In Confidence

Office of the Minister of Housing

Chair, Cabinet Legislation Committee

Infrastructure Funding and Financing Act 2020 – Wellington Sludge Minimisation Facility 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 Wellington City Council to fund eligible costs relating to its sludge minimisation facility;

1.2 authorise the submission to the Executive Council of the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023, 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 March 2023, Wellington City Council (WCC) submitted a levy proposal under the IFF Act for a proposed new sludge minimisation facility (SMF). This facility would be constructed adjacent to the existing wastewater treatment plant at Moa Point and utilise chemical and mechanical processes to handle and dispose of wastewater sludge.

4 If authorised, the proposed levy would enable a special purpose vehicle (SPV) owned by Crown Infrastructure Partners Limited (CIP) to provide up to $400 million towards the construction costs of the SMF. This funding would be raised by the SPV on the strength of a 33-year levy charged to levypayers across the entirety of WCC's rating base (excluding any protected Māori land).

5 The proposed levy would apply differentially to properties that are expected to have their wastewater treated by the SMF and properties that will not be connected to the SMF. Approximately 78 percent of current properties in the WCC rating area are expected to have their wastewater treated by the SMF and around 95 percent of the levy would be charged across these properties. The remaining 5 percent of the levy would be charged across the 22 percent of properties within the WCC rating area that

are either not connected to the wastewater network or have their wastewater treated by a facility in Porirua.

6 75 percent of the levy would be charged across residential properties (properties classified as "base" by WCC) with the remaining 25 percent charged across commercial properties. Levies for a commercial property would be allocated based on the capital value (CV) of the property. However, levies for a base property would include a fixed component and a variable component based on CV.

7 The levy will commence from 1 July 2024 and is phased in over a three-year period. In the 2027/28 levy year, it is estimated that a $1 million CV residential property connected to the SMF would be charged a levy of $335, while a $1 million CV residential property not connected to the SMF would be charged a levy of $86. In the same year, it is estimated that connected commercial properties would be charged a levy of $500 per million of CV and unconnected commercial properties would be charged a levy of $130 per million of CV.

8 The proposed levy would reduce WCC's financing and funding constraints as the finance raised would not appear on WCC's balance sheet. Conversely, funding the SMF on WCC's balance sheet would result in WCC's long-term debt to revenue ratio temporarily breaching the Local Government Funding Agency (LGFA) debt covenants.[1]

9 I have assessed the SMF levy proposal against all of the required matters under the IFF Act and recommend the authorisation of the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023 (Levy Order) as:

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

9.2 The proposed levy appropriately allocates the cost of infrastructure both spatially and temporally across the beneficiaries of the proposed SMF.

9.3 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.

10 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 WCC to fund eligible costs relating to eligible infrastructure for its SMF. This paper also seeks authorisation for submission to the Executive Council of the Levy Order.

11 Authorisation of the Levy Order does not constitute approval of the SMF project itself.

[1] The New Zealand Local Government Funding Agency (LGFA) is an agency specialised in financing the New Zealand local government sector. LGFA was established to raise debt on behalf of local authorities ("councils") on terms that are more favourable to them than if they raised the debt directly. Councils raise debt under a covenant that limits their borrowings to 280 percent of revenue.

12 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 June 2023.

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

Policy

14 The Infrastructure Funding and Financing Act 2020 (IFF Act) enables a funding and financing model for the provision of infrastructure for 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.

15 On 2 March 2023, Wellington City Council (WCC) submitted a levy proposal under the IFF Act for its sludge minimisation facility (SMF) to Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD). This is the second levy proposal HUD has received and follows last year's proposal from Tauranga City Council for its Western Bay of Plenty Transport System Plan [LEG-22-MIN-0213].

