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Committee Secretariat  
Finance and Expenditure Committee  
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Wellington

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## WAIMAKARIRI DISTRICT COUNCIL SUBMISSION ON THE INFRASTRUCTURE FUNDING AND FINANCING AMENDMENT BILL

### 1 Key Points

- 1.1 The Waimakariri District Council (the Council) thanks the Environment Select Committee for the opportunity to provide a submission on the Infrastructure Funding and Financing Amendment Bill (the Bill).
- 1.2 The Council supports the general intent of the Bill, but has some concerns about aspects of the Bill, as outlined in these comments.

### 3. General comments – implementation and potential impact of the changes to the levy

- 3.1. Overall, the Council supports the intent by the Government of prioritising the simplification of the Bill, however, we are concerned by some of the mechanisms proposed to achieve this.
- 3.2. There are three key areas which raise concerns for the Council as set out in these comments.

#### Shifting the burden of infrastructure funding onto ratepayers

- 3.3. Currently the key conventional way in which infrastructure to support developments is funded is through one of the following ways:
  - Developers may fund infrastructure, and build these costs into the sections that they sell within their development, or;
  - Some works may be funded by Councils, and the costs recovered from developers by way of Development Contributions (DCs), with these costs then factored into the cost of sections within that development.
- 3.4. In both scenarios outlined above, it is required that either directly or indirectly, developers fund infrastructure up-front, then recover these costs through the sale of sections in their development. This achieves a key underpinning objective of ensuring that growth pays for growth.

- 3.5. Under the proposed Bill, developers would be able to apply to the Crown for this funding via the levy system, with the recovery of these costs then transferred to buyers of properties within the developments by recovering the costs via the rates system. This is a fundamental shift, in that the developers are no longer required to fund infrastructure to support their development, but instead ratepayers would cover these costs (via the rating system).
- 3.6. The levy (once determined), plus interest and administration costs would need to be added to that collected through the rates system. This is not an insignificant additional cost. This is proposed in an environment of increasing pressure and scrutiny on rates and the cost of living, which is something it is understood is of concern to the Government. The Council is concerned that it will come under increased scrutiny and complaints over rate costs as a result of this change.
- 3.7. It is not clear from the proposal whether there will be any cap on the annual cost to homeowners, i.e. will it be spread over 50 years or applied over a shorter period of time? It is also understood these costs could vary or fluctuate with time, depending on interest that accumulates on the levies, and the volume of other lots that are sold, or not.
- 3.8. The Council notes that given these expected fluctuations, there would be less cost certainty for buyers / owners of properties as to the annual cost. This would be different to the current model where the cost of infrastructure is indirectly transferred to the price of sections, giving the buyer certainty on these costs at the time of sale.
- 3.9. The Council is concerned that the reliance on ratepayers to pay off the infrastructure costs via their rates could be perceived as a hidden and unexpected cost that ratepayers would have to pay, in addition to their rates, and in addition to their mortgage to purchase the property within the development.
- 3.10. The Council is also concerned that there is a risk the developers may still charge the same purchase price, and therefore the levy applied to the property ends up being an additional cost and developers' margins improve. This results in a greater overall house cost, contributing to housing affordability issues. Please see **Appendix 2** for an illustrated example.
- 3.11. As set out above, it appears that development costs are being attributed to all ratepayers under the proposal. However, if growth is to pay for growth, then the Council recommends that only those new properties which were causing the additional need for infrastructure under the proposal should be levied

#### Streamlining the levy approvals process

- 3.12. The Council supports the intent of the Bill to streamline levy proposals and processes to increase the uptake of infrastructure funding and financing (IFF) arrangements. We are supportive of unlocking growth in our district and therefore supportive of proposals which help achieve this.

