



Competition and Consumer Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
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New Zealand

Via email economicregulation@mbie.govt.nz

Submission on economic regulation and consumer protection for three waters services in New Zealand

Your name and organisation

Name	Graham Smith, Mayor
Organisation (if applicable)	Mackenzie District Council

Introduction

Mackenzie District Council thanks the Ministry for the opportunity to make a submission on the discussion paper: economic regulation and consumer protection for three waters services in New Zealand. Three waters reform is a matter of concern to Council, MDC officers and our ratepayers. MDC has actively engaged with our community and the responses contained within this submission reflect those of elected members, staff and our ratepayers.

Background and context

Mackenzie District is located in the central South Island. It comprises of three main settlements being Fairlie, Tekapo and Twizel, as well as smaller rural settlements of Albury, Kimbell and Burkes Pass. While the main settlements within the Mackenzie Basin have a significant tourism economy, the farming sectors within the Mackenzie District are substantial contributors to the national GDP and form the foundation for the district's economic viability. Mackenzie District bats well above its weight regarding economic performance, and farming is central to this.

Mackenzie District Council does not support the current position of the Crown regarding the establishment of four large water entities. The main reasons for our disapproval are:

- the significant separation of the entities from the community
- the ability of other models to provide the same economic benefits which appear to be the foundation stone of the Crown's proposal

the history of poor performance of large, centralised entities delivering to small townships and rural areas of New Zealand.

Water infrastructure plays an important part in the delivery of the well-being across the district.

The Mackenzie District Council has five bottom lines in relationship to 3 waters reform. They are.

- **Full compliance is our priority**

- that full compliance with drinking water standards, environmental consents and cultural values is non-negotiable and should be progressed with urgency no matter which organisational arrangement is adopted, including the status quo.
- **Local representation voice**
 - any future water entity developed through the process must enable both local and equitable representation. MDC must not lose its ability to influence and represent its community.
- **Control on the price of water**
 - pricing structures and controls on pricing must ensure equity across the entire region of any future entity.
- **Cost and management of assets**
 - cost and management of any stranded assets must be considered and accounted for, alongside central government speeding up the process and identifying what will “fill the gap” left by waters
- **Transition of assets and debt**
 - the transfer of asset in debt must not negatively impact on Council’s ability to be a viable organisation (i.e., is not reform by stealth).

These five bottom lines help shape our submissions below. We request they need to be considered when contemplating the future of the three waters and the impact it will have on all of New Zealand’s communities.

While the Mackenzie District has a very small resident population, some of our settlements have a peak population that exceeds their residential population by over 10 times. The settlements are still expanding at a significant rate, even with the onset of Covid. It is crucial that the community have the say and control over how the community will grow. The Mackenzie District Council has serious reservations regarding the new entities dictating the urban form of our settlements due to the failure to invest in appropriate lead infrastructure. This already happens across other utilities such as power and telecommunications and has been a significant issue in Scotland since the creation of Scottish Water.

Centralised regulation does not deliver for rural New Zealand. In the Mackenzie District we have townships that cannot grow due to centralised utility companies failing to add appropriate infrastructure. Furthermore, often when they do it covers a very small portion of the community and lags behind the large urban areas by years if not decades.

This submission unapologetically represents small New Zealand. The Mackenzie District Council has real concerns that the three waters reform and economic regulation focuses on the large urban areas such as Auckland, Wellington and Christchurch and forgets about rural New Zealand. Collectively however, small New Zealand is a significant proportion measured by population or by economics and must be considered by the Crown when developing the appropriate economic and consumer protection regulations.

Economic regulation must ensure:

- it is truly independent and represents all New Zealand
- it must not have unclear or conflicting remits
- there needs to be affordable and accessible rights for communities and individuals to gain independent review of regulatory decisions
- it needs to ensure that there is certainty in long-term planning for all New Zealand’s communities no matter what size
- it must produce transparent and robust outcomes that are clearly visible at a community level.

- Incorporate a level of consultation with the wider community regarding price setting and decision making
- Clear articulation of expectations for water entities in the development of any pricing strategies

Economic regulation must be designed in such a way that it is effective while minimising compliance costs. It is essential that economic regulation protects the community and public's interests, holds service providers to account, safeguards against privatisation, produces transparency down to a community level, curbs corruption and overcharging and clearly shows how the entities are meeting the four statutory obligations, including commitments to standards, climate change and resilience.

