In Confidence

Office of the Minister of Housing

Chair, Cabinet Legislation Committee

Infrastructure Funding and Financing Act 2020 – Western Bay of Plenty Transport System Plan Levy Order

Proposal

1 This paper seeks Cabinet agreement to:

1.1 authorise the use of a levy under the Infrastructure Funding and Financing Act 2020 for the purpose of enabling Tauranga City Council to fund eligible costs relating to up to 13 eligible projects within its Transport System Plan;

1.2 authorise the submission to the Executive Council of the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022, under the Infrastructure Funding and Financing Act 2020.

Executive Summary

2 The Infrastructure Funding and Financing Act 2020 (IFF Act) enables a funding and financing model for the provision of infrastructure for housing and urban development, free of local authorities' funding and financing constraints. Under this model, a special purpose vehicle (SPV) is used to fund infrastructure projects and a levy is charged against the beneficiaries of the infrastructure to repay any finance raised.

3 On 2 September 2022, Tauranga City Council (TCC) submitted a levy proposal under the IFF Act for its Transport System Plan (TSP). On 10 October 2022, TCC submitted an addendum to this proposal. The TSP is made up of 72 individual transport projects designed to better connect the region and enable Tauranga City to become a more liveable and carbon-efficient city (for example, advancing projects designed to increase use of public transport and/or cycling lanes). TCC has selected 13 projects from the TSP and is proposing to partially fund some or all of these projects using the model provided for by the IFF Act.

4 The levy will apply for 30 years from 1 July 2024 to 30 June 2054 across the entire TCC rating area, excluding protected Māori land. It is estimated that a residential property with a median capital value would be charged a levy of $68 in the first levy year (2024/25), increasing to $80 in 2029/30 and $95 in 2034/35. It is estimated that a commercial property with a median capital value would be charged a levy of $521 in the first levy year, increasing to $618 in 2029/30 and $730 in 2034/35.

5 The levy will partially replace an existing targeted rate that TCC has in place to assist with the funding and financing of its TSP investments. This would free up debt

capacity for TCC, reducing the need for rate rises over the next 10 years and providing increased financial flexibility for other infrastructure investments.

6 I have assessed the TSP levy proposal against all of the required matters under the IFF Act and recommend the authorisation of the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022 (Levy Order) as:

6.1 The proposed levy is consistent with the purpose of the IFF Act.

6.2 The proposed levy appropriately allocates the cost of infrastructure both spatially and temporally across the beneficiaries of the selected TSP projects.

6.3 The proposed levy is in the long-term interests of the levy payers and is likely to be affordable for them across the entire levy period.

7 Authorisation of the Levy Order does not constitute approval of any of the TSP projects themselves.

8 This paper seeks Cabinet's agreement to my recommendation, as responsible Minister for the IFF Act, that the Levy Order be made authorising the use of a levy under the IFF Act, for the purpose of enabling TCC to fund eligible costs relating to eligible infrastructure in its TSP. This paper also seeks authorisation for submission to the Executive Council of the Levy Order.

9 The Levy Order has been drafted by the Parliamentary Counsel Office (PCO) in advance of Cabinet policy approval, pursuant to the Attorney-General's approval given on 9 November 2022.

10 The Levy Order will come into force on 1 January 2023, however, the levy will not start being charged until 1 July 2024.

Policy

11 The Infrastructure Funding and Financing Act 2020 (IFF Act) enables a funding and financing model for the provision of infrastructure for housing and urban development free of local authorities funding and financing constraints. Under this model, a special purpose vehicle (SPV) is used to fund infrastructure projects and a levy is charged against the beneficiaries of the infrastructure to repay any finance raised.

12 On 2 September 2022, Tauranga City Council (TCC) submitted a levy proposal under the IFF Act for its Transport System Plan (TSP) to Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD). TCC further submitted an addendum to this proposal on 11 October. The TSP is made up of 72 individual transport projects designed to better connect the region and enable Tauranga City to become a more liveable and carbon-efficient city (for example, advancing projects designed to increase use of public transport and/or cycling lanes). TCC has selected 13 projects from the TSP and is proposing to partially fund some or all of these projects using the model provided for by the IFF Act.

