



Aide-memoire

Cabinet item: Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model

Date:	27 July 2020	Security level:	In Confidence
Priority:	Medium	Report number:	AMI20/21070366

Information for Minister(s)

Hon Phil Twyford Minister for Urban Development	Note the attached talking points to support you at the Cabinet Legislation Committee meeting on Tuesday 4 August 2020.
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Contact for discussion

Name	Position	Telephone	1 st contact
Mel Rae	Manager, Market and System Settings	04 831 6016	s 9(2)(a) ✓
Maisie Hance	Policy Intern	04 831 6044	

Other agencies consulted

N/A

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> See Minister's notes <input type="checkbox"/> Needs change <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Declined <input type="checkbox"/> Referred to (specify) <hr/>

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Date returned to MHUD:



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Cabinet item: Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model

For: Hon Phil Twyford, Minister for Urban Development

Date: 27 July 2020

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Purpose

1. This aide-memoire provides you with talking points to support your discussion of the Cabinet paper *Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model* at the Cabinet Legislation Committee (LEG) on 4 August 2020.

Background

2. On 6 July 2020 your previous Cabinet paper *Appointing the facilitator, recommender, and monitor roles for the Infrastructure Levy Model* was approved by Cabinet [CAB-20-MIN-0329 refers].
3. Following Cabinet's consideration of that paper, you were invited to issue drafting instructions to the Parliamentary Counsel Office (PCO) for the necessary Order in Council (OIC) to formally appoint the Ministry of Housing and Urban Development (HUD) to the recommender and monitor roles.
4. Now that the Infrastructure Funding and Financing Bill has had its Third Reading and PCO have drafted the Order in Council, the next step in assigning the recommender and monitor roles to HUD is to submit the OIC to the Cabinet Legislation Committee (LEG) for approval.

Cabinet paper for LEG

5. Officials have drafted a Cabinet paper *Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model*, to accompany the OIC and seek approval to submit it to the Executive Council.
6. We provided you with a draft version of the Cabinet paper on 1 July 2020 to circulate for Ministerial consultation [BRF19/20060716 refers]. Your colleagues had no feedback on the draft paper. As a result, a final version of the Cabinet paper, including the necessary OIC, is attached as Annex A ready for lodgement ahead of it being considered by LEG on 4 August 2020.

Discussing the paper with your colleagues

7. To support you in your discussion of the Cabinet paper with your colleagues at LEG, talking points are attached as Annex B.

Next steps

8. Discuss the Cabinet paper *Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model* paper with your colleagues at LEG on 4 August 2020.

Risks and sensitivities

9. Please note that this material is being considered at the last LEG meeting of the term. If the OIC does not get approved, then HUD will not be able to formally take on its roles as recommender and monitor until post the election.

Annexes

10. Annex A: Cabinet paper: *Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model*
11. Annex B: Talking points

Annex A: Cabinet paper: *Order in Council to appoint the recommender and monitor roles for the Infrastructure Levy Model*

Annex B: Talking points

1. The Urban Growth Agenda is a programme of work designed to improve urban outcomes for New Zealanders by addressing the fundamentals of land supply, development capacity, and infrastructure provision.
2. The Infrastructure Levy Model (the Model) is part of this programme and provides an alternative model to fund and finance large infrastructure projects.
3. The Model aims to make room for growth in our urban centres by improving the supply of local infrastructure and thereby enabling growth up (e.g. higher density housing near services and infrastructure) and out (e.g. well-connected houses in greenfield areas with good infrastructure). The Model does this by separating the financing decisions for specific infrastructure from councils' usual financing processes and constraints.
4. To operationalise the Model, government needs to take on new roles. Roles that are required to be established under the Model are:
 - a. the facilitator
 - b. the recommender
 - c. the monitor
5. The Infrastructure Funding and Financing Act 2020 (the Act) that provides for these roles had its Third Reading on 24 July 2020 and received Royal Assent last week.
6. The Act requires the recommender and monitor roles to be appointed by Order in Council, which is attached to the Cabinet paper. The facilitator is not required to be appointed by Order in Council.

The facilitator

7. The role of the facilitator is to assist with the preparation of proposals to access the levy.
8. Crown Infrastructure Partners (CIP) was approved by Cabinet on 6 July 2020 to take on the role as facilitator. CIP has recently changed its focus away from exclusively broadband towards the delivery of bulk housing infrastructure to deliver the Milldale transaction (which the Model design is based on).
9. As the facilitator role is more commercially oriented and delivery focused, there is a strong synergy between the facilitator role and CIP's existing functions.
10. The facilitator is not provided for in legislation and as such does not require an Order in Council for CIP to take on the role. This can be achieved through updating CIP's Letter of Expectations.

The recommender

11. The role of the recommender is to provide independent and robust advice to Ministers on the levy proposal. The recommender supports Ministerial discretion by reviewing levy proposals, independent of the proposer, facilitator and potential SPV owner. This ensures that Cabinet decisions on whether to use the levy are well-informed, cover all relevant considerations, and are independent.
12. The recommender will be required to assess the merits of a proposal with the requirements of the Act and within the context of the Government's wider objectives for urban/infrastructure development.
13. The Ministry of Housing and Urban Development (HUD) was approved for the recommender role by Cabinet on 6 July 2020. The main advantage for having HUD as the recommender is that it is embedded in the machinery of government policy process. Therefore, HUD is able to:
 - a. introduce efficiencies at the recommendation and Cabinet approval stages as it is suitably positioned to coordinate the commercial and machinery of government aspects of the Model

- b. directly liaise with the Minister when making a recommendation and perform the policy functions to support the required Cabinet processes
 - c. facilitate early engagement, coordinate interagency working groups as needed and support agencies providing second opinion advice.
14. The recommender role overlaps to some degree with HUD's responsibilities in relation to large scale projects progressed by Kāinga Ora – Homes and Communities (Kāinga Ora). HUD is also building capability to improve coordination of funding and financing for the purpose of enabling more urban development.

The monitor

15. The role of the monitor ensures that Special Purpose Vehicles comply with the terms of the Act.
16. HUD was approved to take on the monitor role by Cabinet on July 6 2020. Assigning HUD as the monitor will enable HUD to integrate this role into its wider monitoring requirements as steward of the housing and urban development system and as the monitor of Kāinga Ora. This wider role will lead to HUDs building capability that overlaps with the Act's monitoring needs. The monitor role is strongly aligned with HUD's operating mandate and it will also be able to take advantage of HUDs wider insights to better understand the wider housing and urban development system.
17. There are additional advantages in having the same organisation as both recommender and monitor. The monitoring should be more efficient given the existing institutional knowledge about a project.

Order in Council requirement

18. The Act requires the recommender and monitor roles to be appointed by Order in Council. The Parliamentary Counsel Office has drafted the necessary Order in Council for your consideration.
19. To ensure the monitor and recommender roles are established as soon as practicable now the Act has received Royal assent, I recommend the attached Order in Council to appoint HUD to the monitor and recommender roles is approved for submission to the Executive Council.
20. Once the Executive Council sign the Order in Council, it will be gazetted, and HUD would assume both the recommender and monitor roles after the 28-day waiver period.