contracting services, physical infrastructure components, and maintenance services. In practice, it is likely that this midpoint will be determined based on a cost index.

16. The most commonly used index is produced by BERL for Taituarā, based on Statistics New Zealand data.

17. For the first target range, we suggest using the average over the past 20 years of the BERL Local Government Cost Index. This would mean a midpoint of 3.25%. Further detail on how we came to this midpoint are in **Appendix C**.[3]

18. There is a small risk that a range with a midpoint of 3.25% is not enough to cover forecast levels of cost inflation for councils. Historically non-tradable inflation has aligned closely with BERL's Local Government Cost Index. However, current forecasts are not yet available. They are due to be released on 28 May 2026 by Treasury as part of Budget 2026. Should the forecast of non-tradeable inflation be above 4.25% (i.e. outside the target range), we will need to advise you on adjusting this midpoint.

19. In the longer term, the regulator could establish its own, independent cost index for local government, which will form the midpoint of the target range. This is consistent with the role of the Independent Pricing and Regulatory Tribunal (IPART) role in New South Wales.

...with allowances over and under the midpoint

20. The IRG and DIA recommend that, like the RBNZ target range, the target range provides for an allowance of 1% over and under the midpoint. With a midpoint of 3.25%, an allowance of 1% over and under would provide:

    20.1 A lower bound of 2.25% (close to the 2% of the midpoint of the RBNZ policy rage); and

    20.2 A maximum of 4.25%, similar to GDP growth per capita (4% from 2004-2024).

21. This is broadly consistent with the target range model that Cabinet has already agreed to (2%-4%).

22. The messaging to the sector will focus on the midpoint being the average of local government costs, rather than what the minimum and maximum are intended to do.

23. We have focused on this being a simple, easy to explain model. However, a greater or smaller allowance above or below is possible, and we can provide further advice, should you wish to consider a different approach.

24. There has been some criticism about using the BERL metric.[4] Given that it is only to be used for the first target range at this stage, and it produces a midpoint and target range that is broadly consistent with what Cabinet has already considered, we are comfortable using this metric. We could develop an alternative index now to fully

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[3] Based on the compound annual growth rate from 2005 (527 index value) to 2025 (1000 index value), for costs excluding water.

[4] 9(2)(ba)(i)

mitigate concerns, though this could take a substantial amount of time and we do not think a new index would differ substantially from the BERL one.

We do not recommend pursuing other adjustments at this time

25. Feedback from targeted consultation suggested adjustments are required to the target range to address the infrastructure deficit and regional differences (including population and GDP).

26. We do not consider these adjustments are necessary or desirable at this time, and the IRG agreed with this assessment. The infrastructure deficit is not a definable measure that can be used to adjust the target range. A significant portion of any local government infrastructure deficit relates to water related infrastructure, which is not covered by the target range. As well, an adjustment for regional differences is unnecessary. As mentioned in paragraph 6.3, the model does not affect the volume of rates, it just regulates the price component – so councils will be able to grow their rates revenue as their ratepayer base grows.

27. Adjustments for other factors, such as regional differences in incomes, costs and the types of goods and services purchased (i.e., small rural councils purchase a different mix than large metro councils) would add detail, though would not significantly change the range for individual councils.

The first target range for FY 2029/30 to be included in legislation

28. We propose that the legislation itself should prescribe the first target range, which will apply from enactment until 30 June 2030. The range needs to be in place in time for councils to set their LTPs for 2027-2037. Assuming the Bill passes in Q2 of 2027, we think this leaves insufficient time for the regulator to advise on the first target range, and the Minister to make his/her decision. Prescribing the first target range in the legislation mitigates this risk. We propose the first range has a midpoint of 3.25%, giving a full range of 2.25%-4.25%.

29. Thereafter, the Minister will determine the target range every six years in accordance with a process specified in the legislation. Some of the detail for this process may be set in secondary legislation. The target range will be set by Order in Council. The Minister's first target range decision will be needed no later than 1 July 2029 and effective from 1 July 2030. This will supersede the target range set in legislation.

We can simplify Cabinet decisions on setting the target range

30. Cabinet agreed that the target range will apply as an average across three blocks within the council's LTP cycle (two three-year blocks and one four-year block) [CAB-26-MIN-0099.01, recommendation 4]. Averaging provides greater flexibility while maintaining discipline on rates increases. Councils would be allowed to exceed the range in a particular year, where necessary, provided this is offset by lower increases in other years.

31. Providing for blocks covering the 10 years of a LTP is complicated, especially given the target range will be set every six years. We propose, instead, a simpler legislative approach that still meets the policy intent, as follows:

31.1 The target range is a single range that applies across **all** 10 years of any LTP (there are no 'blocks').

31.2 Councils will be required to comply with the target range as an average over the first three years the LTP is in effect (both in their LTPs and in their rates resolutions).

31.3 For the remaining seven years of the LTP, councils will be required to carry out their forward planning consistently with their duty to comply with the target range as described above. We do not consider the legislation should prescribe exactly how councils do that, since in practice, given councils must adopt a new LTP every three years, they will always be operating in the first three years of any given LTP. They will never operate in years 4-10 because by the time those years arrive, their LTP will have been superseded by a newer LTP.

32. This proposal also means the requirement to set a target range *for 13 years*, is unnecessary [CAB-26-MIN-0099.01, recommendation 5]. The target range needs only to be set, and it will apply to all rates decisions and long-term planning decisions until superseded by the Minister's next target range decision six years later.

Other matters relevant to setting the target range

Consultation in setting the target range

33. Cabinet agreed that the Minister sets the target range on advice of the rates capping regulator. We recommend that legislation also includes that the Minister must consult with councils and any other person that he/she considers appropriate, as well as receive advice from the regulator.

Option for multiple target ranges in future

34. While the intention is for the first target range to be a single nationwide range applying to all councils, it may be necessary or desirable in the future for different target ranges to be set for different council groupings outside a variation. For example, a more advanced local government cost index might show significant variations in cost pressures amongst different groupings. We therefore recommend future-proofing the legislation to allow the flexibility for a target range to apply to all councils (which will be the case for the first target ranges), or for ranges to apply to different councils/groups of councils, as determined by the Minister of Local Government.

Should the target range apply when a Commission is in place?

35. Cabinet has agreed that if a Commission has been appointed to a council, the Commission is able to set rates increases above the target range, but only for the purpose of repaying creditors where the council has defaulted.

36. 9(2)(ba)(i) has raised that it would be simpler if the rates cap did not apply to rates set by Crown-appointed Commissioners. It would be cleaner for rating agencies and investors to understand, and require less analysis of how variations might be applied in relation to commissioners when rating agencies are assessing individual and sector-wide credit strength.

37. We also note that councils will only be able to seek variations for future financial planning purposes every 3 years and this may not fit in with the timing of a Commission's appointment.

38. We recommend that the target range does not apply to rates set when a Commission is in place (Option 1). The Minister of Local Government has other avenues to influence the direction taken by the Commission, particularly through its terms of reference.

39. If you are not comfortable with a broad exemption, the Bill could specifically provide for the Minister of Local Government to decide, at the time the Commission is appointed, whether the target range will apply or not (Option 2). This might depend on the nature of the "significant problem" which led to the Commission being appointed. This is not our preferred option as it does not give the credit rating agencies as much reassurance, when assessing individual and sector-wide risk, about the ability to recover debt when a Commission is in place.

Consultation

40. In developing this advice, we used feedback from targeted consultation (stakeholders listed in footnote 1 above). We also consulted with Government agencies[5] and the IRG.

Concerns from the IRG

41. As noted in the status report last week, IRG members noted concern about the proposed target range more generally.

42. The IRG's original advice was for a flexible target range, based on the RBNZ model. This did not include enforcement but relied on local electoral pressure to keep councils within the target range. The IRG does not support a model that has a hard cap with enforcement mechanisms.

43. While the model, as agreed by Cabinet, contains some flexibility (with variations, averaging and a cost reconciliation process), it is still a hard cap outside of those mitigations.

44. If you would like more information about these concerns, or to discuss it with the IRG, we can co-ordinate this with your office.

Next steps

45. This is one of a series of briefings seeking decisions from you to inform drafting instructions. Others include:

    45.1 Variations for FY 2029/30 (22 April);

    45.2 Options for who the regulator should be (22 April); and

    45.3 Rates capping and council reorganisation (22 April).

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[5] Commerce Commission, Ministry of Business Innovation and Employment (Commerce and Consumer Affairs team), Ministry for the Environment, Ministry of Housing and Urban Development, Ministry of Regulation, Ministry of Transport, Te Waihanga (Infrastructure Commission).

46. Drafting instructions have been issued to the Parliamentary Counsel Office, with some gaps where we need to seek further direction from you. We are working to the following timeline for Cabinet Legislative Committee decisions:

Milestone	Date
Draft Cabinet paper to Minister	24 June
Ministerial consultation	30 June – 7 July
Cabinet paper to Minister	8 July
Cabinet paper lodged	16 July
LEG Committee	23 July
Cabinet	27 July
First Reading	30 July (assuming House time)

Recommendations

47. We recommend that you:

a) **note** that Cabinet authorised you to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent of the paper under ECO-26-SUB-0038 [CAB-26-MIN-0099.01];

b) **note** that Cabinet authorised you to determine the target range methodology for inclusion in the Bill and to issue drafting instructions to the Parliamentary Counsel Office (PCO) [CAB-26-MIN-0099.01];

Calculating the target range

c) **agree** that the rates cap target range will be determined by the Minister of Local Government (the Minister) and made by Order in Council; **Agree/Disagree/Discuss**

d) **agree** that the Minister must determine the target range by first setting a midpoint, with the upper and lower bounds of the range being the figures that are 1% on either side of the midpoint (for example, a midpoint of 3% would mean a target range of 2%-4%); **Agree/Disagree/Discuss**

AS DISCUSSED

e) **agree** that the midpoint is expressed as a percentage based on the change in costs to local government over time, with this figure, in practice, likely to be determined using a cost index such as the BERL Local Government Cost Index; Agree/Disagree/Discuss

AS DISCUSSED

f) **agree** that, in future, the regulator may create its own cost index; Agree/Disagree/Discuss

g) **agree** that up to and including 30 June 2030 the applicable target range will be prescribed in primary legislation, and that this range will have a midpoint of 3.25%; Agree/Disagree/Discuss

AS DISCUSSED

Setting the target range

h) **agree** that the Bill include that in setting the target range the Minister must consult with councils and any other person that he/she considers appropriate; Agree/Disagree/Discuss

i) **agree** that the target range may apply to all local authorities, or that different target ranges may be applied to different local authorities or groups of local authorities, as determined by the Minister; Agree/Disagree/Discuss

SINGLE TARGET RANGE

Compliance with the target range

j) **agree** that the target range applies to the entirety of any long-term plan; Agree/Disagree/Discuss

k) **agree** that councils are required to comply with the target range on average over the first three years of any long-term plan; Agree/Disagree/Discuss

l) **agree** that for the remaining seven years of the long-term plan, councils must plan in a manner consistent with their duty to comply with the target range, as described in recommendation (k) above; Agree/Disagree/Discuss

m) **agree** that each target range applies until superseded by a later target range decision; and Agree/Disagree/Discuss

The target range and a Commission

n) **EITHER**

i. **agree** that the target range will not apply to rates set when a Commission is the governing body for a council; (recommended option) ~~Agree~~/Disagree/Discuss

OR

ii. **agree** that, when the Minister of Local Government appoints a Commission to govern any council, the Minister can decide whether the target range will apply to the Commission's rates decisions or not. **Agree/Disagree/Discuss**

Olivia Krakosky
Acting Policy Manager

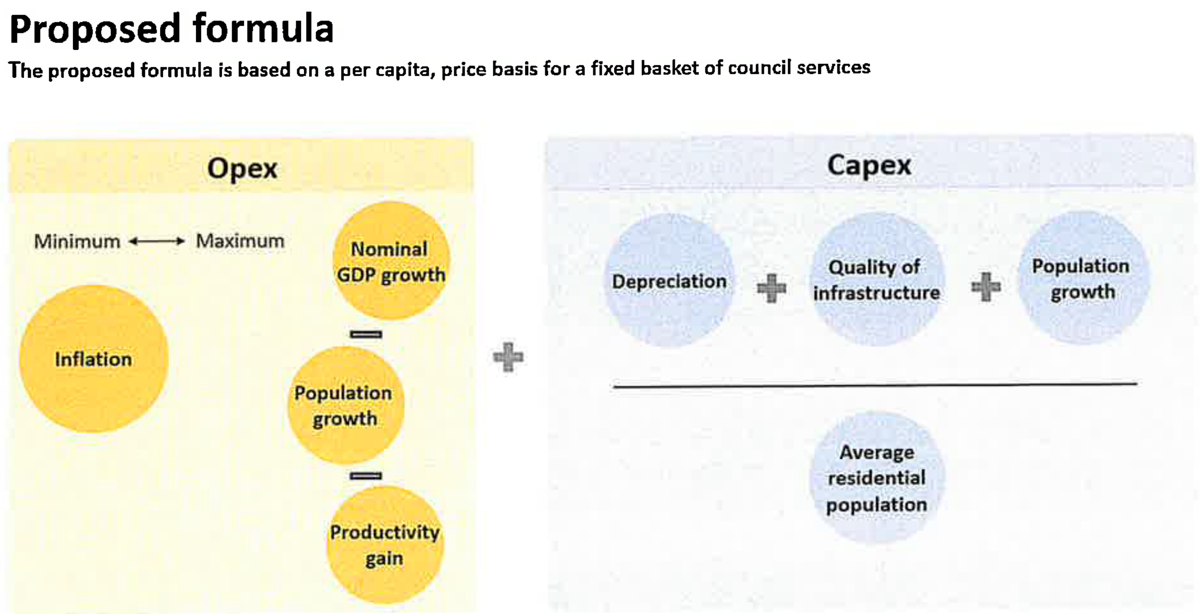
Hon Simon Watts
Minister of Local Government

/ /

29 APR 2026

Appendix A: The original draft target range formula

The original proposed formula for the target range, which was used for targeted consultation in December 2025 – February 2026 proposed using two separate calculations to set each of the minimum and maximum boundaries of the range.



Appendix B: Summary of feedback from targeted consultation

1. Targeted consultation took place from 3 December 2025 to 4 February 2026. The focus of consultation was how to set the target range for the rates cap. The consultation asked:

   1.1 Do you agree with the proposed economic indicators to be included in a formula for setting a rates target?

   1.2 If not, what economic indicators do you suggest be included and why?

   1.3 Does setting the minimum of the target in line with inflation ensure that councils can maintain service standards? If not, why not?

   1.4 Does the maximum of the target account for council spending on core services?

   1.5 What council spending will not be able to take place under this target range? Why?

   1.6 Are changes to the target needed to account for variations between regions and councils? What changes do you propose and why?

Summary of submissions

2. Consultation was limited to a list of stakeholders, as approved by you.[1] Generally, councils and economics agencies stated opposition to a cap in principle, noting the experience of other jurisdictions. Submitters also emphasised the importance of local democracy and that the rates cap should not impinge this. We will develop a more complete summary of submissions over the coming weeks.

3. Submitters were concerned about the **approaches to setting the minimum and maximums of the target range:**

   3.1 They raised that the bottom of the range, initially based on the midpoint of the RBNZ remit, would be insufficient to meet costs. They suggested a local government cost index (such as that created by BERL for Taituarā) or a Statistics NZ Index such as the Producers Price Index (PPI) should be used instead 9(2)(ba)(i), [redacted]. Others suggested no minimum should be set 9(2)(ba)(i) [redacted]).