Council sees it is important that the prescriptive one size fits all approaches are not appropriate and economic regulation should not impose inflexible arrangements that will not deliver for New Zealand's smaller communities. New Zealand has had several examples where over-the-top regulation has generated costs for very little value. Economic regulation needs to be focused on delivering at a community level, no matter what its size is, so that the community can fully understand and control their own destiny.

In responding to McKenzie District Council would like to thank the Canterbury Mayoral Forum and Water New Zealand for providing their submissions in a timely manner, which enabled these submissions to be used as background information.

Responses as per submission form

Economic regulation

1

What are your views on whether there is a case for the economic regulation of three waters infrastructure in New Zealand?

Mackenzie District Council considers the establishment of an economic regulator essential, especially under the proposed four Water Services Entities (WSE). Given the significance of the entities, being by far the largest organisations in New Zealand, there needs to be economic regulation and associated enforcement, firstly, to protect communities, the assets, and to force accountability, and secondly to assist the entities in managing Three Waters responsibly on behalf of communities as they establish and set new processes.

The Mackenzie District Council believes economic regulation is required for the 3 waters even if the 4 entities are not established and a more effective delivery model is adopted, or the status quo is maintained.

Regulation must give effect to Te Mana o te Wai and ensure that decisions and their impacts are clearly visible at a community level, no matter what the size.

This would have been far easier to administer if the entities were closer to the communities they serve. Council also has a concern that within the discussion document there is debate around the far-ranging interconnection of the stormwater network with other council services such as roading, and it has concerns that the regulators may decide to extend regulation far beyond its useful extent.

2

What are your views on whether the stormwater networks that are currently operated by local authorities should be economically regulated, alongside drinking water and wastewater?

Economic regulation of stormwater networks will have a very high level of complexity. On balance however, Mackenzie District Council believes that stormwater networks should be regulated as the interaction with the water and wastewater systems is quite significant. It is essential that communities have a clear understanding of the networks under control of any third-party entity, so that the communities can have input on their own destiny. Council would like to emphasise however that one size fits all approach will not be appropriate for regulation of any of the three water services and definitely not for stormwater.

3

What are your views on whether the four statutory Water Services Entities should be economically regulated?

We note that the large WSE will have stronger monopoly characteristics than Councils currently do due to;

- size
- disconnect from community
- lack of ability for community to 'vote out'

The four WSE proposal will amplify monopoly characteristics which could have lasting adverse economic and social effects on communities.

We have strong concerns that the four entities will amplify monopoly characteristics, which could have lasting adverse economic and social effects on communities and this is more likely to have a larger negative proportional effect on small communities.

The four statutory entities need to be regulated and this regulation needs to be transparent to a community level. The Mackenzie District Council believes economic regulation around the three waters services would be of benefit under any delivery model, even if the four large entities were not created.

This regulation needs to clearly identify efficiency gains, provide accountability to consumers and communities, deliver a high level of transparency particularly around asset management and lead infrastructure for growth all at an affordable cost.

4

What are your views on whether economic regulation should apply to community schemes, private schemes, or self-suppliers? Please explain the reasons for your views.

McKenzie District Council does not consider that, at least at the outset, economic regulation should apply to community schemes, private schemes or self-suppliers. This does not say that there may be benefits of doing this in the future particularly for the larger private supplies.

5

What are your views on whether the Water Services Entities should be subject to information disclosure regulation?

Yes, they should be subject to information disclosure regulation. This should be publicly available, subject to LGOMIA/OIA requirements, being transparent to the individual community level, be readily accessible and readable and enable consumers and communities to have a direct line of sight to the owners and decision-makers. Information disclosure regulations should also ensure transparency about any price quality trade-offs as well as any deviation from good asset management practice again or at a community level.

6

What are your views on whether Water Services Entities should be subject to price-quality regulation in addition to information disclosure regulation?

Mackenzie District Council considers this necessary as entities will be of different sizes with individual features and therefore price quality regulation should be useful in generating some elements around benchmarking. Levels of service need to be clearly articulated and contained in a framework that informs price quality regulation. Done correctly this should drive improved performance.

Water underpins the wellbeing of our communities and therefore is required to be managed in a way that provides for our communities' well-being today and into the future. A price quality regime needs to be multi-dimensional to ensure there is an appropriate, sustainable, environmental and intergenerational outcomes for all communities.

