



15 December 2025

s 9(2)(a)

Official information request

Our ref: R001340

Tēnā koe s 9(2)(a)

Thank you for your Official Information Act 1982 (OIA) request received by the Ministry for Regulation (Ministry) on 17 November 2025. You requested the following documents:

MFR2025-256 Submission to the 2026 Review of the Standing Orders 18 September
MFR2025-251 MBIE proposals 10 September

Information partially released

The papers you have requested are enclosed in **Appendix A**.

Some information in the briefing paper **MFR2025-256** is withheld under section 9(2)(a) to protect the privacy of natural persons. As required by section 9(1) of the OIA, I do not believe any public interest reasons for releasing the information outweigh the reasons for withholding the information.

In addition, **MFR2025-256** has an attachment, which has been published on the New Zealand Parliament website¹. I therefore refuse a part of your request under section 18(d) of the OIA as the information you have requested is publicly available.

Item	Date	Document title	Decision
1.	18/08/2025	MFR2025-256 Submission to the 2026 Review of the Standing Orders	Partially released
		Attachment: Annex A Ministry's submission to the 2026 Review of Standing Orders	Refused as publicly available

¹ https://www3.parliament.nz/en/pb/sc/submissions-and-advice/document/54SCSOR_EVI_2bea6809-356a-4801-addf-08ddcfb583f1_SOR115/ministry-for-regulation

Item	Date	Document title	Decision
2.	09/09/2025	MFR2025-251 Cabinet paper analysis – Government response to review of electricity market performance	Released

Right of review

If you wish to discuss this decision with us, please contact hello@regulation.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we may publish this response (with your details removed) on the Ministry for Regulation website.

Ngā mihi

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Aisling Risdon

Head of Ministerial and Strategic Services
Ministry for Regulation



To	Hon David Seymour, Minister for Regulation		
Title	Submission to the 2026 Review of Standing Orders	Number	MFR2025-256
Date	18 September 2025	Priority:	Medium
Action Sought	Agree for officials to lodge submission	Due Date	23 September 2025
Contact Person	Erin King, Manager, Regulatory Stewardship	Phone	s 9(2)(a)
Contact Person	s 9(2)(a) Policy Advisor, Regulatory Stewardship	Phone	s 9(2)(a)
Attachments	Yes (Appendix A)	Security Level	IN CONFIDENCE

Purpose of Report

1. This briefing paper seeks your agreement for the Ministry to submit to Parliament's Review of the Standing Orders.

Background

2. On 31 July 2025, Parliament's Standing Orders Committee invited submissions to the 2026 Review of the Standing Orders. Submissions close on 25 September 2025.

Proposed submission

3. The Ministry is currently working with several agencies to create guidance for Regulatory Systems Amendment Bills (RSABs) – omnibus bills which make non-contentious legislative changes, often spanning multiple regulatory systems and Acts.
4. The purpose of the guidance is to promote uptake of these legislative vehicles across government, to support ongoing maintenance and improvements to existing regulatory systems. Additionally, we consider that increased uptake of RSABs could provide more opportunities for our Ministry to progress regulatory changes we identify through other areas of our work.
5. While developing this guidance we have identified another barrier to the uptake of RSABs, which is that they are not formally recognised in the Standing Orders. The fact that RSABs don't have formal status – and instead rely on conventions established by the agencies that have used them – is potentially impacting the extent to which new RSABs are taken forward.



6. We have consulted with several agencies with expertise in RSABs to prepare a short, straightforward submission to the Review of Standing Orders. This included the Parliamentary Counsel Office, the Ministry of Business, Innovation and Employment (MBIE), the Ministry for Primary Industries, and the Ministry of Justice.
7. Our proposed submission includes two recommendations. First, that RSABs should be formally recognised in the Standing Orders and second, that they should be able to follow a streamlined Parliamentary process, similar to Revision Bills.
8. The Ministry's proposed submission is attached as **Appendix A** for your information. We anticipate that MBIE and the Ministry of Justice will be listed as supporting the recommendations.

Risks

9. We do not consider there are risks associated with making a submission, as our submission relates to procedural matters as opposed to matters of Government policy. We have liaised with Cabinet Office to confirm that we can lodge this submission without first securing the approval of the Legislation Committee and Cabinet.

Next Steps

10. If you agree, officials will lodge the Ministry's submission to the Standing Orders Committee by 25 September 2025.

Recommendations

We recommend that you:

- | | | |
|---|----------------------------------------------------------------------------------------------------------------------------|-------------------------|
| a | note the contents of the Ministry's submission attached in Appendix A | <i>Noted</i> |
| b | agree that officials can provide the Ministry's submission to the Standing Orders Committee | <i>Agree / Disagree</i> |
| c | agree that this briefing is proactively released after the submission is lodged with the Standing Orders Committee. | <i>Agree / Disagree</i> |

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Erin King
Manager, Regulatory Stewardship
Ministry for Regulation
Date: 18 September 2026

Hon David Seymour
Minister for Regulation

Date:



Appendix A: The Ministry's submission to the 2026 Review of Standing Orders

Note: Appendix A is publicly available on the Parliament website:

<https://www3.parliament.nz/en/pb/sc/submissions-and-advice/>

[document/54SCSOR_EVI_2bea6809-356a-4801-addf-08ddcfb583f1_SOR115/ministry-for-regulation](https://www3.parliament.nz/en/pb/sc/submissions-and-advice/document/54SCSOR_EVI_2bea6809-356a-4801-addf-08ddcfb583f1_SOR115/ministry-for-regulation)



Minister and Portfolio	Hon David Seymour, Minister for Regulation		
Title	Cabinet paper analysis – Government response to review of electricity market performance	Number	MFR2025-251
Date	9 September 2025	Security level	SENSITIVE

Purpose

Provide analysis of a Cabinet paper that seeks to begin government procurement of an LNG import facility.

Date of Cabinet meeting

17 September 2025

Proposal

The Minister for Energy and Minister for Resources will present two proposals to the Cabinet Economic Policy Committee:

- 1) seeking agreement to begin government procurement of a liquid natural gas (LNG) import facility to de-risk investment in thermal fuel, to enhance energy security (Paper 1).
- 2) setting out a regulatory work programme in response to an independent review of electricity market performance, to contribute to reducing the cost of living (Paper 2).

The analysis in this Aide Memoire is limited to Paper 1, that seeks to begin government procurement of an LNG import facility.

We recommend that you do not support the proposal until further work has been done to consider the effectiveness of alternative solutions.

The two Cabinet papers respond to the recommendations of an independent review of electricity market performance by Frontier Economics undertaken in 2025. The Ministry for Regulation has not seen the report provided by Frontier, nor the reports of the two appointed peer reviewers of Frontier’s report. The key issues covered in Paper 1 are set out below.

Key issues

The need for long-duration dispatchable energy

A large proportion of New Zealand’s energy is generated from renewable sources, mainly hydro and wind. However, wind and rainfall levels are



variable, requiring generation that produces electricity on demand (long-duration dispatchable energy) to cover droughts and wind-droughts. In this context, declining domestic gas supply and insufficient investment in long-duration dispatchable energy is creating growing energy security risks and rising costs.

Paper 1 argues that the market alone is unlikely to provide the investment in long-duration dispatchable energy that New Zealand requires. Accordingly, it recommends the government commit to de-risking this investment, by procuring an LNG import facility.

The case for government intervention

Paper 1 argues that the market will not deliver the necessary investment in long-duration dispatchable energy for the following reasons:

- Investors are unwilling to invest due to the risk of future changes in government policy.
- There is evidence of ‘soft price caps’, where wholesale electricity spot prices are depressed below the level necessary to incentivise dispatchable investment, which may reflect a view that government will intervene if prices get too high.
- In the face of the above uncertainties, there is a “free-rider market failure” where it is economically rational to wait for another party to invest, and a “coordination failure” from conflicting incentives among market participants.

Paper 1 recommends the government commit to de-risking investment in dispatchable generation. Due to significant lead times and the urgency of the declining gas supply, Paper 1 recommends the government commence procurement of an LNG import facility. We understand this investment would be very costly.

Our advice

Paper 1 has not made a strong case that there is a market failure that warrants this type of government intervention. It is not clear why there would be either free rider behaviour (which typically occurs for public goods or common pool resources, where users cannot be excluded or charged) or a need for coordination in respect of private investment in dispatchable energy generation.

Rather, the problem may be better characterised as government failure i.e., government policy uncertainty is altering the expected return from investment, thereby delaying or deterring investment.



It is important to correctly characterise the case for government intervention (e.g., whether market failure or government failure), because this guides the appropriate policy response. Looking at the problem in the wrong way can lead to the wrong solution.

If there really was a free rider problem, direct Government procurement may be required because the market would be unlikely to deliver a solution. However if it is instead, as the paper largely claims, an issue arising from Government failure, better solutions are likely to be the ones that address this by reducing the risk of regulatory change or Government policy setting. We note that Paper 1 does include some provisions to address this Government failure, such as investigating sovereign indemnities against significant policy changes. However, there is limited consideration of whether this, other recent government initiatives, or additional options, would sufficiently address the policy uncertainty problem.

The reason addressing the government failure is likely to be better is that the procurement of an LNG import facility is likely to be distortionary in a damaging way. For example:

- Crowding out private investment: there is a risk that government investment displaces private investment that would have otherwise helped address the concerns over dispatchable energy. Private investment typically provides stronger efficiency incentives, and thus by crowding out such investment there is a risk that less value is created for New Zealand.
- Distorting competition: there is a risk that government subsidy of particular firms or technologies can distort the competitive process. This can create an unlevel playing field, undermining the benefits of competition in terms of improved productivity and stronger innovation incentives.

The distortionary (and non-reversible) elements of the proposal significantly raise the stakes, requiring a more detailed analysis and case for intervention than is currently made out.

We **recommend** that you do not support the proposal until further work has been done to consider the effectiveness of alternative solutions which appear better targeted at the issue. We have discussed our views with MBIE who have amended Paper 1 to accommodate some of our feedback, but still recommend proceeding quickly to begin procurement



processes for an LNG facility. We intend to provide a comment in the paper to reflect the analysis presented in this aide memoire.

Author Kevin Counsell, Chief Economist

Manager Adam Jackson, Chief Advisor to the Chief Executive