

# DRAFT FOR CONSULTATION

## **Local Government (Infrastructure Funding) Amendment Bill**

Government Bill

### **Explanatory note**

#### **General policy statement**

This Bill is an omnibus Bill that amends more than 1 Act and is introduced under Standing Order 267(1)(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.



*Hon Simon Watts*

## **Local Government (Infrastructure Funding) Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Local Government (Infrastructure Funding) Amendment Act **X**.

**2 Commencement**

[placeholder]

**Part 1**  
**Amendments to Local Government Act 2002**

**3 Principal Act**

This Part amends the Local Government Act 2002.

**4 Section 5 amended (Interpretation)**

[placeholder]

**5 Section 101B amended (Infrastructure strategy)**

After section 101B(4A), insert:

(4B) The infrastructure strategy of a territorial authority must include a statement describing the planned provision of assets, and the intended sequencing of the planned provision of assets, to meet the authority's legislative obligations to provide for urban growth.

**6 Section 102 amended (Funding and financial policies)**

(1) After section 102(2), insert:

(2A) A territorial authority that requires development levies must adopt a development levies policy.

(2) After section 102(3A)(a), insert:

(aa) a development levies policy adopted under **subsection (2A)**:

**7 New sections 110A to 110C inserted**

After section 110, insert:

**110A Content of development levies policy**

(1) A development levies policy must—

- (a) describe—
  - (i) the key elements of the territorial authority's financial strategy under section 101A that are pertinent to its approach to development levies; and
  - (ii) the key elements of the territorial authority's infrastructure strategy under section 101B that are pertinent to its approach to development levies; and
  - (iii) the key elements of the territorial authority's land-use plans and strategies required by legislation that are pertinent to its approach to development levies; and
  - (iv) how the combined effect of the elements described in **subparagraphs (i) to (iii)** has shaped the development of the development levies policy; and
  - (v) the significant forecasting assumptions underlying the development levies policy and how they differ, if at all, from the forecasting assumptions underlying other relevant legislative planning documents; and
- (b) describe the levels of service that the territorial authority intends to achieve for each leviable service for which development levies are required; and
- (c) summarise the considerations that underlie the determination of the levy areas; and
- (d) summarise the territorial authority's consideration of high-cost overlays and the conclusions that the authority has reached on the appropriateness of using high-cost overlays in its development levies policy; and
- (e) set out the conditions and criteria (if any) that will apply in relation to the remission of development levies; and
- (f) summarise any decision that the territorial authority has made not to fully recover the costs of growth using development levies, the reasons for that decision, the expected level of funding that will need to be recovered from other sources as a result of that decision, and the funding sources that will be used for that purpose; and
- (g) describe, for a development levies policy that has been reviewed, what circumstances have changed since the previous policy was prepared and

in what way those changes in circumstances, if any, have affected the new policy.

(2) **Schedule 13B** sets out further requirements for a development levies policy.

**110B Review of development levies policy**

A territorial authority that has adopted a development levies policy must review the policy at least once every 3 years.

**110C Use of special consultative procedure in adopting or reviewing development levies policy**

A territorial authority must use the special consultative procedure in adopting or reviewing a development levies policy.

**8 Section 197 amended (Interpretation)**

[placeholder]

**9 Section 207B amended (Response to request for development agreement)**

After section 207B(1), insert:

(1A) When considering a request, the territorial authority must take into account—

- (a) the need to support the supply of housing and employment opportunities in its district; and
- (b) how the proposed development will assist in meeting the authority's legislative land-use planning obligations.

**10 Section 207D amended (Effect of development agreement)**

In section 207D(5), after "development contributions policy", insert "or development levies policy".

**11 Section 207E amended (Restrictions on use of development agreement)**

In section 207E(1)(a) and (b) and (2), after "development contribution", insert "or pay a development levy".

**12 New subpart 5A of Part 8 inserted**

After section 211, insert:

Subpart 5A—Development levies

*Purpose and principles*

**211A Purpose of this subpart**

The purpose of this subpart is to enable territorial authorities to recover from developments the cost of capital expenditure necessary to provide capacity for growth.

## 211B Principles of development levies

All persons performing functions and duties and exercising powers under this subpart must take into account the following principles:

*Necessity*

- (a) development levies may only be required if the effects or cumulative effects of development within a levy area will create, or have created, a need for additional assets or assets of increased capacity for the provision of a leivable service:

*Sufficiency*

- (b) development levies should be set at a level that enables a territorial authority to recover the costs of capital expenditure necessary to service growth across a levy area over the long term:

*Proportionality*

- (c) if capital expenditure provides other benefits, such as by renewing existing assets, or improving levels of service, cost allocations to growth must be proportional to the additional growth capacity provided:

*Particularity*

- (d) development levy revenue must be used—
  - (i) for the growth costs in the leivable service for which they were levied; and
  - (ii) for the benefit of the levy area where levied development is being undertaken:

*Transparency*

- (e) territorial authorities must make available information that shows how development levies are being used to provide additional capacity—
  - (i) in the leivable service for which they were levied; and
  - (ii) for the levy area where levied development is being undertaken:

*Economic efficiency*

- (f) development levies should distribute growth costs in a manner that encourages the creation of efficient infrastructure networks.