The Mackenzie District Council strongly oppose these new entities, due to their size and isolation from the community, as well as not believing they will be able to deliver appropriately on these outcomes.

7 *What are your views on the appropriateness of applying individual price-quality regulation to the Water Services Entities?*

Based on our answer in 6 above we consider that price quality regulation is important. Individual price quality regulation may be appropriate as it would enable more bespoke solutions to be applied across different communities.

8 A) *Do you consider that the economic regulation regime should be implemented gradually from 2024 to 2027, or do you consider that a transitional price-quality path is also required?*

B) *If you consider a transitional price-quality path is required, do you consider that this should be developed and implemented by an independent economic regulator, or by Government and implemented through a Government Policy Statement?*

Yes, this should be transitioned to avoid rapid change for ratepayers and communities. It is however important that transparency to a community level happens from the outset. Mackenzie District Council is concerned that if the transitional pathway is too long or soft, small communities will lose any visibility over these core assets that are essential for their wellbeing. Information is currently available at the community level, and it is essential that this ability does not go backwards. It is also essential that any pathway is clearly understood, not only by the new entities but also by the public.

While the details of the new regime have yet to be released, it is essential that from day one, clear reporting back to councils who are the asset owners is established and maintained.

9 A) *What are your views on whether the Minister of Commerce and Consumer Affairs should be able to reduce or extend the application of regulation on advice from the economic regulator?*

B) *What factors do you consider the economic regulator should include in their advice to the Minister?*

Yes, McKenzie District Council considers that regulation should be reviewed by the Minister and should rely on advice from regional, city and district councils as well as an economic regulator when undertaking these reviews. There also needs to be a robust process so a community can trigger an appropriate review if required.

The economic regulator should have to include in their advice to the Minister not only those items listed in Section 90 but also consideration of the community wellbeing, the economic impact on communities, provision of lead growth infrastructure public health outcomes,

environmental issues as well as a cultural and social context within which the three waters services sit.

10

- A) *What are your views on whether the purpose statement for any economic regulation regime for the water sector should reflect existing purpose statements in the Telecommunications Act and Part 4 of the Commerce Act given their established jurisprudence and stakeholder understanding?*
- B) *What are your views on whether the sub-purpose of limiting suppliers' ability to extract excessive profits should be modified or removed given that Water Services Entities will not have a profit motive or have the ability to pay dividends?*
- C) *Are there any other considerations you believe should be included in the purpose statement, or as secondary statutory objectives?*
- D) *What are your views on how Treaty of Waitangi principles, as well as the rights and interests of iwi/Māori, should be factored into the design of an economic regulatory regime for the three waters sector?*

Regulation of the electricity, commerce and telecommunications industries have served small communities poorly. As explained in our introduction existing utility regulation does not provide small communities with the right level protection, or the need to ensure the rollout of services is done in a timely proactive manner. There are examples of communities that cannot develop due to the lack of infrastructure. There are often decades in delay between the rollout of new services between urban and rural communities and when these new services do arrive coverage is often only partial and intermittent. Examples include the growth being restricted in Burkes Pass due to the lack of power infrastructure, the roll out of broadband in Fairlie over a decade behind major settlements and servicing only part of the town, the significant blackspot coverage in cell phone reception and the failure of the electricity network in major storm events due to underinvestment.

Economic regulation for the three waters needs to be fit for purpose and not be based on the updating of the economic regulation for either telecommunication or electricity utility companies. The Mackenzie District Council will be very disappointed if the Crown felt they could repurpose any of the existing utilities economic regulation.

Three waters infrastructure underpins the well-being of our communities, and it is essential that there is no ability to make profit or pay dividends from the services. Mackenzie District Council does not believe the current proposed model of four large entities is the most economical way to deliver three waters services to the new standards required and any profit or dividends on top would be an unrealistic financial burden for our residents and ratepayers.

Iwi, along with communities need to have their rights protected under any economic regulatory regime. It is also important that any regime gives transparency and protection to the vulnerable within our community. This is paramount.

11

What are your views on whether a sector specific economic regulation regime is more appropriate for the New Zealand three waters sector than the generic economic regulation regime provided in Part 4 of the Commerce Act?

As mentioned above is essential that we have bespoke sector specific economic regulation, as the other models within New Zealand have failed to deliver for the small communities of New Zealand.

