

U N C L A S S I F I E D

Hon Simon Watts, Minister of Local Government

Proactive release of Cabinet material relating to regulatory oversight of development levies

17 December 2025

The following documents have been proactively released:

ECO-25-MIN-0192: Regulatory oversight of development levies

ECO-25-SUB-0192: Regulatory oversight of development levies

Cabinet paper: Regulatory oversight of development levies

Regulatory Impact Statement: Regulation of Development levies

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to Redaction Codes:

- Section (9)(2)(f)(iv) - maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials; and
- Section (9)(2)(g)(i) - information withheld to maintain the effective conduct of public affairs through free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

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U N C L A S S I F I E D



Cabinet Economic Policy Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Regulatory Oversight Arrangements for Development Levies

Portfolios **Housing / Local Government / Commerce and Consumer Affairs**

On 12 November 2025, the Cabinet Economic Policy Committee (ECO):

- 1 **noted** that:
 - 1.1 in December 2024, ECO agreed to replace Development Contributions with a Development Levies system, which would be subject to regulatory oversight [ECO-24-MIN-0283],
 - 1.2 stakeholders have emphasised the importance of an independent regulator;
- 2 **agreed in principle**, subject to the report back referred to in paragraph 3 below, that the Commerce Commission become the regulator for Development Levies to support public consultation on the exposure draft bill on Development Levies (discussed in the separate paper under ECO-25-SUB-0191);
- 3 **invited** the Minister of Housing, Minister of Local Government, and Minister of Commerce and Consumer Affairs to report back to ECO in March/April 2026 with detailed policy proposals, including advice on:
 - 3.1 the functions and powers that the Commerce Commission would need to take on a regulatory role for Development Levies;
 - 3.2 integration of Development Levies with the existing local government oversight system to maintain the Commerce Commission's independence, including the Minister of Local Government's powers to act in relation to local government;
 - 3.3 the legislative changes needed to empower the Commerce Commission, and the legislative vehicle for making these changes;
 - 3.4 the costs and financial implications associated with the Commerce Commission's additional functions and how it could be funded to establish and carry out these functions;

- 4 **noted** that further regulatory design work will seek to ensure consistency and, where appropriate, integration with:
- 4.1 other reforms that affect local government, including the recently established regulatory regime for water services, and the proposed regulatory approach to rates capping, to maximise efficiencies and synergies, and help ensure coherence across the system;
 - 4.2 the established framework and Ministerial powers for dealing with matters of council governance and local decision making, in Part 10 of the Local Government Act 2002;
- 5 **noted** that:
- 5.1 development Levies legislation and regulatory oversight are part of a package of reforms;
 - 5.2 to provide early clarity about who would be the regulator, it is intended that the Commerce Commission would be announced as the proposed regulator alongside the release of the consultation document on Development Levies [ECO-25-SUB-0191].

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour
Rt Hon Winston Peters
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Shane Jones
Hon Brooke van Velden
Hon Dr Shane Reti
Hon Tama Potaka
Hon Simon Watts
Hon Chris Penk
Hon Penny Simmonds
Hon Andrew Hoggard
Hon Mark Patterson
Hon Nicola Grigg
Hon James Meager
Hon Scott Simpson
Simon Court MP

Officials present from:

Office of the Prime Minister
Office of Hon Chris Bishop
Officials Committee for ECO



Cabinet Economic Policy Committee

Summary

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Regulatory Oversight Arrangements for Development Levies

Portfolios	Housing / Local Government / Commerce and Consumer Affairs
Purpose	<p>This paper seeks agreement in principle for the Commerce Commission to become the economic regulator for the new Development Levies system.</p> <p>The paper should be read with the associated paper on <i>Going for Housing Growth: Release of Consultation Document and Exposure Draft Bill on Development Levies</i>, under ECO-25-SUB-0191.</p>
Previous Decisions	In December 2024, ECO agreed to replace Development Contributions with a Development Levies system, which would be subject to regulatory oversight [ECO-24-MIN-0283].
Proposal	<p>As part of the <i>Going for Housing Growth</i> programme, a number of changes to the infrastructure funding and financing toolkit are being made to support urban growth. This includes replacing the current system of Development Contributions with a new Development Levies regime.</p> <p>Agreement in principle is sought to make the Commerce Commission the economic regulator for Development Levies. It is envisaged that the Commission's approach to Development Levies would build on its expertise and experience regulating electricity, gas and fibre network services, and airports. The Ministers' initial thinking is that the Commission's approach would involve a sliding scale, starting with information disclosure, standardised methodologies, and thresholds or 'triggers' to enable additional regulatory functions (e.g. compliance and enforcement), if needed.</p> <p>Detailed policy decisions will be sought in March/April 2026 on:</p> <ul style="list-style-type: none"> the specific functions and powers the Commerce Commission would need to take on as the economic regulator of Development Levies; integration of Development Levies with the existing local government oversight system; the legislative changes needed to empower the Commission; the costs and financial implications associated with the Commission's new functions.