13 If approved, the proposed TSP levy would enable approximately $170 million of funding to be provided towards the costs of construction across some or all of 13

projects that have been selected from the TSP. This funding would be raised on the strength of a 30-year levy charged to levypayers across the entirety of TCC's rating base (excluding any protected Māori land). The levy would be included as a line item on rates bills.

Counterfactual funding approach

14 If the TSP Levy Order is not authorised, the 13 TSP projects would instead be financed with debt raised by TCC from the Local Government Funding Agency (LGFA), alongside funding from Waka Kotahi and other sources. In this scenario, the TCC debt would be funded through development contributions and the continuation of a long-term targeted rate applied to all ratepayers in Tauranga.

15 The use of the IFF Act for the 13 TSP projects is preferable to this counterfactual because:

15.1 Using a targeted rate instead of the IFF levy would result in TCC's long-term debt-to-revenue ratio coming close to the LGFA borrowing limit of 280% (peaking at approximately 270% in 2026).

15.2 The reduction in TCC borrowings through use of the IFF levy reduces the level of TCC's general or targeted rates rises required over the next 10 years to stay within LGFA borrowing constraints.

15.3 The proposed levy is not expected to represent a material difference to levypayers' rates bills (inclusive of the levy) compared to the counterfactual.

Evaluation of the TSP levy proposal

16 A levy under the IFF Act can only be charged if authorised by an Order in Council (a levy order) made by the Governor-General on the recommendation of the Minister responsible for the IFF Act. Section 27(1) of the IFF Act requires that, as the responsible Minister, I may only recommend a levy order be authorised if "satisfied that authorising the proposed levy is appropriate having regard to the matters set out in subsection (4) and in accordance with subsections (5) and (6)".

17 Sections 27(5) and (6) are not relevant to my consideration of the proposed TSP levy.[1]

18 The matters set out in section 27(4) broadly cover whether the levy proposal is consistent with the IFF Act's purpose,[2] whether the levy appropriately allocates costs across the beneficiaries of the infrastructure and whether the levy is affordable for levypayers and in their long-term interests. I have assessed the TSP levy proposal against all of the matters set out in section 27(4) and I am satisfied that authorising the proposed levy is appropriate for the following reasons.

19 The proposed levy is consistent with the purpose of the IFF Act as it:

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[1] Sections 27(5) and (6) are not relevant because the proposed levy does not apply sections 99 or 142 of the IFF Act (pertaining to the power to construction eligible infrastructure on private land, and the limit on the usual rules for transactions and dispositions at under value).

[2] Section 3 of the IFF Act contains the purpose.

19.1 **Provides a funding and financing model for the provision of infrastructure for housing and urban development** – The TSP projects support both urban development and housing through increased opportunities for intensification, as well as opening up new growth areas.

19.2 **Supports the functioning of urban land markets** – The TSP projects are intended to ensure that the city's transport network can cope with its growing population and will support the functioning of urban land markets by ensuring urban land across all of Tauranga is well-serviced by the transport network.

19.3 **Reduces the impact of TCC's funding and financing constraints** – The debt finance raised for the TSP projects would not appear on TCC's balance sheet. Relative to the counterfactual funding scenario, this reduces the level of TCC's general or targeted rates rises required over the next 10 years to stay within LGFA borrowing constraints.

19.4 **Supports community needs in Tauranga** – The TSP projects will improve access to social and economic opportunities like schools, jobs, general practitioner clinics and shops by different transport modes (walking, cycling, buses, vehicles). In addition, the projects reduce greenhouse gas emissions through increasing use of public transport, cycling and walking, maintaining or improving off-peak travel time predictability for freight via road and rail, and improving road safety.

19.5 **Appropriately allocates the costs of the infrastructure** – As discussed below, the proposed levy would appropriately allocate the costs of the infrastructure across both time and location.

