

Submission form

We welcome your feedback

This is the Submission Form for responding to the Discussion Paper released by the Competition Policy team at Ministry of Business, Innovation and Employment (**MBIE**) 'Commerce Commission levy for the economic regulation of water services'. MBIE welcomes your comments by **5pm on Friday, 24 January 2025**.

Please make your submission as follows:

1. Please see the full Discussion Paper to help you have your say.
2. Please read the privacy statement and fill out your details under the 'Submission information' section.
3. Please fill out your responses to the questions in the tables provided. Your submission may respond to any or all of the questions. Questions which we require you to answer are indicated with an asterisk (*). Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples. If you would like to make other comments not covered by the questions, please provide these in the 'General Comments' section at the end of the form.
4. If your submission contains any confidential information, please:
 - a. State this in the cover page and/or in the e-mail accompanying your submission.
 - b. Indicate this on the front of your submission (e.g., the first page header may state "In Confidence").
 - c. Clearly mark all confidential information within the text of your submission.
 - d. Set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (OIA) that you believe apply.
 - e. Provide an alternative version of your submission with confidential information removed in both Word and as a PDF, suitable for publication by MBIE.
5. Before sending your submission, please delete this first page of instructions.
6. Submit your submission by:
 - a. Emailing this form as both a Microsoft Word and PDF document to the Competition Policy team at competition.policy@mbie.govt.nz; or
 - b. Posting your submission to:

Competition Policy team
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
Wellington 6140

Please direct any questions that you have in relation to the submissions process to competition.policy@mbie.govt.nz.

Release of Information

Please note that submissions are subject to the OIA and the Privacy Act 2020. In line with this, MBIE intends to upload copies of submissions received to MBIE's website at www.mbie.govt.nz. MBIE will consider you to have consented to uploading by making a submission unless you clearly specify otherwise in your submission. MBIE will take your views into account when responding to requests under the OIA and publishing submissions. Any decision to withhold information requested under the OIA can be reviewed by the Ombudsman.

Privacy statement

The information provided in your submission will be used to inform MBIE and other interested agencies' final recommendations to government on the design of a levy to recover the Commerce Commission's costs for economic regulation of water services. Your submission will also become official information, which means it may be requested under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available upon request unless there are sufficient grounds for withholding it.

Use and release of information

To support transparency in our decision-making, MBIE proactively releases a wide range of information. MBIE will upload copies of all submissions to its website at www.mbie.govt.nz. Your name, and/or that of your organisation, will be published with your submission on the MBIE website unless you clearly specify you would like your submission to be published anonymously. Please tick the box provided if you would like your submission to be published anonymously i.e., without your name attached to it.

If you consider that we should not publish any part of your submission, please indicate which part should not be published, explain why you consider we should not publish that part, and provide a version of your submission that we can publish (if we agree not to publish your full submission). If you indicate that part of your submission should not be published, we will discuss with you before deciding whether to not publish that part of your submission.

We encourage you not to provide personally identifiable or sensitive information about yourself or others except if you feel it is required for the purposes of this consultation.

Personal information

All information you provide will be visible to the MBIE officials who are analysing the submissions and/or working on related policy matters, in line with the Privacy Act 2020. The Privacy Act 2020 includes principles that guide how personal information can be collected, used, stored and disclosed by agencies in New Zealand. Please refrain from including personal information about other people in your submission.

Contacting you about your submission

MBIE officials may use the information you provide to contact you regarding your submission. By making a submission, MBIE will consider you to have consented to being contacted, unless you clearly specify otherwise in your submission.

Viewing or correcting your information

We may share this information with other government agencies, in line with the Privacy Act 2020 or as otherwise required or permitted by law. This information will be securely held by MBIE. Generally, MBIE keeps public submission information for ten years. After that, it will be destroyed in line with MBIE's records retention and disposal policy. You have the right to ask for a copy of any personal

information you provided in this submission, and to ask for it to be corrected if you think it is wrong. If you'd like to ask for a copy of your information, or to have it corrected, please contact MBIE by emailing competition.policy@mbie.govt.nz.