Comments from the Housing Expert Advisory Group are on **page 9**.

Impact Analysis	A Regulatory Impact Statement (RIS) is attached . Officials consider that the RIS partially meets the quality assurance criteria.
Financial Implications	The Commerce Commission would require additional funding and resources to take on these new functions. Appendix A includes cost estimates and assumptions. Further advice will be provided to Cabinet in March/April 2026 when policy decisions are sought, and 9(2)(f)(iv)
Legislative Implications	Legislative amendments will be required. 9(2)(f)(iv)
Timing Matters	The Ministers expect the legislation to be enacted by July 2027, with the new Development Levies regime commencing by July 2028.
Communications	Ministers will announce Cabinet's decisions relating to the Commerce Commission alongside the release of the consultation document on Development Levies (see separate paper under ECO-25-SUB-0191).
Consultation	<p>Paper prepared by MHUD, DIA and MBIE. Corrections, MoD, MoE, MfE, Treasury, MoH, MoJ, LINZ, Inland Revenue, MoT, Kāinga Ora, PSC, Te Whatu Ora, TPK, NZTA, Infrastructure Commission and members of the Housing Expert Advisory Group were consulted. DPMC was informed.</p> <p>The Ministers indicate that the Minister for Regulation, Minister of Finance, Minister for Infrastructure, Minister of Transport, Minister for Auckland, Minister of Justice, Associate Minister of Housing, Minister for Regional Development, Associate Minister of Finance (Hon Shane Jones), Minister for Building and Construction, and the Parliamentary Under-Secretary to the Minister for Infrastructure were consulted, and that the Government parties were also consulted.</p>

The Minister of Housing, the Minister of Local Government and the Minister of Commerce and Consumer Affairs recommend that the Committee:

- 1 note that:
 - 1.1 in December 2024, ECO agreed to replace Development Contributions with a Development Levies system, which would be subject to regulatory oversight [ECO-24-MIN-0283],
 - 1.2 stakeholders have emphasised the importance of an independent regulator;
- 2 agree in principle, subject to the report referred to in paragraph 3 below, that the Commerce Commission become the regulator for Development Levies to support public consultation on the exposure draft bill on Development Levies (discussed in the separate paper under ECO-25-SUB-0191);

- 3 invite the Minister of Housing, Minister of Local Government, and Minister of Commerce and Consumer Affairs to report back to ECO in March/April 2026 with detailed policy proposals, including advice on:
- 3.1 the functions and powers the Commerce Commission would need to take on a regulatory role for Development Levies;
 - 3.2 integration of Development Levies with the existing local government oversight system to maintain the Commerce Commission's independence, including the Minister of Local Government's powers to act in relation to local government;
 - 3.3 the legislative changes needed to empower the Commerce Commission, and the legislative vehicle for making these changes;
 - 3.4 the costs and financial implications associated with the Commerce Commission's additional functions and how it could be funded to establish and carry out these functions;
- 4 note that further regulatory design work will seek to ensure consistency and, where appropriate, integration, with:
- 4.1 other reforms that affect local government, including the recently-established regulatory regime for water services, and the proposed regulatory approach to rates capping, to maximise efficiencies and synergies, and help ensure coherence across the system;
 - 4.2 the established framework and Ministerial powers for dealing with matters of council governance and local decision making, in Part 10 of the Local Government Act 2002;
- 5 note that:
- 5.1 Development Levies legislation and regulatory oversight are part of a package of reforms;
 - 5.2 to provide early clarity about who would be the regulator, it is intended that the Commerce Commission would be announced as the proposed regulator alongside the release of the consultation document on Development Levies [ECO-25-SUB-0191].