*Interpretation*

## 211C Interpretation

In this subpart, unless the context otherwise requires,—

**applicant** means a person that applies for—

- (a) a resource consent under the Resource Management Act 1991 for a development;
- (b) a building consent under the Building Act 2004 for building work;

(c) a project information memorandum under the Building Act 2004 for building work in connection with a non-consented small stand-alone dwelling;

(d) an authorisation for a service connection

**bespoke levy assessment** means an assessment that is prepared—

(a) on the request of a developer under **section 211ZZA**; or

(b) on the initiative of a territorial authority under **section 211ZZB**

**building consent authority** means a person whose name is entered in the register referred to in section 273(1)(a) of the Building Act 2004

**community infrastructure** means—

(a) community centres or halls;

(b) libraries;

(c) public toilets;

(d) sports fields and sports facilities;

(e) swimming pools and swimming facilities;

(f) improvements to public recreational outdoor spaces, including playgrounds, but only if the improvements are for recreational purposes;

(g) the land on which any of the above assets are or will be situated

**development** has the meaning given in **section 211D**

**development levy** means a levy provided for in a development levies policy of a territorial authority

**development levy commissioner** means a person appointed under **section 211ZN**

**development levy objection** means an objection lodged under **clause 1 of Schedule 13D** against a requirement to pay a development levy

**high-cost overlay** has the meaning given in **section 211J**

**leviable service** means each of the following services:

(a) water;

(b) wastewater;

(c) stormwater;

(d) transport;

(e) reserves;

(f) community infrastructure

**levy area** means an area defined under **section 211H or 211I**

**objector** means a person who lodges a development levy objection.

## 211D Meaning of development

- (1) For the purposes of this subpart, a **development**—
  - (a) means any subdivision, building, land use, or work that, alone or in conjunction with any other subdivision, building, land use, or work creates a demand for leivable services; but
  - (b) does not include the following:
    - (i) the pipes or lines of a network utility operator;
    - (ii) the subdivision of an existing building by the issuance of unit titles.
- (2) Despite **subsection (1)**, a development does not include the following except in relation to the creation of a demand for a leivable service relating to stormwater:
  - (a) the construction of a garden shed;
  - (b) an addition to a dwelling that does not increase the number of people who may reside there.
- (3) For the purposes of this section,—  
**building** has the meaning given in section 8 of the Building Act 2004  
**network utility operator** has the meaning given in section 166 of the Resource Management Act 1991.

*Types of expenditure to which this subpart applies*

## 211E Expenditure to which this subpart applies

A territorial authority may only require a development levy under this subpart in relation to expenditure that is for the provision of 1 or more leivable services and is—

- (a) capital expenditure incurred, or to be incurred, by the territorial authority; or
- (b) monetary contributions made by the territorial authority to expenditure incurred by another body that would, if incurred by the territorial authority, be capital expenditure; or

### Example 1

*Highway upgrade required for new subdivision*

A new subdivision requires an upgrade of an intersection to a State highway. The State highway is owned by the New Zealand Transport Agency. The monetary contribution made by the territorial authority towards the upgrade is a type of expenditure to which this subpart applies.

**Example 2**

*Recreational facility to be run by trust at new school site*

A new school is to be built in a new suburb. The territorial authority agrees to contribute to the cost of building, on the school site, a public recreation facility that is to be used by the community outside regular school hours. A trust is established to run the facility. The Crown owns the building on the land. The territorial authority has no asset. The monetary contribution made by the territorial authority is a type of expenditure to which this subpart applies.

**Example 3**

*Wastewater treatment plant to be built by SPV*

A territorial authority agrees to make a monetary contribution to the cost of a wastewater treatment plant to be built by an SPV under the Infrastructure Funding and Financing Act 2020. The monetary contribution made by the territorial authority is a type of expenditure to which this subpart applies.

- (c) the cost of financing the capital expenditure incurred, or to be incurred, by the territorial authority under **paragraph (a)**; or
- (d) the cost of financing the monetary contributions made by the territorial authority under **paragraph (b)**.

*Territorial authority may require development levies*

**211F Territorial authority may require development levies**

A territorial authority may require a development levy to be paid to the territorial authority if the circumstances in **section 211K** apply.

**211G Development levies must be provided for in development levies policy**

A territorial authority may only require development levies as provided for in a policy adopted or proposed under **section 102(2A)** that is consistent with **section 110A**.

*Land that can have development levies applied to it*

**211H Levy areas**

- (1) This section applies to a territorial authority, other than Auckland Council, that requires development levies.
- (2) The territorial authority must establish 1 levy area within the authority's district for each leviable service for which a development levy is to be required.
- (3) **Subsection (2)** applies unless the territorial authority has good reason to establish more than 1 levy area within the authority's district for a leviable service.

(4) If the territorial authority establishes more than 1 levy area in the authority's district for a leviable service, it must not establish more than 1 levy area in a single urban community.

(5) A levy area in relation to a leviable service must not include land that does not benefit, and is not intended to benefit, in the present or in the future, from the service.

(6) In this section,—

good reason includes a determination by the territorial authority that 2 or more urban communities within the authority's district are not related urban communities

related urban communities means urban communities between which people routinely travel for the purposes of employment, leisure, or access to leviable services.