12 *What are your views on whether the length of the regulatory period should be 5 years, unless the regulator considers that a different period would better meet the purposes of the legislation?*

No opinion

13 A) *What are your views on whether the economic regulator should be required to develop and publish input methodologies that set out the key rules underpinning the application of economic regulation in advance of making determinations that implement economic regulation?*
B) *What are your views on whether the economic regulator should be able to minimise price shocks to consumers and suppliers?*
C) *What are your views on whether the economic regulator should be required to set a strong efficiency challenge for each regulated supplier? Would a strong 'active' styled efficiency challenge potentially require changes to the proposed statutory purpose statement?*

While the Mackenzie District Council does not have a strong opinion on whether the economic regulator should be required to develop and publish input methodologies, it does believe that it needs to be transparent over inputs, particularly the allocation of common costs, expenditure relating to operations, capital, levels of service, growth and renewals.

It is also essential that their views provide transparency around any financial contribution regime that will be available for the entities to gain finances from developers. Access to contributions is essential to buffer the consumers from growth costs. The spending of these contributions also needs to be transparent.

Depreciation and any associated renewals also need to be transparent at a scheme level.

It is essential that price shocks are managed somehow within the system.

Any efficiency challenge needs to be measured against level of service trade-offs. It is essential to get the service right for each community and this must be done for the lowest lifetime cost.

14 A) *What do you consider are the relevant policy objectives for the structure of three waters prices? Do you consider there is a case for parliament to directly control or regulate particular aspects in the structure of three waters prices?*
B) *Who do you consider should have primary responsibility for determining the structure of three waters prices:*
a) *The Water Services Entity, following engagement with their governance group, communities, and consumers?*
b) *The economic regulator?*
c) *The Government or Ministers?*

C) *If you consider the economic regulator should have a role, what do you think the role of the economic regulator should be? Should they be empowered to develop pricing structure methodologies, or should they be obliged to develop pricing structure methodologies?*

It is critical that any policy objectives, including the structure of the three waters prices, is established in a transparent manner in full consultation with communities, iwi and councils. The economic regime must ensure that accountability is clearly visible at a community level for all significant decisions.

Pricing needs to reflect the health needs of the people, consider the vulnerable members of our society, Te Mana o te Wai, sustainability, climate change, each communities growth needs and resilience.

Price structures also need to consider cost recovery, fairness and simplicity.

15 *What are your views on whether merits appeals should be available on the regulators decisions that determine input methodologies and the application of individual price-quality regulation?*

All regulator's decisions need to be appealable not only by the entities but also by councils, iwi and communities. It is however, hoped that the regulators and the water entities will work in partnership with councils, iwi and their communities so that appeals will not be necessary.

16 *Do you broadly agree that with the compliance and enforcement tools? Are any additional tools required?*

Compliance and enforcement tools are required; however, it is hoped that collaboration, education and transparency will ensure that compliance and enforcement tools are a measure of last resort. Regulation needs to encourage open disclosure, transparency, proactive behaviour, education and a two-way understanding down to a community level.

17 *Who do you think is the most suitable body to be the economic regulator for the three waters sector? Please provide reasons for your view.*

On balance we consider the commerce commission to be the most appropriate. However, this is with significant reservation. They must work in a regulatory environment that is bespoke to three waters and their mandate needs to be broadened so that they can regulate from a consumer and community perspective rather than central government. If this is not possible, a bespoke agency needs to be created. Using the commerce commission should provide economies of scale.

18 *What are your views on whether the costs of implementing an economic regulation regime for the three waters sector should be funded via levies on regulated suppliers?*

As far as possible we agree that these costs should be funded via levies on regulated suppliers. This is reasonably straightforward in relationship to water and wastewater but becomes far more complex for stormwater. Due to this complexity and the component of public benefit delivered by three waters there may be a role for general taxation to pay part of the costs of the economic regulation regime.

19 Do you think that the levy regime should:

A) Require the regulator to consult on and collect levy funding within the total amount determined by the Minister? OR

B) Require the Ministry to consult on the levy (on behalf of the Minister) and collect levy funding within the total amount determined by the Minister?

Mackenzie District Council does not have an opinion on this matter but says that any levy funding regime must be transparent and ring fenced to ensure it is efficient and effective.

20 Are there any other levy design features that should be considered?

The levy design features need to ensure that there are appropriate national benefits that can be funded appropriately. These may involve contributions from numerous government departments items such as health, economic and tourism outcomes.