Janine Harvey
Committee Secretary

Hard-copy distribution:
Cabinet Economic Policy Committee

Office of the Minister of Housing

Office of the Minister of Local Government

Office of the Minister of Commerce and Consumer Affairs

Cabinet Economic Policy Committee

Regulatory oversight arrangements for Development Levies

Proposal

1. This paper seeks an in principle agreement for the Commerce Commission (the Commission) to become the economic regulator for the new Development Levies system. It also proposes a high-level approach to how regulatory oversight could operate across councils (e.g., based on size) and as Development Levies are phased in.
2. If agreed, we plan to report back in March/April 2026, to seek agreement to detailed policy proposals, and the authority to issue drafting instructions to give effect to any decisions that have legislative implications.

Relation to government priorities

3. This paper is part of a suite of reforms to deliver our priorities relating to the Going for Housing Growth programme Pillar 2: *Improving infrastructure funding and financing to support growth*. It supports the effective implementation and regulation of the new Development Levies system.

Executive summary

4. As part of our Going for Housing Growth programme, we are making a number of changes to New Zealand's funding and financing toolkit that will support urban growth. This includes decisions to replace the current Development Contributions system with a Development Levies system – which would be subject to regulatory oversight [ECO-24-MIN-0283].
5. Developers and the private sector have stressed the importance of an independent regulator as a check and balance against local councils, who are effectively monopolistic providers of enabling infrastructure. This will help to address three key areas of concern associated with the new system:
 - 5.1 a lack of transparency about how councils (and Council Controlled Organisations) set Development Levies and how/where funds are spent;
 - 5.2 scope and compliance problems; and
 - 5.3 how to resolve disputes between developers and councils.
6. We propose the Commerce Commission be the economic regulator for Development Levies. The Commission is best aligned to be set up as the regulator out of all the options considered. This is because it already has a role in regulating monopoly industries and holds the deepest experience, capability, and knowledge in price regulation. Its learnings and methods from the economic regulation of other infrastructure services are also readily transferable.

7. This rationale was also used to justify expanding the Commission's remit into regulating water services through Local Water Done Well, which covers similar regulated parties to the bodies that will charge Development Levies (i.e., councils and water organisations).
8. The economics of setting Development Levies is similar to the issues confronting the supplier, customer, and regulator of other infrastructure services with local/natural monopoly characteristics. These services share features such as a high fixed cost, low marginal cost structure – which precludes multiple suppliers (and the consequential competitive process) from setting prices. Such infrastructure services include electricity and gas distribution and transmission, fibre-based telecommunications, and airports.
9. Our intention is that the Commission's regulatory approach for Development Levies would build on its expertise and experience regulating electricity, gas and fibre network services, and airports.
10. Initial thinking is that the Commission's regulatory approach for Development Levies would involve a sliding scale, starting with information disclosure, standardised methodologies, and thresholds or 'triggers' to enable additional regulatory functions (such as compliance and enforcement), if needed. Additional regulatory tools may also be required in future – balanced against the practicality and expense of the number of Development Levies involved.
11. Becoming the regulator for Development Levies would expand the Commission's current role, and involve new legislative functions, powers, and additional resourcing. Care will also need to be taken in the detailed regulatory design with respect to local accountability and political decision making.
12. Indicative costs for implementing and running a regulatory system for Development Levies, with the scope of functions outlined in this paper, is initially estimated to be between 9(2)(g)(i) over a five-year period. Through the design of the regulatory oversight functions, there may be options that could reduce the cost. 9(2)(f)(iv) However, there are other potential options for how this could be funded.
13. If Cabinet agrees to the recommendations in this paper, we plan to report back in March/April 2026, to seek agreement to detailed policy proposals including:
 - 13.1 the specific functions and powers the Commission would need to take on as the economic regulator of Development Levies;
 - 13.2 integration of Development Levies with the existing local government oversight system;
 - 13.3 the legislative changes needed to empower the Commission (and the legislative vehicle for making these changes); and
 - 13.4 the costs and financial implications associated with the Commission's additional functions, and how it could be funded to establish and carry them out.
14. Development Levies legislation and regulatory oversight are part of a package of reforms. It's important to provide a clear signal about who the regulator is as early as possible, to build trust and confidence in the new system. As such, we intend to announce the Commission as the proposed regulator alongside the release of the consultation document on Development Levies.

Why do Development Levies need regulatory oversight?

