

Submission on

Commerce Commission Levy for the Economic Regulation of Water Services

24 January 2025



Waipā District Council's submission on the *Commerce Commission levy for the economic regulation of water services*

To: Competition Policy Team

Email: competition.policy@mbie.govt.nz

1. Waipā District Council appreciates the opportunity to be able to make a submission on the *Commerce Commission levy for the economic regulation of water services*.

<https://www.mbie.govt.nz/business-and-employment/business/competition-regulation-and-policy/economic-regulation-policy-for-water-services/discussion-document-commerce-commission-levy-for-the-economic-regulation-of-water-services>

Part 1: Levy structure	
1.	What are your views on the preferred option for a levy to fully recover the costs of the Commission's new functions from 1 July 2025 onwards from regulated water services suppliers, excluding litigation and Crown Monitor costs for Watercare? Please provide reasons. Waipā agrees it is appropriate that the Water Services Providers are responsible for funding the costs of regulation, however, a concern is that by imposing the full costs of the Commerce Commission's economic regulation from 1 July 2025, this levy is unbudgeted and does not fall within Councils' legislated planning and budget setting timeframes. The Commerce Commission regulation is going to benefit customers along with regulation of the sector largely from 2026/2027, therefore it is our view that this is when the consumers should start paying for the costs. Any costs associated with the set-up of the regulations prior to them effectively being operative should be funded via Central Government not as unbudgeted cost for ratepayers.
Part 2: Levy design	
2.	What are your views on the proposed levy design? Based on the information available, we agree with the proposed levy design in principle but think that consideration should be given to splitting the levy across water, wastewater and stormwater so that the cost for each of these

	activities can be ‘ringfenced’ as per Local Water Done Well (LWDW) requirements (particularly if these activities are separated and delivered by different water services providers in the future – for example stormwater services retained by a Council, but water and waste water services delivered by a CCO). We also expect that as the Commission develops its future operating budgets and regulation frameworks it will more accurately allocate its costs to services to ensure improved equitable allocation between water service providers.
3.	How would the proposed levy design impact on your organisation (whether now or in the future)? Please provide your assessment of the nature and extent of these impacts.
	The proposed levy design provides inadequate information on which activities the levy is payable for and the regulated suppliers to whom the levy will be applicable to in the future. With the indicative costs covering only the core regulation of water services, we are concerned about the possible future financial burden of compliance costs if additional tools outside of core regulation are added. An option would be to look at an incentivisation criteria in the future, where highly compliant water services providers could be subject to a lower regulation audit regime. We acknowledge that there is a need to balance an equitable levy and ensuring levy costs do not rise due to administrative burden.
4.	Do you have any comments on how the levy design could be improved? Please provide reasons.
	The levy design could be improved by splitting the levy by Water, Wastewater and Stormwater to meet the requirement of ‘ringfencing’ under LWDW. More information is required on the Levy Framework.
Part 3: Levy apportionment	
5.	Do you have any comments on the preferred option for apportionment of the levy to each regulated supplier?
	We think that initially Crown funding would provide greater efficiency as it would remove the administration of the levy from both the Commerce Commission and the Councils/Water Services Organisations. Once the Commerce Commission actually starts delivering its regulatory functions and these functions benefit the consumers (2026/2027), then consumers should start paying. Additionally, we do not support the sole use of population-based apportionment as: It does not adequately account for the different circumstances of different Councils/Water Services Organisations, for example, rural

	communities that only have a small percentage of their population connected to the services compared to city Councils where the majority of the population is connected to, and using the water services. Ultimately if looking at this from a user pays perspective the cost of an individual household in a city Council would be less than that equivalent household of a smaller district Council that has a large rural population who do not contribute to water costs, which does not promote the principle of user pays. ▪ It does not recognise future expected diminishing regulatory costs for the Commerce Commission as less entities are regulated due to water service provider amalgamations. ▪ It gives no incentive for larger water organisations under Local Water Done Well and good performers. We accept that current information across the country may be inadequate to base the levy apportionment on connections (connected consumers), serviced population, or water abstraction volume take/use, but these metrics would be preferred once they are possibly standardised and become more reliable and should be considered in future reviews to achieve the principle the user pays. We also believe a mixed charge model with some fixed and variable charges has merit for further consideration. Where the associated work of an activity is more or less the same across all suppliers, for example, information disclosure, a fixed rate is preferable. Where the cost of regulatory activities varies due to supplier size, the use of metrics such as population to calculate costs is more understandable. This would reflect better the cost of doing business and means those that have created amalgamated entities are not subsidising smaller entities that have not.
6.	How would the proposed method of apportionment impact on your organisation (whether now or in the future)? Please provide your assessment of the nature and extent of these impacts.
	For Waipā District Council if the fee apportionment was on a connection basis, it then reflects ‘user pays’, and the fee payable would be less than based on population; we have equated this to be approximately \$55,200 based on our current average water and wastewater connections and the indicative levy estimate for 2025/26, which is approximately \$21k less than the proposed levy for Waipā. Council or any future Water Services Organisation will not have an option on how it distributes the levy across its rating base/ customers; having a large rural population within Waipā will see connected residential ratepayers/customers paying a higher fee than neighbouring Hamilton customers.

7.	Do you have any comments on alternative options to apportion the levy? If another option is preferred, please provide reasons.
	Refer comments in point 5.
Part 4: Levy implementation	
8.	Do you see any issues with your implementation of the levy (receipt of invoices, payment and passing the cost on as you may determine)? If so, what are those issues?
	No, we do not see any foreseeable issues with receipt of invoices, payment and passing the cost on as we determine, with the exception of the proposed 2025/2026 levy. The suggestion that these levies can be in place for the 2025/2026 financial year is impractical and not in alignment with the Local Government Act 2002 Council Long Term Plan/Annual Plan rates strike financial processes. These have long lead in times and are fully audited. Central Government needs to fund establishment costs and first year operational costs to allow appropriate time and process for the levy to be processes to be adapted to Council funding processes. Additionally, we request that Councils be given sufficient time to collect the fee before making payment. This is likely to be a concern only in the first year of implementation.
9.	Would the proposed implementation approach create any challenges for your organisation? If so, what would these be in practice and are there solutions you wish to propose?
	Yes – as outlined above, the current proposal does not align well with the Local Government Act 2002 (LGA) processes that we must follow. For example, the increased cost to water services as currently proposed will need to be managed through our 2025-34 LTP process which is due to go out for public consultation in March of this year, refer to comments in point 16. This is impracticable and not aligned with the LGA processes, it puts Council in a very

	difficult place where we may not pass Audit measures through introducing a levy/fee late in the process without adequate Long Term Plan process. Considering that both the Authority and the Commerce Commission are consulting on their associated levies at this time, which will not be finalised until mid-2025, we question the reality of meeting the timeframe to allocate these large sums into financial budgets for 2025/26 financial year. Long-term alignment of timing of levy reviews and with the legislated timing of water strategies (which drive water services budgets and customer price setting) is critical for the effective and efficient planning and management of water services and associated cost recovery, including reporting timelines across organisations.
10.	Do you have a preference for when the levy should be reviewed next? If so, why? We would like the review to be completed early in the 2026-27 financial year for 2027-28 charges to align with the 2027-37 LTP timeframes.
General Comments:	



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