16 The SMF would be adjacent to the existing wastewater treatment plant at Moa Point. This facility would utilise chemical and mechanical processes to handle and dispose of wastewater sludge. It is intended to improve the stabilisation, and reduce the volume, of Wellington City's wastewater sludge, reduce carbon emissions associated with the disposal of sludge at the Southern Landfill, and enable future economic and population growth via increased waste management capacity. WCC is proposing to fund most of the SMF via this proposed levy.

17 If approved, the proposed SMF levy would enable up to $400 million of funding to be provided towards construction costs of the SMF. This funding would be raised on the strength of a 33-year levy charged to levypayers across the entirety of WCC's rating base (excluding any protected Māori land). The levy would be included as a line item on rates bills.

Counterfactual funding approach

18 If the Levy Order is not authorised, the SMF could instead be financed on WCC's balance sheet with debt raised through the Local Government Funding Agency (LGFA). However, this would result in WCC's long-term debt-to-revenue ratio exceeding the LGFA covenant of 280 percent.

19 Funding and financing of the SMF through the LGFA would therefore require:

19.1 WCC significantly increasing rates to maintain a debt-to-revenue ratio within the LGFA covenant limit, and/or

19.2 Significant reprioritisation of planned expenditure to offset the increase in debt required to finance the SMF.

20 As an alternative to funding the SMF through the IFF, construction of the SMF could be delayed until after the Water Services Reform has been implemented and the Water Services Entity (WSE) for the Wellington and Wairarapa region has been established. However, if construction is delayed until the relevant WSE is established, it is unlikely that the SMF will be completed before the lapse of the existing resource consent for sludge disposal at the Southern Landfill in June 2026. In this scenario, the sludge from the existing Moa Point plant would likely have to be transported to out-of-district landfills for disposal at significant expense to ratepayers.

Water service reforms

21 The Water Services Entities Act 2022 (WSEA) establishes four water services entities by 1 July 2024. The Government recently announced that it intends to establish ten Water Service Entities (WSEs) to take responsibility for drinking water, wastewater and stormwater infrastructure between early 2025 and 1 July 2026. The WSEA will be amended to reflect these policy changes through the Water Services Entities Amendment Bill.

22 The WSEA requires that in the pre-establishment period (i.e. from before the relevant WSE is established), councils liaise with the Department of Internal Affairs (DIA) when making decisions that could impact the intended WSE. As per the requirements of the WSEA, WCC has sought, and the Department of Internal Affairs (DIA) has provided, written confirmation that the series of decisions necessary to finance and construct the SMF do not:

22.1 significantly prejudice the water services reforms;

22.2 significantly constrain the powers or capacity of the relevant WSE following its establishment; or

22.3 have a significant negative impact on the assets, liabilities, or other matters that are to be transferred to the relevant WSE as part of the reforms.

23 This written confirmation from DIA enabled WCC to proceed with the submission of its levy proposal for the SMF.

Evaluation of the SMF levy proposal

24 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)."

25 Sections 27(5) and (6) are not relevant to my consideration of the proposed SMF levy.[2]

26 The matters set out in section 27(4) broadly cover whether the levy proposal is consistent with the IFF Act's purpose,[3] 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.

27 I have assessed the SMF 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.

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

28.1 **Provides a funding and financing model for the provision of infrastructure for urban development –** The proposed SMF supports urban development by increasing WCC's waste management capacity and providing sufficient wastewater treatment capacity to support future population and economic growth.

28.2 **Supports the functioning of urban land markets –** The proposed SMF provides a long-term sustainable, scalable, and resilient solution to the city's wastewater treatment needs. It will reduce the volume of sludge going to landfill, meaning the city can accommodate future growth in line with expected resource consent conditions applying at its Southern Landfill. Without the SMF, or a similar alternative solution, WCC's wastewater treatment system would likely restrict urban development.

28.3 **Reduces the impact of WCC's funding and financing constraints –** The finance raised for the SMF would not appear on WCC's balance sheet. Conversely, financing the SMF with debt raised by WCC would see the council breach its LGFA debt covenants without either significant rate increases and/or re-prioritisation of other capital projects. This would constrain WCC's ability to fund other priority spending needs.