15. Development Contributions are currently levied under the Local Government Act 2002 to enable councils to recover from developers a fair proportion of the capital cost for growth-enabling infrastructure over the long term.
16. Under the new system Development Levies will be set at a level that enables councils to provide growth infrastructure flexibly and responsively. Levies will be paid into a separate levy pool for each infrastructure service (water, wastewater, stormwater, transport, reserves, and community infrastructure), to be used to meet the capital costs of providing growth-enabling infrastructure.
17. Development Levies will be charged across a larger area (a levy area). Locations where councils have no specific plans for infrastructure investment will be charged at the same rate as areas where investment is planned (except in high-cost areas). Councils will be able to spend levy funds collected in one part of a levy area in another part of the levy area, as they sequence the provision of additional capacity to respond to growth where it occurs.
18. There is not an inherent problem with averaging pricing in the setting of Development Levies. Averaging costs is common across regulated entities as it can appropriately manage timing, location, or demand risk – or best recover the costs of service expansion. What is important is that the appropriate suite of pricing tools is available to infrastructure providers, and there are appropriate institutional methodologies for determining the level and structure of prices.
19. The increased flexibility inherent in Development Levies raises more uncertainty around growth-related decisions and the use of funds – requiring regulatory oversight arrangements to help mitigate associated risks and concerns. In principle, regulation needs to address three main areas of concern:
 - 19.1 a lack of transparency about how councils set Development Levies and how funds are spent;
 - 19.2 scope and compliance problems (for example, where there are concerns councils are not complying with regulatory requirements); and
 - 19.3 how to resolve disputes between developers and councils.
20. Applying this to the Development Levies, regulation could include activities that provide for one or all of the following:
 - 20.1 set standardised methodologies for setting Development Levies,
 - 20.2 enforce information disclosure on how levies were set and how funds were spent;
 - 20.3 assurance that Development Levies policies are in accordance with the law and/or financial assumptions are appropriate;
 - 20.4 compliance with the law; and
 - 20.5 a complaints/disputes mechanism in addition to or replacing the existing mechanism that sits with Development Contribution commissioners.
21. Regulatory oversight of Development Levies activities should increase certainty and trust for councils and developers in the context of increased flexibility and existing issues.

We propose the Commerce Commission is given new responsibilities to regulate Development Levies

22. We are seeking in principle agreement to the Commission becoming the economic regulator for Development Levies, subject to further analysis to develop the details needed to give effect to this approach.

Rationale

23. The Commission is best aligned to be set up as the regulator out of all the options considered. The Commission is where the experience, knowledge, and capability in price regulation sits in New Zealand, and where learnings and methods from the pricing of other infrastructure services is readily transferable. This rationale was used to justify expanding the Commission's remit into regulating water services, which covers similar regulated parties to the bodies that will charge Development Levies (i.e., councils and water organisations).
24. The economics of setting Development Levies is very similar to the issues confronting the supplier, customer, and regulator of other infrastructure services with local/natural monopoly characteristics. These services share features such as a high fixed cost, low marginal cost structure – which precludes multiple suppliers (and the consequential competitive process) from setting prices. Such infrastructure services include electricity and gas distribution and transmission, fibre-based telecommunications, and airports.¹
25. Since the early 2000s the Commission, regulated entities, and some large customers have invested heavily in developing fit for purpose methods (called Input Methodologies) to estimate the costs that should be able to be recovered in prices. The goal is that providers of the service have the necessary incentives to invest in the service but are not able to inflate prices and total revenue above that which provides a normal return. This is a similar objective to that for Development Levies. Although the Commission may not start by looking at underlying assets and costs, it would be well placed to potentially do so in future, as needed. Initially, we propose the Commission's regulatory approach for Development Levies builds on its expertise and experience regulating electricity, gas and fibre network services, and airports.
26. As existing regulatory approaches, procedures, and institutional arrangements exist in this space, it is not necessary to reinvent them elsewhere for Development Levies – noting that economic regulation is a scarce skillset in the public service that does not often reside in policy agencies.
27. Over the last 30 years there have been various attempts in New Zealand to expect non-regulatory processes to take care of pricing for infrastructure services; in many cases these attempts have failed. These services are now all subject, to varying degrees, to price regulation, information disclosure, or both.
28. In addition to the above, the Commission is an independent Crown entity. Developers and the private sector have stressed that independence an important factor for the oversight of Development Levies.

¹ In New Zealand, all these infrastructure services are regulated under Part 4 of the Commerce Act with the Commerce Commission being the regulator.