- 3.13. The Council considers the section 20(1) amendment to limit the ability of a responsible infrastructure authority to withhold an infrastructure endorsement if statutory requirements are met, inappropriately excludes the Council from commenting, including on such matters as unintended consequences. This is not supported.
- 3.14. We welcome the ability to specify that levy collection costs are included in the levy order as eligible costs as a condition of endorsing a levy proposal (new section 21 for levy collection). We understand this means that for a developer, NZTA, or Kiwirail-led proposal, we are responsible for levy collection costs as the territorial authority (TA), but this gives us the ability to be reimbursed for our relevant administrative and collection costs.
- 3.15. The Council notes that there are very real processing costs for maintaining information in rating databases, levy assessment, invoicing, collection and credit control activities and that these need to be recovered, as otherwise they become an unfunded mandate.
- 3.16. For developer, NZTA, or Kiwirail-led proposals, whilst we are not the facilitator (NIFF) or recommender (MHUD), the infrastructure would be located within our district and therefore Council input would be needed regarding how it fits with or compliments existing assets. We note we may be required to provide information to these parties, as well as attend discussions. If there is a significant uptake of these proposals, this may result in significant unintended costs to the Council in order to unlock growth. This would be a cost that we would not be able to recover through the levy and would therefore have an impact on rates. In the context of rates capping, we consider this problematic and consider Councils should be able to recover these costs.
- 3.17. The Council notes the removal of the requirement to assess a levy's affordability where developers and existing landowners are in agreement with the proposed development (or just developers for previously undeveloped land or greenfields development). We consider there may be a perceived risk for greenfields developments that future landowners find the levy to be a hidden cost (i.e. they are not cognisant of its existence when purchasing property). However, we note it is required to be included in a LIM and therefore the purchasers' due diligence should ensure that this is known as part of a purchase decision.
- 3.18. The Council considers that collective charges (levies, development levies, water services rates or charges, and rates) being invoiced by a TA in aggregate, may cause affordability concerns for residents. We note that Council's will bear the brunt of ratepayer concerns as they are administering all charges, and members of the community may not differentiate the levy from their rates. These concerns could be avoided or at least better defended if affordability was considered as part of Ministerial levy approval.
- 3.19. The Council considers that changes to the Act are unlikely to achieve the intended outcomes for Council led processes for medium and small Councils

(of our size or smaller). We note the two IFF projects identified below are both large scale infrastructure projects / programmes (IFF funding of \$197 million and \$400 million respectively), with large metro Councils initiating them. We note there is significant time and cost associated with proposal development, stakeholder consultation interactions with a facilitator and recommender, and ministerial approval. We consider that the IFF changes require a project or programme to be of sufficient scale before using this structure and that this is unlikely in our District, as our projects are much smaller than the identified examples.<sup>1</sup>

- [TSP \(Tauranga Transport System Plan \(TSP\) - First Project to Use the Infrastructure Funding and Financing Act | National Infrastructure Funding and Financing | New Zealand\)](#)
- [Sludge Minimisation Facility \(Wellington Sludge Minimisation Facility \(SMF\) Project | National Infrastructure Funding and Financing | New Zealand\)](#)

#### Broadening the scope of the IFF Act

- 3.20. The Council supports the broadening of eligibility to Water Services organisations, Kiwirail and NZTA as these are major infrastructure providers (with projects that compliment those provided by territorial authorities).
- 3.21. The Council also supports the broadening of the meaning of 'eligible infrastructure' as this allows the flexibility to fund community infrastructure that is owned or controlled by a third party (e.g. community trust), rather than an asset which vests to a TA.

#### Other comments

- 3.22. The criteria for Crown funding is not clear. Will the Crown approve any levy request even if the development lacks feasibility or is not zoned for the proposed development, or will the Crown liaise with the Council as to whether an area is available for and feasible to develop? Clarity on this matter is required.
- 3.23. The Council supports the Government considering returning the GST taken on rates and levies to councils. This would assist funding essential Council services in the anticipated rates cap environment.
- 3.24. The Council considers that inclusion of an IFF proposal in an LTP has practical challenges. Firstly, because the debt is off the balance sheet but the project itself is described, the community can not readily appraise the impact of the proposal. This is because in early stages ratepayers cannot 'see' debt when looking at a project proposed in a Consultation Document or LTP and therefore the Council's financial picture may look better than it is in practice. Secondly, the progression of a project is likely to be contingent on using this arrangement and that this will require prior inclusion in a consultation document and Long-Term Plan (LTP). If the project does not proceed the Council will likely receive

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<sup>1</sup> For example, the Rangiora Eastern Link project is a big project for the Council but is much smaller than the identified projects.

criticism regarding the accuracy of the LTP. We consider this lack of project certainty will discourage the use of this approach in long-term planning until there is sufficient certainty the project will be approved.