28.4 **Supports community needs in Wellington –** Wastewater treatment is an important part of supporting WCC's current and future community needs, and the SMF supports this by enabling a more reliable and resilient sludge disposal system. The SMF will also allow WCC to reduce the amount of waste that is directed to the landfill, supporting their waste minimisation and emissions reduction strategies.

28.5 **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.

[2] 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).

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

29 Benefits of the proposed SMF are detailed in Table 1 below:

Table 1: Benefits of the Sludge Minimisation Facility

Benefit	**Description**	**Main beneficiaries**	**Other beneficiaries**
Continued wastewater treatment	The SMF will provide a long-term, sustainable, and resilient approach to treating the wastewater of ~78 percent properties in WCC's rating area.	Properties connected to the SMF.	-
Resilience of WCC wastewater treatment system	Current sludge transfer pipes are a single point of failure that previously affected WCC ratepayers during network outages (by requiring sludge to be transported via the road network, which is undesirable and unsustainable).[4] The existing dewatering facility at Carey's Gully is also old and may fail in a significant seismic event, meaning sludge could not be dewatered and thus not disposed of at the landfill. The SMF will resolve these issues, providing a more reliable and resilient sludge management system that would reduce the costs and impacts of any potential future network outages.	All WCC properties.	
Reduced solid waste	Currently 50-60 tonnes per day of sludge is disposed at Southern Landfill and each tonne of sludge must be mixed with four tonnes of solid waste. Under the SMF, less sludge to Southern Landfill will lower the amount of solid waste that must also be added. The SMF is expected to contribute 20 percent of the overall WCC target waste reduction by 2031.	All WCC properties.	
Reduced carbon emissions	Solid waste & wastewater treatment are 90 percent of Council's gross emissions. Less solid waste means fewer carbon emissions from landfill, which would also insure against rising ETS prices.	All WCC properties.	Those outside the Wellington region.[5]
Capacity for growth	By reducing sludge going to the Southern Landfill, the city can accommodate growth without breaching the Landfill's consent conditions. Absent the SMF or an alternative solution, growth would likely be stifled. SMF's expanded capacity for waste treatment would enable greater economic and population growth.	All WCC properties.	The greater Wellington region may experience economic benefits.
Reduced odour emissions	The SMF will result in less sludge being disposed of at the Southern Landfill and the sludge produced by the SMF will be less odorous.	Properties near the Southern Landfill	

[4] A broken pipe in 2020 led to over a million litres of sludge being transported every day from the Moa Point Treatment Plant to the Southern Landfill, at an estimated cost of $200,000-$650,000 a week for WCC ratepayers.

[5] Reduced carbon emissions benefit the worldwide population at a marginal level per person.

30 The proposed levy appropriately allocates the cost of infrastructure both spatially and temporally across the beneficiaries of the SMF:

30.1 The 33-year levy period broadly aligns with the expected useful life of the SMF, spreading the cost of the SMF over the period in which levypayers will benefit from it.

30.2 The bulk of benefits are expected to accrue to properties connected to the SMF. However, as shown in Table 2, unconnected properties will also benefit from the SMF but to a lesser extent. This is reflected in the design of the levy with approximately 95 percent of the levy being charged across connected properties (around 78% of current properties in the WCC rating area) and the remaining 5 percent charged across unconnected properties.

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

31.1 **Long-term interests of levypayers -** If the proposed levy is not approved, it is unlikely that WCC would be able to proceed with construction of the SMF, or that construction would be deferred until the relevant WSE is set-up.

31.2 **Affordability for residential levypayers** - The Local Government Rates Inquiry 2007 established a rough benchmark for affordability and considers that problems begin to arise when total rates bills exceed 5 percent of gross household income. WCC's levy proposal included modelling of the total rates bill (including the proposed levy) for a median capital value property compared to the median household income for those suburbs. This modelling found that only Newtown (at 5.2 percent) would have rates (including levies) to income ratios in the 2027/28 rating year above 5 percent.