Commerce Commission's current role and recent changes

29. The Commission's current role involves enforcing against regulatory breaches of New Zealand's competition and consumer law. This is in addition to carrying out economic regulation of major infrastructure monopolies – that is, large infrastructure sectors in which there is no effective competition², or in which conditions of competition are limited, and regulation has been imposed as a matter of policy.³
30. The Commission's purpose in regulating markets is to promote competitive outcomes and/or transparency to the long-term benefits of customers. It does this through functions such as information disclosure regulation, price-quality regulation, investigation and enforcement, and dispute resolution schemes.
31. The Local Government (Water Services) (Repeals and Amendments) Act 2025 brought the economic regulation of water services into the Commerce Act. The reforms made the Commission the regulator of local government water service providers, and gave it additional regulatory tools, including revenue thresholds, financial ringfence requirements, performance requirements, and consumer protection measures.
32. Cabinet recently agreed to reform the Commission's governance arrangements. The reforms will establish a new oversight board responsible for strategy and governance, while specialist committees make independent regulatory decisions (including a new Infrastructure Committee). These reforms will put the Commission in a better position to perform its existing functions, and new functions (e.g., economic regulation of water services, and potentially, Development Levies).

Approach to regulatory oversight

33. Establishing the Commission as the regulator for local government's use of Development Levies would require a new regulatory regime, provided for in primary legislation. We propose coming back in March/April 2026 to seek agreement to detailed policy proposals, and the authority to issue drafting instructions to give effect to any decisions that have legislative implications.
34. Initially, we propose information disclosure be the basis of the regulatory regime for Development Levies. Improving transparency and assurance – through information disclosure and monitoring – would be a key function that underpins any regulatory regime. This would enable 'sunlight' to be shed on the regulated parties' decisions. The Commission's role here could include, for example:
 - 34.1 specifying the information to be disclosed;
 - 34.2 analysing and publishing that information in a manner that makes it possible to provide assurance that the Development Levies are consistent with service parameters; and
 - 34.3 allowing for information to be compared across jurisdictions, and with past performance on each key metric and where improvements are expected in future.

² For example, infrastructure regulation under Part 4 of the Commerce Act and part 6A of the Telecommunications Act.

³ Market regulation under legislation like the Fuel Industry Act or the Grocery Industry Competition Act.

35. Initial work also indicates the approach to regulation should include differing levels of intervention – or a sliding scale. For example, we could consider requiring Tier 1 Councils to have their Levies approved by the Commission, whereas smaller/slower growth cities may only be required to use approved methodology when determining their Levies and to disclose information on how the Levies were set and how they were spent. Other regulated sectors (e.g. electricity distribution and airports) already have this type of variation.

This approach could be built on through other regulatory tools

36. Further regulatory tools could then be added to address issues raised during analysis of the disclosed information⁴, and concerns relating to compliance and enforcement. This would most likely involve a role for the Commission in:
- 36.1 enforcement of the information disclosure requirements; and/or
 - 36.2 dispute resolution (negotiation/arbitration) – for example, where communities and developers can raise concerns with councils' Development Levies policies or aspects of policies.
37. Further work will also consider other potential roles for the Commission in the regulation of Development Levies. For example, Levies are to reflect the cost of providing the service, and these costs could be calculated using methodologies (e.g., Input Methodologies) set and approved by the Commission.

There are some tools and functions that would be less relevant or inappropriate

38. Some tools under Part 4 of the Commerce Act that can be applied to water service providers (and other regulated parties) seem less well aligned with what appears to be relevant for Development Levies. This will be explored further, but this regulatory regime is unlikely to involve revenue threshold regulation, quality regulation, or performance requirement regulation.
39. Care would need to be taken in the detailed regulatory design with respect to local accountability and political decision making. It would not be appropriate for the Commission to have a role that involves making value judgements on local government policy and growth aspirations or resolving disputes between councils and others in the setting of the factors underpinning Development Levies. Instead, we propose the Commission's role to be in ensuring Development Levies are transparent and set at appropriate levels.

Cost of Development Levies regulation

40. The Commission would require additional resourcing to take on new functions. High-level, initial estimates are provided in **Appendix A**, which outlines the costing breakdown per year, assumed scope, and other assumptions.
41. The indicative cost for implementing and running this new regulatory system – with the broad scope and functions outlined above – is in the range of 9(2)(g)(i) over a five-year period. Through the design of the regulatory oversight functions, there may be options that could reduce the cost. Initial estimates are based on the water regulatory system, with adjustments reflecting the additional number of potential regulated parties and the potential intricacies of the regulatory regime for Development Levies.