   3.2 Submitters suggested alternatives for the top of the range. This included options for both higher and lower maximums. For example, the metric could be focused on the role of government as a whole 9(2)(ba)(i) [redacted], or focused on a modelled GDP series for territorial authorities (there is no official source, though estimates exist from Infometrics and MBIE). Some councils [redacted] 9(2)(ba)(i) [redacted] wanted to remove the productivity metric in the calculation, as most council spending is for productivity enhancing public services, and asked that a premium be added to allow them to catch up on the infrastructure deficit. Using the Consumers Price Index (CPI) that would normally lead to a lower maximum was also suggested 9(2)(ba)(i).

   3.3 Submitters also raised that communication on the target range had been unclear, particularly on how the capital portion of the range is set 9(2)(ba)(i)
9(2)(ba)(i) [redacted]

4. Submitters wanted to see **adjustments for regional circumstances**:

   4.1 Submitters asked that the approach adjust for regional differences in incomes, particularly when the GDP growth rate for regions is higher than the country as a whole 9(2)(ba)(i).

   4.2 They suggested the growth component should use rating units, rather than population, to better fit the costs of new services, particularly infrastructure that is supplied to properties 9(2)(ba)(i)

   4.3 They suggested that there should be an allowance for growth for all councils 9(2)(ba)(i) including alternative adjustments for growth (such as change in peak population, rather than average residential population for tourism towns).

5. Submitters made suggestions on the **approach to regulating the target range**. They suggested that:

   5.1 the target range should be set over three years (the LTP cycle) rather than annually 9(2)(ba)(i).

   5.2 the top of the range should not be a hard cap, but instead be a target like the RBNZ target, where councils can operate outside in a short term, with a clear plan of steps to return 9(2)(ba)(i).

   5.3 Implementing the cap earlier, or using the 2026 year as the base year, to disincentivise significant increases in the transition period 9(2)(ba)(i).

6. Submitters wanted to see **adjustments for uncertainty in costs**, especially at the top end of the target range:

   6.1 There should be a process for managing situations of high inflation, where the costs of councils increased faster than the top of the target range. Similarly, there should be a catch up that adjusts for the differences between anticipated and actual costs 9(2)(ba)(i).

   6.2 Interest rate volatility should be addressed 9(2)(ba)(i).

   6.3 Depreciation should be accounted for, especially in situations where a valuation increase or technology change causes a spike in depreciation expense 9(2)(ba)(i).

   6.4 The target range should consider the changing responsibilities of local government, because of legislative changes or other direction-setting from central government 9(2)(ba)(i).

7. Submitters wanted **clarity on what was included in the rates cap**:

   7.1 Councils 9(2)(ba)(i) asked that voluntary targeted rates, where a group approaches a council to deliver a public good service as part of an agreement with a third party or when set by a local board 9(2)(ba)(i), should be excluded. 9(2)(ba)(i).

   7.2 Other councils and organisations raised that flood protection, roading, or other essential services / network services should not be within the coverage of the cap 9(2)(ba)(i) [redacted].

8. Other issues raised include:

8.1 Rather than a cap, we should impose limits on the ability of councils to set differential rates 9(2)(ba)(i) [redacted].

8.2 Rather than a cap, we should focus on the drivers of high rates now, notably inefficient infrastructure delivery [redacted] 9([redacted] 9(2)(ba)(i).

8.3 Consideration of variations should include the level of rates, with a more permissive approach taken for councils with historically low levels of rates 9(2)(ba)(i) [redacted]

8.4 Certainty was sought on how fees and charges could be set to enable full cost recovery 9(2)(ba)(i)

8.5 A commitment of future central government funding to councils, noting that rates caps overseas have been tied to more central government funding, such as the federal assistance grants in Australia 9(2)(ba)(i) [redacted].

Appendix C: Calculating a midpoint

In developing a midpoint, we have based advice on the work by BERL to create an index for Taituarā. This index first develops weights for what councils spend on, then uses official statistics from Statistics New Zealand (for instance, the transport ways subseries from the capital goods index to represent the cost changes for roading materials) to create an index for an average council. Each council is unique and will have differences in cost changes compared to the average – some higher than this average, and some lower.

In the most recent version of the cost index, BERL developed an index excluding water related spending – covering all activity subject to the rates target range. Average increases, on a compound annual growth basis, from that index are:

- 3.25%, over the last 20 years (2005 – 2025).
- 3.21%, since the last change in the RBNZ target range, where the RBNZ range moved from 0-3% to 1-3% (from 2002 – 2025).
- 3.34%, over the last 10 years (2015 – 2025).
- 3.01%, since the earliest year included in BERLs' publication (from 1996 – 2025).

We have proposed using the average over the last 20 years (3.25%) as that is most easily communicated and understandable, and it covers both low inflation (2010s) and high inflation (2022 post COVID) periods. It can also be used consistently in the future.

Historically, the BERL created local Government Cost index aligns closely with non-tradable inflation. Non-tradable inflation covers goods and services that do not face foreign competition; with the RBNZ noting that this includes government charges (including rates). Over the last 20 years (from 2005 – 2025), non-tradeable inflation has been 3.48%.

Internal Affairs
Te Tari Taiwhenua

Local Government briefing

Hon Simon Watts
Minister of Local Government

Title: **Rates capping: Timing risks for implementation & Managing reorganisations**

Date: 22 April 2026

Key issues
Cabinet has authorised you to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent for rates capping. Your decisions on two matters are required to inform the next tranche of drafting instructions. We have previously advised that full implementation of the rates cap by 1 July 2029 is going to be difficult. Given complexities associated with implementation by this date, and the increasing likelihood that legislation will not be able to be enacted and effective by January 2027, we recommend that full implementation of the rates cap starts by 1 July 2030. The rates cap model needs to be responsive to local government reorganisations and the formation of new councils. After consulting with the Independent Reference Group (IRG), we recommend that through the transition to a new council, the new council must have regard to the target range when setting rates but compliance is not enforced until the new council sets its first long-term plan (LTP).

Recommendations	Timeframe
Note that Cabinet authorised you to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent of the paper under ECO-26-SUB-0038. **Agree** that the rates cap is fully implemented by 1 July 2030. **Agree** to the approach for transitioning newly reorganised councils into the rates cap regime. **Agree** to issue drafting instructions for the Bill to give effect to decisions in this briefing.	At your earliest convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Oliva Krakosky	Senior Policy Analyst	9(2)(a)	

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Hukatai reference	5QN2MMRJTKVM-1837081886-1941
Ministerial database reference	LG202611713

Purpose

1. This briefing seeks your decisions on two matters, so that the Department of Internal Affairs can issue a second tranche of drafting instructions to the Parliamentary Counsel Office (PCO).

Executive summary

2. **Part One** of this briefing outlines timing risks associated with legislation being delayed beyond 1 January 2027.

3. To have the rates cap fully implemented by 1 July 2029, we have previously advised that legislation will need to be enacted and effective from 1 January 2027. We have also previously advised that there is a narrow and difficult pathway to making this legislative timeframe work.

4. There are also policy complexities with a rates cap coming into effect in Year 3 of a long-term plan (LTP) cycle. We have been developing advice on problems including when and how to set the first target range and how to manage variations in FY 2029/30. If councils do not have enough information and certainty ahead of adopting their next long-term plans (by 1 July 2027) they will not be able to reasonably plan their activities for the first year of the rates cap (FY 2029/30).

5. It is becoming increasingly unlikely that legislation will be enacted and effective from 1 January 2027. If legislation is to be passed later than 1 January, we recommend an extension of the transition period and a delay of the full implementation of the rates cap until 1 July 2030, the start of the next LTP cycle.

6. **Part Two** of this briefing seeks your decisions on how the rates capping regime applies to newly reorganised councils.

7. We recommend that through the transition to a new council, the new council must have regard to the target range when setting rates, but compliance is not enforced until the new council sets its first LTP.

8. Alternatives would be to have no rates cap, or to create a mandatory transitional price path. The IRG prefers the recommended option because it is the least disruptive to the target range model, minimises the need for another transitional variations process, and is more conducive to localism.

Programme milestones

9. On 1 April 2025, the Cabinet Expenditure and Regulatory Committee agreed [EXP-25-MIN-0038] to progress work on a rates capping system and agreed that the system would be developed alongside relevant Ministers. You reported back to Cabinet in November 2025 and March 2026 seeking policy decisions.

10. In November 2025, you presented a paper to Cabinet outlining a framework for a rates target model for New Zealand. The key decisions arising from that meeting enabled further policy development to be undertaken to build on a target model anchored in economic indicators for a rates cap regime. Targeted consultation took place from December 2025 to February 2026 and helped inform your March 2026 Cabinet paper.

11. A series of briefings were presented to you in early 2026 relating to the key aspects of the rates cap model. These aspects informed the Cabinet paper you presented on 30

March 2026. The key decisions arising from that Cabinet paper can broadly be categorised by each key aspect of the rates cap.

11.1 How to set and manage the target range, including applying it as an average for the LTP cycle and the timing for setting the range.

11.2 Permitting variations to the cap for either exceptional circumstances (based on need or desirability) or for future financial planning (based on prudent financial management). A third variation process was agreed to for FY 2029/30 whereby councils are invited in early 2027 to apply for a variation for that year. This was primarily to ensure large capital works projects could continue and be planned for in their 2027–2037 LTPs.

11.3 Determining the functions of the regulator, such as advising the Minister on calculating the target range, reviewing requests for variations, and monitoring compliance.

11.4 Allowing a transition period of three years, including establishing an interim regulator who will be responsible for approving variations in 2029/30, as well as providing guidance to councils and advice to the Minister on the first target range.

12. You have Cabinet authorisation to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent of the rates capping target range model [CAB-26-MIN-0099.01].

PART ONE: Timing risks for implementation

Passing legislation by 1 January 2027 seems unlikely, which risks implementation of the rates cap model

13. There are significant timing risks that jeopardise the effectiveness of the rates capping system, particularly regarding the transition period and variations for FY 2029/30.

14. For the rates cap to be fully implemented by 1 July 2029 and be aligned with Cabinet's March 2026 policy decisions [CAB-26-MIN-0099.01] legislation would need to be enacted and effective by 1 January 2027. The timeline for implementation is very narrow, constrained by the council planning system, and depends on legislation being passed on time.

15. Between 1 January 2027 and the 30 June 2027 deadline for LTPs, the following actions need to take place:

15.1 The target range needs to be set (likely through legislation);

15.2 Councils need to incorporate the target range into their 2027–2037 LTPs;

15.3 Invitations for variations need to be issued, assessed and determined;

15.4 Councils need to consult on their LTPs for at least 1 month (legal requirement);

15.5 The consultation documents need to have been through the external audit process (legal requirement).

16. It seems increasingly likely that the January date will not allow for a full legislative process given the timing of the election and the likely amount of House time available in December.

17. If legislation is effective later than 1 January 2027, and rates capping retains a start date of 1 July 2029, councils will not be able to reasonably plan for revenue and expenditure in their 2027 LTPs. In particular, it will be difficult for councils to outline a plan for any significant infrastructure projects that include FY 2029/30 (without being able to factor in a variation). The special, invitation-only variations process Cabinet agreed to for FY 2029/30 will only work if there is time for variations to be requested, assessed and approved before they consult on their 2027 LTPs.

18. The LTP process and timing for 2027 is attached at **Appendix A.**

19. Since your decisions on the detailed policy proposal in early 2026, we have been developing advice on problems including when and how to set the first target range, how local authority reorganisations interface with rates capping, and how to manage variations in FY 2029/30. These problems can be addressed, but the current programme timeframe is a significant limitation.

We recommend that the rates cap is fully implemented by 1 July 2030

20. Implementing the mandatory aspects of the rates cap from 1 July 2030 will mitigate risks, be simpler for the sector to understand and implement, and will provide greater certainty to the local government and infrastructure sectors.

21. There will be more time for a regulator to be established, although we still recommend they are established by January 2028. An interim regulator will only be required to undertake monitoring and issue guidance to councils from enactment of legislation until the permanent regulator is set up.

22. The regulator will have more time to work with councils who are currently not financially sustainable, without the need to design a complicated special variation process for those councils.

23. With this later implementation date, we propose that councils will still be required to consider the target range from the first new financial year after the legislation is effective, until 30 June 2029.

24. If your preference is still for the rates cap to come into full effect from 1 July 2029, but legislation is unable to be enacted and effective from January 2027, we will need to provide further advice to manage risks associated with that. These risks may be significant, especially for infrastructure projects that are scheduled for FY 2029/30.

PART TWO: Managing reorganisation

Background

25. Reorganisation is the statutory process for changing the structure, boundaries or functions of local authorities. Reorganisation is typically progressed under the Local Government Act 2002, but it can also be given effect through special legislation. Reorganisations can range from a simple boundary adjustment to the complete disestablishment of a council and a new council being created. There is the potential for widespread reorganisation as part of the Simplifying Local Government programme.

26. Under existing processes, rates are managed through a reorganisation implementation scheme prepared by the Local Government Commission. Matters addressed in the scheme include integrating the rating and valuation systems of the legacy councils (i.e.,

the councils being disestablished). After the new council is established, unless special legislation provides for alternative arrangements, it is funded for approximately its first year by rates set by the legacy councils (i.e., until it makes its first rates resolution).

27. The table below demonstrates the sequencing of the election cycle and the planning cycle under the rates cap model, for a scenario when the establishment of a new council aligns with an existing triennial local election.

FY	2029/30	2030/31	2031/32	2032/33	2033/34
Election cycle	Year 2	Year 3	Year 1	Year 2	Year 3
Planning cycle	Year 3	Year 1	Year 2	Year 3	Year 1
Key events	• Legacy councils set rates and LTP by 30 June 2030 • Transition activities to the new council	• Legacy councils set rates and annual plan (AP) by 30 June 2031 • Rates cap applies to legacy councils • Transition activities continue	• Elections for first governing body of new council, July–October 2031 • New council sets rates and AP by 30 June 2032 • Target range for 2033–2043 published around 1 July 2032 • New council can apply for future financial planning variation	• New council sets rates and LTP by 30 June 2033 • Rates cap applies to new council from this point	• New council sets rates and AP by 30 June 2034

28. This part of the briefing sets out our recommendations for transitioning newly reorganised councils into the rates cap model.

The rates cap model does not yet consider newly reorganised councils

29. By restricting councils' percentage increases in the price component of rates year-on-year, the rates cap model assumes there is (and relies on) a previous year of rates for comparison. However, the comparison year does not exist for a newly created council following reorganisation. The result is reorganisation could effectively 'reset' the rates cap by creating a structural break that removes the historical baseline the model relies on. This is most prevalent for the first rates resolution after reorganisation.

30. This problem can be addressed by either suspending the rates cap for the new council's first rates resolution or enabling transitional arrangements for new councils.

31. Suspending the rates cap temporarily could allow new councils to set and lock in higher rating levels in their first annual plans and is not recommended.

Option 1: The rates cap applies indicatively to a transitional baseline until the new council's first LTP (recommended option)

32. We recommend requiring the new council to have regard to the target range when adopting its first LTP and when setting rates for the first three years of the LTP. This is a

similar approach to that being taken during the transition to rates capping in FY 2027/28 and 2028/29.

33. Under this option, an indicative baseline for an average rating unit would be determined by the new council after first considering the sum of all rates imposed by its constituent former councils in the previous financial year. For example, the council might determine the indicative baseline by dividing the total rates revenue payable in the previous rating year by the number of rating units in the new council area. The target range would then apply to all annual rates increases compared to this indicative baseline.

34. The rates set during this first LTP period would establish a new rates baseline that subsequent rates increases would be measured against, by which point the target range would apply in full.

35. The regulator would be involved in supporting councils through the transition. It could assess the rates cap across all councils that intend to combine, assess what this might look like in the transition, and determine any steps to assist during reorganisation.

36. The transition period would likely end with the setting of the council's first LTP. If reorganisation is aligned to the electoral cycle, the transition rule would likely only apply once.

37. Option 1 minimises immediate disruption to the rates cap model and is more efficient than alternatives because it does not need an out-of-cycle variations process (like what is being developed for FY 2029/30) and there would likely be political incentives on the council to set rates in accordance with public expectations (informed by the rates cap).

38. However, Option 1 would not require the council to comply with the target range—only to consider it. We tested the idea of requiring the council to comply with the target range, using the transitional baseline to measure subsequent increases against, but this would be less efficient because an out-of-cycle variations process would be needed to support the new council in meeting any immediate costs of reorganisation.

39. We note that impacts on ratepayers are potentially uneven, reflecting differences in legacy rates levels, service standards, and historical investment, and this would be up to the new council to address.

40. Reorganisations can be major or minor in scope (for example, a land swap between two adjacent councils would be minor). We intend the indicative baseline approach should only apply to reorganisations that materially disrupt the existing rates baseline. This would be a judgement call made by the regulator when the baseline has been materially disrupted.

41. We recommend that the legislative approach sets out examples of major disruptions, such as mergers of two or more councils, a change of a deemed percentage of assets or rating units (e.g. a 20% increase in rating units through boundary change), or other matters deemed major disruptions by a regulator. These examples would add clarity and act as an interpretation guide, though allow discretion for a regulator. The regulator must then notify the council and Minister of what is going to happen. If you agree to Option 1, we will need to give further consideration to:

    41.1 what the regulator's specific functions will be;

41.2 whether any modifications are required for reorganisations not aligned with triennial local elections; and

41.3 how this approach could be scaled in the event of widespread reorganisation.

Option 2: Set a mandatory transitional price path

42. We considered an alternative where rates increases are constrained by a uniform transition rule for a fixed period, creating a clear baseline for future application of the rates cap. Under this option, each rating unit's rates liability would increase by the same percentage until the council sets its rates policy through its first LTP. If reorganisation is aligned to the electoral cycle, the transition rule would likely only apply once.

43. This approach is similar to the "transition rate" used for Auckland Council,[1] where rates increases were anchored to each property's prior liability and lifted at a flat rate in the council's 2011/12 annual plan. Under a rates capping model, it is likely that an out-of-cycle variations process would need to be developed with a new eligibility mechanism. The existing financial prudence check would be inadequate, because new councils would not have a history on which to assess financial prudence.

44. Option 2 is a more stringent approach than Option 1, and less consistent with the target range model. It may require councils to make difficult trade-offs at a time when they are trying to integrate systems and establish policies and practices. Compared to Option 1, Option 2 reduces local discretion and could delay some efficiency gains from reorganisation. As for Option 1, there are potentially uneven impacts across ratepayers.

45. Under Option 2, a risk is that historic spending or financial practices in one legacy district constrains investment in other parts of the new council area (for example, previous Wellington City decisions could have unintended consequences for Hutt City if these councils combined). Option 1 avoids this issue by giving the new council more time to consider its long-term intentions ("having regard" to the rates cap) before compliance is strictly required.

46. If you prefer Option 2, further work would be required to:

46.1 address the matters listed under paragraph above;

46.2 ensure that rates liability can be set for new rating units under this model; and

46.3 develop a mechanism for setting the uniform rates increase (e.g., determining the roles of the council, the regulator, and the Minister).

We consulted the IRG on these options

47. In developing this advice, we consulted with the rates capping IRG. On balance, IRG members prefer Option 1 over Option 2.

48. IRG members thought the process should not be complicated or necessarily legislated for (we consider that all options require some degree of legislation.) IRG members suggested the role of the regulator in supporting councils through the transition (paragraph 48).

[1] Section 33, Local Government (Auckland Transitional Provisions) Act 2010.

49. IRG members thought council reorganisation and rates capping would not be an issue if it was coming from a rates 'target' angle rather than a rates 'cap'. IRG members said this is another example of why flexibility is needed in the system.

50. IRG members considered Option 1 to be more conducive to localism.

Simplifying Local Government

51. The Government signalled that local government reorganisation would be likely when it announced the Simplifying Local Government proposal in November 2025.

52. You are currently working with the Minister Responsible for RMA Reform, Hon Chris Bishop, on developing a head start process as an alternative reorganisation pathway for councils that are ready to move quickly towards reorganisation. This proposal is expected to be considered by Cabinet Economic Policy Committee (ECO) on 29 April.

53. If Cabinet agrees to the head start process, and later a backstop for wider reorganisation, significant structural change for local government could be expected both before and after the 2028 local elections.

54. The rates cap is intended to apply from FY 2029/30. Regional reorganisation planning will need to include the transition and implementation phases where rates are capped for any reorganisations after the 2028 local elections. For any head start proposals before the 2028 local elections, transition and implementation planning would need to consider the staged commencement of new rates capping provisions.

Future work

55. We are currently working to refine the policy design and are collaborating with PCO on drafting a Bill for presenting to the House. We are working towards having a paper with final policy decisions ready for Cabinet Legislation Committee in July 2026.

56. There are three substantial areas we have identified that require decisions. These relate to:

    56.1 How to calculate the target range (LG202611714 refers);

    56.2 Timing issues, and how the model will cope with reorganisations (this briefing);

    56.3 How to mitigate risks associated with a start date of 1 July 2029, including invitation-only variations for FY 2029/30 work (if required); and

    56.4 Who the regulator should be (briefing to come).

57. We have prioritised the most substantial issues at this point but note that other issues may arise either before the introduction of the Bill or at select committee. We will address these with you accordingly.

58. Drafting instructions have been issued to PCO, with some gaps where we need to seek further direction from you. We are working to the following timeline for Cabinet Legislation Committee (LEG) decisions:

Milestone	Date(s) 2026
Draft Cabinet paper to Minister	24 June
Ministerial consultation	30 June – 7 July
Cabinet paper to Minister	8 July

Cabinet paper lodged	16 July
LEG	23 July
Cabinet	27 July
First reading	30 July (assuming House time)

Recommendations

59. We recommend that you:

a) **note** that Cabinet authorised you to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent of the paper [ECO-26-SUB-0038, CAB-26-MIN-0099.01];

Timing risks

b) **note** that it is increasingly unlikely that legislation to give effect to the rate cap model will be enacted and effective from January 2027;

c) **note** that there are significant risks to implementation of the model by 1 July 2029 if legislation is not enacted and effective from January 2027;

d) **agree** to delay full implementation of the rates cap until 1 July 2030, with the transition arrangements existing before then; **Yes/No**

Managing reorganisation

e) **agree** to an approach for transitioning newly reorganised councils into the rates cap model:

EITHER

i) **Option 1 (recommended)** – the rates cap applies to an indicative baseline until the new council's first LTP, with: **Yes/No**

- the indicative baseline determined by the new council after considering the sum of all rates imposed by its constituent former councils in the previous financial year; and
- triggers for the indicative baseline mechanism being set out in legislation, including a backstop where the regulator may deem a reorganisation to trigger the mechanism for the relevant council.

OR

ii) **Option 2** (not recommended) – develop and set a mandatory transitional price path **Yes/No**

Drafting instructions

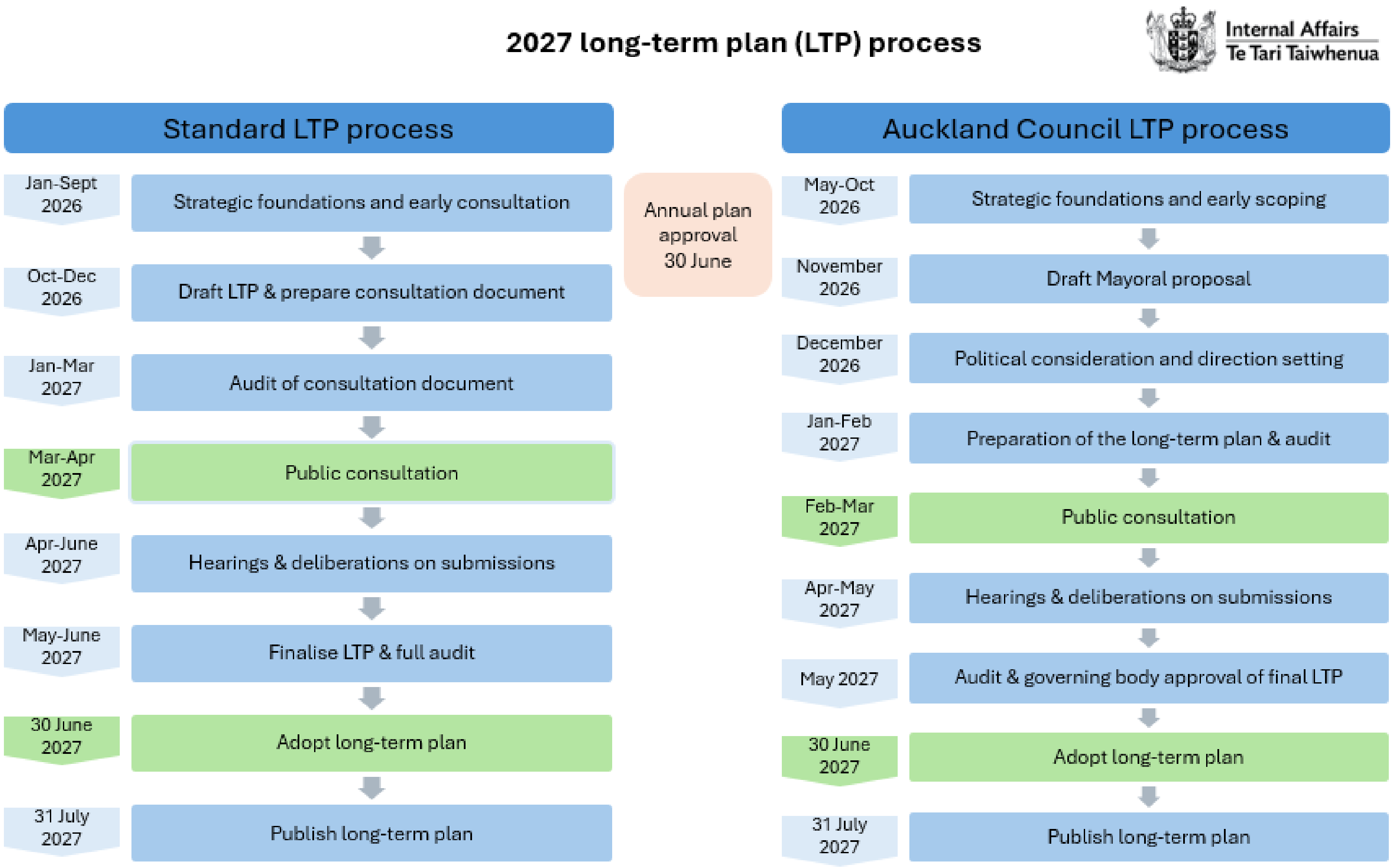
f) **agree** to issue drafting instructions to Parliamentary Counsel to include the decisions in this briefing in the Bill, subject to confirming this decision when seeking Cabinet agreement to introduce the Bill. **Yes/No**

Rowan Burns
Policy Manager

Hon Simon Watts
Minister of Local Government

/ /

Appendix A: 2027 long-term plan (LTP process)



Timelines based on 2024 LTP processes

Excerpt from Local Government Weekly Report Week ending 7 May 2026

Updates on Agency Activities

Operational and Policy Updates

Rates capping

Update:

Proactive release of March Cabinet materials

We have engaged with your advisors and recommend delaying the proactive release of Cabinet materials relating to the March 2026 Cabinet paper *Rates Capping: Detailed policy design*. This is recommended on the basis that some decisions in these papers have been modified (and may be modified further before the bill is introduced) under delegated authority since Cabinet met in March 2026. Releasing these papers now risks confusing the sector, given that the decisions made in March 2026 will not necessarily match the decisions made in developing the Bill and reflected in the Bill when introduced. We instead propose releasing the material in conjunction with the introduction of the Bill in July 2026.

9(2)(ba)(i), 9(2)(g)(i)

Setting the target range

As discussed with you, the first target range is to be 2-4 percent (to apply during the transition period from commencement of legislation until 30 June 2029, and for the first year of the rates cap until 30 June 2030). We are working with the Parliamentary Counsel Office to include this in the Bill.

As discussed with you on 4 May 2026, the Bill needs to:

- be clear on what the target range is and how it is determined. We recommend that the Bill provides that the Minister must specify an upper and lower bound for the target range, after taking into account any considerations specified in the Act; and
- specify the role of the regulator in advising the Minister on setting the target range, and the purpose of the cost index that they will be developing (as agreed to in our briefing dated 15 April 2026).

We recommend that the Bill provides that:

- before setting the target range, the Minister must take into account the costs to local authorities of carrying out their functions; and

- when considering the costs, the Minister must have regard to any cost index specified by the regulator.

These give effect to your previous decisions and ensure roles of the regulator and the Minister in setting the target range are clearly defined.

We recommend that you agree for the legislation to state that:

- the Minister must determine a target range that describes the minimum and maximum annual rates of increase to rates that a local authority is allowed to make;
- before setting the target range, the Minister must take into account the costs to local authorities of carrying out their functions; and
- when considering the costs, the Minister must have regard to any cost index specified by the regulator.

Action required:	**Ministerial signature:**
Agree that officials can issue drafting instructions to give effect to the above matters in setting the target range.	09 MAY 2026

Contact: Rowan Burns 9(2)(a)

Out of scope

Internal Affairs
Te Tari Taiwhenua

Local Government briefing

Hon Simon Watts
Minister of Local Government

Title:	**Rates capping – options for the long-term regulator**
Date:	14 May 2026

Key issues

Cabinet has delegated authority to you to issue drafting instructions on who should be the long-term regulator for the rates target range model. Based on the size of the function, and fiscal constraints we have focussed our analysis on three existing entities. In order of our preference, they are: the Ministry for Cities, Environment, Regions and Transport; the Local Government Commission, and the Commerce Commission.

Due to the tight time constraints to prepare the Bill, we recommend that you discuss your preferred option with key Ministerial colleagues before authorising drafting instructions to include this in the Bill.

9(2)(f)(iv)

Action sought	Timeframe
Note that we recommend that you discuss your preferred option with key Ministerial colleagues, and potentially coalition partners, before directing officials to issue drafting instructions to reflect this (suggested Ministerial portfolios to be included are noted at paragraph 65). **Agree** that that the department will issue drafting instructions for the long-term rates target range regulator role to be performed by: i. MCERT (with the Chief Executive having a specific statutory officer role as regulator) (preferred option); or ii. the Local Government Commission (second preferred option); or iii. the Commerce Commission (least preferred option).	25 May 2026

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Amanda Shaw	Principal Policy Analyst	9(2)(a)	

Return electronic document to:	amanda.shaw@dia.govt.nz
Hukatai reference	PDU53QWYWURP-1847333527-2016
Ministerial database reference	LG202611715

Purpose

1. This briefing:

   1.1 provides you with advice on options for the long-term regulator for the rates target range model;

   1.2 suggests that you discuss your preferred option for the regulator with relevant portfolio Ministers; and

   1.3 seeks your agreement to issue drafting instructions on your preferred option for the regulator.

Executive summary

2. Cabinet has delegated authority to you to decide who should be the long-term rates capping regulator, and to authorise drafting instructions for inclusion in the Bill, subject to Cabinet confirmation before the Bill is introduced.

3. We have assessed options for which entity should be the rates capping regulator and our advice is that it should sit within an existing entity due to the relatively small size of the role, the workload peaks and troughs, and current fiscal constraints.

4. We considered three options from existing entities:

   4.1 **Option 1: A statutory officer within a government department (preferred option).** Officials recommend locating the function within the Ministry for Cities, Environment, Regions and Transport (MCERT), with the Chief Executive given a dedicated statutory officer role for the regulator functions. This allows for functional independence, aligns with MCERT's emerging role as the central point of contact for local government, avoids the need for an interim regulator, and is a lower-cost option 9(2)(f)(iv) [redacted]

   4.2 **Option 2: The Local Government Commission (second preference).** The Commission's existing advisory and decision-making functions have some alignment with the regulator role. However, the role would represent a shift to more directive regulation, carry workload and perception risks, and require an interim regulator until funding is secured. The estimated cost is similar to Option 1 at 9(2)(f)(iv) [redacted]

   4.3 **Option 3: The Commerce Commission (least preferred).** While it has strong independence and some relevant analytical capability, the role does not fit well with the Commission's core purpose, has higher estimated costs 9(2)(f)(iv) [redacted] and could create delivery and credibility risks particular given the Commission's other new responsibilities.

5. For any of these options, specialist capability would still need to be built or contracted.

6. Given the tight legislative timeframes, we recommend you discuss your preferred option with key Ministerial colleagues before authorising drafting instructions.

7. The identity of the long-term regulator needs to be included in the Bill but this carries a timing risk, particularly if you decide the regulator will be LGC or the Commerce Commission. 9(2)(f)(iv) [redacted]

Background

Cabinet has authorised you to make decisions on the who will be the regulator, subject to confirmation

8. The target range model for rates capping, approved by Cabinet, includes functions for a regulator. The regulator's role is to be a mix of providing guidance, monitoring and reporting, advice to the Minister of Local Government, and specific decision-making responsibilities. More detail on the regulator's roles is attached as **Appendix A**.

9. In November 2025 Cabinet noted that the rates target will be subject to regulatory oversight, with consideration of utilising existing regulators relevant to local government [ECO-25-MIN-0189 refers].

10. During Ministerial consultation on your draft Cabinet paper in March 2026, you proposed that the Commerce Commission be the regulator. After feedback from the then office of the Minister of Commerce and Consumer Affairs, Hon Scott Simpson you decided to defer this decision pending further work.

11. On 30 March 2026, Cabinet authorised you to:

    11.1 make decisions on the independent regulator for rates capping; and

    11.2 issue drafting instructions to the Parliamentary Counsel Office (PCO) to include these decisions in the rates capping Bill,

    subject to confirming the decisions when seeking Cabinet agreement to introduce the Bill.

12. 9(2)(h) You are due to report back to Cabinet, through the Cabinet Legislation Committee (LEG), in July 2026.

Cabinet has agreed to the key aspects of the regulator's role

13. Cabinet has agreed that the Minister of Local Government will:

    13.1 determine the target range; and

    13.2 make decisions on councils' applications for variations for extreme circumstances.

14. The regulator's role, as agreed by Cabinet, is to:

    14.1 provide advice to the Minister of Local Government on:

    a. setting the target range; and

    b. councils' applications for extreme circumstances variations;

    14.2 make decisions on councils' applications for variations for the purposes of future financial planning; and

    14.3 determine if any council has set rates outside the target range, and direct the council to take remediation steps.[1]

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[1] These decisions are paraphrased - CAB-26-MIN-0099.01 refers.

15. Providing advice on setting the target range will involve developing processes (including potentially a new cost index) for accurately assessing councils' projected costs, and for calculating the "washup" mechanism.[2]

16. The regulator would also have other guidance, support, monitoring and reporting functions related to the target range model.

The Department has undertaken further work on the options for the regulator

17. We have consulted with a number of agencies about the range of options for where the regulator function would sit (see consultation section in this paper for the list of agencies). Feedback from agencies has informed this advice.

Criteria for determining the appropriate location for the regulator function

We have assumed that only existing entities should be considered

18. The size of the regulator's role would not justify the cost of establishing a new entity or new complex governance structure (such as a board) just for this function. We have focussed our analysis on options that could be set up within an existing entity. The regulator function will also have some peaks and troughs in workload so there needs to be an ability to provide for surge capacity.

19. On that basis, we have investigated the options of locating the regulator function within:

    19.1 an existing government department;

    19.2 the Local Government Commission; or

    19.3 the Commerce Commission.

We have identified five criteria for the regulator

20. We consider the criteria for selecting the regulator entity to be:

    20.1 appropriate relationship with the Executive and parliament – striking an appropriate balance of responsiveness to Government priorities, providing the Minister with a source of independent advice, and maintaining public confidence in the regulator's decisions;

    20.2 relevant skillset and expertise – able to undertake economic, accounting and financial management analysis, including the specialist area of local government finance, and contribute regulatory oversight expertise;

    20.3 good fit with the entity's existing statutory objective and purpose;

    20.4 compatibility with the entity's other functions – efficiency gains from overlapping expertise and research, and maintaining public confidence in delivery of other functions; and

    20.5 cost-efficiency – for both central government (including the ability for the regulator to access surge capacity) and for local government when interacting with the regulator.

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[2] The washup mechanism will provide for retrospective adjustments to the target range to compensate for local government costs which were not anticipated when the previous target range was set (for example, costs due to unexpectedly high inflation or interest costs, or new responsibilities delegated to councils by central government).

21. We provide more detailed comment on the first two criteria below.

We consider that the role does not need to have a high level of structural separation

22. The rates target range model creates a shift in power from local government to central government by limiting local authorities' power to set rates and their scope for future planning. The regulator will be able to prevent councils from consulting on a variation to their target range for rates if it does not agree there should be a variation (effectively reducing the avenues for communities to engage with their elected council representatives). The regulator will also be able to direct councils to re-make rates decisions if it determines a council has breached the target range. These are the functions where independent decision-making is required.

23. The relationship between the regulator and the Executive needs to be transparent.

24. It will be important for the Minister to have a source of advice that is focussed on the integrity of the rates target range regime, and is separate from specific portfolio interests. It will also support public confidence in administration of the rates target range model if it is managed as a statutorily independent function which is separate from the business as usual functions of departments providing advice to Ministers.

25. However, recent policy decisions also mean that the decision-making functions of the Minister, and the decisions and advice functions of the regulator, are closely linked. The Minister will inevitably have a closer relationship with the regulator than would be typical of, for example, Ministers' relationships with Independent Crown Entities.

26. The Public Service Commission considers that independent decision-making does not necessarily require a structural solution. It can be achieved by creating an independent statutory officer role within a department.

Any chosen organisation would need to build the specialist capability

27. No department or entity currently has the specialist expertise required to carry out the regulator's functions. This regulation is new and tailored to New Zealand's local government context. The regulation has a high degree of complexity and will require a lot of engagement with councils, particularly in the first few years. While some agencies have expertise in regulatory oversight, and some have expertise in scrutiny of financial management, there is very limited expertise in local government funding and financial planning.

28. Any department or entity tasked with the regulator functions will need to build this capability and will also likely need to contract additional specialist support. Because the regulator's role will have peaks and troughs the regulator will need to determine the right balance between "in-house" capability and contracted surge support.

Option 1: The regulator is located within a government department

A statutory officer role can provide functional independence within a government department

29. We consider that if the regulator was located within a government department an appropriate level of independence can be provided for by giving the Chief Executive a statutory officer role, specifically for the regulator functions (for example, the Chief Executive of Statistics NZ is also the Government Statistician). The department would then keep decisions relating to regulator functions operationally separate from general

policy advice to Ministers. This is common for departments with both policy and regulatory functions.

30. A "sub-option" is that the legislation could state that the statutory officer role must be held by someone other than the Chief Executive. While this is a viable option that we could explore further if you wish, our preliminary view it that this would add unnecessary complication and a small additional cost, and more of an appearance of greater independence rather than actual benefits.

31. If the function is located within a government department it will be subject to public sector accountability mechanisms such as select committee scrutiny of annual reviews and estimates.

32. There is also the option to establish a ministerial advisory group, if an additional independent source of advice to the Minister is needed.

33. Vesting the key decision-making role in a statutory officer such as the Chief Executive uses existing governance arrangements and avoids the additional overheads of board governance.

Three government departments were considered – MCERT is preferred

34. We recommend that the regulator function be located within a government department. The three options we considered are:

    34.1 Ministry for Cities, Environment, Regions and Transport (MCERT);

    34.2 Department of Internal Affairs (DIA); and

    34.3 the Treasury.

35. MCERT will have a small number of regulatory functions and relevant local government knowledge (though not the specialist financial expertise required for the regulator role – this capability would need to be built). Locating the function within MCERT would also align with the Government's objectives for MCERT to be a "one stop shop" for local government to deal with. Lastly, if the function sat with MCERT this would remove the need to have an "interim regulator".

36. DIA has extensive regulatory oversight capability, but not in economic regulation or local government finances. However, if you wished for the regulator functions to be in a separate department from MCERT we could investigate this option further.

37. The Treasury has expertise in fiscal modelling, long-term sustainability and intergenerational impacts. It is also experienced in assessing trade-offs between affordability, investment and long-term risk. However, the Treasury's core role is policy advice and stewardship of the public finance system — not sector regulation. The Treasury does not currently have regulatory functions and this would be a significant shift in the department's role.

MCERT is our preferred option for the long-term regulator

38. We recommend that that the function should sit within MCERT. The incoming MCERT Chief Executive also supports this recommendation.

Option 2: The regulator functions are delivered by the Local Government Commission

LGC has some existing functions that are compatible with the regulator role, but there would be some (manageable) challenges

39. The Local Government Commission (LGC) is an independent statutory body established under the Local Government Act 2002. It is governed by a board appointed by the Minister of Local Government.

40. Many elements of a proposed regulator role align with LGC's existing operating model. LGC already undertakes a range of functions, including providing guidance to the sector, engaging with councils, dealing with council proposals, and investigating and reporting to the Minister. It is also accustomed to dealing with technical matters and impacts, including rating considerations in the context of reorganisations. While a regulatory function would differ in nature, it could be supported in a similar way to the LGC's existing decision-making responsibilities.

41. The proposed power for the regulator to be able to direct a council to remediate rates decisions set outside the target range would be a material shift to a more directive regulatory role.

42. The downsides of this option are:

    42.1 different lines of accountability – the LGC is required to produce an annual report, which is tabled in parliament, but is not subject to select committee scrutiny the way departments and the Commerce Commission are; and

    42.2 an interim regulator (i.e. MCERT) would still be needed until funding can be confirmed. This will add cost and complexity to implementation, and provide less certainty for local authorities about what will be required of them.

43. The following risks and challenges would need to be managed if LGC was to be the regulator:

    43.1 work programme surges – LGC may require additional members to manage peaks, particularly if several functions are busy at the same time. Some workflows will be hard to predict such as reorganisation proposals and Situation 1 exemptions to the target range (for extreme circumstances);

    43.2 potential conflicts with the LGC's existing statutory responsibilities where LGC decisions intersect with councils' rating systems[3]); and

    43.3 negative perceptions if LGC is seen to be exercising strong directive powers over councils, potentially affecting the generally positive relationships with councils.

LGC is our second preferred option for the long-term regulator

44. Our assessment is that these are manageable risks and challenges with good policies and communication, and adequate funding. This could be a good option if you wish the regulator to be more "arms length" from MCERT, but has a better organisational fit than Option 3 (Commerce Commission). Option 2 is our second preference.

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[3] For example, determining community board arrangements that attract targeted rates, or making reorganisation decisions informed by expected rating impacts.

Option 3: The regulator functions are delivered by the Commerce Commission

45. We note that you and some of your colleagues have a strong interest in the option of the Commerce Commission as the regulator given its trusted position as an independent regulator, and the Commission adopting regulatory duties for development levies.

The Commerce Commission has some complementary capability, but much of the expertise needed is new

46. Some of the Commission's existing functions (such as work on consumer and trade outcomes, transparency, and financial scrutiny) do overlap to a degree with aspects of the regulator role. The Commission also has established capability in financial modelling across several sectors.

47. However, areas like assessing local government financial performance and cost indexing would still require building new expertise. There is limited transferability of those skills to other functions the Commission carries out.

48. However, areas like assessing local government financial performance and cost indexing would still require building new expertise and capability (with new funding). There would be limited transferability of the Commission's resources and expertise from the Commission's existing funded regulatory duties and functions for these skills.

The Commerce Commission is adopting regulatory oversight for water services and development levies

49. The Commission's role in relation to water services and proposed role in relation to development levies can be briefly described as:

    49.1 water services – providing economic regulation and consumer protection where water providers are effectively monopoly utility providers; and

    49.2 development levies – prescribing methodologies for levies to ensure the growth portion of infrastructure is fairly and accurately calculated (to give developers certainty, consistency, and transparency about costs).

50. These are narrow, industry-specific regulation roles, that mainly relate to private goods. Whereas the rates capping regulator is involved in setting limits and approving exemptions for local government funding for public goods (ie, services that people cannot be excluded from using, and where one person using them does not reduce how much is available for others) across a broad range of regulatory, economic, social and administrative functions.

51. The Treasury has also noted the delivery risks associated with the Commission assuming multiple new functions in a short timeframe.

MBIE and the Treasury have concerns about organisational fit

52. The Ministry of Business, Innovation & Employment (MBIE) have provided the following feedback on organisational fit:

    52.1 The rates target range system does not neatly fit with the Commission's purpose[4] or other functions. The Commerce Commission is well suited to regulating prices for excludable, monopolised services (private goods). Rates are neither excludable nor service-specific as they fund public goods, and relate to a broad range of purposes. The nature of the regulatory role for rates caps is more like fiscal oversight, than economic regulation currently undertaken by the Commission.

    52.2 There is a risk the new role could negatively affect the Commission's credibility in relation to competition and consumer regulation functions, because:

        a. the rates target range regulator will need to work more closely with a Minister than is the case for the Commission's other arms-length functions; and

        b. exercise of the regulator's functions will influence local-government decision-making and community outcomes, a contentious and subjective public policy area that focuses on broader public benefits compared to the Commission's general focus on consumer welfare.

53. The Treasury notes that extending the Commerce Commission's remit to include regulating rates-capping would represent a significant departure from its core focus on promoting effective competition, and agrees with MBIE that this could adversely affect the Commission's credibility in relation to its competition and consumer regulation functions.

54. The Commerce (Commerce Commission Reform) Amendment Bill is currently before select committee. The Bill strengthens the Commission's governance arrangements including by establishing a new independent board, and legislates the Commission's objectives and functions. You would need to engage with the Minister of Commerce and Consumer Affairs, as the Minister responsible for the Commission, at the earliest opportunity if you are interested in pursuing the Commission as a potential regulator for the rates target range.

The Commerce Commission is our least preferred option

55. Having the Commerce Commission as the long-term regulator is our least preferred option because of the higher cost compared to MCERT and LGC, and that it does not fit well with the Commissions purpose and other functions.

Overview of options comparison

56. The table below summaries the comparison of the three options. Further information on the estimated costs of the three options is set out in the financial implications section below.

[4] The purpose of the Commerce Act is to promote competition in markets for the long-term benefit of consumers within NZ.

	Option 1 – Statutory officer within MCERT	Option 2 – LGC	Option 3 – Commerce Commission
Appropriate relationship with Executive/parliament	✓✓	✓	✓
Current skillset/expertise	✗	✗	✗
Fit with existing purpose	✓	✓	✗
Compatibility with other functions	✓	✓	✗
Cost-efficiency	$$	$$	$$$

Financial implications

Estimated costs

57. The comparative costs for the three options for 2027/28 - 2030/31 (four years) are estimated at:

    57.1 Option 1 – MCERT - 9(2)(f)(iv)

    57.2 Option 2 – Local Government Commission - 9(2)(f)(iv)

    57.3 Option 3 – Commerce Commission - 9(2)(f)(iv)

58. We note that:

    58.1 this does not include the 2026/27 costs for MCERT which would apply to all options (because MCERT would need to be the "interim regulator" under Options 2 and 3 while funding is secured for the long-term regulator);

    58.2 these are initial estimates based on current policy decisions, with a number of caveats because, for example, it is difficult to predict the number of variation applications at this point;

    58.3 the estimates do not include costs associated with potential judicial review proceedings[5]; and

    58.4 costs will be higher in the first three years as the regulatory system is established, databases and indexing are developed, and councils are supported through a new process.

[5] We understand that a judicial review proceeding may cost approximately $250,000 per year and these challenges are more likely in the early years of a new regulator system.

59. The LGC and Commerce Commission options mean there would be two sets of establishment costs – for MCERT as the interim regulator, and then for the long-term regulator.

Source of funding

60. Due to current fiscal constraints, the 2026 and 2027[6] costs incurred by MCERT will need to be absorbed within baselines through reprioritisation.

61. As MCERT is still in the process of being established it is not currently possible to confirm whether the long-term regulator function could be met within baselines or whether a Budget bid will be required.

62. If either LGC or the Commerce Commission are to be the regulator then funding for this will need to be confirmed.

Consultation

63. We have discussed the features and options for the regulator with officials or staff from, the Department of the Prime Minister and Cabinet, the Infrastructure Commission, the Local Government Commission, the Ministry of Justice, the Ministry for Business Innovation and Employment, the Ministry for Regulation, the Public Service Commission, and Treasury. The Commerce Commission have provided technical advice on potential costings.

64. We have also discussed this paper with the incoming Chief Executive of MCERT who supports the preferred option.

65. 9(2)(g)(i) [redacted]

Next steps

66. Given the tight timeframe for introduction of the Bill we recommend that you consider consulting with key Ministerial colleagues, and/or coalition partners, on the proposed regulator now before confirming final decisions for drafting.

67. We recommend that you discuss the options with Hon Chris Bishop (as Minister responsible for several of the MCERT portfolios), the Minister of Finance and the Minister for the Public Service and Digitising Government. If the Commerce Commission option is still under active consideration, then we also recommend you discuss this with the Minister of Commerce and Consumer Affairs.

[6] This refers to calendar years. If there is an interim regulator the intention is that the permanent regulator would take over from 1 January 2028.

68. Once the decision on the regulator is confirmed we will issue drafting instructions to reflect your decision. We will also include a recommendation in the Cabinet Legislation Committee paper for the Bill, seeking confirmation your decision on the regulator. We will need to prepare a Regulatory Analysis Summary on the choice of regulator to accompany that paper.

69. We are working to the following timeline for Cabinet Legislative Committee decisions:

Milestone	Date
Draft Cabinet paper to Minister	24 June
Ministerial consultation	30 June – 7 July
Cabinet paper to Minister	8 July
Cabinet paper lodged	16 July
LEG Committee	23 July
Cabinet	27 July
First Reading	30 July (assuming House time)

Recommendations

70. We recommend that you:

a) **note** that you have delegated authority from Cabinet to make a decision on who will be the regulator for the rates target range model, and authorise drafting instructions for this, subject to Cabinet confirmation when the Bill is introduced;

b) **note** that we recommend that you discuss your preferred option with key Ministerial colleagues, and potentially coalition partners, before directing officials to issue drafting instructions to reflect this (suggested Ministerial portfolios to be included are noted at paragraph 65);

c) **note** that officials are available to provide more information on any of the options as needed to support your consideration;

d) **note** that decisions on the regulator need to be confirmed urgently so that this can be reflected in the Bill to be considered by the Cabinet Legislation Committee on 23 July 2026; and

e) **agree** that the department will issue drafting instructions for the long-term rates target range regulator role to be performed by:

   i. MCERT (with the Chief Executive having a specific statutory officer role as regulator) (preferred option); or **Yes/No**

   ii. the Local Government Commission (second preferred option); or **Yes/No**

   iii. the Commerce Commission (least preferred option). **Yes/No**

Rowan Burns
Policy Manager

Hon Simon Watts
Minister of Local Government

____/____/________ 23 JUN 2026

Classification Removed

Appendix A: Summary of the regulator's role

Regulator's responsibilities	Which includes...	Timing
Develop and provide guidance to councils on the target range system		Ongoing
Provide recommendations to MOLG on the target range(s)	[Optional] Develop a specific local government cost index Calculate estimated cost inflation for the local government sector Calculate "washup" adjustment Engage with councils on draft target range recommendations	Every 6 years
Make decisions on Situation 2 variation applications	Assess financial prudence of the proposal Consider whether any changes should be made or conditions applied	Every 3 years
Provide recommendations to MOLG on any Situation 1 variation applications		Ad hoc
Monitor council compliance with the target range	Check LTP rates forecasts and rates set against the target range Power to direct a council to remediate an LTP or rates set out of target range	After LTPs are completed and after Year 3 rates are set.[7] (E.g. for 2030 LTP – July 2030 and July 2032)
	Publish a report on general trends, observations, issues, and risks in the implementation of the target range model	Every 3 years
Review the target range setting methodology (primary and secondary legislation) and provide recommendations to MOLG.		After 3 years of full implementation (or at other times if initiated by MOLG or the regulator).

[7] After Year 3 rates are set the regulator can check whether the average across the 3 years is in range.

Internal Affairs
Te Tari Taiwhenua

Local Government briefing

Hon Simon Watts
Minister of Local Government

Title: **Rates capping: Managing variations for FY 2029/30 and financially at-risk councils**

Date: 20 May 2026

Key issues
Decisions are required on how variations from the rates cap will operate in practice for FY 2029/30. A standard process cannot be used due to misalignment between legislative timing and councils' 2027–2037 long-term plans. A bespoke, time-limited approach is required. We recommend a tightly targeted exemption process, administered by the interim regulator, for councils with significant capital works programmes that require rates increases above the cap. This approach would use clear legislative criteria, limit eligibility to a small cohort, and allow time-limited flexibility while maintaining overall rates discipline and enabling delivery of critical infrastructure. Decisions are also required to address risks that a rates cap could entrench or worsen financial sustainability issues for some councils. Current analysis indicates a cohort may face persistent operating deficits, limited ability to rebalance budgets, and increasing debt pressures under a capped regime. We recommend that the regulator can advise financially at-risk councils and enable a time-limited exemption for the most financially at-risk. This approach mitigates risks to council service delivery and reduces the likelihood of wider impacts on the local government financing system.

Action sought	Timeframe
Agree to the approach to managing exemptions in FY 2029/30 for councils with significant capital works projects. **Agree** to the approach to managing councils who are financially at-risk of under a rates cap.	25 May 2026

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1st contact
Rowan Burns	Policy Manager	9(2)(a)	✓
Olivia Krakosky	Senior Policy Analyst	9(2)(a)	

Return electronic document to:	Olivia.krakosky@dia.govt.nz
Hukatai reference	PDU53QWYWURP-1847333527-2033
Ministerial database reference	LG202612210

Purpose

1. You have Cabinet authorisation to make decisions on subsequent matters arising from legislative drafting that align with the overall policy intent of the rates capping target range model [CAB-26-MIN-0099.01]. This paper seeks your decisions on a process for allowing variations from the target range for financial year (FY) 2029/30, as well as measures for councils with financial sustainability issues.

Executive summary

2. This briefing seeks your decisions on outstanding policy settings for variations under the rates capping target range model, specifically as applied to FY 2029/30. The core policy challenge is balancing constraints on rates increases with councils' ability to fund critical infrastructure and maintain financial sustainability.

3. **We recommend you agree to a targeted exemption process for FY 2029/30, administered by the interim regulator and focused on councils with significant capital works programmes.** This process would tightly limit eligibility to councils with major capital expenditure underway or planned before enactment that requires rates increases above the cap. It would set clear legislative criteria and require councils to specify the scale and duration of any variation. The interim regulator would identify eligible councils and invite councils to apply for an exemption for FY 2029/30. Under the exemption, the council must have regard to the target range when making a rates decision. If they need longer exemptions, they will be able to use the standard variation process in the 2030–2040 long-term plan process. This approach best balances rates discipline with delivery of critical infrastructure. We have designed this process to work if legislation is delayed up to 31 March 2027.

4. There is a material risk that a rates cap could entrench or worsen financial sustainability issues for some councils. Current analysis indicates a cohort may face persistent operating deficits, limited ability to rebalance budgets, and increasing debt pressures under a capped regime. **We recommend you agree that the regulator can advise financially at-risk councils and enable a time-limited exemption for FY 2029/30 for the most financially at-risk.** Under the exemption, the council must have regard to the target range when making a rates decision. The regulator will need to have regard to considerations relating to financial performance and management when deciding whether to grant the exemption. This approach reduces risks to service delivery and mitigates potential impacts on the wider local government financing system. We do not expect there to be many, if any, councils needing this exemption, but we consider it a necessary design feature to ensure financial issues are not entrenched or made worse by a rates cap.

5. Decisions on these matters are required now to enable Bill drafting and to ensure the rates cap can be implemented for councils' 2027–2037 LTPs and fully operational by 1 July 2029.

Previous decisions on variations and timeframes for the rates cap

6. In November 2025, Cabinet considered a framework for a rates cap target range model for New Zealand [ECO-25-MIN-0189]. Cabinet's decisions enabled further policy development to be undertaken to build on a target range model anchored in economic indicators for a rates cap regime. Cabinet noted the following milestones:

   6.1 Announcement of the rates cap target range model in late 2025 (completed);

6.2 Legislation enacted by December 2026;

6.3 Legislation effective from January 2027 in time for councils' 2027 long-term plans (LTPs);

6.4 The full system to be in place by 1 July 2029.

7. In March, Cabinet confirmed (among other things) that [CAB-26-MIN-0099.01]:

7.1 Variations to the cap will be permitted for either (1) exceptional circumstances (based on need or desirability and determined by the Minister of Local Government) or for (2) future financial planning (based on prudent financial management to be determined by a regulator).

7.2 There will be a transition period of three years, which will include establishing an interim regulator who will be responsible from approving variations in FY 2029/30.

7.3 There will be an invitation-only process for managing variations for FY 2029/30, with invitations issued and variations approved by the interim regulator from early 2027.

The challenge of managing FY 2029/30 variations

8. The rates cap target range model has been designed to integrate into existing council planning processes. This avoids creating burdensome and costly new processes alongside existing ones.

9. You have directed us to work towards full implementation of the rates cap by 1 July 2029 [LG202611713 refers]. The LTP that will apply on 1 July 2029 (the start of the rates capping regime) is the 2027–2037 LTP, adopted by 30 June 2027. If we applied the standard variations process for this LTP, then variations would need to be applied for by 31 July 2026, and approval of variations by the regulator by October 2026. Legislation will not be in place in time for this process, so a bespoke variations process is required. This is why Cabinet agreed to an invitation-only process.

10. Any bespoke variation process needs to be available through legislation from Q1 2027, and needs to be efficient, so there is time for councils to incorporate decisions into their 2027–2037 LTPs. Councils will start submitting their draft LTPs for audit from February 2027, so it is very tight even with legislation enacted and effective from January 2027. Two legislative timeframes are possible:

10.1 Legislation is enacted and effective from January 2027. This enables greatest amount of time to consider variations for FY 2029/30 and closest fit to existing council planning processes.

10.2 Legislation is enacted and effective by 31 March 2027. Our view is that the process below can still be achieved under this timeframe, but there will be less time for decisions that impact FY 2029/30 and it will make 2027-2037 LTP public consultation and audit more complicated.

11. A timeline showing these timeframes against councils' LTP process is attached at **Appendix A**. The process outline in this briefing has been designed to work with both timeframes.

A targeted FY 2029/30 exemption process for councils with significant capital works projects

12. We recommend the Bill enables a targeted exemption process from the rates cap for FY 2029/30 for councils with significant capital works programmes.

13. Limiting exemptions to councils with large capital works projects will reduce the number of exemptions and focus on those most at need. These types of councils were identified early in policy development and were the initial basis for Cabinet's agreement to a bespoke variation process for FY 2029/30 [CAB-26-MIN-0099.01].

14. We recommend that the interim regulator identify relevant councils for an exemption.[1] To do this, the interim regulator would make an assessment based on the following criteria, based on data from 2024–2034 LTPs and the Infrastructure Commissions' Infrastructure Priorities Programme:

    14.1 the capital expenditure was underway or planned to begin before enactment of the rates capping bill and continue beyond FY 2029/30;

    14.2 an increase in rates revenue is required to fund approved capital expenditure and/or associated financing costs; and

    14.3 the required rates increase exceeds the target range for FY 2029/30.

15. We recommend that these criteria are included in the Bill to provide certainty to the sector about who is eligible for a FY 2029/30 exemption.

The process should be simple and efficient to ensure exemptions can be incorporated into 2027–2037 LTPs

16. Our recommend process is:

    16.1 The interim regulator identifies relevant councils, based on the criteria in paragraph 14 above, and begins working with them after the Bill has been introduced (second half of 2026).

    16.2 When legislation is effective, the interim regulator will invite the councils they have identified based on the criteria in paragraph 14 above.

    16.3 Those councils who have been invited and who wish to, can apply for an exemption. As part of this, councils will provide information and rationale to the regulator as to why an exemption to the target range is needed, including specifying:

        16.3.1 how much the council would need to exceed the target range by; and

        16.3.2 the duration of the exemption sought.

    16.4 The interim regulator determines whether the council gets the exemption based on updated information provided by the council in their application. The exemption means the council does not have to comply with the target range for FY 2029/30, but they still must consider the target range as with FY 2027/28 and 2028/29. If longer exemptions are needed, councils will be able to apply for them through the standard variation process tied to their 2030–2040 LTPs.

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[1] Depending on who the permanent regulator is to be determined, it is most likely that the interim regulator (being the Chief Executive of the Ministry of Cities, Environment, Regions and Transport) will be the regulatory body for these decisions.

17. The decision for the exemption needs to be made in time for councils to incorporate it into their 2027–2037 LTPs. We recommend including a statutory deadline of 29 June 2027 (being the day before councils must legally adopt their LTP). However, we also note that councils have statutory public consultation requirements of not less than 1 month for their LTP.[2] In practice this may look like the council consulting on two options in its LTP (one without the exemption, one with), or the regulator needing to make decisions in early May.

18. We considered whether the interim regulator should assess and agree specific target ranges for each council who needs an exemption. This would require additional time and resource, which will create issues for getting exemptions agreed ahead of councils' 2027–2037 LTP processes.

We have considered other options to enable flexibility for FY 2029/30

19. We have considered several other options to enable flexibility to the target range for FY 2029/30 for councils with large capital works projects. These are:

    19.1 Excluding certain revenue and expenditure from the rates cap for FY 2029/30 only (e.g. transport and/or flood protection spending).

    19.2 Allowing future financial planning variations through the FY 2029/30 annual plan (rather than the 2027–2037 LTP).

    19.3 Not allowing variations in FY 2029/30.

20. We looked at which options would be best at constraining rates increases, while allowing limited flexibility for councils with large capital works projects. We also consulted with relevant agencies on these options (Audit Office, Local Government Funding Agency, Ministry of Housing and Urban Development, Ministry of Transport, The Treasury).

21. The option outlined in this paper, the bespoke exemption process, remains the preferred option due to its simplicity, alignment with LTP processes, and limited distortion of investment decisions. It is also the option that aligned with Cabinet's previous decisions.

9(2)(f)(iv)
[redacted]

[2] S 83 (1)(b)(iii) Local Government Act 2002.

9(2)(f)(iv)
[redacted]

9(2)(f)(iv) [redacted]

Supporting measures for councils who are not in a financially sustainable position

25. 9(2)(ba)(i) [redacted] For FY 2024/25, 41 councils (or 53%) had an operating deficit. Of these, 10 councils (13%) had a balanced budget outcome of less than 90%. You agreed that the interim regulator should work with financially at-risk councils during the transition period to reduce the risk of them defaulting once the rates cap enters into force [LG202611170 refers].

26. 9(2)(g)(i) [redacted]

The regulator to provide advice to financially at-risk councils

27. We recommend that the regulator[4] have the statutory function of monitoring and providing advice to councils that, in the regulator's opinion:

    27.1 Will be unable to comply with the target range on and from 1 July 2029; or

    27.2 Are, or are at risk of becoming, otherwise financially unsustainable.

28. This advisory function will be important during the transition years of FY 2027/28 and FY 2028/29. The intention of the regulator's advice during this time will be to assist councils in making financial decisions that will enable them to comply with the rates cap from 1 July 2029.

29. This may mean those councils need to raise rates significantly higher than the target range in the transition years to catch up on historic underspend and work towards financial sustainability. As we work through the transition, the regulator will be able to provide advice on the reasonableness of these increases.

A targeted exemption from the rates cap for financially at-risk councils

30. We recommend that for those councils most financially at-risk, there is flexibility for them to access an exemption from the rates cap. We do not anticipate this being needed for many, and ideally no, councils. However, to address the concerns identified by the LGFA above, we recommend that the bill allows for this flexibility.

31. We recommend that this exemption is tied to the FY 2029/30 annual plan, rather than the 2027–2037 LTP as this allows more time for councils to receive advice from the regulator and adjust their financial approach. It also means the assessment of who qualifies for an exemption and whether to grant the exemption can be based on 2027–2037 LTP data, which will be most relevant for assessing councils' current financial health at 2029. The alternative is that 2024–2034 LTP data is used.

[4] We recommend that this function is available for both the interim and permanent regulator.

32. The regulator will determine which councils qualify for an exemption and will issue invitations to those councils in early 2029.[5] Before issuing an invitation, the regulator must be satisfied that the council, even after one transition year (FY 2027/28):

    32.1 will be unable to comply with the target range on and from 1 July 2029; or

    32.2 is, or is at risk of becoming, otherwise financially unsustainable.

33. As part of the application, the council will need to provide evidence of the amount of rates increases needed, and the duration.

34. The regulator will determine an application no later than 29 June 2029, so that it can be reflected in councils' FY 2029/30 annual plan. We note, though, that councils have specific statutory requirements with annual plans and with any proposals that may require LTP amendments, and therefore the regulator may need to make decisions earlier.

35. In making a decision on an exemption application, we recommend that the Minister must consider:

    35.1 the extent to which the council's operating expenditure exceeds, or is projected to exceed, its operating revenue;

    35.2 the extent to which the council is using, or is likely to be able to use, alternative fiscal tools or policies to comply with the target range on and from 2029/30 or otherwise become financially sustainable;

    35.3 the council's debt levels (including the extent to which these levels exceed, or risk exceeding, Local Government Funding Agency limits);

36. The exemption means the council does not have to comply with the target range in FY 2029/30, but they still must consider the target range as with FY 2027/28 and 2028/29.

37. These assessments will require judgment by the regulator given differences across councils' financial positions. The regulator will make these assessments using data in councils' 2027–2037 LTPs, which will have water removed. This will also enable the regulator to consider how councils are using rates to achieve the purpose of local government and core services in their financial management approach.

38. The exemption is intended to be a last resort measure. An additional last resort is that if a council does default, a Commission could be appointed to a council under Part 10 of the Local Government Act. As agreed by Cabinet [CAB-26-MIN-0099.01] the Commission in that instance can set rates increases above the maximum of the target range for the purpose of repaying creditors where the council has defaulted.

How many councils do we expect to fall into this category and how much is the expected rates need?

39. 9(2)(g)(i) [redacted] The regulator will work with the LGFA to assess councils' 2027–2037 LTPs and confirm the number of financially at-risk councils who would require assistance.

[5] This is expected to be the permanent regulator, who should be established from early 2028.

9(2)(g)(i)

[redacted]

Rates capping and Simplifying Local Government

41. There is significant policy change coming to the local government sector with the simplifying local government programme. A transition plan will be needed to look at how rates capping and LTPs will work for councils who have new arrangements in 2028 (through the Headstart programme), and those who have new arrangements in 2030 (through the backstop). Your earlier decisions on rates capping and reorganisations will be relevant [LG202611713 refers].

Next steps

42. We will issue drafting instructions based on your decisions in this paper. We will also seek Cabinet's confirmation of these decisions through the Cabinet Legislation Committee paper for the Bill.

43. We are working to the following timeline for Cabinet Legislative Committee decisions:

Milestone	Date
Draft Cabinet paper to Minister	24 June
Ministerial consultation	30 June – 7 July
Cabinet paper to Minister	8 July
Cabinet paper lodged	16 July
LEG Committee	23 July
Cabinet	27 July
First Reading	30 July (assuming House time)

Consultation

44. We consulted with the Audit Office, Local Government Funding Agency, Ministry of Housing and Urban Development, Ministry of Transport, and The Treasury on options for managing variations for FY 2029/30.

Financial implications

45. The following financial implications have been considered:

    45.1 There will be financial implications to the local government and infrastructure sector if flexibility is not permitted for continuing capital works projects in FY 2029/30.

    45.2 There are financial risks for councils who have financial sustainability issues, especially if flexibility is not permitted during the transition and potentially FY 2029/30.

45.3 Any variation process needs to be as low cost to the sector as possible.

Recommendations

46. We recommend that you:

FY 2029/30 exemptions for councils with large capital works projects

a) **agree** that the bill will provide for a targeted exemption regime from the rates cap for FY 2029/30 for councils with significant capital works projects or programs; **Yes/No**

b) **agree** that the regulator must assess and determine whether a council qualifies for an exemption, and may issue an invitation for any qualifying council to apply; **Yes/No**

c) **note** that the regulator's assessment will be based (alongside any other relevant information) on a council's 2024–2034 LTP and the Infrastructure Commission's Infrastructure Priorities Programme;

d) **agree** that any council that does not receive an invitation is not eligible to apply for an exemption; **Yes/No**

e) **agree** that before issuing an invitation under (b) the regulator must first be satisfied that the following criteria are likely to apply: **Yes/No**

   i. capital expenditure on the significant capital works project or program was underway or planned before enactment of the rates capping bill and continue beyond FY 2029/30;

   ii. an increase in rates revenue is required to fund approved capital expenditure and/or associated financing costs; and

   iii. the required rates increase exceeds the target range for FY 2029/30;

f) **agree** that any application for an exemption must be accompanied by up-to-date information about the council's capital expenditure and revenue; **Yes/No**

g) **agree** that the council must specify in its application the amount and duration of its proposed exemption; **Yes/No**

h) **agree** that the regulator must determine any application for an exemption no later than 29 June 2027; **Yes/No**

i) **agree** that the regulator must not grant the application unless satisfied that the criteria in (e)(i)-(iii) apply based on the information provided by the applicant and any other relevant information the regulator considers relevant; **Yes/No**

j) **agree** that if the regulator grants a council's application, the council must have regard to the target range when making a rates decision during the exemption period, but will not have to comply with the target range; Yes/No

Measures for financially at-risk councils

k) **agree** that the bill provides for the regulator to have the statutory function of monitoring and providing advice to councils that in the regulator's opinion: Yes/No

  i. will be unable to comply with the target range on and from 1 July 2029; or

  ii. are, or are at risk of becoming, otherwise financially unsustainable;

l) **agree** that the bill will provide for a targeted exemption regime from the rates cap for FY 2029/30 for financially at-risk councils; Yes/No

m) **agree** that the regulator must assess and determine whether a council qualifies for an exemption, and may issue an invitation for any qualifying council to apply; Yes/No

n) **note** that the regulator's assessment will be based (alongside any other relevant information) on a council's 2027–2037 LTP;

o) **agree** that any council that does not receive an invitation is not eligible to apply for an exemption; Yes/No

p) **agree** that before issuing an invitation under (m) the regulator must be satisfied that the council: Yes/No

  i. will be unable to comply with the target range on and from 1 July 2029; or

  ii. is, or is at risk of becoming, otherwise financially unsustainable;

q) **agree** that any application for an exemption must be accompanied by up-to-date information about the council's fiscal circumstances; Yes/No

r) **agree** that the council must specify in its application the amount and duration of its proposed exemption; Yes/No

s) **agree** that the regulator must determine any application for an exemption no later than 29 June 2029; Yes/No

t) **agree** that before deciding whether or not to grant the application the regulator must first consider: Yes/No

i. the extent to which the council's operating expenditure exceeds, or is projected to exceed, its operating revenue;

ii. the extent to which the council is using, or is likely to be able to use, alternative fiscal tools or policies to comply with the target range on and from FY 2029/30, or to otherwise become financially sustainable;

iii. the council's debt levels (including the extent to which these levels exceed, or risk exceeding, Local Government Funding Agency limits);

u) **agree** that if the regulator grants a council's application, the council must have regard to the target range when making a rates decision during the exemption period, but will not have to comply with the target range; Yes/No

Drafting instructions

v) **agree** that officials can issue drafting instructions to give effect to these decisions in the rates capping Bill. Yes/No

Rowan Burns
Policy Manager

Hon Simon Watts
Minister of Local Government

/ /

26 MAY 2026

Appendix A: Rates capping implementation timing

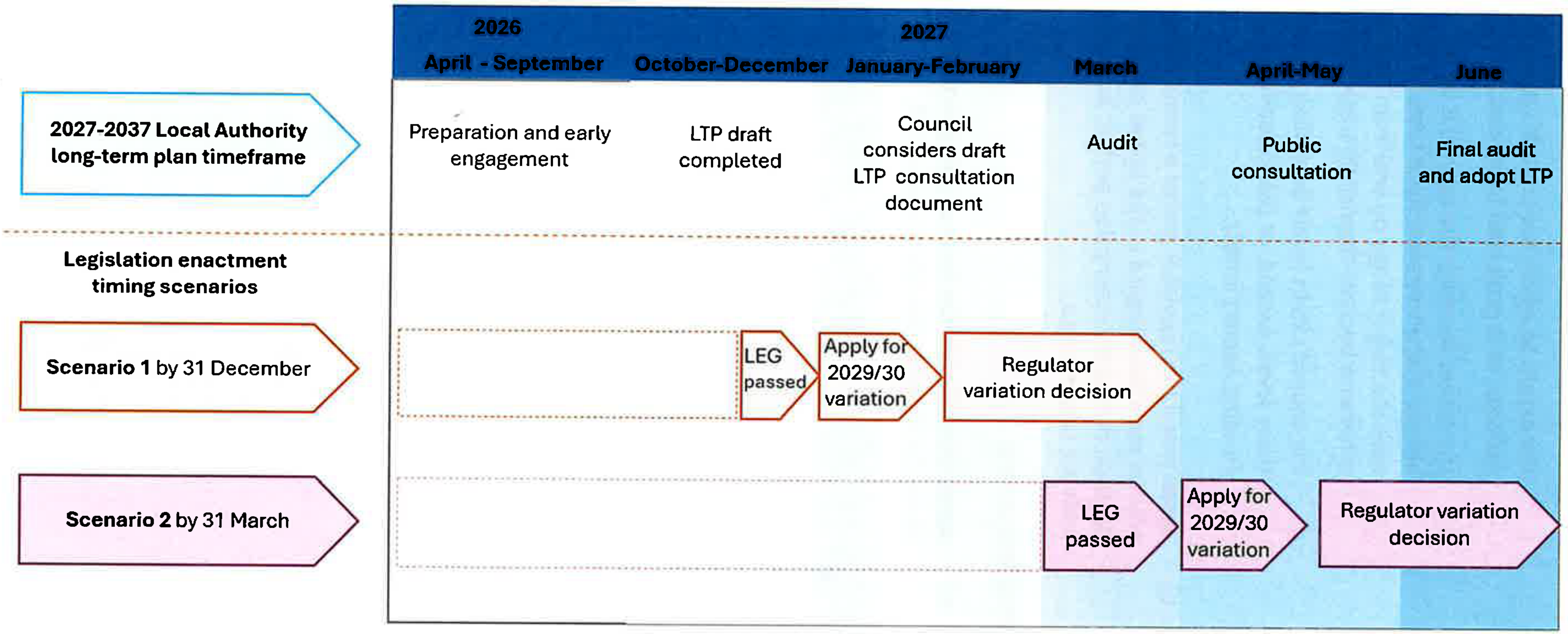
Rates capping implementation timing

To ensure councils can include the target range in their 2027-2037 long-term plans, and to allow variations to the target range for FY2029/30 to be approved and consulted on, the legislation needs to be enacted by 1 January 2027 (**Scenario 1**).

This provides time for:

- councils to use the target range as the basis for completing 2027-2037 long-term plans by 30 June 2027
- the regulator to process variations for FY 2029/30, with the outcome feeding into the long-term plans before 30 June 2027

Scenario 2, requires the decision timeframe for variations to be condensed, and complicates audit and consultation.



Updates on Agency Activities

Operational and Policy Updates

Rates capping

Update:

Rates capping regulator

Last week we provided you a briefing on options for the long-term rates capping regulator, with MCERT the Department's preferred regulatory body. You have indicated your preference is for the regulator to be the Commerce Commission, and that you will discuss this with your colleagues before confirming this with us for drafting instructions.

Managing variations for FY 2029/30

We have provided you a briefing on managing variations for FY 2029/30. The intention is to provide limited flexibility for certain categories of councils in the first year of the rates cap. We recommend in the briefing that councils with large capital works projects that rely on rates funding (as identified by the regulator in early 2027) are exempt from the target range in FY 2029/30, and that there is an option for the regulator to grant an exemption at a later date for councils most at-risk of defaulting in FY 2029/30 under a rates cap. The interim regulator will need to start working with these councils from late 2026. We do not expect there to be many councils in either category.

Variations for exceptional circumstances

Cabinet has agreed that exceptional circumstances variations will be agreed by the Minister of Local Government, on the advice of the regulator, if:

- there have been exceptional circumstances; and
- a variation to the target range is necessary or desirable to enable the local authority to respond to or recover from the exceptional circumstances.

Some councils are still recovering from past weather events. There is a risk that these councils will raise rates significantly in the transition period to ensure they have enough revenue to recover fully. To smoothen rates increases, we recommend that this variation can be applied for by councils, if the exceptional circumstances occurred in the previous long-term plan period. If you agree, we will issue drafting instructions to this effect.

Action Required:	**Ministerial Signature:**
Agree that exceptional circumstances variations are available for councils still recovering from exceptional circumstances in the previous long-term plan period.	24 MAY 2026

Contact: Rowan Burns 9(2)(a)

Ministry for Cities, Environment, Regions & Transport

Rates capping – Mechanics of updating the target range

Date:	23 July 2026	**Priority:**	Urgent	**Tracking number:**	MCERT2026-010192

To	Action sought	Response by
Hon Simon Watts **Minister of Local Government**	**Agree** that, for the introduction version of the Bill: a) target range updates would be made by Order in Council; b) the Order in Council would be a confirmable instrument; and c) if an updated range is not in place, the previous range will continue to apply. **Confirm** whether officials should do further work on an alternative to the Order in Council mechanism for updating the target range.	29 July 2026

Contact for discussion (if required)

Name	Position	Telephone	1st contact
Rowan Burns	Policy Manager, Governance and Democracy Team	9(2)(a)	
Amanda Shaw	Principal Policy Analyst	9(2)(a)	☑

Action for Minister's Office staff

Purpose

1. The Legislative Design Advisory Committee (LDAC) has provided feedback on the proposed mechanism for setting the second and subsequent target ranges for rates capping.
2. We seek your agreement to our suggestions to address some of LDAC's concerns, for inclusion in the Local Government (Rates Capping) Amendment Bill (the Bill).

Key points

3. The current proposal in the draft Bill is that the target range for rates capping will be periodically updated, every six years, via an Order in Council recommended by the Minister of Local Government.
4. LDAC has advised that it would be more constitutionally orthodox for the rates capping target range to be periodically updated through amendment Bills, instead of via Orders in Council.
5. In our view, the amendment Bill approach is a viable option, but only if the amendments can be made as part of the Budget process (to provide certainty about timing). However, this change would require support from the Minister of Finance and may run counter to your policy intent.
6. 9(2)(g)(i) [redacted]
7. We recommend that, for the introduction version of the Bill, you retain the current proposal (for the target range to be updated via an Order in Council). If you wish to explore the alternative option further, it could be progressed via the select committee process or an Amendment Paper.
8. If the Order in Council process remains in the Bill, LDAC suggests that more safeguards be considered to help mitigate the risk of judicial review. To address this, we support making the Order in Council a confirmable instrument, that must later be confirmed by Parliament. We seek your agreement to include that in the Bill.

Recommendations

9. We recommend you:
   a. **note** that the Legislation Design and Advisory Committee has provided advice on the proposed Order in Council mechanism for setting the target range and advised that the key Legislation Guideline issues arising with the Bill are:
      i. legislation should not delegate a power to make secondary legislation in respect of matters that are more appropriate for an Act;
      ii. all secondary legislation should be subject to appropriate safeguards;
      iii. the law should be clear and accessible;
   b. **confirm** that, for the purposes of introduction, the Bill should provide that the target range will be updated by Order in Council; Yes / No

Ministry for Cities, Environment, Regions & Transport

c. **agree** that, for the purposes of introduction, the Order in Council mechanism will include the following modifications:
   i. the Order in Council would be a confirmable instrument; and — Yes / No
   ii. if for any reason a new target range is not in place, the previous target range could apply until a new range is set; — Yes / No

d. EITHER:
   i. **agree** that officials will do further work on the option for target range updates to be set via amendment Bills, every six years, progressed via the Budget processes (rather than by Order in Council); and — Yes / No
   ii. **note** that this change would need to be progressed through the select committee process or an Amendment Paper due to the time constraints for introduction;

e. OR **agree** that no further work be done at this time on the option for target range updates to require an amendment Bill. — Yes / No

Rowan Burns **Policy Manager, Governance and Democracy Team** 23 July 2026	Hon Simon Watts **Minister of Local Government** ..... / ...... / ...... 25 JUL 2026

Comments

Ministry for Cities, Environment, Regions & Transport

Rates capping – Mechanics of setting the target range

The proposed process for setting the target range involves delegated legislation

10. Based on Cabinet's decisions in March 2026, and your decisions on our 15 April 2026 briefing to you,[1] the target range for rates capping would be set in the following way:

	Set when?	Set how?
First target range	From enactment	Included in the Bill (2–4%)
Second target range	Between July 2028 and June 2029	By Order in Council on recommendation by the Minister of Local Government
Further target ranges	Every 6 years from the last one	By Order in Council on recommendation by the Minister of Local Government

11. We sought LDAC's advice on the mechanics of the Order in Council mechanism to set the target range in the Local Government (Rates Capping) Amendment Bill (the Bill). We were concerned about what would happen if the Regulations Review Committee disallowed the Order in Council, and whether councils could be left with obligations that they could not comply with.

12. LDAC's advice is attached to this briefing as **Annex 1**.

LDAC provides guidance on legal and constitutional principles when developing legislation

13. LDAC is responsible for the Legislation Guidelines, adopted by Cabinet, as the government's key reference point for assessing whether legislative proposals are consistent with accepted legal and constitutional principles.

14. When we are developing legislation LDAC can provide us with advice on basic framework and design issues, and consistency with fundamental and constitutional principles.

15. LDAC also examines Government Bills that it has not reviewed before introduction to the House and may make submissions to select committees on issues of inconsistency with the Legislation Guidelines.

16. LDAC's members include experienced government officials with backgrounds in law, policy and economics, and experienced legal practitioners, academics, and regulators.

[1] "Rates capping: Calculating the target range", Department of Internal Affairs, LG202611714

17. When you submit the draft Bill to the Cabinet Legislation Committee for approval to introduce, the Cabinet paper will need to identify any known inconsistencies with the Legislation Guidelines.

LDAC advises that the target range should be re-set via primary legislation, not an Order in Council

18. LDAC considers that the target range is a matter of significant policy that should be included in the Act itself, rather than being set through an Order in Council. This would mean that periodic updates to the target range would need to be made via an amendment Bill. LDAC considers that it would not be particularly onerous to use an amendment Bill once every six years to adjust the range, and this could be dealt with as part of the annual Budget process.

19. LDAC considers that this is the most constitutionally orthodox approach because the rates cap could be seen as constitutional legislation affecting the relationship between central and local government.

20. Setting the range through primary legislation also removes the risk of judicial review of the process for adjusting the target range.

21. Our view is that requiring periodic primary legislation for each update to the target range does not fit well with the policy intent of having a mechanism that can be reasonably easily adjusted in response to changes in costs to councils. The Order in Council option was also recommended so that the Government of the day has the scope to provide councils and ratepayers with more certainty about timing and ensure that the target range is confirmed in plenty of time for long-term plan processes.

22. We also note that you directed that the target range should not be adjusted any more frequently than every 6 years. If the target range is always set out in the Act, it would be easier for the Government of the day to decide when to adjust the target range.

23. However, LDAC's suggestion that the amendment Bills could be included in the Budget process (for example, every six years) would make it easier to provide timing certainty to councils and could fit in with the council planning cycle.

24. If you wish to explore this option further, we can work with Treasury officials on this to support discussion between you and the Minister of Finance on the option. We have raised the option very briefly with Treasury officials and they are broadly comfortable with the current Order in Council mechanism for adjustments, but are happy to discuss the amendment Bill option if you want to consider this.

25. If you wish to make this change it may need to be proposed through the select committee process or in an Amendment Paper (see our comments at paragraph 38 and 39 below on timing).

LDAC advises that if the target range is to be set via secondary legislation, there should be stronger safeguards

26. LDAC noted that if, despite their comments mentioned above, the Government wishes to use secondary legislation (such as an Order in Council) to set the target range, this should be subject to appropriate safeguards. Safeguards can mitigate but not remove the risk of judicial review.

27. The safeguard options suggested by LDAC are:

    - an affirmative resolution process – Parliament must approve the Order in Council before it can take effect; or

    - a confirmable instrument – the Order in Council would be automatically revoked at a particular deadline unless it has been confirmed by an Act of Parliament.

28. LDAC considers that either of these mechanisms would be more consistent with constitutional principles (although not as consistent as using primary legislation) because Parliament would be endorsing the rates range that applied to local government. Courts may also be less inclined to closely supervise the setting of the rates cap, if they have been approved by Parliament. But this is not guaranteed.

29. We think making the Order in Council a confirmable instrument would be a pragmatic safeguard. We understand there is a streamlined process for Parliament to confirm these instruments and only limited departmental support is required.

30. We do not recommend the affirmative resolution process because this would make the timing for setting the target range less certain and potentially cause difficulties for council planning cycles.

31. If you agree that the Bill would provide for the target range to be set by Order in Council, we recommend that you 9(2)(h) [redacted]

LDAC recommends that a Henry VIII process be considered

32. LDAC also recommended that we consider including a "Henry VIII process" in the Bill to amend the Act itself, via the Order in Council, whenever the target range is adjusted.[2] LDAC considers that this would be more consistent with the position that the range is principally a matter between Parliament and local government, with the Executive acting under Parliament's will. LDAC notes that that this would not, in itself, substantially change the risk of the Order in Council being challenged.

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[2] An example of this is CPI adjustment of benefit rates under the Social Security Act 2018.

33. In our view a Henry VIII process is not required as long as the Minister of Local Government's discretion, when recommending what the new target range should be, is carefully scoped. We have reviewed the provisions in the draft Bill to make sure that is the case.

LDAC recommends including a default or fallback mechanism in case there is no Order in Council in place

34. Responding to our query about how to manage the risk of the Regulations Review Committee disallowing the Order in Council, LDAC does not consider this risk to be a significant issue. However, LDAC has suggested that including a default or fallback range would help minimise the issue further.

35. LDAC considers the most critical risk is the absence of a default or fallback cap or range to rely on if the Order in Council fails, is delayed, or is successfully challenged (for example, through judicial review proceedings). This creates a material risk of the regime becoming inoperable in practice, leading to both the will of Parliament, and Government's policy, being frustrated, as well as uncertainty for councils and ratepayers. LDAC's recommendation is to provide a default or fallback range such as an underlying default range set in the Act, possibly coupled with a fallback to any previous range set by Order in Council.

36. We do not consider that having a default range in the legislation is appropriate as it would contradict the policy intent that the target range will reflect councils' actual cost increases and ensure a minimum level of investment that reflects inflation. Any long-term statutory default range would be an arbitrary figure.

37. We do support including a "fallback" mechanism. We propose that if for any reason a new target range is not in place (e.g., it has not been set or has been invalidated), the previous target range would continue to apply until it is replaced.

9(2)(f)(iv), 9(2)(g)(i)

[redacted]

9(2)(f)(iv), 9(2)(g)(i)

Next steps

40. The current timeline for finalising the Bill for introduction is:

    - 3–7 August: Ministerial consultation
    - 6 August: deadline for final version of the Bill to be provided to the Ministry of Justice for Bill of Rights vetting
    - 13 August: lodging Cabinet paper and associated documents
    - 20 August: Cabinet Legislation Committee
    - 24 August: Cabinet
    - 25 August: Potential date for introduction
    - 1 September: Available for first reading

41. If you agree to retain the current proposal in the draft Bill for the target range to be set by Order in Council, and to make the Order in Council a confirmable instrument, 9(2)(h)

42. If you wish to explore the option for amendments to the target range to be made via amendment Bills as part of the Budget process, we will work with:

    - Treasury officials to provide you with more advice on this option and how it would work; and
    - your office to provide any supporting materials required for discussion with the Minister of Finance.

Annex 1 – LDAC advice

3 July 2026

Amanda Shaw
Principal Policy Analyst
Department of Internal Affairs

Via email: Amanda.Shaw@dia.govt.nz

Tēnā koe Amanda

Local Government (Rates Capping) Amendment Bill

Thank you for meeting with the Legislation Design and Advisory Committee to discuss the Local Government (Rates Capping) Amendment Bill (the Bill).

This letter of advice primarily responds to the matters set out in your memorandum dated 22 June 2026 and the matters discussed at the meeting on 26 June 2026. We are open to further engagement as the Bill continues to develop.

We ask that you consult with us before referring to this advice, or a summary of it, in any briefings to the Minister or subsequent Cabinet papers.

1. Disallowance

1.1. The Bill proposes to set ranges for future local council rates increases, by Order in Council, on advice from the Minister of Local Government. You advised that the target range needs to be in place by a particular date for councils to meet their compliance obligations. You have requested advice on the risks of disallowance, which the memo noted, if it were to occur, could leave councils with obligations they cannot comply with.

1.2. LDAC does not consider disallowance to be a significant issue. Disallowance is a discretionary power and in practice it is rarely used. Generally speaking, the Government has sufficient votes in the House to defeat a motion to disallow secondary legislation. LDAC adds that including a default or fallback range, as discussed below, also minimises this issue.

2. Provide for a default or fallback range

2.1. We consider the most critical risk with the proposal is the absence of a default or fallback cap or range to rely on. If the mechanism used to set the rate range (such as an Order in Council) fails, is delayed, or is successfully challenged, the Bill does not appear to currently provide a default or fallback rate or range to apply in its place.

2.2. This creates a material risk of the regime becoming inoperable in practice, leading to both the will of Parliament and Government's policy being frustrated, and uncertainty for councils and ratepayers. In our view, the absence of a backstop significantly increases incentives to seek to delay the process and challenge any decision and undermines the certainty and durability of the legislative scheme.

2.3. LDAC's recommendation is that, even if you retain a mechanism of Ministerial-led statutory reviews, the Act provide for the range that applies if that process is not successful. This could be achieved by means of an underlying default range set in the Act that applies unless another range applies, perhaps coupled with a fallback to any previous range set by Order in Council.

3. Only delegate appropriate matters to secondary legislation

3.1. As a general rule, matters of significant policy and principle should be included in an Act. Secondary legislation should generally only deal with minor or technical matters of implementation and operation of the Act.[1]

3.2. In this case, LDAC considers that the permissible range of rates increases is a matter of significant policy.

3.3. As noted at chapter 14.1 of the Guidelines, "Although 'significance' will vary from case to case, some indicators are that the policy answers the key questions in the problem addressed by the legislation, that the policy has the potential to give rise to wide-spread public interest or controversy (whether political or otherwise), or that (without this policy decision being made) it would be otherwise unclear what the overall implications of the Bill are."

3.4. The range within which local council rates increase is the key matter addressed by the Bill.

3.5. The simplest and most constitutionally orthodox approach would be to set the range in primary legislation and possibly make a review of the settings a legislative requirement. An amendment Bill would then be required to adjust the range following the review. LDAC recommend this approach as it aligns with other comparable tax legislation and established legislative design principles.

3.6. You mentioned that a change to the range would only be required every 6 years. It would not be particularly onerous to use an amendment Bill once every 6 years to adjust the range. We think that the Bill would be relatively small and could likely be dealt with as part of the annual Budget process.

3.7. It is possible that even if you set a process by which the Government can amend the range by Order in Council, you will still end up using primary legislation given the significant complexity

[1] Legislation Guidelines (2021 Edition) chapter 14.1

and risk involved. We note that there are examples of statutes where it was initially intended that a matter would be changed via an Order in Council, but Amendment Bills are used instead (e.g., the Customs and Excise Act 2018 and the Telecommunications Act 2001).

3.8. As noted above, setting the rates range in periodic primary legislation would also be the most constitutionally orthodox approach. If the Bill allows the range to be set by Order in Council, this could be seen and interpreted as constitutional legislation governing the relationship between the executive and local government as to the rates and budgets of local governments. Given the inherent political controversy surrounding rates and local government budgets, we would expect the setting of the cap range to be contentious.

3.9. If the power to set the cap was a power delegated by Parliament to the executive, decisions to recommend an Order in Council would be susceptible to judicial review. As explained below, we would expect that there could be a significant number of judicial review challenges, especially on the initial occasions the range was set. A variety of different actors would have standing and potentially the incentive to seek judicial review including local governments themselves, local government politicians and rate payer groups.

3.10. LDAC recommends that you consider whether it is the intention of the policy to constitutionalise the range of rates increases available in a process that would ultimately be supervised by the High Court. This would mark a significant constitutional shift. Our impression from the meeting is that this is not the policy intention. But it would be the effect of using the Order in Council process.

4. Risk of judicial challenge

4.1. If, despite the advice above, you still want to retain a secondary legislation mechanism, this should be subject to appropriate safeguards.

4.2. As explained above, we note that using secondary legislation opens the process to judicial review challenges. Given the nature of the issues, LDAC suspects that the risk of judicial review is relatively high. The consequences of a successful challenge could be significant. If you use primary legislation there is no risk of such challenge.

4.3. To mitigate (noting this would not remove) this risk, you could consider applying an affirmative resolution process, or a confirmation process. These mechanisms would help ensure that the secondary legislation is subject to appropriate parliamentary safeguards and scrutiny.[2]

4.4. An affirmative process is a parliamentary approval procedure under which Parliament must actively approve a proposed instrument before it can take effect (except in some urgent "made affirmative" variants). A confirmable instrument is secondary legislation that is automatically revoked at a particular deadline unless it has been confirmed by an Act of Parliament. The confirmation process is designed as an additional layer of scrutiny, as it requires proactive

[2] Legislation Guidelines (2021 Edition) chapter 14.5

confirmation by Parliament. Confirmation is frequently used where a power to set a charge in the nature of a tax is delegated to secondary legislation, because it preserves Parliament's constitutional role in relation to taxation (see section 22 of the Constitution Act 1986). Confirmation by Act is usually, but not invariably, done by the annual Subordinate Legislation (Confirmation and Validation) Bill.[3]

4.5. Either of these mechanisms would be more consistent with the current constitutional position (at least to some extent) because Parliament would be endorsing the rates range that applied to local government. This would somewhat address the concern about using secondary legislation to deal with a significant policy matter. Courts may also be less inclined to closely supervise the setting of the rates caps, if they have been approved by Parliament. But this is not guaranteed. Given that the rates caps could be seen as constitutional legislation affecting the relationship between central and local government, the court may still closely review rates caps decisions even if approved by Parliament. The more prescriptive the requirements on the Minister proposing the rates cap, the more likely the courts take this approach.