Consumer protection

21 A) What are your views on whether additional consumer protections are warranted for the three waters sector?

B) What are your views on whether the consumer protection regime should contain a bespoke purpose statement that reflects the key elements of the regime, rather than relying on the purpose statements in the Consumer Guarantees Act and Fair Trading Act? If so, do you agree with the proposed limbs of the purpose statement?

Mackenzie District Council supports strong consumer protection arrangements. Examples should include protection of communities, standard contracts between the entities and consumers, minimum standards of service delivery, an extensive complaints management system, a set of customer care guidelines and appropriate protection for the vulnerable and disadvantaged with our communities.

One size will not fit all.

22 What are your views on whether the consumer protection regulator should be able to issue minimum service level requirements via a mandated code that has been developed with significant input from consumers?

Yes, we agree that the consumer protection regulator should be able to issue minimum service level requirements via a mandated code. We agree that it is critical that the local community has a voice in this process. Communities, Councils and Local mana whenua should be involved in setting minimum service level requirements.

Entities should work closely with communities to educate in terms of water demand management and efficiency, obligations under bylaws and to enhance water literacy in terms of level of service agreed to be delivered.

There will also need to be some equity of water services across the country. In the short term this may be difficult to deliver due to financial investment implications but will need to be addressed in the medium term.

It is essential that the consumer is empowered and has an effective, affordable appeal regime.

23	<i>What are your views on whether the consumer protection regulator should also be empowered to issue guidance alongside a code?</i>
	A separate guidance document will almost certainly be essential as we move into a new regime.
24	<i>What are your views on whether it is preferable to have provisions that regulate water service quality (not regulated by Taumata Arowai) in a single piece of economic regulation and consumer protection legislation?</i>
	Our preference would be for a single piece of regulation, but this will need careful consideration.
25	<i>What are your views on whether minimum service level requirements should be able to vary across different types of consumers?</i>
	Yes, we consider that they should be able to vary, but again this should not be focused just on consumers, a community lens is required, and councils should play an important role in this area. This already exists for example the difference between an on demand even supply and rural trickle feed service. Further, at least in the short term, it is unlikely that minimum service levels will be achieved across the country without significant investment.
26	<i>What are your views on whether the regulatory regime should include a positive obligation to protect vulnerable consumers, and that minimum service level requirements are flexible enough to accommodate a wide range of approaches to protecting vulnerable consumers?</i>
	We strongly agree, this should be made possible, and is essential given the size and monopoly characteristics of the entities. This is particularly important as individuals and communities will no longer have the benefits of democracy that they currently have with Councils delivering these services on their behalf.
27	<i>What are your views on how Treaty of Waitangi principles, as well as the rights and interests of iwi/Māori, should be factored into the design of a consumer protection regime for the three waters sector?</i>
	The treaty principles of participation, partnership and protection are important tenets when considering the role of the Crown as treaty partner, and broadly how consumers have a voice. The rights and interests of iwi/Maori are important under both the treaty and as consumers.
28	<p>A) <i>Do you consider that the consumer protection regime should apply to all water suppliers, water suppliers above a given number of customers, or just Water Services Entities? Could this question be left to the regulator?</i></p> <p>B) <i>Do you support any other options to manage the regulatory impost on community and private schemes?</i></p>
	<p>While the standard regime would be preferable, this may not be suitable for all suppliers, particularly the smaller suppliers.</p> <p>All consumers however, should be able to use the dispute resolution scheme regardless of their supplier.</p>

29

Do you broadly agree that with the compliance and enforcement tools proposed? Are any additional tools required?

We broadly agree. Initially this should proactively be based on educating, supporting and collaborating. This will require a good level of funding and resourcing to be provided. Over time it is expected that there would be a transition to using more of the reactive compliance tools, provided the proactive initiatives are also continued.

There should be mandatory reporting to Councils, iwi and communities to hold entities to account.

The complaints process also requires a high level of transparency, including the publication of complaints. Regular reporting will be necessary as well as comparative reports between entities.

These complaints should be brought up to the governance level and reported to the appropriate councils and communities. This will help focus service delivery and ensure that communities are fully empowered in relationship to their three waters services.

30

Do you agree with our preliminary view that the Commerce Commission is the most suitable body to be the consumer protection regulator for the three waters sector?