This indicates that the levy is likely to be affordable for most residential properties across the WCC rating area. The levy will also only be a small component of total rates bills. As such, for households facing affordability concerns, the levy is unlikely to be a material cause of these concern. Furthermore, the levy remission and postponement policies, along with WCC's rates remission and postponement policies, would still apply which may also be beneficial for households facing affordability issues.

31.3 **Affordability for commercial levypayers –** To assess the affordability for commercial levypayers, the levy proposal included analysis of the expected levy against the upper and lower estimates of commercial property yields for a range of commercial property types. This analysis found that, if the levy was fully passed through to commercial tenants, it would be expected to have a less than one per cent increase on rents. As rents will only comprise a portion of a business's overall costs, the total impact on a business's cost base will be even less than this.

The expected small increase on Wellington businesses' cost bases related to the levy suggests, even if the levy is fully passed through to commercial tenants, it is unlikely to materially impact overall profitability. This indicates that the proposed levy is likely to be affordable for commercial property owners.

32 The design of the proposed levy has needed to balance equity considerations with practicality and efficiency considerations. The proposed levy would result in some degree of cross-subsidisation by levypayers that benefit from the infrastructure less than other levypayers. However, having more granular beneficiary groups than the proposed BG1 and BG2 would increase the complexity of the levy and is unlikely to be practical.

33 As responsible Minister for the IFF Act, I therefore recommend that the Wellington Sludge Minimisation Facility Levy Order be authorised.

Levy

34 If authorised, the Wellington Sludge Minimisation Facility Levy Order would enable an SPV to charge a levy across the entire WCC rating base, excluding any protected Māori land,[6] for 33 years from 1 July 2024 until 30 June 2057. The levy would enable the SPV to provide up to $400 million of funding towards the construction costs of the SMF. 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

35 Over the entire 33-year period in which the levy may be charged, the maximum amount of levy revenue that may be collected is approximately $1,271 million (plus GST, if any).[7]

36 The Levy Order also sets out the amount of levy revenue that the SPV intends to charge in each year of the levy period. During the expected construction phase of the SMF, the intended annual levy starts out at $7.8 million in the first levy year and increases by approximately $8 million per year over each of the three following years, reaching approximately $32.5 million in the 2027/28 levy year. The intended annual levy then increases more gradually over the remainder of the levy period, peaking at approximately $64.5 million in the 2053/54 levy year.

37 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.

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

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[6] As defined in section 11 of the IFF Act.
[7] The maximum levy revenue that may be collected is exactly $1,271,444,793 (plus GST, if any).

39 A significant factor in the SPV's eligible costs (and whether the forecast excess levy revenue exceeds $1 million) would be base interest rates at the time of financial close. Depending on these interest rates, the maximum levy revenue may be reduced. However, it cannot be increased above the approximately $1,271 million amount set out in the Levy order.

Assessing levy liability

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

41 The proposed levy would apply differentially to properties that are expected to have their wastewater treated by the SMF and properties that will not be connected to the SMF. Approximately 78 percent of current properties in the WCC rating area are expected to have their wastewater treated by the SMF and around 95 percent of the levy would be charged across these properties. The remaining 5 percent of the levy would be charged across the 22 percent of properties within the WCC rating area that are either not connected to the wastewater network or have their wastewater treated by a facility in Porirua.

42 75 percent of the levy would be charged across residential properties (properties classified as "base" by WCC) with the remaining 25 percent charged across commercial properties. Levies for a commercial property would be allocated based on the capital value (CV) of the property. However, levies for a base property would include a fixed component and a variable component based on CV.