**211I Levy areas: Auckland Council**

(1) If Auckland Council requires development levies, it must establish more than 1 levy area for each leviable service for which a development levy is to be required.

(2) In establishing levy areas under **subsection (1)**, Auckland Council must have regard to its legislative land-use planning obligations and the desirability of—

- having a small number of levy areas to enable it to responsibly supply infrastructure according to where demand emerges; and
- reflecting natural infrastructure catchments; and
- reflecting sub-regional communities of interest.

(3) For the purposes of **subsection (2)(c)**, Auckland Council may consider—

- centres of employment; and
- access to leviable services; and
- other indicators of community interest and identity, as the council considers appropriate.

(4) If Auckland Council requires a development levy for transport, it—

- must establish levy areas under **subsection (1)**; and
- may also establish a district-wide transport levy area to recover the cost of providing transport infrastructure that—
  - provides for growth; and
  - affects the performance of the overall transport network for Auckland.

#### 211J High-cost overlays

- (1) A territorial authority may establish 1 or more high-cost overlays within a levy area if there are substantial differences in the growth costs of providing a leviable service within the levy area.
- (2) If the criterion in **subsection (1)** has been met, the territorial authority must consider the following matters in determining whether to set a high-cost overlay:
  - (a) the impact of establishing a high-cost overlay on the base levy for the levy area;
  - (b) the impact of establishing a high-cost overlay on the administrative efficiency of the development levy;
  - (c) the impact that a high-cost overlay may have on the long-term efficient provision of the leviable service to the community;
  - (d) the impact that a high-cost overlay may have on the authority's ability to respond flexibly to the demand for serviced land for development;
  - (e) any other matters relevant to recovering the growth cost attributable to the leviable service to the levy area.
- (3) In this section,—

**additional levy** means, according to the context, the additional amount of development levy per unit of demand over the base levy, or the revenue derived from that additional amount

**base levy** means the amount of development levy that is required in all parts of the levy area

**high-cost overlay** means a part of a levy area in which an additional levy is required.

#### *Who is liable to pay development levies*

#### 211K When territorial authority requires development levies

A territorial authority may require development levies when—

- (a) a resource consent is granted under the Resource Management Act 1991 for a development within its district;
- (b) a building consent is granted under the Building Act 2004 for building work situated within its district (whether granted by the territorial authority or a building consent authority);
- (c) a certificate of acceptance is granted under section 98 of the Building Act 2004 for building work situated within its district (if a development levy would have been required under **paragraph (b)** had a building consent been granted for the work);

- (d) a project information memorandum is issued under the Building Act 2004 for building work in connection with a non-consented small stand-alone dwelling within its district;
- (e) an authorisation for a service connection is granted within its district.

**211L Kāinga Ora–Homes and Communities may exercise powers on behalf of territorial authority**

[placeholder]

**211M Status of development levy**

- (1) The requirement of a development levy under **section 211K(a) or (b)** is not—
  - (a) a condition of a resource consent that gives rise to any right of objection or appeal; or
  - (b) a matter that gives rise to any right to apply to the chief executive for a determination under the Building Act 2004.
- (2) **Subsection (1)** is for the avoidance of doubt.
- (3) In this section, **chief executive** has the meaning given to it in section 7(1) of the Building Act 2004.

*Limitations to requiring development levies*

**211N Limitations applying to requirement of development levies**

- (1) A territorial authority must not require a development levy for a leviable service if, and to the extent that,—
  - (a) it has, under section 77E or 108(2)(a) of the Resource Management Act 1991, imposed a condition on a resource consent for the same activity in relation to the same development; or
  - (b) the developer will fund or otherwise provide for a service that would otherwise be funded by the territorial authority from development levies; or
  - (c) the territorial authority has already required a development contribution or a development levy for the same activity in relation to the same development; or
  - (d) a third party has provided, or undertaken to provide, the same service; or
  - (e) a third party has provided, or undertaken to provide, in accordance with **section 211O or 211P(4)**, funding for the same service.
- (2) This section does not prevent a territorial authority from requiring a development levy if, in any of the circumstances set out in **subsection (1)(a) to (e)**,—

- (a) income from any of the following is being used or will be used to meet a proportion of the capital costs of the leivable service for which the development levy will be used:
  - (i) rates;
  - (ii) fees and charges;
  - (iii) interest and dividends from investments;
  - (iv) borrowings;
  - (v) proceeds from asset sales; or
- (b) a person required to pay the development levy is also a ratepayer in the territorial authority's district or has paid or will pay fees or charges in respect of the leivable service.

(3) Despite **subsection (1)(c)**, a territorial authority may require another development levy for the same activity to reflect an increase in the scale or intensity of the development since the initial development levy was required.

## 211O Third-party funding

For the purposes of **section 211N(1)(e)**, if the third party—

- (a) has stated that the funding, or any specific part of the funding, is to be used to pay for the project cost attributable to growth, the whole or the specific part of the funding must be deducted from the portion of project costs being funded by development levies; or
- (b) has stated that the funding, or any specific part of the funding, is to be used to pay for the project cost attributable to purposes other than growth, the whole or the specific part of the funding must be deducted from the portion of project costs being funded other than by development levies; or
- (c) has not made a statement under **paragraph (a) or (b)**,—
  - (i) the funding must be divided on a pro rata basis between—
    - (A) the project cost attributable to growth; and
    - (B) the project cost attributable to purposes other than growth; and
  - (ii) any funding that is attributable to growth costs must be deducted from the portion of project costs being funded by development levies.

## 211P Exception: funding agreement with New Zealand Transport Agency

(1) **Subsection (2)** applies if a territorial authority or a council-controlled organisation has entered a funding agreement with the New Zealand Transport Agency under which—

- (a) a specified amount of additional financial assistance is to be provided from the national land transport fund to the territorial authority or the council-controlled organisation to fund a specified network infrastructure project; and
- (b) that specified amount of additional financial assistance is to be offset by reduced funding for 1 or more other projects or programmes.

(2) If this subsection applies, the specified amount of additional financial assistance must not be treated as third-party funding for the purposes of **section 211N(1)(e)**.

(3) **Subsection (4)** applies if a funding agreement referred to in **subsection (1)**—

- (a) provides for some or all of the specified amount of additional financial assistance to be offset by the provision of a reduced amount of financial assistance for 1 or more other network infrastructure projects; and
- (b) specifies the amount of financial assistance for each other network infrastructure project that would otherwise have been provided.

(4) If this subsection applies, to the extent that a network infrastructure project receives a reduced amount of financial assistance, **section 211N(1)(e)** applies as if the amount of financial assistance provided for that project were the amount that would otherwise have been provided, and not the reduced amount.

(5) In this section, **additional financial assistance** means an amount of financial assistance for a network infrastructure project that is greater than the amount (if any) that would otherwise be provided from the national land transport fund in respect of that project.

*Use of development levies*

**211Q Use of development levies generally**

- (1) A territorial authority must use development levies for the leviable service, and for the benefit of the levy area, in relation to which they were required.
- (2) A territorial authority may use revenue from a development levy for the leviable service anywhere in the levy area, even if the development that was subject to the levy does not benefit from the service.
- (3) If a high-cost overlay is established within a levy area, a territorial authority must use the additional levy for the leviable service, and for the benefit of the high-cost overlay, in relation to which the additional levy was required.
- (4) This section is subject to **sections 211R and 211S**.

**211R Use of development levy for reserves**

A territorial authority must use development levies for reserves for the purchase or development of reserves within its district, which may include—

- (a) the purchase of land or an interest in land—
  - (i) to be held for conservation purposes under the Reserves Act 1977; or
  - (ii) that is, or will be, subject to a conservation covenant under section 77 of the Reserves Act 1977;
- (b) payment, on terms and conditions that the territorial authority considers appropriate, to—
  - (i) another local authority or public body in which land in the district is vested to enlarge, enhance, or develop the land for public recreation purposes; or
  - (ii) the administering body of a reserve held under the Reserves Act 1977 to enlarge, enhance, or develop the reserve; or
  - (iii) the trustees or body corporate in whom is vested a Māori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies, to enhance the reservation for cultural or other purposes; or
  - (iv) any person, to secure an appropriate interest in perpetuity in land for conservation purposes.

#### **211S Alternative use of development levy for reserves**

- (1) This section applies despite **sections 211B and 211R**.
- (2) A territorial authority may use development levies for reserves for any of the purposes described in **subsection (3)** if—
  - (a) the territorial authority considers that—
    - (i) the district in which the development is situated has adequate reserves; or
    - (ii) it is impracticable to purchase or develop reserves in that district; and
  - (b) the territorial authority considers that it will benefit the residents in the district in which the development is situated.
- (3) If **subsection (2)** is satisfied, the territorial authority may use development levies for reserves—
  - (a) to add to, improve, or develop land outside the district that is vested in, or controlled by, the territorial authority for public recreation purposes; or
  - (b) with the consent of the Minister and subject to the terms and conditions that the Minister considers appropriate, to make payments or advance money to a local authority or public body to add to, improve, or develop land outside the district that is vested in, or controlled by, the local authority or public body for public recreation purposes; or

- (c) if the territorial authority has control of the foreshore or the bed of a lake or a harbour under a coastal permit by virtue of section 384(1)(b) or 425(3)(a) of the Resource Management Act 1991,—
  - (i) to improve or develop the foreshore (whether within or outside the district) for public recreational purposes; or
  - (ii) to erect, improve, or develop for public recreational purposes—
    - (A) the bed of the harbour or of the sea immediately contiguous to the foreshore; or
    - (B) the bed of a lake (whether within or outside the district).

### 211T First-mover developments

- (1) A territorial authority may transfer development levy revenue to a developer (a **first-mover developer**) if—
  - (a) the authority and the developer enter into an agreement for the transfer; and
  - (b) the developer builds infrastructure on or under land that, on completion, is to be vested in the authority; and
  - (c) the infrastructure provides capacity for further development elsewhere.

#### Example

*Infrastructure that provides capacity for further development elsewhere*

A developer builds a road in a subdivision that the developer is developing.

The road has 4 lanes instead of 2 lanes.

A 4-lane road will enable land beyond the subdivision to also be subdivided and developed.