- 3.25. The Council considers that a possible solution to this identified issue is to require further disclosure in LTPs of financial impacts on ratepayers over the whole IFF project and levy period (i.e. when the project will happen, how long the levy will go for, and expected financial forecasts). This should also be clear on how much off-balance sheet debt exists.
- 3.26. The Council considers that delay in uptake of this pathway is likely to occur as the interplay with rates capping legislation may mean that this matter is not looked at by TA's until constraints from the implementation puts pressure on Council finances.
- 3.27. We support the strengthening of the powers to recover levies using similar mechanisms to the Local Government (Rating Act) 2002. However, we are concerned with the proposed ranking of levies alongside rates in debt collection being proportional. If the sale of a property was necessary to recover a shortfall this could lead to TAs being out of pocket when they previously weren't. We consider this is unlikely to be frequent or of significant value, but this is still a concern. The Council therefore recommends that levies should rank second to rates (i.e. the Council can recover rates first, in preference to levies).
- 3.28. Finally, the Council considers the Bill needs to be clear in the overview or background section that these levies are not subject to rates capping. i.e. they are a tool that has been introduced as an alternative to rates and are not constrained in the same way.

### **Summary of position and recommendations**

- 4.1. The Council thanks the Finance and Expenditure Select Committee for the opportunity to provide a submission on the Bill. The Council supports the intent of the Bill to streamline levy proposals and processes to increase the uptake of infrastructure funding and financing arrangements. We are supportive of unlocking growth in our district and therefore supportive of proposals which help achieve this.
- 4.2. The Council is concerned that the Bill shifts the burden of infrastructure funding onto ratepayers, which may not be obvious to future property owners and does not provide certainty of infrastructure costs over time.
- 4.3. If growth is to pay for growth, the Council recommends that only those new properties which are causing the additional need for infrastructure should be levied.
- 4.4. The Council does not support limiting the ability of a responsible infrastructure authority to withhold an infrastructure endorsement if statutory requirements are met.

- 4.5. The Council welcomes the ability to specify that levy collection costs are included in the levy order as eligible costs as a condition of endorsing a levy proposal.
- 4.6. Processing costs for maintaining information in rating databases, levy assessment, invoicing, collection and credit control activities need to be recovered, as otherwise they become an unfunded mandate.
- 4.7. For developer, NZTA, or Kiwirail-led proposals, Councils should be able to recover costs for Council advice and participation.
- 4.8. The Council supports the broadening of eligibility to Water Services organisations, Kiwirail and NZTA as these are major infrastructure providers.
- 4.9. Clarity is required on the criteria for Crown funding.
- 4.10. The Bill needs to be clear in the overview or background section that these levies are not subject to rates capping.
- 4.11. The Council recommends that further disclosure in LTPs of financial impacts on ratepayers over the whole IFF project and levy period is required, including how much off balance sheet debt exists.
- 4.12. The Council recommends that levies should rank second to rates.

Our contact for service and questions is Dianna Caird – Senior Policy Analyst, Strategy and Business Unit, [dianna.caird@wmk.govt.nz](mailto:dianna.caird@wmk.govt.nz) .

Yours faithfully



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**Mayor**  
**Waimakariri District Council**



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**Waimakariri District Council**

**Appendix 2 - Potential unintended consequence of combined development levies and IFF amendments.**

**Purchase (Year 0)**



- Property purchased for \$700,000
- Includes \$20,000 levy to be paid over 20 years for project funded via IFF arrangement
- Market value is actually \$680,000, but sells at \$700,000 as similar properties not subject to a levy are selling at \$700,000
- **Developer gains** by passing \$20,000 in cost to purchaser that may have previously paid in development contributions.
- Rates that are charged based on a capital or land value will be assessed on an inflated market value

**Paying levy with rates (Years 1-20)**



- Property owner pays \$1,000 per annum in levies on top of their existing rates bill (\$20,000 of levies in total)

**Sale (Year 20)**



- Property sells for \$800,000
- Original purchaser gets capital gain of \$100,000 – but this could have been \$120,000 if the purchase price had been adjusted for levy
- **Original purchaser has paid \$20,000 in levies via rates and missed out on capital gains of \$20,000**
- New owner is not subject to this disadvantage. Because they buy at market value and there are no longer any levies to pay.