43 The expected annual levy for different property types in the 2027/28 levy year is detailed below in Table 2.

Table 2: Expected annual levy 2027/28 levy year

Expected annual levy (per million of CV) 2027/28 levy year			
	Fixed	**Variable**	**Total**
Connected properties			
Base	$105	$230	$335
Commercial	-	$500	$500
Non-connected properties			
Base	$26	$60	$86
Commercial	-	$130	$130

Eligible infrastructure

44 The Levy Order sets out the eligible infrastructure that the levy may be applied towards. The proposed SMF is a water services infrastructure project and includes works to WCC-owned water services infrastructure in the vicinity of the planned SMF infrastructure. The project is intended to support wastewater treatment, capacity for economic and population growth, reduced waste and carbon emissions, and resilience of WCC's wastewater treatment network, across Wellington.

45 The eligible infrastructure is described as:

45.1 The sludge minimisation facility (Sludge Minimisation Facility or SMF) to be located at Moa Point, Wellington (adjacent to the wastewater treatment plant that exists on the commencement of the Order) that is to be built to utilise chemical and mechanical processes to handle and dispose of wastewater sludge (with a view to improving the stabilisation of, and reducing the volume of, wastewater sludge).

45.2 Works in relation to the following to the extent that those works are necessary or desirable in connection with the construction of the SMF:

45.2.1 the Moa Point Treatment Plant and other wastewater infrastructure in the vicinity of Moa Point;

45.2.2 the existing sludge pipeline;

45.2.3 the Carey's Gully dewatering facility; and

45.2.4 the Western Treatment Plant (Karori).

46 Construction of the projects will be undertaken by or on behalf of WCC until such point that the asset is vested with the Wellington and Wairarapa region WSE. There is currently no legislative mechanism in place to facilitate the transfer of water services assets to a WSE. The Water Services Legislation Bill, currently before the House, provides for the transfer of assets, liabilities and other matters to WSEs. Additional legislative changes would be required through that Bill to support the transfer of the SMF from WCC to the Wellington and Wairarapa region WSE.

47 Following asset vesting, the WSE would be responsible for any remaining construction and commissioning, and operation and funding of, the SMF. The SPV will not be responsible for construction of the SMF.

48 The Order refers to factors in the Local Government (Rating) Act 2002 to define the categories of land that will be subject to the levy. One of those factors is the availability of the land to a service provided by or on behalf of a local authority. Once the SMF and other related wastewater services assets are transferred to a WSE, this provision will not continue to work as intended. The services to the land (wastewater and the SMF) will no longer be provided by WCC. An amendment will need to be included in the Water Services Legislation Bill (or one of the other Water Services reform Bills) to ensure that the Order will remain legally workable once water services assets are transferred. My officials have discussed this issue with the Department of Internal Affairs and understand that they intend to recommend addressing the issue through a Supplementary Order Paper to the Water Services Legislation Bill.

49 Authorisation of the Wellington Sludge Minimisation Facility Levy Order would just enable the use of the IFF Act's funding and financing model for the SMF. Authorisation of the Levy Order does not constitute approval of the project itself.

Eligible costs

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

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

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

50.3 The cost of administering the levy.

50.4 General operating costs of the SPV.

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

Funding of the eligible infrastructure projects

51 s 9(2)(b)(ii) [redacted] s 9(2)(b)(ii) [redacted] The proposed levy would enable up to $400 million of funding (the "IFF funding amount") to be provided towards these construction costs.

52 s 9(2)(b)(ii) [redacted]

Special purpose vehicle

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

54 CIP expects to invest $8.6 million of commercial equity into 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.

55 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 monitor under the IFF Act). 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

56 Infrastructure projects using the IFF Act's levy model require a Government Support Package (GSP) to protect against certain risks and ensure the SPV funding that is provided does not appear as a liability on council balance sheets.