Yes, we agree but with some serious reservations. There is an apparent benefit in being the same as the Economic Regulator. We do raise the following questions;

- What about 'community'?
- How can councils be advocates for broader interests for community?
- How can councils have teeth in this system?
- If councils are owners, how can they assert their rights as owners?
- Again, there is a narrow focus on consumer not community.
- We are concerned that there is a lack of understanding of three waters.

The economic regulator of the three waters should also be the consumer protection regulator.

It is important to recognise that identifying consumers in the three waters context is not necessarily straightforward. Examples include whether wastewater overflows may be experienced by a group of consumers and stormwater networks often do not provide single consumers with a service. A stormwater event may flood a property, a subdivision, or a large part of the whole community. A drinking water contamination event may also have detrimental health effects on a wide portion of the community.

31

What are your views on whether the regulator should be required to incentivise high-quality consumer engagement?

Yes, it should be an obligation to engage with Councils and with communities, not just the consumer. As discussed above consumers can be an individual or a group.

32

What are your views on whether there is a need to create an expert advocacy body that can advocate technical issues on behalf of consumers?

While the exact purpose and role of the expert advisory body is not clear, it is essential that consumers have access to an affordable service that can advocate technical issues on their behalf. Often effective advocacy is beyond the expertise of an individual or group of consumers.

33	<i>What are your views on whether the expert body should be established via an extension to the scope of the Consumer Advisory Council's jurisdiction?</i>
	Our major concern regarding the extension of scope to the consumer advisory council is the lack of expert knowledge in this three waters space. This area is potentially very technical and unlike other utility services, has a significant impact on the well-being of individuals and communities.
34	<i>What are your views on whether there is a need for a dedicated three waters consumer disputes resolution scheme?</i>
	Yes, we support this, it will be essential. It needs to be focused on being accessible to all community members and communities.
35	<i>What are your views on whether these kinds of disputes should be subject to a dispute resolution schemes? Are there any other kinds of issues that a consumer dispute resolution provider should be able to adjudicate on?</i>
	<p>We agree the kinds of disputes listed in 228 should be included. We do note that this is very narrow and should be expanded on significantly to cover the types of issues that arise with all three water services. These would include levels of service such as resolution of drainage and flooding of issues.</p> <p>We have strong reservations regarding the ability of these new entities to respond appropriately when there are flooding issues in small communities. The ability to draw on a wide range of resources as is available to a multifunctional Council which will not be available to these new entities.</p> <p>Complaints directly relating to matters under the contract between the entities and the consumer should be subject to such a dispute resolution process.</p> <p>Complaints at a wider community level need to also have a suitable process, particularly for councils to raise these issues directly with the entities at a governance level.</p> <p>There needs to be clear avenues for urban developers who would work with Council to resolve resource planning and water connection issues. This suggests that there will need to be a three-way contract between the private developer, the Council and the entity. There needs to be mechanisms made available so that any dispute can be resolved.</p>
36	<i>What are your views on whether a mandatory statutory consumer disputes resolution scheme should be established for the water sector?</i>
	We consider that a mandatory statutory consumer disputes resolution scheme should be established, all WSE should be subject to this, and consumers should have free access to raise disputes. The service could be paid for by the entities in addition to having an in-house disputes/customer complaints team. Any issues unable to be resolved by the entities could be referred within mandated timeframes/deadlines to avoid ongoing disputes. We also consider that councils should have the ability to have an influence on outcomes and in representing communities or individual community members in this process.
37	<i>Do you consider that a new mandatory statutory consumer disputes resolution scheme should be achieved via a new scheme or expanding the jurisdiction of an existing scheme or schemes?</i>