- (2) The agreement under **subsection (1)(a)** must set out—
  - (a) the additional cost of building infrastructure that will provide capacity for further development elsewhere; and
  - (b) the specified area that will benefit from the infrastructure built by the first-mover developer and in which development levies are to be required; and
  - (c) the amount of revenue obtained from those levies that is to be transferred from the territorial authority to the first-mover developer.
- (3) The specified area does not have to coincide with the boundary of—
  - (a) a particular levy area; or
  - (b) a high-cost overlay.
- (4) The agreement may be achieved as part of a bespoke levy assessment or a development agreement.
- (5) The territorial authority may impose a time limit on the transfer of development levy revenue from it to the first-mover developer.

(6) The first-mover developer may assign the right to receive payment under this section to another party.

*Matters relating to calculation of levy rate and indexing*

**211U How levy is determined: calculation of levy rate**

(1) The territorial authority must calculate a separate levy rate for—  
(a) each leviable service in each levy area; and  
(b) each leviable service in each high-cost overlay.

(2) The levy rate must be calculated in accordance with **Schedule 13C** when the development levies policy is first prepared and each time that it is reviewed.

(3) See **section 211ZA**, which sets out how the levy rate is to be applied to the calculation of a development levy for an individual development.

**211V Cap on development levies for reserves**

Development levies for reserves must not exceed the greater of—

(a) 7.5% of the value of the additional allotments created by a subdivision; and  
(b) the value equivalent of 20 square metres of land for each additional household unit or accommodation unit created by the development.

**211W Indexing of development levy**

(1) A territorial authority may increase a development levy that is in a development levies policy if—  
(a) the increase does not exceed the result of multiplying together—  
(i) the rate of increase (if any) in the PPI since the development levy was last set or increased; and  
(ii) the proportion of the development levy that relates to the costs of projects to be built in the future, excluding interest; and  
(b) before any increase takes effect, the territorial authority makes publicly available information setting out—  
(i) the amount of the newly adjusted development levy; and  
(ii) how the increase complies with the requirements of **paragraph (a)**.

(2) The territorial authority may increase the development levy under **subsection (1)**—  
(a) no more frequently than annually from the date that the development levies policy was last adopted; and  
(b) without consultation, formality, or a review of the development levies policy.

(3) In this section, **PPI** means the Producers Price Index Outputs for Construction provided by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

*Initial assessment of development levies*

**211X Initial assessment of development levy**

(1) This section applies if a territorial authority requires a development levy for an individual development.

(2) The territorial authority must assess the development levy in relation to the activity referred to in **section 211K** at the time at which the application for the resource consent, building consent, project information memorandum, or service connection authorisation is submitted, accompanied by all required information.

(3) If the resource consent is sought through the Fast-track Approvals Act 2024 and the referral application process in that Act applies to the development, the territorial authority must assess the development levy at the time at which the authority is notified by the Expert Panel of the referral application under that Act.

**211Y Assessment of development levy against development levies policy in effect**

(1) A territorial authority must assess the development levy against the development levies policy that is in effect at the time specified in **section 211X(2) or (3)**.

(2) For the purposes of **subsection (1)**—

- (a) a proposed development levies policy is in effect if it is has been made publicly available by the territorial authority;
- (b) an existing development levies policy is in effect if—
  - (i) it has been adopted and made publicly available by the territorial authority following the special consultative procedure; and
  - (ii) no proposed development levies policy is in effect.

(3) In this section and **section 211Z**, a **proposed development levies policy** means a development levies policy that—

- (a) is proposed by a territorial authority—
  - (i) as the first development levies policy; or
  - (ii) to replace or amend an existing development levies policy; and
- (b) has not been abandoned or adopted by the territorial authority.

**211Z Reassessment of development levy initially assessed against proposed development levies policy**

(1) This section applies to a development levy that was initially assessed against a proposed development levies policy (**policy B**).

*Authority decides to reduce amount of development levies*

(2) If, after considering policy B, the territorial authority decides to reduce the amount of the development levy from the amount that was proposed, the authority must reassess the development levy downwards on the basis of the development levies policy that is finally adopted and publicly notified (**policy C**).

*Authority decides to increase amount of development levies*

(3) If, after considering policy B, the territorial authority decides to increase the amount of the development levy in policy C from the amount that was proposed, the authority is not authorised to increase the development levy that was assessed on the basis of policy B.

*Authority decides to abandon proposal*

(4) **Subsection (5)** applies if policy B was proposed as an amendment or replacement of an existing development levies policy (**policy A**).

(5) If the territorial authority abandons policy B,—

(a) policy A is reinstated; and  
(b) if the proposal in policy B was to increase the amount of the development levy, the authority must reassess the development levy downwards on the basis of policy A.

*Calculation of development levy for individual developments*

**211ZA Calculation of development levy for individual development**

(1) A territorial authority must calculate a development levy for an individual development by calculating the number of units of demand and multiplying that by the relevant development levy rate specified in the development levies policy.

(2) That calculation is then subject to modifications set out in this subpart, if any modifications are applicable to the individual development.