57 It is proposed that this GSP would cover losses to the SPV and/or its financiers arising from circumstances including:

57.1 amendment or termination of the proposed Levy Order,

57.2 certain changes in law, including changes in law that impose a tax/levy (or similar) exclusively on IFF projects, SPVs or financiers;

57.3 successful judicial review proceedings that have the effect of reducing levy revenue; or

57.4 WCC's failure to be able to complete the SMF in following circumstances:

57.4.1 An unforeseen "force majeure" event, e.g. a natural disaster, occurs;

57.4.2 WCC fails to complete purchase of the land required for the SMF Project; or

57.4.3 WCC fails to obtain the outstanding regulatory approvals and resource consents necessary to complete the SMF Project.

58 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 whether to grant the GSP if this Committee authorises submission of the Wellington Minimisation Facility Levy Order to the Executive Council.

59 To enable the Minister of Finance sufficient time to consider the GSP, I propose delaying submission of the Levy Order to the Executive Council until 7 August.

Cost-of-living implications

60 The proposed levy would be akin to a targeted rate applying to most of the WCC ratepayer base and as such would have cost-of-living implications. However, as discussed above, the proposed levy would likely be affordable for most residential and commercial ratepayers.

61 In addition to the proposed levy, on 29 June 2023 WCC approved a rates increase of 12.3% for the year commencing 1 July 2024. The proposed levy would result in a further increase in the charges that appear on rates bills for WCC ratepayers. However, despite this rates rise, I consider that the proposed levy is still likely to be affordable for most WCC ratepayers.

Financial Implications

62 There is no need for any new appropriations to support either the SMF 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, with the profile as detailed below in Table 3.

Table 3: Fiscal impacts

	$m – increase/(decrease)			
Vote Finance	**2023/24**	**2024/25**	**2025/26**	**2026/27 & Outyears**
Operating Balance and Net Debt Impact	-	-	-	-
Operating Balance Only Impact	-	-	-	-
Net Debt Only Impact	193.773	153.396	83.044	14.145
Total	**193.773**	**153.396**	**83.044**	**14.145**

Timing and 28-day rule

63 The levy will not start being charged until 1 July 2024. However, the commencement date of the Levy Order will be 1 October 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

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

64.1 the principles of the Treaty of Waitangi;

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

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

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

64.5 relevant international standards and obligations;

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

Regulations Review Committee

65 s 9(2)(h) [redacted]

66 [redacted]

s 9(2)(h)

67 [redacted]

68 [redacted]

Certification by Parliamentary Counsel

69 The Parliamentary Counsel Office (PCO) has certified the Order as being in order for submission to Cabinet –

69.1 Subject to the Order being made on the Minister of Housing's recommendation made in accordance with sections 27 and 28 of the Act; and

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

69.3 Subject to paragraph 48 (which relates to a required amendment through one of the Water Services reform Bills).

Impact Analysis

Regulatory Impact Statement

70 The Treasury's Regulatory Impact Analysis (RIA) team has determined that this proposal is exempt from the requirement to provide a Stage 2 Cost Recovery Impact Statement (CRIS) on the grounds that it would substantively duplicate the

recommendation report required prior to a decision being made. This exemption is granted on the condition that the recommendation report contains all the requirements that would otherwise be included in the CRIS.

71 The HUD RIA panel has reviewed the attached recommendation report and confirmed that it contains these requirements.

Climate Implications of the Policy Assessment

72 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal as it not expected to result in any significant, direct emissions impacts.

Population Implications

Māori

73 The levy would not apply to any protected Māori land within the WCC rating area meaning owners of this land will not be required to pay the levy. Māori that own other land within the WCC rating area will be required to pay the levy on the same terms as non-Māori landowners.

Use of External Resources

74 In assessing WCC's levy proposal and providing advice to the Minister of Housing, HUD did not engage any external resources such as contractors or consultants.