⁴ For example, this could operate similar to the airport regime, where the Commission publishes findings by applying methodologies, and the potential for escalation acts as a compliance incentive.

42. We have choices about how to fund the Commission to undertake any new responsibilities, including considering the balance between Crown funding and cost-recovery through levies (for example, levies on regulated parties). The costs of regulation should also be considered against the associated benefits, including supporting a well-functioning housing and development market, and building confidence in the new Development Levies system. 9(2)(f)(iv)

Next steps

43. Subject to obtaining in principle agreement to the Commission becoming the regulator for Development Levies, further work would then be undertaken to develop costings. We expect this work to include:
- 43.1 refining the functions and powers the Commission would need to take on – building on the basic framework outlined above;
 - 43.2 considering integration of Development Levies with the existing local government oversight system to maintain the Commission's independence, including the Minister of Local Government's powers to act in relation to local government;⁵
 - 43.3 identifying any legislative changes needed to empower the Commission, and the appropriate legislative vehicle for making these changes; and
 - 43.4 considering the costs associated with the Commission's additional functions, and how it could be funded to carry out these functions.
44. We are proposing to report back in March/April 2026 to seek agreement to detailed policy proposals, funding approach, and the authority to issue drafting instructions to give effect to any decisions that have legislative implications.

Local government regulation – wider work programme

45. Further regulatory design work will also consider the broader context in which local government is regulated, and links with other reforms – including the new regulatory regime for water, and the regulatory approach to rates capping.
46. When exploring who will take on new regulatory responsibilities, it is important to consider utilising existing regulators relevant to local government – such as the Commission – to maximise efficiencies and synergies and help ensure coherence across the system.
47. As far as possible, we will also seek to incorporate any ministerial intervention powers relating to Development Levies within the established framework for dealing with matters of council governance and local decision making, in Part 10 of the Local Government Act 2002. This is consistent with the approach that was taken in the Local Water Done Well legislation. It recognises there are certain areas that it would be inappropriate for the Commission to regulate, as outlined earlier.⁶

⁵ The approach that has been taken to the regulation and Ministerial oversight of local government water service providers may provide a useful model for this consideration.

⁶ The Local Government (Water Services) (Repeals and Amendments) Act 2025 amended Part 10 of the LGA02 to ensure the Minister's powers to act in relation to local authorities were fit for purpose for the new water services system. They are separate from the powers held by regulators under the Commerce Act 1986 and Water Services Act 2021 and are for consideration when there are significant problems with local authorities or water organisations that require a different form of assistance or intervention (e.g. governance issues).

Implementation

48. An approach to implementation would be part of the proposed March/April 2026 report back.

Cost-of-living implications

49. The Going for Housing Growth work programme aims to reduce housing costs, which will reduce the cost of living.

Financial implications

50. The Commission would require additional funding and resources to take on new functions associated with regulating Development Levies. The indicative cost for implementing and running this regulatory system is in the range of 9(2)(g)(i) over a five-year period – see **Appendix A** for details. There would be risks to the Commission's existing work programme if it is given these new functions without sufficient resourcing.
51. Further advice will be provided in the proposed March/April 2026 paper. 9(2)(f)(iv)

Legislative implications

52. Legislative amendments are likely to be required to give effect to further decisions in the proposed March/April 2026 paper.

53. 9(2)(f)(iv)

53.1 9(2)(f)(iv)

53.2

53.3

Impact analysis

Regulatory Impact Statement

54. A Department of Internal Affairs Regulatory Impact Assessment Panel has reviewed the regulatory impact statement (RIS) attached to this Cabinet paper, and provided the following statement:

"The Panel has determined that the RIS partially meets the quality assurance criteria. Further work is required on the detailed design of the proposed Development Levy regime. This is needed to support further analysis – against the objectives and a clear set of criteria – as to whether a regulatory oversight body is needed as part of the regime and whether that body should be the Commerce Commission. In addition, there has been no substantive consultation with affected stakeholders and there is no plan for this to occur.

The Panel notes that the RIS that accompanies this Cabinet paper is an initial assessment. There is an opportunity for the further analysis needed to occur and be included second RIS will be provided at the time additional, detailed decisions are sought."

