils.	The levy design avoids cross-subsidisation to the extent possible. Further itemising of costs would add complexity, with limited benefits. This could be looked at further in a future review of the levy.
Apportionment	
Many submitters raised concerns that the population-based apportionment does not adequately account for: • Regulated suppliers with a high proportion of rural residents that are not using / connected to water services • Regulated suppliers that have a small resident population but have systems	We acknowledge the limitations with the population-based apportionment, but other alternatives have significant data limitations, would be complex to administer, or would be inequitable (such as a flat rate). Number of connections could be used in future if the current data limitations are addressed following introduction of information disclosure regulation.

that are geared towards peak seasonal loading, • Private / Crown suppliers in the future	If private / Crown suppliers are regulated in future, the levy would need to be reviewed to reflect this.
Implementation	
Many submitters raised that the levy is an unbudgeted expense that is not provided for in Annual or LTP budgets, and that cost recovery implementation should be delayed. Similarly, many submitters said the levy would contribute to cost pressures on local communities.	We acknowledge this but note that the annual amount of the levy relative to councils' annual budgets represents approximately 0.08% of council rates and even less when all council revenue is considered.
Concerns were raised about how to pass on the cost to service users and some submitters requested guidance on this.	It should be up to the regulated water services supplier to determine how best to recover the levy costs from consumers
Many submitters supported aligning the levy review period with LTP cycles and WSS to give councils sufficient time for any design changes and cost implications to be factored into council planning.	We agree that that the Commission's levy and appropriation reviews should be better aligned with the setting of the LTP and WSS from 1 July 2030 onwards. We will explore whether there is merit commencing a review in 2026 ahead of the setting of the LTP and WSS for 1 July 2027.

Conclusions and recommendations

In summary, the levy will have the following features:

Structure

- The levy will be used to fully recover the Commission's costs to regulate local government water service providers from 1 July 2025 onwards, not to directly fund the Commission, and is fiscally neutral for the Crown.

Design

- A method for calculating the levies is prescribed (rather than a fixed levy amount), which provides for costs related to the following activities to be recoverable:
    - Core regulation of water services (all regulated suppliers)
    - Performance requirements (regulated suppliers subject to performance requirements)
    - Quality-only regulation (regulated suppliers subject to quality-only regulation)
    - Price-quality regulation (regulated suppliers subject to price-quality regulation)
    - Consumer protection measures (regulated suppliers subject to consumer protection measures)
    - Stormwater regulation (regulated suppliers of stormwater services)

Apportionment

- The levy method allocates the costs of regulation in proportion to the normally residing population served by each regulated supplier, based on the latest Census data.
- If there is more than one supplier in a region, there is flexibility to split the levy cost.
- The Minister to exercise a waiver if certain conditions are met.

Implementation plan

The levy will be payable from 1 July 2025 and invoiced as soon as practicable after that date.

Consistent with the existing levy recovery regime under Part 4 of the Commerce Act, MBIE will administer the levy on behalf of the Minister, including by:

- Calculating the estimate of the Commission's costs at the start of the financial year, for that activity and apportioned to regulated suppliers at that time, and
- Invoicing regulated water services suppliers quarterly in advance.

The levy wash up process will occur annually to ensure the regulated suppliers only pay the Commission's actual costs. The Commission's actual costs will be capped by the appropriation. Any unspent funds will be returned to the Crown.

Monitoring and evaluation

The levy will enable the recovery of the 'Regulation of Water Services' appropriation, which has the following annual performance measures to monitor the Commission's performance -

Performance measure	**Purpose**	**Standard to be met for 2025/26**
Number of determinations[6]	Determinations are the formal legislative instrument that puts regulatory requirements in place. Therefore, this measures whether the Commission is delivering regulatory products for the water services regime.	At least 1
Percentage of determinations completed by the statutory deadline	Measures timeliness of delivery by the Commission.	100%
Quality assurance processes for determination and code amendments are in place and applied	Measures whether the Commission is applying good quality assurance practices when delivery regulatory products.	100%

The above performance measures are new and have been selected to align with other output performance indicators under Part 4 of the Commerce Act.

[6] Includes determinations, clarifications, review, codes and amendments.

The Commission will account to Parliament for its activities under this appropriation, which will include the following:

- **Statement of Intent.** The new water services regime will be incorporated into the Commission's next Statement of Intent (due by 1 July 2026). This will set out the Commission's strategic direction for regulation of water services and will describe how the Commission will manage its operations and functions to achieve this direction.
- **Annual report.** This will provide a detailed account of the Commission's activities and financial performance in relation to regulation of water services. This will ensure that the Commission is accountable to the public and to the government by outlining how it has met its objectives and managed resources.
- **Annual statement of performance expectations.** This will outline how the Commission's performance targets for the regulation of water services are being met and its planned activities for the upcoming financial year. This will ensure transparency around performance targets and how the Commission is meeting its regulatory responsibilities.

As the new regime becomes more established, we anticipate that more guidance will be made available by the Commission to support implementation.

Review

The first review of the levy and appropriation will be completed by 30 June 2030, which aligns with the three-yearly setting of the LTP and WSS.

This would not rule out MBIE commencing a review earlier or providing further guidance to give councils certainty ahead of the next LTP and WSS reset for 1 July 2027.

Matters that may trigger an earlier review include:

- Whether there is merit commencing a review ahead of the setting of the LTP and WSS deadline of 1 July 2027,
- Availability of better data to update the apportionment approach, and
- The Commission exploring a recommendation to move regulated suppliers to quality, performance, or price-quality regulation.

The Minister will consult regulated suppliers or their representatives as part of any levy review.