75 In assisting WCC to develop the levy proposal, CIP did engage external resources. These resources included:

75.1 KPMG - joint lead financial advisor, providing financial and commercial structuring advice and drafting of key commercial documents including the levy proposal;

75.2 Mafic - joint lead financial advisor, providing financial and commercial structuring advice, preparing financial modelling and assisting with running the financier procurement process;

75.3 Bell Gully - external legal advisor;

75.4 Insight Economics - providing economic advice and affordability analysis in relation to the structuring of the levy; and

75.5 Deloitte – providing tax and accounting advice.

76 These resources were used by CIP to undertake analysis and collateral production where CIP does not have required technical expertise and/ or capacity to perform the work in-house.

77 The Treasury also obtained external legal advice from Simpson Grierson to assist in negotiation of the GSP and other contractual agreements. Simpson Grierson provided

specialist commercial contract, debt capital markets and local authority legal expertise that was not available within the Treasury's internal legal team in the depth required for the SMF project and its complex financing arrangements.

Publicity

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

79 Once the order is notified, 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.

80 WCC will also publish information about the levy. HUD and WCC will work together to ensure a coordinated approach to information sharing is taken.

81 The SPV will undertake an educational campaign to ensure Wellington residents understand the levy and how it applies to them.

Risks

82 The proposed levy would apply to some properties within the WCC rating area that will not have their wastewater treated by the SMF. However, these properties would pay a lower levy than properties that will be connected to the SMF. As discussed above, I consider it appropriate that these properties pay the levy as, despite not directly using the SMF, they will still receive some benefits from it.

Proactive release

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

Consultation

84 WCC consulted the public on whether to fund the SMF on the council's balance sheet, or by using the IFF Act as part of the Council's consultation on its 2021-31 Long-Term Plan. Feedback was evenly split, with 39% support for each option.

85 I have consulted the Ministers of Commerce and Consumer Affairs, Local Government and Finance in advance of lodgement of this paper, in accordance with the requirements of section 28 of the IFF Act.

86 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.

87 In preparing this paper, HUD has consulted with the Treasury and the Parliamentary Counsel Office.

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 March 2023, Wellington City Council submitted a levy proposal to use the funding and financing model enabled by Infrastructure Funding and Financing Act 2020 for its Sludge Minimisation Facility.

3 **Note** that the proposed Wellington Sludge Minimisation Facility levy would:

3.1 Apply from 1 July 2024 to 30 June 2057 to all properties within Wellington City Council's rating area, excluding protected Māori land; and

3.2 Allow a maximum of $1,271,444,793 (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 up to $400 million towards the construction costs of the Sludge Minimisation Facility project.

5 **Note** that the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023 would authorise the charging of the levy referred to in recommendation 3 above.

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

6.1 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).

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

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

7 **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:

7.1 the Commerce Act 1986

7.2 the Credit Contracts and Consumer Finance Act 2003

7.3 the Local Government Act 2002

7.4 the Local Government (Rating) Act 2002

7.5 the Public Finance Act 1989.

8 **Note** that I consider that the requirements referred to in recommendation 6 and 7 above have been satisfied.

9 **Authorise** the submission to the Executive Council of the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023.

10 **Agree** to delay submission to the Executive Council of the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023 to 7 August 2023 to enable the Minister of Finance sufficient time to consider the Government Support Package.

11 **Note** that the Infrastructure Funding and Financing (Wellington Sludge Minimisation Facility Levy) Order 2023 comes into force on 1 October 2023, however, levies will not begin to be charged until 1 July 2024.

12 **Note** that the Order defines categories of land by reference to a factor in the Local Government (Rating) Act 2002, the provision or availability to the land of a service provided by, or on behalf of, Wellington City Council. If that service is to be provided by a water services entity in the future, an amendment through one of the Water Services reform Bills will be required to ensure that this mechanism in the Order continues to be legally workable.

13 **Note** that Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development officials have raised the issue noted in recommendation 12 with the Department of Internal Affairs and understand it will be addressed through a Supplementary Order Paper to the Water Services Legislation Bill.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Housing