



MEMORANDUM OF UNDERSTANDING

BETWEEN

**MINISTRY OF BUSINESS,
INNOVATION AND EMPLOYMENT**

AND

LAND INFORMATION NEW ZEALAND

FOR

**NEW ZEALAND REGIONAL ELEVATION
DATA CAPTURE PROJECT**

THE PARTIES:

MINISTRY

The Sovereign in right of New Zealand, acting by and through the Chief Executive of the Ministry of Business, Innovation and Employment (**Ministry**)

RECIPIENT

The Sovereign in right of New Zealand, acting by and through the Chief Executive of Land Information New Zealand (**LINZ**)

This Memorandum of Understanding (MOU) is comprised of the following documents:

1. This page;
2. The Background and Understanding clauses;
3. Schedule A- Payment Schedule; and
4. Any other attachments, schedules, variations or appendices that are referred to as forming part of this Memorandum of Understanding.

<p>SIGNED for an on behalf of the SOVEREIGN IN RIGHT OF NEW ZEALAND by the person named below, being a person duly authorised to enter into obligations on behalf of the Ministry of Business, Innovation and Employment:</p> <p>_____</p> <p>Name:</p> <p>Position:</p> <p>Date:</p>	<p>SIGNED for an on behalf of the SOVEREIGN IN RIGHT OF NEW ZEALAND by the person named below, being a person duly authorised to enter into obligations on behalf of Land Information New Zealand:</p> <p>_____</p> <p>Name:</p> <p>Position:</p> <p>Date:</p>
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BACKGROUND

- A. Through the Provincial Development Unit, the Ministry is responsible for administering the Provincial Growth Fund (**PGF**), which aims to lift productivity potential in New Zealand’s provinces.
- B. High-quality elevation data is an enabling infrastructure that allows accurate mapping and digital recreation of our physical world, both built and natural. It is a foundational data asset essential to decisions involving the physical world, with the potential to help drive regional economic growth and spur new investment across New Zealand.
- C. LINZ has sought a funding contribution from the Ministry for the purposes of funding the Project described below. The Ministry has agreed to contribute PGF funding on the terms and conditions of this Memorandum of Understanding (**MoU**).
- D. This MoU records the commitment of both Parties to this arrangement.

UNDERSTANDING OF THE PARTIES

The Project

1. LINZ will administer the coordinated capture of regional elevation data using Light Detection and Ranging (**LIDAR**) airborne laser scanning to produce a consistent and open dataset covering the majority of New Zealand (the **Project**).
2. LINZ will work with regional councils (Councils) excluding Auckland, Wellington and Christchurch urban areas, prioritised by opportunity and regional engagement. Surge regions will be prioritised where possible.
3. The Key Objectives are:
 - a. to procure sub-metre, high-quality, elevation data to cover all of provincial New Zealand;
 - b. intelligent, coordinated procurement as compared to each region carrying out its own independent procurement;
 - c. easy, free public access to the data for any purpose; and
 - d. strong application of the data through improved capability and knowledge of its value across sectors.
4. The expected outcomes from LIDAR datasets being used effectively are:
 - a. sustainable economic development by facilitating new investments in regions and increasing productivity of existing industries;
 - b. better use of iwi assets and Māori development;
 - c. increased environmental sustainability; and
 - d. increased regional or national resilience.

The Process

5. The overall Project will be managed by LINZ. LINZ will undertake the day to day Project management using existing processes and structures.
6. LINZ will establish an advisory governance group including representatives of the Provincial Development Unit, LINZ, the Ministry for Primary Industries, the Ministry for the Environment and other relevant national government agencies and priority programmes (**Governance Group**). LINZ will consult with the Ministry to determine the membership of the Governance Group.
7. The Parties will announce the programme to Councils, including the opportunity for elevation data co-funding and terms for participation. Further announcement to Territorial Authorities and local industry would be done by the Councils who will also coordinate the local sources of co-funding.
8. Interested Councils respond to LINZ with streamlined applications to participate. These applications must include details about the area of interest, benefit to provincial growth, ability to co-fund and readiness to begin procurement. LINZ will provide guidance to Councils on their application development to enable a streamlined approach.
9. It is expected that all applications will be received by one of two deadlines (each referred to as a '**Tranche**'). A third Tranche may be added if needed. Applications for each Tranche will initially be screened by LINZ for applicability to the programme objectives.