55. We also asked the Housing Expert Advisory Group (HEAG) for their view of the RIS. The HEAG provided three key points:

55.1 **Information disclosure and methodologies:** For information disclosure to be meaningful, reliable and comparable (across councils and over time) the method by which the cost information is compiled needs to be disclosed and needs to reflect sound principles from economics, finance, accounting and engineering. In this context, the HEAG considers having the Commission's experience and capability brought to bear in the establishment phase of this economic regulation is particularly important. This is the phase in which the learnings from their other regulatory activities can guide implementation from the outset.

55.2 **Joined-up approaches to local government regulation:** The HEAG notes that the RIS warns that several aspects of local government regulation are simultaneously in-play. The RIS argues that Department of Internal Affairs (DIA) oversight during a transitional period is needed to avoid these reforms working at cross-purposes and therefore failing to best achieve the Government's objectives overall.

The HEAG agree that there are potential dependencies between aspects of these reforms, and that design details of each may be influenced by the others. However, their view is that DIA oversight is not the only or best way of ensuring complementarity across regimes.

The HEAG notes that DIA has developed expertise in local government issues. The Commission has existing deep expertise in utilities regulation that it will be asked to extend to Development Levies. The Commission has internal economies of scale and will benefit from knowledge spillovers from its work regulating other local monopoly sectors, such as electricity and telecommunications. Rather than set a transitional regime, the HEAG suggests DIA provide advisory assistance to the Commission during this transitional period where other reforms are ongoing.

The HEAG notes that the Commerce Commission has established experience as an economic regulator and enforcer that will be needed as Development Levies are implemented. The other side of this observation is that, in their view, DIA lacks the appropriate institutional knowledge, capabilities, and independence to credibly oversee the economic regulation of Development Levies, even for a transitional period.

55.3 **Local Monopoly:** The HEAG does not agree with the RIS's comments that a move to Commerce Commission regulation of Development Levies erodes or dilutes local democratic oversight. Further, they noted, the fundamental economic nature of the sector is that it has local monopolistic characteristics, which make democratic channels poor in ensuring efficient cost recovery (not under- or over-charging). Current evidence is that local democratic channels provide very poor oversight of cost control and efficient long-term capital spending for existing Development Contributions.

Climate Implications of Policy Assessment

56. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to any of the policy proposals, as the threshold for significance is not met.

Population implications

57. The Going for Housing Growth work programme will reduce housing costs and support well-functioning urban environments for all New Zealanders. We expect replacing development contributions with a Development Levies system will have minimal impacts on Māori housing.

Human Rights

58. There are no direct implications for the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993 from the proposals in this paper

Use of external resources

59. No contractors were used to prepare this paper. The HEAG provided input on the overall Going for Housing Growth work programme through written feedback and meetings with officials and was consulted on a draft of this paper.

Consultation

60. The following agencies were consulted on a draft of this paper: The Treasury, Ministry for the Environment, Ministry of Business, Innovation and Employment, Ministry of Transport, Ministry of Health, Ministry of Education, Ministry of Justice, Department of Corrections, Kainga Ora – Homes and Communities, Te Puni Kōkiri, Public Service Commission, Internal Revenue Department, Commerce Commission, New Zealand Defence Force, New Zealand Transport Agency, Land Information New Zealand, Health New Zealand, and New Zealand Infrastructure Commission. Members of the Housing Expert Advisory Group were also consulted. The Department of the Prime Minister and Cabinet was informed.

Communications

61. Development Levies legislation and regulatory oversight are part of a package of reforms, and it is important to provide clarity on who would be the regulator as early as possible. We therefore intend to announce the Commission as the proposed regulator alongside the release of the consultation document on Development Levies.

Proactive release

62. We intend to proactively release this Cabinet paper within 30 days of decisions being confirmed by Cabinet.

Recommendations

63. The Minister of Housing, Minister of Local Government, and Minister of Commerce and Consumer Affairs recommend that the Cabinet Economic Policy Committee:
1. **note** in December 2024, Cabinet agreed there would need to be regulatory oversight of the new Development Levies system [ECO-24-MIN-0283], and stakeholders have emphasised the importance of an independent regulator;