4.6. We also recommend you consider using a Henry VIII process for any adjustment to the range set by Order in Council. While that would not in itself substantially change the risk of challenge, it could be more consistent with the position that the range is principally a matter between Parliament and local government, with the executive acting under Parliament's will.

4.7. Given this, we repeat our earlier recommendations that you ensure there is a backstop and consider whether it is the policy intent of the legislation to shift the constitutional relationship between the executive and local government through this process.

5. Legislation should be clear and accessible

5.1. LDAC notes that where a number of entities are applying a legislative framework to determine a 'reasonable rate' to charge, it is important that officials ensure that the framework is clear and accessible[4] and provides for consistent and accurate application. This is of particular importance where the reviews and challenges are likely due to the subject matter and level of public interest.

6. Summary

6.1. LDAC considers that the key Legislation Guidelines issues arising with the Bill are:

- Legislation should not delegate a power to make secondary legislation in respect of matters that are more appropriate for an Act.[5]

[3] The Legislation Design and Advisory Committee, Supplementary Material, *Confirmable Instruments*, www.ldac.govt.nz
[4] Legislation Guidelines (2021 Edition) chapter 1
[5] Legislation Guidelines (2021 Edition) chapter 14.1

- All secondary legislation should be subject to appropriate safeguards.[6]
- The law should be clear and accessible.[7]

Next steps

Thank you again for meeting with LDAC. We appreciate you engaging throughout the policy process and encourage you to be in touch if you require any further assistance.

Nāku iti noa nā

Kerry O’Rourke
Senior Advisor
LDAC SECRETARIAT
021 802 985

[6] Legislation Guidelines (2021 Edition) chapter 14.5
[7] Legislation Guidelines (2021 Edition) chapter 1

Ministry for Cities, Environment, Regions & Transport

Rates Capping draft Cabinet Legislation Committee paper for Ministerial consultation

Date:	29 July 2026	Priority:	Medium	Tracking number:	MCERT2026-010252

To	Action sought	Response by
Hon Simon Watts **Minister of Local Government**	**Provide** feedback on the draft Cabinet Legislation Committee paper. **Agree** to circulate the draft Cabinet Legislation Committee paper, draft Bill and related documents for Ministerial consultation. **Either agree** to propose to take the Local Government (Rates Capping) Amendment Bill (Amendment Bill) to the Finance and Expenditure Committee (recommended); **or agree** to take the Amendment Bill to the Governance and Administration Committee. **Complete** the Statement of Reasons by 11 August 2026.	3 August 2026

Contact for discussion (if required)

Name	Position	Telephone	1st contact
Rowan Burns	Policy Manager	9(2)(a)	☑
Daniel Bellam	Policy Analyst		

Action for Minister's Office staff

Classification Removed

Purpose

1. This paper attaches the draft Cabinet Legislation Committee paper: *Local Government (Rates Capping) Amendment Bill: Approval for introduction* (**Annex 1**) and seeks your feedback on the paper. This paper also seeks your approval to release the paper for Ministerial consultation, for comment by Friday, 7 August 2026.

Key points

2. We have prepared a draft Cabinet Legislation Committee paper, seeking Cabinet's approval to introduce the Local Government (Rates Capping) Amendment Bill to Parliament (**Annex 1**). As well as seeking approval to introduce the Bill, the Cabinet paper seeks confirmation of a number of policy decisions that you have made under delegated authority.

3. Ministerial consultation on the draft paper is due to run from Monday, 3 August 2026 to Friday, 7 August 2026. The paper is due to be lodged on Thursday, 13 August 2026, for Cabinet Legislation Committee consideration on Thursday, 20 August 2026.

4. You will need to signal in the Cabinet paper which select committee you propose the Bill to be referred to. We recommend it be referred to the Finance and Expenditure Committee.

5. We have included the following documents for sharing during Ministerial consultation:

   - **Annex 2:** Regulatory Analysis Summary (RAS): *Rates Capping Regulator*
   - **Annex 5:** Rates Cap Model Summary
   - **Annex 6:** Draft Local Government (Rates Capping) Amendment Bill

6. The regulatory principles provisions in the Regulatory Standards Act came into force on 1 July 2026. The Act requires an assessment of proposed legislation against the principles; this assessment is set out in the documents in:

   - **Annex 3:** Consistency Accountability Statement (Ministry document, not for feedback)
   - **Annex 4:** Summary of Underpinning Analysis (Ministry document, not for feedback)
   - **Annex 7:** First draft – Statement of Reasons (your document, we seek your feedback)

7. You may wish to seek Ministerial feedback on the Statement of Reasons.

Recommendations

8. We recommend you:

   a. **agree** to circulate the draft Cabinet paper and supporting documents for Ministerial consultation, from Monday, 3 August 2026. Yes / No

EITHER

b. **agree** to propose that the Local Government (Rates Capping) Amendment Bill (Amendment Bill) be referred to the Finance and Expenditure Committee (recommended). Yes / No

OR

c. **agree** to propose that the Amendment Bill be referred to the Governance and Administration Committee Yes / No

Rowan Burns
Policy Manager
..... / ...... / ......

Hon Simon Watts
Minister of Local Government
..... / ...... / ......
28 JUL 2026

Comments

Classification Removed

Ministry for Cities, Environment, Regions & Transport

Rates Capping draft Cabinet Legislation Committee paper for Ministerial consultation

The policy process so far

9. Cabinet made policy decisions on the rates cap in November 2025 [ECO-25-MIN-0189] and March 2026 [CAB-26-MIN-0099.01]. These decisions have been incorporated into a draft Local Government (Rates Capping) Amendment Bill (Amendment Bill).

A draft Cabinet Legislation Committee paper and Regulatory Analysis Summary are attached

10. We have prepared a draft Cabinet Legislation Committee paper for your consideration (**Annex 1**). The paper seeks Cabinet's approval to introduce the Amendment Bill. It also seeks Cabinet's confirmation of several policy decisions that were delegated to you. These policy decisions have been incorporated into the Amendment Bill.

11. We have completed departmental consultation on the draft Cabinet paper. Much of the feedback related to policy questions (e.g. concerns about reduced council investment in certain sectors) and implementation. 9(2)(g)(i) [redacted] Several agencies raised the potential for the rates cap to affect Treaty of Waitangi commitments. Other issues may arise during Ministerial consultation. We provide some points for you to draw from if needed at **Annex 7**).

12. We seek your feedback on the draft Cabinet paper.

13. We have also prepared a Regulatory Analysis Summary (RAS) on the rates capping regulator (**Annex 2**).[1] The Department of Internal Affairs' Regulatory Impact Analysis quality assurance panel considered that the information and analysis in the RAS meets the quality assurance criteria.[2]

14. We seek your agreement to circulate the draft Cabinet paper and RAS for Ministerial consultation, for comment by Friday, 7 August.

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[1] It is a Cabinet Office requirement that at least a draft version of the RAS is circulated alongside the Cabinet paper as part of Ministerial consultation (Cabinet Office circular CO (26) 2: Expectations for Good Law-making).

[2] The Regulatory Analysis Summary was reviewed by the Department of Internal Affairs (DIA)'s panel during the transition of local government policy functions from DIA to MCERT.

Classification Removed

9(2)(h)

15. The current draft of the Bill is attached at **Annex 6**. 9(2)(h)
9(2)(h)

We have prepared documents to satisfy the Regulatory Standards Act 2025, including a draft of your statement of reasons

16. On 1 July 2026, the regulatory principles in the Regulatory Standards Act came into force. The Act requires assessment of legislation against the principles of responsible regulation as set out in section 9 of the Act. Cabinet Office circular CO (26) 2 require the following documents to be provided as part of Ministerial consultation on the Cabinet paper, and lodged with the Cabinet Legislation Committee:

- *The draft Consistency Accountability Statement (CAS)*[3]: the Ministry's assessment of whether legislation is consistent with the principles of responsible regulation (**Annex 3**).[4]
- *The draft Summary of Underpinning Analysis (SUA)*: provides further explanation of the Ministry's analysis used as the basis for the information in the CAS (**Annex 4**).

17. If the CAS concludes that the legislation is inconsistent with the principles, the Regulatory Standards Act requires the Minister to provide a statement giving reasons for the inconsistency which must also be lodged with the Cabinet Legislation Committee. The draft CAS for rates capping concludes that there are two inconsistencies with the principles of responsible regulation:

- Section 9(i): the importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation; and
- Section 9(m): legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available.

18. Therefore, you are required to provide a Statement of Reasons (SOR) for the inconsistencies. We provide a first draft for the SOR for your consideration (**Annex 7**). The SOR needs to be completed and returned to MCERT by 11 August for publication. This allows time to lodge the

[3] We are seeking confirmation from (Legislation Design and Advisory Committee) LDAC that they agree with how we have summarised their advice in the SUA.
[4] The document is in draft and is currently undergoing internal review and sign-out. This will be completed before the Cabinet Legislation Committee paper and supporting documents are lodged on 13 August.

Classification Removed

SOR with the Cabinet paper on 13 August.

19. The CAS, SUA and your finalised SOR will all be published at the time the Bill is introduced.

20. You are required to share the Ministry's CAS and SUA with your Ministerial colleagues during Ministerial consultation. You may also wish to share your draft SOR, and seek feedback on it, but this is not necessary. The RAS, CAS and SUA are Ministry documents that are circulated for information.

Choosing a select committee and suggested minimum select committee timeframe

21. The Cabinet paper needs to signal which select committee you intend to nominate for the Bill to be referred to. The Governance and Administration Committee looks at business related to local government, while the Finance and Expenditure Committee looks at business related to economic, fiscal policy, taxation, revenue and other issues. Either of these two select committees could examine the Bill. We recommend that the Bill is referred to the Finance and Expenditure Committee given the significance of this policy in limiting councils' ability to raise rates (a taxation issue). It also raises considerations around fiscal policy and overall funding and financing for local government.

There is no need to specify a select committee report back date, but it is useful to signal the timing pressures

22. Our understanding from the Office of the Clerk is that you cannot specify a report back date for the select committee that is in the next parliamentary term (because of the rule against binding future parliaments). The default six-month report back will apply until reinstatement decisions are made in the next parliamentary term.

23. However, because of the significant timing challenges to implement the Bill before councils' 2027 long-term plans the draft Cabinet paper notes that the Bill has a 1 March 2027 commencement date. This would require the Business Committee in the next parliament to agree to a very short select committee period.

Classification Removed

Next steps

24. We are working to the following timeline:

Action sought	Timeframe
Ministerial consultation	Monday, 3 August – Friday, 7 August
Final version of the Bill provided to Ministry of Justice BORA vetting team	Thursday, 6 August
Briefing to approve Cabinet paper for lodging	Wednesday, 12 August
Lodge Cabinet paper	Thursday, 13 August
Briefing to supply communications materials (including draft press release)	Thursday, 13 August
Minister's office to return completed Statement of Reasons document to MCERT	Wednesday, 11 August
Cabinet Committee (LEG)	Thursday, 20 August
Cabinet	Monday, 24 August
Bill introduction (assumed)	Tuesday, 25 August

Classification Removed

Annexes to be included in Ministerial consultation:

- **Annex 1: Draft Cabinet paper:** ***Local Government (Rates Capping) Amendment Bill: Approval for introduction***
- **Annex 2: Regulatory Analysis Summary (RAS):** ***Rates Capping Regulator***
- **Annex 3: Consistency Accountability Statement**
- **Annex 4: Summary of Underpinning Analysis**
- **Annex 5: Rates Cap Model Summary**
- **Annex 6: Draft Local Government (Rates Capping) Amendment Bill**

Annexes that do not need to be included in Ministerial consultation (optional for you to include if you want feedback):

- **Annex 7: First draft - Statement of Reasons**

Classification Removed

Annex 8: Key points that may come up during Ministerial Consultation

Exemptions for FY 2029/30

25. Two special types of exemptions are available in the first year of the rates cap (financial year 2029/30) on an invitation-only basis. These exemptions help to manage the transition to the rates cap and to fit into tight legislative and long-term plan timeframes.

    a) The first exemption category is for councils with major capital expenditure underway or planned before enactment. These exemptions are limited to one year, and these councils will need to reapply in 2029/30 if they need a longer exemption for the project.

    b) The second exemption category is for the most financially at-risk councils to mitigate the risk that a rates cap worsens financial sustainability issues for some councils.

26. The second category of exemption is not limited to one year. We are not expecting many, if any councils to need the exemption for financial risk. These exemptions help to manage the transition to the rates cap and to fit into tight legislative and long-term plan timeframes. They are different from the standard exemptions in that the exemption will not specify a new target range – these councils will instead be required to have regard to the target range for the duration of the exemption. Further information is in paragraphs 16-18 of the draft Cabinet paper.

Regulator

27. The regulator will be a statutory officer located within MCERT. It will not be the Chief Executive to ensure the role has some independence from the other functions within MCERT. Other examples of statutory officers within a public sector organisation are the Government Statistician, the Valuer-General, and the Commissioner of Crown Lands. Examples where the role is appointed by, and therefore separate from, the chief executive include the Director of Public Health, the Registrar (Assisted Dying) and the Chief Archivist.

28. Other options with greater structural independence, such as the Commerce Commission, were considered and the analysis is outlined in the Regulatory Assessment Statement. The option of a statutory officer within MCERT was preferred as striking the right balance between efficiency, cost-efficiency and functional independence.

9(2)(f)(iv), 9(2)(g)(i)

Classification Removed

9(2)(f)(iv), 9(2)(g)(i)

Reorganisations

32. The Bill includes a process for councils to "reset" their rates price following a reorganisation that uses the status quo (i.e. Local Government Commission) process. This is necessary because a reorganised council (e.g. where there has been amalgamation) will not have a previous rates price to apply the target range too.

33. Under the Bill the new entity will need to recalculate its baseline by calculating the average rates price of the rating units from each of the predecessor councils, and any adjustments needed for:

    - the cost of reorganisation; and
    - shifts in the location of functions (e.g. where one council has historically been cross-subsidising another).

34. The reorganised council will be required to apply the target range to this new baseline from its first long-term plan onwards.

35. The Bill does not include a process for bespoke reorganisations, such as those under the Head Start process or under special legislation. This is because there are too many potential variables to anticipate. But if this reset process is appropriate, the legislation for a bespoke reorganisation could connect to it.

Development Finance and Rates capping

36. Current policy settings for requiring developers to pay for the cost of growth through financial contributions (under the Resource Management Act) and development contributions (under the Local Government Act) systematically under-recover. The under-recovery is filled by rates that cross-subsidise a private good.

37. Rates capping policy was developed in the context of development finance policy settings being improved through the Local Government (Infrastructure Funding) Amendment Bill, to introduce a more flexible funding system and make growth pay for growth. 9(2)(f)(iv)
    9(2)(f)(iv)

Classification Removed

9(2)(g)(i)

Legislative timing

39. In order to have the rates cap come into full effect for 2029/30, the legislation needs to be enacted in time for councils to complete necessary processes before the 30 June 2027 long-term plan deadline. The necessary processes are:

- applying for and receiving an exemption (if applicable);
- finalising and adopting their consultation document (including having it audited);
- completing the statutory two-month consultation period on their consultation document; and
- finalising and adopting the long-term plan (including final audit).

40. The Bill has a commencement date of 1 March 2027 so that these steps are feasible (although still very tight). This means that the select committee will need to hear submissions, consider advice, propose and draft changes, and report back between the period that the House resumes post-election, and the middle of February at the latest. This timeframe carries a number of risks.

41. Your first reading speech will not specify a report back date for the Bill, based on advice from the Office of the Clerk that if the Bill is being reported back after the general election, the default six-month report back date needs to apply (so as not to bind a future parliament).

Classification Removed