10. LINZ will recommend the Council/PGF funding split as a set percentage and a maximum PGF funding allocation, to the Governance Group and provide the information contained within Schedule A. The Governance Group will ultimately determine maximum PGF funding allocations amongst the applicants, including necessary co-funding contributions from the applicants and any special terms of funding.
11. Following approval from the Governance Group of the funding allocations, LINZ will provide the information as required in Schedule A to the Ministry for each approved Council.
12. LINZ and the Ministry will then seek joint Minister approval for a fiscally neutral transfer from Vote: Business, Science and Innovation to Vote: Lands for the agreed maximum PGF funding allocation for each region for the relevant Tranche in accordance with paragraph 22 below. The Parties acknowledge that LINZ will need to receive this funding before it is able to sign the finalised contractual arrangement with each of the successful Councils.
13. PGF funding allocations for each region, co-funding contributions, and details of the data to be captured for that region will be recorded in an appropriate contractual agreement (**LINZ-Council MOU**) with the Council agreed between LINZ and each successful applicant Council.
14. LINZ will develop, and work with participating Councils to issue a coordinated request for tender for Tranche One in ^{Commercial}. LINZ will develop, and work with participating Councils to issue, a coordinated request for tender for Tranche Two in ^{Commercial}. The tender process will take advantage of coordination amongst individual procurement contracts to seek economies of scale and minimise risks. LINZ will seek advice on collaborative procurement from the Ministry and will determine preferred suppliers that a Council will contract with.
15. Contracts for services will be issued by the Councils to preferred suppliers identified through the tender process (**Service Agreements**).
16. Councils invoice LINZ upon completion of milestones for mobilisation, data capture and data delivery for payments as agreed in the LINZ-Council MOU.
17. LINZ supports each successful applicant Council with subject matter expertise related to quality control and other items as necessary and appropriate.
18. Elevation data products are delivered to, and signed off by the Councils and LINZ.
19. LINZ will provide open access to consistent-format elevation data through the LINZ Data Service, and will promote the awareness and reuse of that data. The elevation data captured in connection with this Project will continue to be made available after the completion of the Project.

Funding and payment process

20. The total PGF funding available under this MOU is \$19,000,000 (excluding GST, if any). This is the total maximum payable by the Ministry under this MOU.
21. LINZ will establish appropriations to administer the PGF funding. This approach provides transparent oversight of the fund and ensures flexibility due to the uncertain timing of operating costs and capital expenditure between years.
22. For each Tranche, LINZ and the Ministry will seek joint Minister approval for a fiscally neutral transfer from Vote: Business, Science and Innovation to Vote: Lands for:

PROACTIVELY RELEASED

- a. the agreed maximum PGF funding allocation for all regions for the relevant Tranche; and
 - b. up to ^{Comm}% of the amount in 22(a) to be used by LINZ to cover part of its operating costs of administering the Project.
23. At least \$^{Commercial Information} of the \$19,000,000 PGF funding provided under this MOU will be distributed by LINZ to successful applicant Councils. The PGF funding will be distributed as a reimbursement to Councils in accordance with the funding allocations determined by the Governance Group upon satisfactory completion of milestones.
24. No more than \$^{Commercial Information} of the \$19,000,000 PGF funding provided under this MOU may be used by LINZ to cover part of its operating costs of administering and coordinating the Project including the procurement, providing technical support and data management and reporting to the Ministry.
25. At the expiry or earlier termination of this MOU, LINZ will repay to the Ministry any PGF funding amounts transferred by the Ministry under this MOU which LINZ:
- a. has not spent or contractually committed to spend in accordance with this MOU; or
 - b. has spent or contractually committed to spend in accordance with this MOU but which LINZ can, taking reasonable steps and without incurring additional cost, have refunded or released from that commitment.