2. **agree**, in principle, to the Commerce Commission (Commission) becoming the regulator for Development Levies to support public consultation on the exposure draft bill on Development Levies – subject to further work to develop the details of this approach;
3. **invite** the Minister of Housing, Minister of Local Government, and Minister of Commerce and Consumer Affairs to report back to the Cabinet Economic Policy Committee in March/April 2026 with detailed policy proposals, including advice on:
 - 3.1 the functions and powers the Commission would need to take on a regulatory role for Development Levies;
 - 3.2 integration of Development Levies with the existing local government oversight system to maintain the Commission's independence, including the Minister of Local Government's powers to act in relation to local government;
 - 3.3 the legislative changes needed to empower the Commission, and the legislative vehicle for making these changes;
 - 3.4 the costs and financial implications associated with the Commission's additional functions and how it could be funded to establish and carry out these functions;
4. **note** further regulatory design work will seek to ensure consistency – and, where appropriate, integration – with:
 - 4.1 other reforms that affect local government, including the recently-established regulatory regime for water services, and the proposed regulatory approach to rates capping – to maximise efficiencies and synergies, and help ensure coherence across the system;
 - 4.2 the established framework and Ministerial powers for dealing with matters of council governance and local decision making, in Part 10 of the Local Government Act 2002;
5. **note** Development Levies legislation and regulatory oversight are part of a package of reforms, and to provide early clarity about who would be the regulator, it is intended the Commission would be announced as the proposed regulator alongside the release of the consultation document on Development Levies.

Authorised for lodgement

Hon Chris Bishop

Minister of Housing

Hon Simon Watts

Minister of Local Government

Hon Scott Simpson

Minister of Commerce and Consumer Affairs

Appendix A: Cost estimates and assumptions

Estimated cost for this regulatory system

The indicative cost for implementing and running this regulatory system is in the range of 9(2)(g)(i) over a five-year period – broken down as follows.

Scenario	Year 1	Year 2	Year 3	Year 4	Year 5	5- year total
9(2)(g)(i)						

Assumed scope

These estimates assume that the following functions in relation to Development Levies are in scope.

Function	Issue addressed	Activity
Draft Development Levies policy scrutiny and approval	Consistency with policy intent	Scrutiny of regulated entities' initial implementation of Development Levies in accordance with the legislation. This underpins the higher estimated costs over the first few years. Assumed that regulatory focus is on the levies for each type of council infrastructure investment. Excluded from scope: whether the investments are needed. Level of activity is strongly related to the number of regulated entities.
Development Levies operational policy and set disclosure requirements	Information transparency	Set information disclosure requirements for entities to ensure required information is available for regulatory purposes and for public transparency on an ongoing basis.
Ongoing compliance monitoring and enforcement	Scoping	Activities that provide assurance that the levy calculations and implementation are as intended.
Complaints and dispute resolution	Dispute resolution	Develop and implement complaints and dispute resolution function.

The estimates reflect the following key assumptions

- The cost estimate is a high-level estimate based on the estimates developed for, and the experience in practically implementing, the Commission's water regulatory function.
- The cost estimate necessarily reflects the level of uncertainty in the policy design and conversations with the Department of Internal Affairs on the known policy parameters and objectives and role of the regulatory system. With more certainty, costs will become firmer. The Commission will also be able to obtain synergies with more than one local government related function (e.g. water and Development Levies).
- The profile assumes set-up and development costs in year 1 to 3, with additional cost in year 3 for approval and scrutiny, and costs falling to BAU levels in years 4 and 5.
- The cost of the scrutiny and approval function is strongly related to the number of regulated entities. The Commission has assumed that there will be 91 entities requiring scrutiny and approval [67 territorial authorities, 11 regional councils, and 13 joint water organisations]. The costs of the other functions are more loosely related to the number of regulated entities. However, the Department of Internal Affairs notes that these assumptions will be reconsidered as further advice is prepared to recognise that regional councils are not permitted to use Development Levies, and some territorial authorities are unlikely to use them (e.g. low growth councils that do not currently use development contributions).
- The lower-end estimate assumes less activity is required for developing transparency requirements, scrutiny and approval. Both the low and high end assume some cost savings due to synergies between the water and the development levy regulatory regimes.
- The cost of a complaints and dispute resolution and arbitration function is subject to significant uncertainty as it depends on a number of factors, including how much cost is allocated to developers and the level of prescription vs judgement available to councils. The Commission also generally comment that the cost of a disputes function would be greater in a sector where private parties to potential disputes (i.e. developers) are likely well-resourced and potentially litigious.
- The Commission has contacted the New South Wales Independent Pricing and Regulatory Tribunal (IPART) to get further information about their financials as a reasonableness check, and this will be reflected in future advice where needed. However, based on what can be currently ascertained, the costs set out above are within ballpark of IPART's approach.