	<p>This needs a formal assessment of options and an assessment of the capability of existing services. It does not appear from reading this discussion paper that there is enough information to reach a conclusion on this.</p>
38	<p><i>Do you consider that the consumer disputes resolution schemes should apply to all water suppliers, water suppliers with 500 or more customers, or just Water Services Entities?</i></p>
	<p>Consumer dispute resolution services should be available to all consumers. The implications of this and the introduction may take some time in the initial phases.</p>
39	<p><i>Do you think the consumer dispute resolution scheme should incentivise water suppliers to resolve complaints directly with consumers?</i></p>
	<p>Yes. They should, however, there has to be some protection for the consumer due to a perceived and actual unbalance of power and knowledge. There also needs to be some protection of the entity against repeat and unsubstantiated complainants.</p>
40	<p><i>Do you consider that there should be special considerations for traditionally under-served or vulnerable communities? If so, how do you think these should be given effect?</i></p>
	<p>We support special considerations for vulnerable communities. Advocates should be available at the cost of the entity. The service should be run in a way that does not need experts representing the applicant. Councils could be involved in this and should have some authority in the process.</p>
	<p>This will become more critical due to climate change.</p>
	<p>Part of this will include providing education where appropriate tailored for that actual community. The pathway for consumers to elevate their concerns must be very clear.</p>
41	<p><i>What are your views on whether the costs of implementing a consumer protection regime for the three waters sector should be funded via levies on regulated suppliers?</i></p>
	<p>Yes, should be transparent (for example, shown on three waters bill) and should be funded by levies. The number of disputes along with the outcomes should form part of the entities reporting regime.</p>
	<p><i>Do you think that the levy regime should:</i></p>
42	<p>A) <i>Require the regulator to consult on and collect levy funding within the total amount determined by the Minister? OR</i></p> <p>B) <i>Require the Ministry to consult on the levy (on behalf of the Minister) and collect levy funding within the total amount determined by the Minister?</i></p>
	<p>Needs to be determined against need for transparency. Option B may provide more transparency regarding the efficiency of the regulator.</p>
43	<p><i>Are there any other levy design features that should be considered?</i></p>
	<p>Councils should have a say in how the levy regime is established and operated. What about Councils as;</p> <ul style="list-style-type: none"> • Owners of the assets • Community representatives • Significant drivers and governors of communities

- Partners in servicing communities
- Important to have integrated functions, services and growth

There should be reference to how three waters integrates with services the Council provides including;

- Rural drainage
- Roothing
- Growth & development
- Coordination of all of the above
- Community form

Implementation and regulatory stewardship

44 *Do you consider that regulatory charters and a council of water regulators arrangements will provide effective system governance? Are there other initiatives or arrangements that you consider are required?*

No. We consider that communities will not be best served by the proposed model. The system proposed will go some way to addressing the concerns of Council but our key concern is that the entire reform has been mandated by Government despite the sector and communities not agreeing with it. Council should be involved in terms of coordination on key strategic directions, access to services, growth, etc.

Providing an opportunity to hear the local voice of communities will be essential, as well as recognition of the long-term thirty-year viewpoint. This also needs to be done in partnership with Councils.

45 *Do you consider it is useful and appropriate for the Government to be able to transmit its policies to the economic and consumer protection regulator(s) for them to have regard to?*

Yes, particularly in respect of National Policy Statements, changing standards and legislative provisions.

We also consider that Councils must have a similar ability. Entities must work within the larger community visions so that there is no disconnect between the community and the services that are being provided is there currently with other utilities.

46 *What are your views on whether the economic and consumer protection regulator should be able to share information with other regulatory agencies? Are there any restrictions that should apply to the type of information that could be shared, or the agencies that information could be shared with?*

Agree with serious reservations. It should be proactive and be cohesive. However, the protection of individuals and communities rights should be well considered. There should be controls and safeguards to achieve this. The sharing of information however could add to better transparency and a more cost-effective system as it may avoid duplication of information.

Other comments

We think there is a need for the discussion document to consider the definition of consumer and give a clear explanation of who the consumer is. Our view is that the term consumer is

very narrow and does not reflect the communities serviced by three waters which cover the individual today right through to future generations and the whole community.

Compliance costs need to be a significant consideration. We consider that the economic regulator should be proactive in understanding the extent of costs and the trade-offs that will be required in achieving desired outcomes, prioritising and the costs involved. Council should be a central part of this assessment and trade off as they are asset owners and democratically elected representatives of their communities. This all needs to be transparent.

We are very concerned that large monopoly entities have no control over or will not always act in the best interests of our community. We therefore strongly support economic and consumer protection regulation.

We do not believe that the scale of the Water Services Entities would increase the likelihood of delivering objectives nor do we believe they are the most economical solution. We do strongly agree with the flip-side risk mentioned in section 35, where entities become less responsive.

Conclusion

1. Thank you once again for the opportunity to make a submission on the discussion document.
2. Council staff are available to provide any further information or answer any questions the Ministry may have about our submission. Contact details are: David Adamson, General Manager, Operations, Planning and Regulatory Services (Acting), david.adamson@mackenzie.govt.nz 0274341861

Ngā mihi



Graham Smith
Mayor, Mackenzie District Council