20 The proposed levy appropriately allocates the cost of infrastructure both spatially and temporally across the beneficiaries of the selected TSP projects:

20.1 The 30-year levy period broadly aligns with the expected useful life of the eligible TSP projects, ensuring that both current and future beneficiaries of the infrastructure pay a fair share.

20.2 The eligible TSP projects all have citywide benefits and taken together as a package of works, the dispersion of benefits across the TCC rating area will be relatively evenly distributed.

20.3 Approximately 10 per cent of the benefits from the projects accrue to people outside the TCC rating area and the levy has been designed to ensure Tauranga residents are not subsidising these benefits.

21 The proposed levy is in the long-term interests of the levypayers and is likely to be affordable for them across the entire levy period:

21.1 Compared to the counterfactual funding scenario, the levy would free up debt capacity for TCC. This would provide numerous benefits for Tauranga residents including a reduced need for rate rises over the next 10 years that would otherwise be required for TCC to stay within the LGFA borrowing constraints and increased financial flexibility for TCC, creating capacity for other infrastructure investments that will benefit residents.

21.2 The levy is likely to be affordable for most residential and commercial levypayers, and its payment will be sustainable over the levy period. Furthermore, when compared to the targeted rate counterfactual, the proposed levy is not expected to represent a material difference to ratepayers' total rates bills (inclusive of the levy). However, like with general residential rates and other household expenses, the proposed levy and the targeted rate counterfactual may both pose affordability challenges for some lower-income households.

22 The design of the proposed levy has needed to balance equity considerations on the one hand, with practicality and efficiency considerations on the other. The proposed levy would result in some degree of cross-subsidisation by levypayers that benefit from the infrastructure less than other levypayers. However, any uneven dispersion of benefits across the city is likely to be minimal. It is therefore more practical to apply the levy on a uniform basis across the entire levy area.

23 As responsible Minister for the IFF Act, I therefore recommend that the TSP Levy Order be authorised.

Levy

24 If authorised, the TSP Levy Order would enable an SPV to charge a levy across the entire TCC rating base, excluding any protected Māori land,[3] for 30 years from 1 July 2024 until 30 June 2054. The levy would enable the SPV to provide approximately $170 million of funding towards the construction costs of some or all of the 13 selected TSP projects. This funding would be raised by the SPV on the strength of the Levy Order and the revenue stream it provides the SPV.

Levy revenue

25 Over the entire 30-year period in which the levy may be charged, the maximum amount of levy revenue that may be collected is approximately $525 million (plus GST, if any).[4]

26 The Levy Order also sets out the amount of levy revenue that the SPV intends to charge in each year of the levy period. This increases from approximately $8.5 million (plus GST, if any) in the first levy year (2024/25) to approximately $27.8 million (plus GST if any) in the final levy year (2053/54).

27 The SPV will be required to periodically forecast its excess levy. Excess levy is levy revenue that, as at the end of the levy period, has not been applied to eligible costs.

28 If at any time the forecast excess levy revenue is greater than $1 million (excluding GST), the SPV would be required to reduce the maximum levy revenue to ensure the

[3] As defined in section 11 of the IFF Act.
[4] The maximum levy revenue is exactly $524,846,339.54 (plus GST, if any).

forecast excess levy no longer exceeds $1 million. In addition, the SPV would be required to make corresponding adjustments to the intended annual levy revenue for the remainder of the levy period. These adjustments would reduce the amount of levy collected going forward.

Assessing levy liability

29 The Levy Order and IFF Act set out the process by which a property's annual levy liability will be calculated.

30 Fifty per cent of the proposed levy would be charged to residential rating units in the levy area and fifty per cent would be charged to commercial rating units. The capital value (CV) of a rating unit would be used for assessing the annual levy liability of that rating unit.

31 It is estimated that a median CV residential rating unit would be charged a levy of $68 in the first levy year (2024/25), increasing to $80 in 2029/30 and $95 in 2034/35. It is estimated that a median CV commercial property would be charged a levy of $521 in the first levy year, increasing to $618 in 2029/30 and $730 in 2034/35.

Eligible infrastructure

32 The Levy Order sets out the eligible infrastructure that the levy may be applied towards. 13 projects have been selected by TCC from the wider TSP to be the eligible infrastructure that the levy may be applied towards. These projects are all transport infrastructure projects and include works to the TCC-owned water services infrastructure in the vicinity of the transport infrastructure. The selected projects are intended to support quality urban growth across Tauranga and enable increased housing supply.

33 Construction of the projects will be undertaken by or on behalf of TCC and Waka Kotahi.

34 The 13 eligible TSP projects are summarised below:

34.1 **Hewletts Road sub access area** – Transport infrastructure works in the Hewletts Road project area to improve access to the Port of Tauranga and Mount Maunganui.

34.2 **Connecting the People Fifteenth Avenue to Welcome Bay** – Transport Infrastructure works on the route between City Centre fringe and Fifteenth Avenue, Turret Road and Welcome Bay to improve access to and from Te Papa Peninsula and City Centre.

34.3 **Tauriko West enabling works package** – Transport infrastructure works to support new urban development and housing in Tauriko West, while also supporting the inter-regional freight movement function of SH29.

34.4 **Cameron Road multi-modal upgrade stage 1** – Transport works (including public transport, cycling and walking) on Cameron Road between Harington Street and Tauranga Hospital.

34.5 **Cameron Road multi-modal upgrade Stage 2** – Transport infrastructure works (including public transport, cycling and walking) on Cameron Road between 15th Avenue Tauranga Hospital area and through Barkes Corner to integrate with Pyes Pa Road.

34.6 **Cameron Road corridor connections** – Transport infrastructure works to improve access to Cameron Road to support the use of bus, walking and cycling facilities delivered in the stage 1 and 2 upgrade works.

34.7 **Primary cycle route facilities (Accessible Streets Area A)** – Improvements to walking, cycling and public transport facilities in Mount Maunganui, Papamoa and the CBD.

34.8 **Primary cycle route facilities (Accessible Streets Area B)** – Improvements to walking, cycling and public transport facilities in Otumoetai, Bellevue, and Brookfield.

34.9 **Tauranga Crossing bus facility improvements –** Transport infrastructure, including a public transport hub, to support multi-modal access to and from the Tauriko commercial area in and around Tauranga Crossing.

34.10 **City Centre transport hub** – Transport infrastructure, including a public transport hub and support for active transport modes, to support multi-modal access to and from the city centre.

34.11 **Barks Corner to Tauranga Crossing multi-modal (local road component)** – Transport infrastructure works to improve public transport connections between some local roads and SH36 on the corridor between Cameron Road and the Tauriko commercial centre in and around Tauranga crossing.

34.12 **SH2 revocation (Cameron Road to Bethlehem)** – Transport infrastructure works to support improvements to local roading networks to integrate with the revocation of the existing SH2.

34.13 **Maunganui road future proofing** – Infrastructure upgrades to roading, cycling and pedestrian facilities to improve safety and speed management. Enables improved connections and parking amenities to Blake Park & Mt Maunganui College.

35 Authorisation of the Tauranga Transport System Plan Levy Order would just enable the use of the IFF Act's funding and financing model for the 13 projects listed above. Authorisation of the Levy Order does not constitute approval of any of the projects themselves.

Eligible costs

36 The Levy Order sets out the eligible costs that the SPV may apply the levy revenue towards. These are:

36.1 Costs of constructing the eligible infrastructure, including establishment costs.

36.2 Financing costs such as interest and fees, debt repayment and equity returns.

36.3 The cost of administering the levy.

36.4 General operating costs of the SPV.

36.5 Any further costs of the SPV in complying with the IFF Act or the Levy Order.

Funding of the eligible infrastructure projects

37 At the time the levy proposal was submitted, TCC estimated that the total construction cost for the 13 eligible TSP projects would be $814 million. The proposed levy would enable up to approximately $170 million of funding (the “IFF funding amount”) to be provided towards these construction costs. However, additional funding sources would also be needed to meet the total construction costs of the 13 projects, including any cost escalation. These funding sources could include TCC, Waka Kotahi and other sources of Crown funding such as the Infrastructure Acceleration Fund (IAF).

