

24 January 2025

The Ministry of Business, Innovation and Employment (MBIE)
Wellington
Via email competition.policy@mbie.govt.nz

Tēnā koutou katoa

Consultation on the Commerce Commission levy for the economic regulation of water services

Water New Zealand (Water NZ) welcomes the opportunity to submit on the Commerce Commission levy for the economic regulation of water services discussion document.

Water NZ is a national not-for-profit organisation which promotes the sustainable management and development of New Zealand's three waters (drinking water, wastewater and stormwater). Water NZ is the country's largest water industry body, providing leadership and support in the water sector through advocacy, collaboration and professional development. Its ~3,300 members are drawn from all areas of the water management industry including regional councils and territorial authorities, consultants, suppliers, government agencies, academia and scientists.

We note, concurrent to this consultation, the Water Services Authority – Taumata Arowai is also consulting on a levy for council drinking water suppliers and wastewater and stormwater network operators. Water NZ are submitting on both proposals. We will share both submissions with the other agency.

We recognise that this discussion document was prepared ahead of the Local Government (Water Services) Bill being introduced or enacted and the Commission functions, powers and duties to regulate local government water services suppliers not yet confirmed. Following the passage of the Local Government (Water Services) Bill there may be a need to reconsider whether the Commission is adequately funded. However, Water NZ acknowledges that a balance must be achieved between funding the regulator and imposing additional costs on consumers.

Our feedback

The Local Government (Water Services) Bill proposes implementing a levy to fully recover the costs of the Commission's new functions from 1 July 2025 onwards, excluding litigation and Crown Monitor costs for Watercare

Establishment, and subsequent transition to a full economic regulation regime

The future water services delivery arrangements will be local monopoly providers of water services. Water NZ **supports** the establishment of a water services economic regulatory regime for all water services – drinking water, wastewater and stormwater, and regardless of the delivery model.

It is common for regulators to be funded by levies. Water NZ **support** the proposed levy model to recover the Commission's costs of performing their relevant functions, powers and duties under the Commerce Act.

Directing the levy at local government water services suppliers or their council-controlled organisations (regulated suppliers) that deliver water services is appropriate. As these regulated suppliers work to implement Local Water Done Well, focusing the levy on these parties will allow its consideration in assessing their approach to financial sustainability and regulatory compliance. Water NZ **support** the preferred option that the levy is applied to regulated water services suppliers.

Levies specified for classes of regulatory tools and activities

The flexibility and staged approach to regulatory tools will accommodate the variance and consistency in maturity of asset and financial planning across local government in Aotearoa New Zealand. More mature and better resourced regulated suppliers, such as Watercare, will be more suited to be subject to earlier price quality regulation compared to their counterparts.

We **support** the preferred option of setting different levies for different classes of suppliers.

The Commission will develop a service quality code and complaints processes

The Commission will need effective engagement with the regulated sector and consumers, sector experience, and skills in data analysis, consumer engagement, behavioural economics, along with the ability to identify where they can deliver the biggest overall benefit to communities who value water as a taonga (treasure) not merely a service or asset.

No consumer protection measures are proposed to be introduced in this period. However, when they are it is **suggested** the Commerce Commission is appropriately resourced to carry out these functions.

Stormwater services may subsequently be subject to the economic regulation regime

Economic regulation will initially apply to water supply (drinking water) and wastewater services only. Stormwater services may be designated as subject to the economic regulation regime at a later date.

Stormwater networks are more complex than drinking water or wastewater systems, with most comprising a reticulated stormwater network as well as above-ground 'green infrastructure' solutions, watercourses, secondary, and overland flow paths.

The benefits of stormwater network services are wider than properties owners in an urban area. Urban stormwater systems drain rainfall runoff to avoid nuisance flooding and consequential damage to public and private property, assets and livelihoods. Traditional piped stormwater networks efficiently receive and transport a cocktail of contaminants from surrounding land uses (e.g. multiple industries, human activities, roads) to an aquatic receiving environment. Future levy design for the economic regulation of stormwater services must take account of these nuances. We are heartened to see tailored regulatory tools are suggested.

How should the levy be apportioned to individual regulated suppliers?

Water NZ **support** the preferred option of a levy apportioned based on population in regulated supplier district.

Water NZ notes:

- Other regulated utilities use volumetric charges which incentives efficiency. We recognise, at this time, this approach would not be available to the water sector however would be worth consideration in future regulatory periods.
- We would support apportioning the levy based on the number of connections. However, we understand the information is not readily available nationally for this levy round but could be an option in the future levy reviews.
- The number of connections as a basis would work for wastewater and drinking water, but not so well for stormwater. Those receiving benefits from stormwater services are much wider, and harder to establish, than number of connections or property owners within a district.

- We note that as census data is collected every five years, this method could result in some inaccuracies, such as people moving from one district to another and housing and industry growth, associated with representative water and wastewater connections / use.

An industry levy

Technical guides are a pragmatic and enduring way of enabling knowledge transfer across organisations. The water sector also uses over 100 joint Australian New Zealand Standards, their development managed by Standards New Zealand. Standards New Zealand does not receive direct government funding and operates on a cost recovery basis. Industry sectors are seldom able to fund the administrative costs associated with standards development, meaning many existing industry standards are disjointed and or out of date. A notable example is NZS 4404:2010 *Land development and subdivision infrastructure*.

Industry levies are a commonly applied method for funding national collaboration in the delivery of New Zealand infrastructure, that could also be applied to water service delivery. Three New Zealand examples are shown in the appendix to this submission.

We **recommend** the establishment of an industry levy on the water service providers to deliver on national collaboration on standards, national codes of practice and industry good practice guides, customer education and to facilitate, promote, and support research, education, and training relating to water services.

Conclusion

We thank the Ministry for opportunity to comment on the Commerce Commission levy for the economic regulation of water services discussion document.

Water NZ supports the Commission's proposed functions, powers and duties to regulate local government water services suppliers.

We look forward to continuing to work with the Ministry and the Commerce Commission to refine and contribute to the wider water services economic regulation programme.

Noā mihi nui

Privacy of natural persons

Nicci Wood
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Appendix: Common industry levies

	<u>Telecommunications levy</u>	<u>Electricity industry levy</u>	<u>The building industry levy</u>
Enabling legislation	The Telecommunications Development Levy (TDL) was established by legislation in June 2011	<u>Established under the Electricity Industry (Levy of Industry Participants) Regulations 2010.</u>	Established under the Building Act 2004
Funding source	Collected from telco utilities as part of the telecommunications act	The levy is directly charged to industry participants. They may pass this cost on to consumers - this means a power bill could show the levy, or it could be included in other costs.	payable by building owners or developers on successful building consent applications for projects that are worth more than a prescribed threshold of \$20,333.
Amount	\$10 million a year	Set based on costs of the Electricity Authority, EECA, electricity efficiency programmes and the quantity of electricity generated, purchased and conveyed, plus the number of consumer connections.	The building levy rate from 1 July 2020 is \$1.75 (including GST) per \$1,000 and part \$1,000.
Covers	Pays for telecommunications infrastructure including the relay service for the deaf and hearing-impaired, broadband for rural areas, and improvements to the 111 emergency service.	Funds the electricity authority and the energy efficiency programmes delivered by the Energy Efficiency and Conservation Authority (EECA).	Funds MBIE functions and activities under the Building Act 2004 including: policy, technical rules and guidance, operational policy advice and service design information and education service delivery (compliance and enforcement) and monitoring and reporting.