**211ZB How levy is calculated: deductions for developments that use non-standard designs**

(1) The purpose of this section is to encourage developments to use non-standard designs that—

(a) reduce the demand for a leviable service; and  
(b) cannot be subsequently changed to eliminate the demand reduction features without the consent of the territorial authority; and

(c) create additional cost for the developer.

*Reduced demand on leivable service*

(2) **Subsection (3)** applies if demand for a leivable service is reduced as a result of a development using non-standard designs.

(3) The territorial authority must reduce the development levy for the development by an amount that is proportionate to the expected reduction in demand for that leivable service from the development, compared with the demand that a standard design would place on the leivable service.

*No demand on leivable service*

(4) The territorial authority must not require a development levy for the development if, as a result of the development using the non-standard designs, no demand is placed on a leivable service by the development.

*Credits for prior development*

### 211ZC Modified levy calculation: credits for prior development

(1) A territorial authority must apply credits to the calculation of a development levy if—

(a) a previous development contribution, financial contribution, or development levy has been paid in relation to a site that is being developed (the site); or

(b) a lawfully established allotment or land use has existed since before 1 July 2004.

(2) The credit is calculated—

(a) by using a number of units of demand; and

(b) not by using a dollar amount.

#### Example

A house that has existed since 1956 is to be demolished and new flats are to be built.

The units of demand in the calculation of the development levy are to be reduced by 1 unit of demand to reflect the presence of the previous house.

### 211ZD Conditions applying to credits for prior development

The following conditions apply to the application of credits:

*Credits are to be applied separately for each leivable service*

(a) credits are to be applied separately for each leivable service; and

#### Example

A transport credit may only be used to offset a transport development levy.

A transport credit may not be used to offset a development levy for another leviable service (for example, community infrastructure or reserves).

*Credits apply only to the site and not to any other site*

- (b) credits may be applied only to land within the perimeter of the site; and
- (c) credits attach to the site until they are applied to the site or expire; and
- (d) credits may not be sold to another party to be applied elsewhere; and
- (e) credits may not be transferred to land outside of the site; and

*Credits may not be applied to reduce demand below zero*

- (f) credits may not be applied to reduce the demand for a leviable service below zero; and
- (g) any surplus credits are not refundable in cash.

**Example**

A new development is charged less in a stormwater development levy than the site has in stormwater credits.

In this situation, there is no stormwater development levy to be paid.

The site retains the surplus stormwater credits for future application or until they expire.

## 211ZE Expiry of credits for prior development

*General*

- (1) Credits expire 10 years after—
  - (a) the land use ceases; or
  - (b) the building to which the credits relate is demolished.
- (2) **Subsection (1)** does not apply to a vacant lot.

*Vacant lots*

- (3) A vacant lot keeps a credit of 1 unit of demand indefinitely for each of transport, stormwater, community infrastructure, and reserves.
- (4) With respect to water and wastewater,—
  - (a) a vacant lot keeps a credit of 1 unit of demand for each of water and wastewater if—
    - (i) the lot has been connected to the water supply network and the wastewater network; and
    - (ii) water supply services and wastewater services have been paid for through rates or other charges; but
  - (b) each credit expires 10 years after the vacant lot is disconnected from the water supply network and the wastewater network.

**211ZF Variation of conditions of credits for prior development**

The conditions set out in **sections 211ZD and 211ZE** may be varied in a development agreement.

*Assessment notice*

**211ZG Assessment notice**

[placeholder]

*Amended individual levy assessment if development changes*

**211ZH Amended assessment of development levy if development changes**

[placeholder]

*Reconsiderations and objections to individual assessment of development levy*

**211ZI Right to reconsideration of requirement for development levy**

[placeholder]

**211ZJ Territorial authority to notify outcome of reconsideration**

[placeholder]

**211ZK Right to object to assessed amount of development levy**

[placeholder]

**211ZL Scope of development levy objections**

[placeholder]

**211ZM Procedure for development levy objections**

[placeholder]

**211ZN Appointment and register of development levy commissioners**

[placeholder]

**211ZO Removal of development levy commissioners**

[placeholder]

**211ZP Who may decide development levy objections**

[placeholder]

**211ZQ Development levy objection hearings**

[placeholder]

**211ZR Consideration of development levy objection**

[placeholder]

**211ZS Additional powers of development levy commissioners**

[placeholder]

**211ZT Liability of development levy commissioners**

[placeholder]

**211ZU Residual powers of territorial authority relating to development levy objection decision**

[placeholder]

**211ZV Objector's right to apply for judicial review unaffected**

[placeholder]

**211ZW Territorial authority to provide administrative support for development levy commissioners**

[placeholder]

**211ZX Interim effect of development levy objection**

[placeholder]

**211ZY Costs of development levy objections**

[placeholder]

*Bespoke levy assessments*

**211ZZ Situations that may give rise to bespoke levy assessment**

The following situations may give rise to a bespoke levy assessment:

- (a) a development outside a levy area:
- (b) a development, inside a levy area, for which a rule in a district plan limits or prohibits development until specified infrastructure is provided:
- (c) a development, inside a levy area, if—
  - (i) the development is described in a district plan as a restricted discretionary activity (as set out in section 87A(3) of the Resource Management Act 1991); and
  - (ii) the provision of infrastructure is a matter over which the territorial authority has a discretion to grant or decline a consent or to impose conditions on a granted consent:
- (d) a development, inside a levy area, that is a discretionary activity, non-complying activity, or prohibited activity under section 87A(4), (5), or (6) of the Resource Management Act 1991:

- (e) a development, inside a levy area, that is able to proceed because a private plan change under Part 2 of Schedule 1 of the Resource Management Act 1991 has previously made the land—
  - (i) available for development; or
  - (ii) able to be developed at an intensity greater than the previous land use zoning;
- (f) a development, inside a levy area, for which a resource consent is sought through the Fast-track Approvals Act 2024.

**211ZZA Developer may request bespoke levy assessment**

- (1) A developer wishing to undertake a development in a situation described in **section 211ZZ** may request that the territorial authority prepare a bespoke levy assessment.
- (2) The territorial authority must prepare the bespoke levy assessment without undue delay after receiving the request.

**211ZZB Territorial authority may initiate bespoke levy assessment**

- (1) A territorial authority may initiate a bespoke levy assessment in a situation described in **section 211ZZ**.
- (2) The territorial authority that initiates a bespoke levy assessment must notify the developer—
  - (a) within 20 working days after the territorial authority receives a development application from the developer; or
  - (b) if the developer seeks a resource consent through the Fast-track Approvals Act 2024, within 20 working days after the territorial authority receives an invitation under section 53 of that Act to comment to an Expert Panel on a substantive application for the resource consent.
- (3) The territorial authority must prepare the bespoke levy assessment without undue delay following the notification.

**211ZZC Costs that may be recovered from bespoke levy assessment**

- (1) The costs that a territorial authority may recover from a bespoke levy assessment are as follows:
  - (a) the expected cost of the infrastructure needed for the development;
  - (b) the expected additional cost of providing capacity for further development, if the authority determines that it would be most efficient for the new infrastructure to provide capacity for further development;
  - (c) the expected costs of providing additional capacity to existing infrastructure, if the development would use infrastructure that the authority intends to be available to service other land planned for development;

- (d) the expected costs of providing additional capacity to planned infrastructure, if the development would use planned infrastructure that the authority intends to be available to service other land planned for development.
- (2) In calculating the expected costs, the territorial authority—
  - (a) is not required to carry out detailed construction design of the infrastructure required; and
  - (b) may rely on representative costs for similar projects.
- (3) For the purposes of **subsection (1)(b)**, the territorial authority and the developer may agree to apply the first-mover funding mechanism set out in **section 211T** to fund capacity for further development.

#### **211ZZD Reasonable costs charged for preparing bespoke levy assessment**

A territorial authority may, in accordance with regulations made under section 259, charge a developer reasonable costs incurred by the authority in preparing a bespoke levy assessment.

#### **211ZZE Alternatives to bespoke levy assessment**

- (1) This section applies—
  - (a) to a situation described in **section 211ZZ**; and
  - (b) whether or not a developer requests a bespoke levy assessment under **section 211ZZA**.
- (2) Instead of a bespoke levy assessment,—
  - (a) a territorial authority and a developer may agree to conclude a development agreement; or
  - (b) a levy under the Infrastructure Funding and Financing Act 2020 may be sought.

#### *Interest on unpaid development levies*

#### **211ZZF Interest on unpaid development levies**

- (1) A territorial authority must charge interest on an unpaid development levy.
- (2) Interest—
  - (a) must be provided on a levy invoice as a separate item from the amount of development levy; and
  - (b) is not a taxable supply.
- (3) Interest is to be added quarterly from the date of issue of the initial assessment notice for the development levy.
- (4) The interest rate is a per annum simple interest rate.

- (5) The Secretary for Local Government must set the interest rate annually by notice in the *Gazette*.
- (6) In setting the interest rate, the Secretary must take into account the cost of local authority borrowing from the New Zealand Local Government Funding Agency Limited.

*Reassessment of unpaid development levies*

**211ZZG When unpaid development levies may be reassessed**

- (1) A territorial authority may reassess the required levy amount if the development levy has not yet been paid.
- (2) The authority may carry out the reassessment under **subsection (1)**—
  - (a) 3 years after the date of the initial assessment; and
  - (b) at each subsequent change in the development levies policy that is applicable to the development after the 3-year period described in **paragraph (a)**.
- (3) The reassessment is based on the development levies policy that is in effect at the time of the reassessment.
- (4) The authority must notify the developer of any reassessment carried out under this section.

**211ZZH If higher amount of development levy required as result of reassessment under section 211ZZG**

- (1) This section applies if, as a result of a reassessment under **section 211ZZG**, a territorial authority requires a higher amount of development levy than the amount most recently required.
- (2) The person who is liable to pay the development levy may pay the previous amount of the development levy within 30 working days after being notified of the reassessment instead of paying the higher amount.
- (3) If the person does not make the payment in accordance with **subsection (2)**, the higher amount of the development levy is required on and from the date of the reassessment.

*Administration charge*

**211ZZI Administration charge**

[placeholder]

*Powers to recover unpaid development levies*

**211ZZJ Powers of territorial authority if development levy not paid**

[placeholder]

*Refund of development levies*

**211ZZK Calculation error identified before development levy is paid**

[placeholder]

**211ZZL Calculation error identified after development levy is paid**

[placeholder]

**211ZZM Development does not proceed**

[placeholder]

*Crown oversight and intervention*

**211ZZN Information may be required in relation to development levies policy**

[placeholder]

*Regulations*

**211ZZO Regulations for purposes of development levies**

Regulations made under section 259 may do any or all of the following:

*Intangible assets*

- (a) for the purposes of intangible assets that may be included in a levy schedule, prescribe—
  - (i) the types of intangible assets;
  - (ii) the characteristics of the intangible assets;

*Units of demand*

- (b) define and allocate units of demand for the purposes of calculating development levies and prescribing the weight to be given to infrastructure in relation to demand;

*Cost allocations*

- (c) prescribe 1 or more methods, formulas, or criteria that territorial authorities must use when allocating the cost of projects attributable to growth (that may be recovered by way of development levies) and the costs that are attributable to other purposes (for which development levies may not be recovered);

*Administrative charges for processing bespoke levy assessment*

- (d) for the purposes of an administrative charge that a territorial authority may apply to the preparation of a bespoke levy assessment, prescribe the charge by way of 1 or more amounts, formulas, or sliding scales;

*Reconsiderations and objections*

(e) prescribe the form or content of applications, notices, or any other documentation or information relating to the reconsideration of requirements for development levies or to development levy objections, and the manner in which any document or information is to be made available or provided:

*Procedure for hearings*

(f) prescribe, in addition to any matters prescribed under **paragraph (e)**, the practice and procedure for hearing and deciding development levy objections:

*List of works to be funded by development levies*

(g) for the purposes of development levies policies, prescribe—

- (i) the form or content of information relating to a list of works to be funded by development levies and the amount expected to be funded; and
- (ii) the manner in which the information is to be included in the development levies policy, or on an Internet site maintained by, or on behalf of, the authority, or both the policy and the Internet site:

*Information in annual report*

(h) for the purposes of a territorial authority's annual report, prescribe—

- (i) the information relating to the assessment, remission, collection, and expenditure of development levies, and of any surplus or deficit arising, to be included in the report and on an Internet site maintained by, or on behalf of, the authority; or
- (ii) the form in which the information is to be presented in the annual report:

*Record-keeping*

(i) prescribe processes and standards for record-keeping in relation to development levies:

*Assessment notices*

(j) prescribe information relating to development levies that is to be included in assessment notices and revised assessment notices:

*Allocation of income from development levies*

(k) prescribe methods, formula, or criteria for allocating income from development levies.

**13 Schedule 1AA amended**

In Schedule 1AA,—

(a) insert the Part set out in **Schedule 1** of this Act as the last Part; and

(b) make all necessary consequential amendments.

**14 New Schedules 13B to 13D inserted**

After Schedule 13A, insert the **Schedules 13B, 13C, and 13D** set out in **Schedule 2** of this Act.

**Part 2**  
**Amendments to other legislation**

Subpart 1—Amendments to Infrastructure Funding and Financing Act  
2020

**15 Principal Act**

This subpart amends the Infrastructure Funding and Financing Act 2020.

Subpart 2—Amendments to Local Government (Rating) Act 2002

**16 Principal Act**

This subpart amends the Local Government (Rating) Act 2002.

Subpart 3—Amendments to Local Government (Water Services) Act  
2025

**17 Principal Act**

This subpart amends the Local Government (Water Services) Act 2025.

**Schedule 1**

**New Part inserted into Schedule 1AA of Local Government Act 2002**

**s 13**

[placeholder for transitional and savings provisions]

**Schedule 2**  
**New Schedules 13B, 13C, and 13D inserted into Local Government  
Act 2002**

**s 14**

**Schedule 13B**  
**Content of development levies policy**

**s 110A**

**1 Levy areas and high-cost overlays**

A development levies policy must define—  
(a) the levy areas; and  
(b) any high-cost overlays.

**2 Schedule of charges**

- (1) A development levies policy must include a schedule of charges that are to be applied by a territorial authority.
- (2) If the policy relates to reserves, the charges applied in accordance with **section 211V** must be included.

**3 Information about costs to be included in development levies policy**

- (1) A development levies policy must contain—
  - (a) the cost to be recovered by development levies for leivable services that have been provided; and
  - (b) the financing cost to be recovered; and
  - (c) the expected cost (in current dollars at the time of adoption of the policy) of planned future expenditure.
- (2) The information required under **subsection (1)** must be provided as prescribed by regulations under section 259.
- (3) The regulations may enable the information to be provided by way of—
  - (a) a summary in the policy and a link or reference to the relevant information on the territorial authority's Internet site; or
  - (b) the complete information in the policy.

**4 Additional information**

A territorial authority may include other information in the development levies policy that assists with understanding the authority's processes related to development levies.

**Schedule 13C  
Calculation of development levies**

**s 211U**

[placeholder]

**Schedule 13D**  
**Procedure relating to development levy objections**

**ss 211ZM, 211ZQ**

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Amendment Bill**

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**4 Development levy commissioner to set date for exchange of evidence**  
[placeholder]

**5 Obligation to hold hearing**  
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**6 Hearing date and notice**  
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