

24 January 2025

Competition Policy Team
Ministry for Business, Innovation and Employment
PO Box 1473
Wellington 6140

Submission on proposed levy to recover Commerce Commission costs of regulating water services

Tenā koe,

Thank you for the opportunity to provide feedback on this proposed levy. The Kāpiti Coast District Council supports changes to water services delivery which improve outcomes for people and the environment, and which ensure an equitable funding model into the future. We welcome the Commerce Commission stepping into this space alongside Taumata Arowai to support Water Services Entities in delivering these improvements.

We support a fair and transparent levy and funding model for the Commission's water services regulation activities. Given the level of information that will be required from water services entities, we request additional information as to how the amount required to fund each area of regulation was calculated. Going forward, we wish to be kept informed as to any changes in the Commission's actual funding requirements for these activities.

We note that this is another cost that government is passing on to councils to collect from ratepayers. We are generally opposed to collecting revenue for services that we ourselves are not controlling or delivering. This is partly because of the potential for public confusion this may generate around who is accountable – particularly when residents cannot see a clear benefit from the levy. It is necessary that the levy and any subsequent billing of residents is as transparent as possible for residents to understand where their money is going and what they are getting for it.

Overall, we support having a well-resourced economic regulator to protect consumers of water services and understand that the cost of providing this service needs to be collected fairly from those who benefit from it.

We make several comments in relation to the consultation questions posed and provide our responses below.

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.

We note that the Commerce Commission's preferred approach is to recover the cost of regulating industries from those being regulated. This approach appears to be applied for all other industries being regulated by the Commission. We are therefore not opposed to the Commission's costs being recovered from regulated suppliers (including local government).

The way the levy is being apportioned, and the Crown contribution differs when compared with the proposed Taumata Arowai levy. We would like to see consistency between the two levies as much as possible to support ease of implementation for local government and provide fairness to consumers.

We argue that the levy should be introduced once the Water Services Delivery Plans (WSDP) are in force. Alignment of the levy with WSDP implementation would make the most sense by enabling any new service delivery arrangements in an area to be reflected in levy apportionment. While doing this does not necessarily align with the relevant financial year, it may avoid transitional arrangements and a need to change how the levy is collected following the WSDPs coming into effect. It would also give water services entities additional time to plan for levy implementation.

2. What are your views on the proposed levy design?

The proposed levy design appears sensible and transparent in its approach to splitting out the different activities that levies will be applied toward. It makes sense that, as the scope of the Commission's work in water regulation evolves, so too does the levy structure.

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 does not substantially impact Council as things currently stand. Like the Taumata Arowai levy, we have existing mechanisms through which we can pass on this additional cost to ratepayers who receive services from us which will be regulated by the Commission.

However, additional complexity could arise in future if the scope of the Commission's activities expands to include more comprehensive price-quality regulation or consumer protection mechanisms. This complexity would more likely be attached to the regulatory burden in meeting these requirements rather than with the payment and collection of levies attaching to them.

4. Do you have any comments on how the levy design could be improved? Please provide reasons.

We recommend splitting the 'core regulation of water services' activity into separate drinking water and wastewater activities. This would allow the funding attributable to each activity to be identified and would better match the Taumata Arowai proposal.

Consideration should also be given as to whether levies should differentiate between residential and non-residential service users. Non-residential users for example, may place larger demands on networks and be more complex for providers to regulate. The current method also does not separate nor recognise the subsidisation of private and Crown suppliers that would occur if only council's and CCOs are charged.

5. Do you have any comments on the preferred option for apportionment of the levy to each regulated supplier?

The per person approach using 2023 Census data is a reasonably fair approach of apportioning the levy. Using this approach while the levy is applied to councils and CCOs means that the total population is factored into the apportionment only once.

However, we would expect this method to change if private and Crown suppliers become liable for levy payments. A population-based approach would no longer make sense as those on private schemes would be reflected in the calculation for both the Council and the relevant scheme.

If these suppliers are to be included, we would prefer that the levy for councils be calculated based on separately used or inhabited parts of a rating unit (SUIP). This would align with council rates collection for water services and is the method most likely to be used by councils to collect the levy. SUIP is a commonly used tool in council rating practise and could be easily reported to the Authority. It also means that a council would be levied based on the scale of its water network. Some districts including Kāpiti, have a high number of private suppliers or non-reticulated properties which are not rated for water. This is most likely to occur in areas with a high rural population. Levying based on census data has the effect of ratepayers subsidising these properties.

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.

The proposed method of calculating the levy does not have any substantial impacts for the Kāpiti Coast District Council. Minor impacts for us may arise in considering how to split the levy among our ratepayers if there is no guidance from the Commission as to the proportion of the levy being used across the different waters.

7. Do you have any comments on alternative options to apportion the levy? If another option is preferred, please provide reasons.

There is merit in apportioning the levy based on the serviced population in future. This is particularly so if private and/or Crown suppliers are to be regulated as there could be multiple suppliers active in an area. Apportioning based on serviced population would allow

for a consistent and fair collection of the levy. As mentioned in our response to question 5, the calculation based on SUIP numbers could be a useful method of apportionment.

We have accurate data on this across drinking water and wastewater and do not agree that it would be administratively complex to collect this information from councils and CCOs.

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?

The main issue for our Council would be determining the best way to pass on costs to service users. In practice we are most likely to apply the charges on a SUIP basis for those connected to drinking water and wastewater services. This would also need to consider how the cost would be split over the fixed and volumetric charges we apply for water. The ratio of collection from each source was the source of much scrutiny when originally set in Kāpiti. Splitting the levy across our current fixed/volumetric charging ratio is one approach we would consider to promote equity by ensuring that large or non-residential users pay a higher share of the total cost compared to residential or low water users.

If stormwater is added in future, we are most likely to add this to the rate for properties being charged a stormwater rate. This data is readily available to us and the additional charges would be straightforward to implement.

Implementation would be easiest for us if the levy was apportioned on the same basis as the Taumata Arowai levy. Depending on final levy structures and apportionment, the two levies may need to be collected in different ways from ratepayers.

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?

Implementing this levy will require us to communicate this change to our ratepayers. Council's being responsible for collecting additional levies adds to an already significant rates burden and increases the cost pressures being faced by residents.

Some residents may not see this as a charge imposed by a Central Government agency but rather another charge being introduced by Council. We would clearly signal our role as an intermediary regarding this levy in any communications with residents and ask that central government also communicate the benefit of these additional charges and provide transparency about their purpose.

Referring to question 6, we recommend that the Commission publish guidance regarding the proportioning of the levy being used across the different waters and other practical implementation issues.

10. Do you have a preference for when the levy should be reviewed next? If so, why?

We prefer that the levy is reviewed every three years to align with local government long term plan processes. To allow any changes to be accurately reflected in consultation materials, these changes should be issued in advance of plan consultation. This would need

to occur by the end of the calendar year prior to a plan being adopted. For example, levy changes should be announced by the end of 2026 for plans coming into force from 1 July 2027.

Thank you again for the chance to comment on the proposed levy. We look forward to receiving the final arrangements soon.

Ngā mihi,

A handwritten signature in black ink, appearing to read 'Darren Edwards', with a stylized flourish at the end.

Darren Edwards
Chief Executive
Kāpiti Coast District Council