Submission information

(Please note we require responses to all questions marked with an *)

Release of information

Please let us know if you would like any part of your submission to be kept confidential.

☐ I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because
[\[Insert text\]](#)

[To check the boxes above: Double click on box, then select 'checked']

1. Personal details and privacy	
1.	I have read and understand the Privacy Statement above. Please tick Yes if you wish to continue* [To check the boxes below Double click on box, then select 'checked'] ☒ Yes ☐ No
2.	What is your name?* David Bewley
3.	Do you consent to your name being published with your submission?* ☒ Yes ☐ No
4.	What is your email address? Please note this will not be published with your submission.* Privacy of natural persons
5.	What is your contact number? Please note this will not be published with your submission.*

	Privacy of natural persons
6.	Are you submitting as an individual or on behalf of an organisation?*
	☐ Individual (skip to 8) ☒ Organisation
7.	If on behalf of an organisation, we require confirmation you are authorised to make a submission on behalf of this organisation.
	☒ Yes, I am authorised to make a submission on behalf of my organisation
8.	If you are submitting on behalf of an organisation, what is your organisation's name? Please note this will be published with your submission.
	Whakatāne District Council Private Bag 1002 Whakatane 3158
9.	If you are submitting on behalf of an organisation, which of these best describes your organisation? Please tick one.
	☒ Territorial authority ☐ Regional council ☐ Existing regulated supplier under the Commerce Act 1986 ☐ Consumer organization ☐ Non-governmental organisation ☐ Academic Institution ☐ Central government ☐ Iwi, hapū or Māori organisation ☐ Academic/Research ☐ Other. Please describe:

Responses to questions

The Competition Policy team welcomes your feedback on as many sections as you wish to respond to, please note you do not need to answer every question.

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.

Do not support – We believe that The Commerce Commission should be funded by the Crown as this compliance role is being performed for the benefit of all New Zealanders, and visitors.

It will bring an unnecessary and additional administrative burden on The Commerce Commission and all Councils to collect and manage the levy.

As proposed, the cost for those who receive water services in our district will need to increase by approx. 0.7% in rates (including the Water Services Authority/Taumatua Arowai levy). This is on top of an already planned 12.7% overall rates increase for 2025/26.

Within this proposal it notes that Territorial Authorities provide water to 84% of the population. For the Whakatane District, we have approx. 81% (30,000) of our population of 37,149 benefitting from our Three Waters services. We do not understand why Territorial Authorities / local ratepayers are therefore being asked to fully fund the cost for The Commerce Commission for a statutory role benefitting all of New Zealand.

Support litigation funding approach – This should be funded by the Commissions major litigation fund.

Part 2: Levy design

2.

What are your views on the proposed levy design?

The approach seems reasonable where the main core funding is funded by one group. This should be 100% Crown funded (as captured above).

Where regulations are enacted, those suppliers will pay for this regulation. That seems reasonable, although there is no clarity on how much this will be for suppliers and whether this is reasonable. Further details on this would be helpful for clarification purposes. Should these costs be capped?

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.
	If the legislation proceeds as tabled, the core funding would have a rating impact for our ratepayers. Along with the proposed Water Services Authority levy, the increase is 0.7% in rates for those who benefit from our water services. For other costs, we are unclear how this can be budgeted for either operating as (i) standalone business unit within council or (ii) a regional CCO. There would have to be some risk contingency applied to cover these potential costs. Currently there is no clarity on how much contingency should be applied ? Noting that local ratepayers will be meeting the bill for this, using the proposed levy model.
4.	Do you have any comments on how the levy design could be improved? Please provide reasons.
	Core Regulation should be 100% crown funded. For other regulation, there needs to be some guidance on how much contingency should be set aside to cover this risk and transparency applied about this risk contingency.
Part 3: Levy apportionment	
5.	Do you have any comments on the preferred option for apportionment of the levy to each regulated supplier?
	Do not support - Using a population based (per person) apportionment does not take into account the fact that the Whakatane District has a large number of rural communities that are not using/connected to three waters services. We acknowledge that the quality of current data may be inadequate to base the levy apportionment on serviced population or water volume. We would prefer the use of these metrics once they are standardised and become more reliable. We recommend that future reviews consider these more nuanced metrics to promote greater fairness and equity. Given the above, we believe Crown funding would be particularly relevant and necessary in the initial year(s) of implementation.
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.
	If the legislation proceeds as tabled, the core funding would have a rating impact on ratepayers, and that is an opex cost that has not been budgeted in the LTP. It will therefore need to be included as an Annual Plan change. We believe this is unreasonable given the context of an existing 12.7% rate rise planned for 2025/26. We believe this cost should be Crown funded.

	Also, as previously noted, a purely population-based model would disproportionately burden those councils and communities with a high proportion of rural residents who do not have water and wastewater services. This approach lacks equity and could adversely affect the reputation of local authorities and service providers.
7.	Do you have any comments on alternative options to apportion the levy? If another option is preferred, please provide reasons.
	We ask that Crown funding be considered.
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?
	Yes. The legislation is not going to be agreed until mid-2025. The intended starting date for charging a levy is 1 July 2025. We will be accepting our Annual Plan before July 2025 and we will need to consider how we recover the proposed levy (an opex cost) through our current structure before the legislation is in place. Politically, it is also a further Government imposed charge on local government with a very small window to adapt and put in place the most appropriate processes, adding to an already planned 12.7% rates increase. It is an unnecessary and additional administrative burden on Council.
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. This adds unnecessary complexity and administrative burden. Each of the Three Waters activities for the Whakatane District Council are funded differently, with water being charged by volume (volumetric charging), wastewater charged by connection, and stormwater charged based on property value. We recommend that each council should decide how a levy is collected, similar to other administrative costs and overheads.
10.	Do you have a preference for when the levy should be reviewed next? If so, why?
	Prior to each LTP period to allow it to be appropriately included in budget and finance modelling, including revenue streams.
General Comments:	

In respect to 'other options considered', it is disappointing that a central government funding commitment has been dismissed for the new economic regulation and consumer protection regime work. By contrast, the Water Services Authority's proposed approach to funding its role has settled on a crown funding/ levy funding split, based on Treasury guidelines for setting charges in the public sector (albeit, not a strict application). The 100% recovery levy approach proposed by the Commerce Commission once again leaves local government in the position of having to fully fund a Central government initiative.

Due to the nature of the work there appears to be no possible offset or savings to assist Whakatāne District Council fund the cost of the proposed \$48,359 p.a. levy.

When combined with the Water Services Authority's proposed \$153,692 levy, which also takes effect on 1 July 2025, the Council is faced with a new \$202,051 p.a. funding requirement. The 'coal face' reality is a 0.7% rate increase for water connected customers, which must now be added to an already signalled 12.7% rates increase (via the Councils Long Term Plan 2024 – 2034) for the 2024/25 financial year.

For a comparison, this \$200k opex could be used to fund arsenic removal costs for one of our major water supplies or cover the annual operating cost for our Murupara water scheme. These costs are not insignificant for our communities, and this could be better used to improve drinking water for our communities.

While the Commerce Commission's proposed approach may seek to promote the principles of equity, efficiency, justifiability and transparency, it does little to assist this Council with the concept of affordability. The discussion document omits any consideration of deprivation indices, which already apply to assist the Council in cases of funding formulas like a Financial Assistant Rate for transportation work with our crown funding partner NZTA.

There is no detailed discussion of why an overall budget of \$6.5m p.a. is required for the new economic regulation and consumer protection regime work. Can it be reduced? Where is the transparency to ensure the levy is appropriately set based on a well scrutinised budget proposal. three waters activities to alternative structures - that will bill their customers for the cost.

Thank you

We appreciate you sharing your thoughts with us. Please find all instructions for how to return this form to us on the first page.