Co-Funding of the Project

26. LINZ will contribute the balance of its costs of administering and coordinating the Project including the procurement, providing technical support and data management and publication, and reporting to the Ministry out of Vote: Lands. It is expected that LINZ co-funding will be up to \$^{Commercial Information} (excluding GST, if any), for data management and staffing. For the avoidance of doubt, LINZ co-funding shall be in respect of in-kind costs incurred by LINZ in administering and coordinating the Project only and will not be distributed to Councils.
27. Each Council is required to contribute towards the costs of their data procurement. Contributions from each Council towards the costs of their region's data procurement are expected to be between ^{Comm}% and ^{Comm}% (to be determined by the Governance Group). On average, the Council contribution is expected to be at least ^{Comm}% of the total data capture cost. However, to meet the total expected Project costs of \$^{Commercial Information} (excluding GST, if any), Councils will need to contribute a combined total of at least \$^{Commercial Information} (excluding GST, if any).
28. Co-funding contributions from Councils must be cash co-funding. Any in-kind staff time contributions from Councils will be additional to that Council's co-funding requirements.

Reporting

29. LINZ must report to the Ministry as follows, and will obtain the necessary information from Councils as appropriate:
1. A quarterly report by the 10th working day following the end of each quarter and within 20 working days of completion of the Project.
 2. A Post Contract Outcomes Report 12 months after completion of the Project.

Each quarterly report must include the following information:

- (a) description and analysis of actual progress of the Project against planned progress including progress of each relevant Council;

- (b) detail of the actual total project costs for each Council as per their Service Agreement with the service provider;
- (c) detail of the total co-funding contributed by each Council towards its project, actual against budgeted;
- (d) a summary of total PGF funding paid by LINZ to each Council, actual against budgeted detailing it at regional level for each Council receiving PGF funding under this MOU;
- (e) detail of the total in-kind costs contributed by LINZ to the Project;
- (f) plans for the next quarter period (not required in the final report following completion of the Project);
- (g) any risks and/or issues arising or expected to arise with the Project, costs or performance of this MOU;
- (h) any risks and/or issues arising or expected to arise with any agreement between LINZ and a Council in connection with this Project, or any Service Agreement between a Council and the service provider (to the extent that LINZ is aware);
- (i) copies of any proposed and any published promotional material, media publicity or other documentation relevant to the Project; and
- (j) any other information that is notified by the Ministry in writing to LINZ.

The Post Contract Outcome Report

LINZ is to provide an aggregate summary of Council provided reports that must include the following information:

- (a) an analysis of how the PGF funding has enabled the Council to achieve the key outcomes identified in their proposal;
 - (b) how the PGF funding has accelerated regional development through increasing the productivity potential of the region;
 - (c) how the Project has contributed to Māori development;
 - (d) how the Project has contributed to New Zealand's climate change commitments and environmental sustainability;
 - (e) how the Project has increased regional and national resilience by improving critical infrastructure and/or growth and diversification of the economy; and
 - (f) any other information that is notified by the Ministry in writing to LINZ.
30. LINZ is also to provide data use analytics that demonstrate the amount of data re-use from the LINZ Data Service and includes the main sector categories accessing the data.
31. LINZ acknowledges that the Ministry is developing an evaluation framework for the PGF and is likely to receive requests for additional information from the Ministry.

Term

32. The Term of this MOU is Commercial Information.

Variation

33. This MoU can be varied by agreement in writing and signed by both Parties.
34. Schedules may be added to this MoU by agreement in writing and signed by both Parties.

35. Any variation made in the Agreement will be reflected by a variation to this MoU or its Schedules, where such variation is necessary in order for this MoU to remain consistent with the obligations contained in the Agreement.

Intellectual Property

36. LINZ acknowledges that making the data captured in connection with this Project freely and easily available to any person to be reused for any purpose is a fundamental part of the Project. Accordingly, LINZ will ensure that the data is procured for widespread re-use, and released with a Creative Commons license (CC BY) with attribution to the Council in line with the New Zealand Government Open Access Licensing framework (NZGOAL).