38 TCC would determine what proportion of the IFF funding amount each of the 13 projects receives, subject to caps on the maximum funding each project can receive. These caps are set out in the Levy Order. For most of the 13 projects, the IFF funding each project may receive will be capped at the lower of $50 million or 65% of the cost of construction.

39 The flexibility around how the IFF funding amount is applied to the 13 projects means that the full IFF funding amount will be able to be used even if some of the projects are reprioritised or do not go ahead. For example, if the anticipated Waka Kotahi funding does not eventuate for one of the projects, TCC may be unable to proceed with that project. In this case, the full IFF funding amount would instead be applied to the remaining 12 projects.

40 The caps on the maximum IFF funding each project may receive ensures that the full IFF funding amount cannot be spent on a single project and that the dispersion of benefits from the projects will be roughly uniform across Tauranga.

Special purpose vehicle

41 At the commencement of the Levy Order, the SPV will be wholly owned by Crown Infrastructure Partners Limited (CIP) through an intermediate holding company.

42 CIP expects to invest $2.1 million of commercial equity in the SPV. This equity will act as a buffer to the SPV’s senior debt and take first loss on certain risks to the SPV’s cashflows.

s 9(2)(i)

[redacted]

s 9(2)(i)

44 The Levy Order prevents CIP from selling its equity in the SPV to a third party unless consented to in writing by HUD (as the IFF monitor). However, certain rights for financiers (for example, the right to appoint receivers, administrators, liquidators or to acquire the partnership interests in the SPV and shares in its general partner) would be provided for without triggering a need for consent from HUD.

Government Support Package

45 Infrastructure projects using the IFF Act's levy model will require a Government Support Package (GSP) to provide support for certain liabilities and ensure the SPV funding that is provided does not appear as a liability on council balance sheets.

46 It is currently proposed that the GSP to support the TSP levy would cover losses to the SPV and/or its financiers arising from termination of the proposed levy order, certain changes in law or successful judicial review proceedings that have the effect of reducing levy revenue. s 9(2)(i)
s 9(2)(i)

47 If granted, the GSP will be an indemnity issued by the Minister of Finance under section 65ZD of the Public Finance Act 1989. The Minister of Finance will consider the GSP if Cabinet authorises submission of the TSP Levy Order to the Executive Council.

Financial Implications

48 There is no need for any new appropriations to support either the TSP levy or CIP's investment in the SPV. The SPV's debt will be consolidated in the Financial Statements of the Government and will increase the Net Debt fiscal indicator.

Timing and 28-day rule

49 The levy will not start being charged until 1 July 2024. However, the commencement date of the Levy Order will be 1 January 2023 as the SPV will have some responsibilities in advance of the levy first being charged. No waiver of the 28-day rule is sought.

Compliance

50 The Levy Order will comply with each of the following:

50.1 the principles of the Treaty of Waitangi;

50.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;

50.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

50.4 the principles and guidelines set out in the Privacy Act 2020;

50.5 relevant international standards and obligations;

50.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

51 There are no anticipated grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

52 The draft Levy Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

53 PCO advises that there are no known significant legal issues with this Order, but the compressed timeframe has reduced the time available to refine and review it. PCO notes that there is therefore an increased risk that the Order contains errors or inconsistencies that could compromise the successful implementation of the policy.

Impact Analysis

Regulatory Impact Statement

54 The Treasury's Regulatory Impact Analysis (RIA) team has determined that the establishment of the Transport System Plan levy under the Infrastructure Funding and Financing Act 2020 is exempt from the requirement to provide a Stage 2 Cost Recovery Impact Statement on the grounds that it would substantively duplicate the Transport System Plan recommendation report.

55 This exemption is granted on the condition that the document contains all the requirements that would otherwise be included in the CRIS. The RIA panel at the Ministry of Housing and Urban Development has reviewed the recommendation report and confirmed that it contains these requirements. The recommendation report is attached to this paper.

Climate Implications of the Policy Assessment

56 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as it relates to funding and financing mechanisms for transport infrastructure. Projects would still potentially go ahead under a different funding mechanism. Approval for the projects themselves, and how they impact emissions, will be considered separately.

Population Implications

Māori

57 The levy would not apply to any protected Māori land within the TCC rating area and owners of this land will not be required to pay the levy. Māori that own other land within the TCC rating area will be required to pay the levy on the same terms as non-Māori landowners, unless a remission applies.

Publicity

58 The Levy Order will be notified in the New Zealand Gazette.

59 A news item about the Levy Order will be published on the HUD website. In addition, HUD will publish in full a copy of the recommendation report on its website, as required by the IFF Act.

60 The SPV will undertake an educational campaign in 2023 to ensure Tauranga residents understand the levy and how it applies to them.

Contentious Issues

61 I do not expect that the Levy Order will be overly controversial. However, I expect it to be the subject of media attention and discussion, as the Levy Order would be the first one established under the IFF Act and would be akin to a targeted rate applying to most of the Tauranga ratepayer base.

Cost of IFF

62 The SPV's cost of finance would be greater than TCC's cost of borrowing from the LGFA. While the financing enabled by IFF and LGFA are fundamentally different products and are used for different purposes, the levy would need to fund larger interest payments than the counterfactual targeted rate.

63 Despite being more expensive than the counterfactual:

63.1 The levy is not expected to represent a material difference to levypayers' rates bills (inclusive of the levy) compared to the counterfactual.

63.2 Using a targeted rate instead of the IFF levy would result in TCC's long-term debt-to-revenue ratio coming close to the LGFA borrowing limit of 280% (peaking at approximately 270% in 2026).

63.3 The reduction in TCC borrowings through use of the IFF levy reduces the level of TCC's general or targeted rates rises required over the next 10 years to stay within LGFA borrowing constraints.

Protected Māori land

64 As noted above, protected Māori land will not be subject to the proposed levy.[5] The total amount of protected Māori land in the TCC rating area is not expected to be significant and has been conservatively estimated to be no more than 1,500 properties.

65 If the levy is authorised, TCC and the SPV will need to identify which properties qualify as protected Māori land and are therefore not subject to the levy. For most categories of protected Māori land this is relatively easy. However, one category of protected Māori land is dependent on both the history of the land and the ethnicity of its owners, as Māori or non-Māori. The land in this category must have previously been Māori freehold land and become general land by either:

65.1 an order of the Māori Land Court made on or after 1 July 1993; or

65.2 Part 1 of the Māori Affairs Amendment Act 1967.

66 CIP and TCC have established an ongoing due diligence process to identify which of these formerly Māori freehold properties are owned by Māori and therefore qualify as protected Māori land. As much as possible, this due diligence process will rely on LINZ and other public information. However, where a property's status as protected Māori land cannot be determined from publicly available information, the SPV will undertake a targeted engagement programme to ensure owners of formerly Māori freehold land have a timely opportunity to self-identify as Māori or non-Māori.

67 Despite the robust processes to identify protected Māori land, there remains a residual risk that:

67.1 some leviable land is not charged a levy due to uncertainty as to whether it is protected Māori land; or

67.2 some protected Māori land is charged a levy, in error. In this case, the owners of the incorrectly levied land will be able to inform TCC of the error and will be entitled to a full refund for any levy they had previously paid. The levy records for the land will also be updated to ensure the levy is not applied to that land in the future.

Proactive release

68 I intend to proactively release this paper within 30 business days as provided for in Cabinet Office Circular CO(18)4.

Consultation

69 TCC has previously consulted the public on the use of the IFF Act for the TSP projects. The response to this consultation was broadly supportive.

[5] Levies can only be imposed on protected Māori land if the landowner's consent has been obtained and provided to HUD in advance of the recommendation report being provided to the responsible Minister.

70 Section 28 of the IFF Act requires that before recommending a Levy Order be made, I must first consult the Ministers responsible for the following Acts:

- the Commerce Act 1986
- the Credit Contracts and Consumer Finance Act 2003
- the Local Government Act 2002
- the Local Government (Rating) Act 2002
- the Public Finance Act 1989.

71 These are the Minister of Commerce and Consumer Affairs, the Minister of Local Government and the Minister of Finance, respectively. I have consulted these Ministers in advance of lodgement of this paper and have received their support for the proposed Levy Order.

72 HUD consulted the Treasury, Department of Internal Affairs and the Ministry of Business, Innovation and Employment (as the agencies responsible for the above Acts) in the preparation of the attached recommendation report.

73 HUD has consulted with the Treasury in preparing this paper.

Recommendations

I recommend that the Cabinet Legislation Committee:

1 **Note** the Infrastructure Funding and Financing Act 2020 enables a funding and financing model for the provision of infrastructure for housing and urban development free of local authorities' funding and financing constraints;

2 **Note** that on 2 September 2022, Tauranga City Council submitted a levy proposal to use the funding and financing model enabled by Infrastructure Funding and Financing Act 2020 for up to 13 projects within its Transport System Plan;

3 **Note** that the proposed Transport System Plan levy would:

3.1 Apply from 1 July 2024 to 30 June 2054 to all properties within Tauranga City Council's rating area, excluding protected Māori land; and

3.2 Allow a maximum of $524,846,339.54 (plus GST, if any) of levy revenue to be collected over the entire levy period;

4 **Note** that a special purpose vehicle would raise finance on the strength of the levy and that this finance would enable a special purpose vehicle to provide approximately $170 million towards the construction costs of some or all the 13 selected Transport System Plan projects;

5 **Note** that section 27 of the Infrastructure Funding and Financing Act 2020 requires that the responsible Minister may only recommend the authorisation of a levy order if:

5.1 Satisfied that authorising the proposed levy is appropriate having regard to the matters set out in subsection (4) and in accordance with subsections (5) and (6).

5.2 The responsible Minister has received a recommendation report that includes all endorsements and consents under sections 20, 21 and 24.

5.3 The levy is being recommended on the terms set out in the recommendation report.

6 **Note** that section 28 of the Infrastructure Funding and Financing Act 2020 requires that, before recommending the authorisation of a levy order, the responsible Minister first consult the Ministers responsible for the following Acts:

6.1 the Commerce Act 1986

6.2 the Credit Contracts and Consumer Finance Act 2003

6.3 the Local Government Act 2002

6.4 the Local Government (Rating) Act 2002

6.5 the Public Finance Act 1989;

7 **Note** the advice of the Minister of Housing that the requirements referred to in paragraphs 5 and 6 above have been met;

8 **Note** that the Minister of Housing, as responsible Minister for the Infrastructure Funding and Financing Act 2020, recommends that the levy referred to in paragraph 3 be authorised on the terms set out in the recommendation report prepared by the Ministry of Housing and Urban Development as recommender pursuant to section 26 of the Infrastructure Funding and Financing Act 2020;

9 **Agree** to authorise the use of the levy referred to in paragraph 8 to enable Tauranga City Council to fund eligible costs for up to 13 eligible projects within its Transport System Plan;

10 **Note** that the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022 gives effect to the decision referred to in paragraph 9 above;

11 **Note** that the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022 has been drafted by the Parliamentary Counsel Office in advance of Cabinet policy approval in accordance with the approval of the Attorney-General provided on 9 November 2022;

12 **Authorise** the submission to the Executive Council of the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022;

13 **Note** that the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022 comes into force on 1 January 2023, however, levies will not begin to be charged until 1 July 2024.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Housing