Dispute Resolution

Principles

37. Each Party shall use all reasonable efforts to:
- (a) Give notice of any dispute between the Parties arising under or in connection with the MOU (**MOU Dispute**) promptly; and
 - (b) Meet within five (5) working days of notice of an MOU Dispute with the purpose of attempting to resolve the MOU Dispute; and
 - (c) Use all reasonable endeavours to resolve the MOU Dispute as expeditiously as possible; and
 - (d) Ensure that any MOU Dispute that is reasonably foreseeable is dealt with at a sufficiently early stage to ensure that there is minimum impact on the ability of either Party to perform its obligations under this MOU; and
 - (e) Continue performing responsibilities and required actions under this MOU (as far as possible given the nature of the MOU Dispute) despite any MOU Dispute.

Escalation

38. Each Party shall use all reasonable efforts to:
- (f) Resolve any MOU Dispute between officials within 20 working days of first meeting;
 - (g) Where unable to resolve any MOU Dispute between officials within 20 working days at a less than General Manger level, escalate to General Manager level;
 - (h) Where unable to resolve any MOU Dispute at General Manager level within 10 working days; escalate them to a DCE or CE level.
 - (i) If the DCE or CE are unable to resolve the MOU Dispute they may escalate the MOU Dispute to each Parties' responsible Minister of the Crown.
39. Wherever a MOU dispute arises, each Party agrees to liaise through the Party's designated operational contact person set out in paragraph 47 in the first instance, unless, in the circumstances, it is unreasonable to do so.

General

40. Both Parties agree to:
- a. Act in good faith and demonstrate honesty, integrity, openness and accountability in their dealings with each other;

- b. Discuss matters affecting this MoU whenever necessary;
 - c. Notify each other immediately of any actual or anticipated issues that could:
 - i. Significantly impact on the intended outcomes of this MoU;
 - ii. receive media attention.
 - d. Comply with all applicable laws and regulations.
41. The Parties will inform one another of any conflicts of interest in relation to this MoU. The Parties will jointly agree a management plan for any conflicts of interest that arise.
 42. The Parties will inform and consult with one another prior to releasing any major public statements, or consulting with any interested groups, relevant to this MOU or the Project generally. Minor social media communications are excepted of this expectation.
 43. No Party shall have the authority to act for, or incur any obligation on behalf of the other Party.
 44. The Parties agree that this MoU is intended as a statement of mutually agreed intentions in relation to the Project. It is not intended to create legally enforceable rights or obligations. However, the Parties agree that they are bound in good faith to observe and perform their obligations under this MoU as if they were legally enforceable.
 45. Subject to law (including the provisions of the Local Government Act 2002, Official Information Act 1982 Local Government Official Information and Meetings Act 1987, and the Privacy Act 1993) and Parliamentary or Ministerial requirement or convention the provisions of this MoU shall remain confidential between the Parties.
 46. All notices related to this MoU must be delivered to the contact personnel stated below.
 47. The designated operational contact personnel for the Ministry and LINZ are:

	MBIE	LINZ
Name	Nicholas Hough	Privacy of natural persons
Position	Investment Director	Senior Technical Leader Elevation and Imagery
Email	Nicholas.Hough@mbie.govt.nz	Privacy of natural persons

Schedule A_

Regional project and payment details

(to be completed prior to LINZ-Council MOU)

Name of Council to receive PGF LiDAR Funding:

Confirm eligibility to receive PGF Funding (e.g. data capture area does not include Auckland, Wellington or Christchurch urban areas):

Maximum PGF Funding to be allocated to the Council for the Project (excluding GST, if any):

Cash Co-Funding to be contributed by the Council (excluding GST, if any):

Data capture area – physical description:

Data capture area – figure:

Data capture area, square kilometres:

Percentage of Crown land in data capture area:

Population density of region:

Desired deliverables beyond base specification lidar:

Expected start date of data capture:

Expected end date of data capture:

Expected data delivery date:

Council point of contact to LINZ:

Expected key project outcomes to be reported against:

Any other special terms: