



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI



# Innovation Programme for Tourism Recovery

## Guidance for Applicants

Version 1.4: January 2023

# Innovation Programme for Tourism Recovery

## Guidance for Applicants

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### Context of this document

This document provides guidance on the process for applying for funding from the Innovation Programme for Tourism Recovery (**the Programme**). This includes the eligibility and assessment criteria that will be used to determine which projects will be approved for Stream One and Stream Two funding.

These guidelines are subject to revision. Please ensure you have a copy of the latest version of these guidelines, which will be available on the Programme's website at:

<https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery>.

### Media releases and press statements

Applicants are advised to obtain MBIE's prior written approval to the form and content of any public statement they wish to make relating to their proposals, business plans or projects. Failure to obtain MBIE's prior written approval may impact on funding decisions made by MBIE.

### Limitation of advice

All information or advice given by any parties involved in the Programme's process, particularly regarding the content of proposals or business plans, does not commit MBIE or the Minister of Tourism to make any particular decisions about funding. This limitation extends to members of the Expert Advisory Panel (**the Panel**).

### Legal Disclaimer

The information provided within these guidelines (**the information**) is intended to provide general guidance to the public. Every effort has been taken to ensure that the information provided is accurate. However, users of these guidelines are advised that:

- the information provided does not replace or alter the laws of New Zealand and other official guidelines or requirements,
- the contents of these guidelines should not be construed as legal or professional advice,
- the Ministry of Business, Innovation & Employment (MBIE) may change, delete, add to, or otherwise amend the information without notice, and
- MBIE, its employees, contractors and providers of information, do not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading, or reliance placed on MBIE because of having read, any part, or all, of the information or for any error, inadequacy, deficiency, flaw in or omission from the information provided.

MBIE has sole discretion to determine which proposed projects (if any) will receive Stream One funding from the Innovation Programme for Tourism Recovery.

The Minister of Tourism has sole discretion to determine which proposed projects (if any) will receive Stream Two funding from the Innovation Programme for Tourism Recovery.

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# ABOUT THIS GUIDANCE

## Purpose

This document provides guidance on applying to the Innovation Programme for Tourism Recovery (**the Programme**) for funding for an innovation which will have a transformational outcome for the tourism sector.

It outlines the Programme's purpose and outcomes, the funding process, how to check your project's eligibility and the application process. Once you have checked whether your project is eligible, please read the guide to ensure that your project and application matches the assessment criteria.

This guidance is subject to revision. Please ensure you have a copy of the latest version, which is available on the Programme's website at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery/about-the-programme>.

## How to use this guidance

Applicants to the Programme should use this guidance in conjunction with the Programme's:

- overview, which includes the purpose and outcomes outlined on MBIE's website at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery/about-the-programme>,
- online self-assessment tool to check if you and your project meet the Programme's eligibility criteria at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery/eligibility-self-assessment-tool>,
- online application form for Stream One projects, and
- online expression of interest form and full application forms for Stream Two projects.

We recommend that you read these documents before you prepare your Stream One application or Stream Two expression of interest or full application form.

## OVERVIEW OF THE PROGRAMME

The Innovation Programme for Tourism Recovery is a \$54 million contestable fund designed to stimulate a shift towards a regenerative, low carbon, productive and innovative tourism sector.

COVID-19 had a significant impact on the tourism industry and the Government invested heavily support the sector through the pandemic. As New Zealand's borders reopened and international visitors return, there is a need to consider how the sector can rebuild following the COVID-19 pandemic.

### What is the Programme's purpose?

The purpose of the Programme is to support innovative projects that:

1. Seek to stimulate, catalyse or achieve **transformative innovation**,
2. Seek to deliver on the **core values** of tourism,
3. Seek to achieve at least one of the Programme's five **outcomes**, and
4. Are applicable to the **New Zealand-Aotearoa visitor journey**.

### Transformative innovation

For the purposes of this Programme, **transformative innovation** is defined as:

*"a fundamental or disruptive shift towards new or different and better systems, business models, processes, experiences, or products that create a meaningful impact across the New Zealand-Aotearoa visitor journey."*

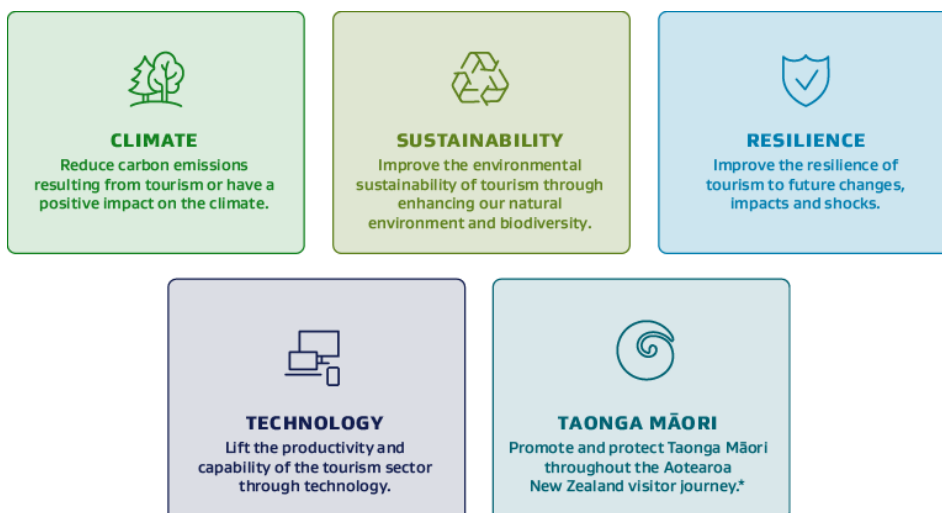
### Core values of tourism

Applicants are required to demonstrate how their project seeks to deliver on the **core values** of tourism. These values underpin the Government's 2019 *New Zealand Aotearoa Tourism Strategy* and recent cross-government New Zealand Story work.



## Five outcomes

Projects must achieve at least one of the five of the Programme's outcomes which are:



1. Reduce carbon emissions resulting from tourism or have a positive impact on the climate,
2. Improve the environmental sustainability of tourism through enhancing our natural environment and biodiversity,
3. Improve the resilience of tourism to future changes, impacts and shocks,
4. Lift the productivity or capability of the tourism sector through technology, or
5. Promote and protect Taonga Māori throughout the New Zealand-Aotearoa visitor journey (where the project is led or delivered by iwi / hapū or Māori enterprises).

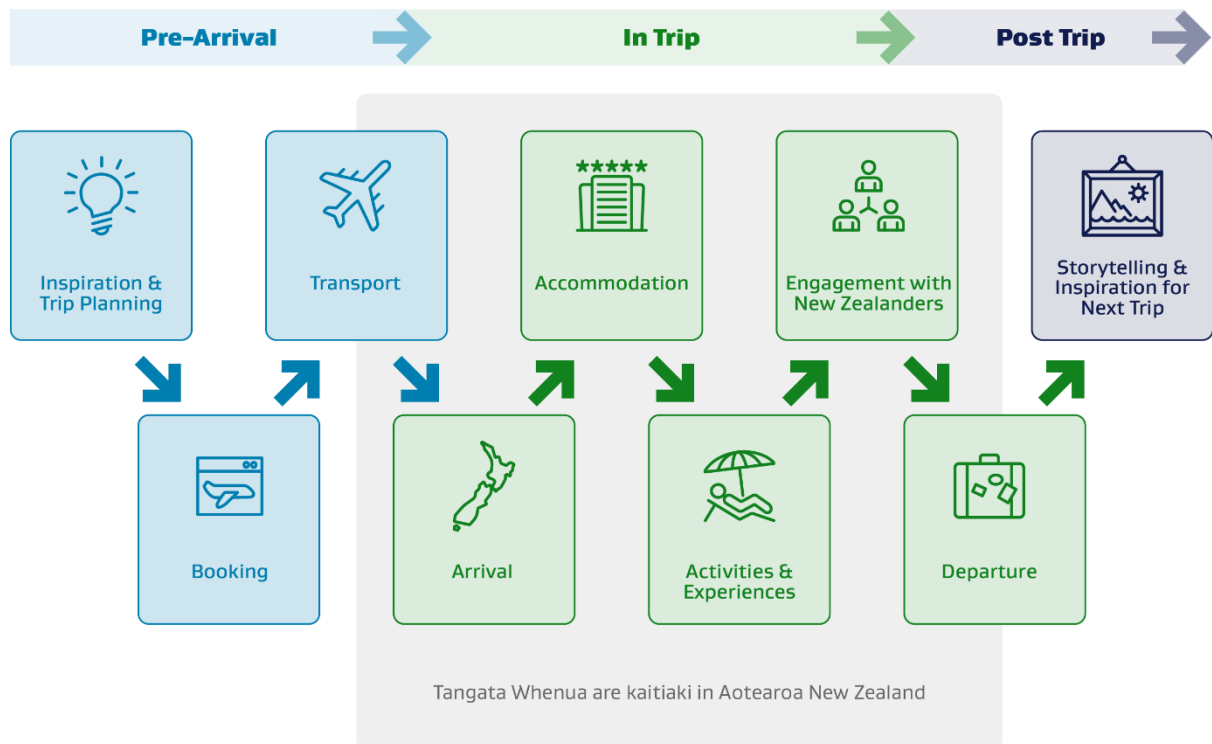
The definition of Taonga Māori is taken from the Waitangi Tribunal's report into WAI262, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity*.<sup>1</sup> The Waitangi Tribunal defines **taonga works** as:

*Tangible and intangible expressions of Māori artistic and cultural traditions, founded in and reflecting the body of knowledge and understanding known as mātauranga Māori. Examples of taonga works include haka, karakia, waiata, carvings, stories, tā moko and other crafts, dramatic or musical works, and designs.*

<sup>1</sup> <https://waitangitribunal.govt.nz/news/ko-aotearoa-tenei-report-on-the-wai-262-claim-released/>

## The applicability to the New Zealand-Aotearoa visitor journey

Projects must be applicable to at least one part of the New Zealand-Aotearoa visitor journey.



## The Programme has two streams

The Programme is a **contestable** fund. A contestable fund means that applications are assessed and generally the strongest project(s) in a given round will receive funding. However, the Government is also looking to fund a mix of projects across the programme's outcomes and different parts of the visitor journey where possible.

The Government wants to encourage the widest possible range of innovations from the widest group of applicants – both small players and big players.

The Programme has two streams:

**Stream One: Discovery** – designed to support innovative, solution-based projects that may require further feasibility work to provide validation before applying for full development support.

**Stream Two: Development** – designed to support innovative, solution-based projects that have a full proposal and business case.

The application process is different depending on whether you are applying for Stream One or Stream Two funding. More information about the application process is provided in the following sections.



# STREAM ONE APPLICATIONS

Stream One is for projects which require further feasibility work before it can be considered for significant financial support from Stream Two. Funding will be provided as a grant, which could be used by recipients to fund activities required to enable to apply for Stream Two funding.

The applicant should identify how the proposed project is innovative and why you consider it to be transformative and will create fundamental and meaningful impacts on the New Zealand visitor journey.

Applicants should indicate what benefits the innovation will provide and what part of the tourism visitor journey is it applicable to.

Applicants must provide evidence they have or can source their co-funding. This can be a letter confirming support, bank statement, or confirmation from a lending institution.

Projects intended to be delivered with the support of or under the leadership of Māori, must clearly identify who or what entity is leading the project.

## Key components of Stream One: Discovery projects

In addition to meeting the Programme's **purpose** and **outcomes**, Stream One has the following parameters:

- applicants must use the funding for a project on the approved Stream One activities list,
- funded activities must be completed within four months,
- applicants will be required to co-invest, or source co-investment of, at least 50 per cent of the project's costs, and
- Government will contribute between \$10,000 and \$25,000 per project.

There is a total of \$1 million allocated for Stream One funding over the Programme on a first-in-first-served basis.

Stream One applications will be assessed monthly and applications will be open until 5pm on 3 May 2023.

### Approved Stream One activities

Applicants must use funding from the Programme to undertake the following activities to be eligible to receive Stream One funding:

- concept validation or testing,
- concept development, including design sprints,
- sourcing relevant expertise, partners, or skillsets to deliver the project,
- consultancy support to develop a project plan,
- acceleration or scaling up testing / advice, or
- business / project plan preparation (e.g., staff time).

You may like to consider whether your project would benefit from an external accelerator incubator programme to deliver any of the above activities. If so, you should seek MBIE's approval to use the funding for this purpose.

### Timeframes for delivery

Stream One feasibility projects must be completed within four months from the execution of the funding agreement. If the feasibility work funded through this Stream is successful, applicants are

welcome to apply for Stream Two funding to deliver their innovation in full using the application form for Stream Two (to be provided by MBIE, on request).

It is important to note that Stream One applicants who deliver successful discovery projects are not guaranteed Stream Two funding and will be assessed relative to other projects applying for Stream Two funding.

### **Co-funding from applicants and the Government**

Applicants are required to co-fund at least 50 per cent of their project's costs; the Crown will co-fund up to 50 per cent of the Stream One feasibility projects. Applicants must be able to prove that they have, or can source, their co-investment requirements. Direct Crown funding from central government agencies will not be accepted as applicant's co-funding contribution, and MBIE will not accept 'in-kind' contributions as part of applicants' co-investment. Co-funding must be monetary and not "in kind".

The Crown will contribute a minimum of \$10,000 and a maximum of \$25,000 per Stream One project. The range of available co-funding allows MBIE to determine the appropriate amount of funding an applicant may need depending on their innovation.

# STREAM TWO EXPRESSIONS OF INTEREST AND APPLICATIONS

Stream Two will support projects that are transformative innovations with a full proposal and business case already developed, and will have a meaningful impact on the tourism system.

Stream Two innovations should be ready to be delivered. If your proposed innovation requires additional work before it is ready to start (for example, to complete a business case or feasibility study), you should consider applying for Stream One funding.

There are two ways in which you can apply for Stream Two funding.

1. If your proposed innovation project is investment ready, you have co-funding available and your business case ready, you can submit an Expression of Interest application form for consideration of eligibility for the Fund; or
2. If you have already received funding from Stream One and you have completed your funded activities, you may be eligible to move straight to the full application stage for Stream Two. Please contact MBIE at [tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz) to discuss your project and request a Stream Two Application Form. Please note funding approved for Stream One does not guarantee funding will be approved for Stream Two.

Applicants need to:

- indicate what benefits the innovation will provide and what part of the tourism visitor journey it is applicable to.
- provide evidence you have or can source co-funding. This can be a letter confirming support, bank statement, or confirmation from a lending institution.
- describe how the proposal meets the purpose and outcomes of the Programme.
- provide information of your project's readiness including provision of a full business plan which sets out the governance structures, capability to operationalise, financial management and value for money/ROI and whether you or your organisation has the relevant skillset to deliver the project or whether you need to bring in additional resources,
- indicate your capability and capacity to deliver the projects (including any past experiences)
- advise what challenges you anticipate (if any) and a high-level overview of the objectives, activities, deliverables, milestones and key dates.
- provide evidence of the feasibility of the innovation and that it can be delivered within the two-year timeframe available.

Any conflicts of interest should be declared.

## Key components of Stream Two: Development projects

In addition to meeting the Programme's **purpose** and **outcomes**, Stream Two has the following parameters:

- applicants must submit an Expression of Interest (EOI) and will be invited to submit a full application,
- proposals for the activities listed on page 15 are not considered eligible to receive funding,
- funded activities must be completed within two years,

- applicants will be required to co-invest, or source co-funding of:
  - at least 50 per cent of the project's costs if their innovation will have purely commercial benefits, or
  - at least 25 per cent of the project's costs if their innovation will have significant positive community or sector-wide impacts (to be determined by the Minister of Tourism) and,
- Government will contribute between \$100,000 and \$10 million per project.

There is a total of \$49.2 million allocated for Stream Two funding split across three funding rounds. \$20 million allocated for each of the first two assessment rounds, with all remaining funds allocated to the final funding round.

Stream Two EOIs will be assessed monthly. Applicants with competitive Stream Two EOIs will be invited by MBIE to submit a full application. Stream Two full applications will be assessed tri-annually (every four months).

### **Approved Stream Two activities**

There is no prescribed list of Stream Two approved activities as MBIE expects that there will be a wide range of innovations that seek to receive funding from the Programme.

### **Timeframes for delivery**

As noted above, Stream Two innovation projects must be completed within two years from the date of the execution of the funding agreement.

### **Co-funding from applicants and the Government**

Applicants are required to co-fund at least 50 per cent of their project's costs. However, this may be reduced to at least 25% of the project's costs if their innovation will have significant positive community or sector-wide impacts.

Applicants must be able to prove that they have, or can source, their co-investment requirements. Direct Crown funding from central government agencies will not be accepted as applicant's co-funding contribution and MBIE will not accept 'in-kind' contributions as part of applicants' co-investment. Co-funding must be monetary and not "in kind".

## ELIGIBILITY CRITERIA

The first step in applying for funding from the Programme is to check if you and your proposal meet the eligibility criteria set by MBIE. You can do this by completing the self-assessment tool on the MBIE website at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery/eligibility-self-assessment-tool>.

Only projects that meet the Programme's purpose and outcomes are eligible for funding.

### Applicant eligibility

The Programme is open to individuals and organisations that can demonstrate:

- a New Zealand presence,
- are not a central government agency, and
- can source, co-funding to the required amount.

Applications for a project led by a group of individuals or businesses are also welcomed.

If you are one of the following, then you **are not** eligible to apply to the Programme:

- a public service agency (listed in Schedule 2 of the Public Service Act 2020),
- a Crown agent (listed in Part 1 of Schedule 1 of the Crown Entities Act 2004), or
- other entities that cannot demonstrate a New Zealand presence as detailed above.

**If you answer no or other to any of these questions, you are unlikely to be eligible to receive funding from the Programme.**

### Demonstrating your New Zealand presence

1. If you are an individual, are you a:
  - a **New Zealand citizen or resident**, or
  - a **New Zealand tax resident** (either you have been in New Zealand for more than 183 days in any 12-month period and haven't become a non-resident; or you have a permanent place of abode in New Zealand, refer to IR for more information), or
  - other.
2. If you are an entity, or group of entities, each entity must be one of the following:
  - a **company** registered in New Zealand under the Companies Act 1993,
  - an **Incorporated Society** registered in New Zealand under the Incorporated Societies Act 2022,
  - a **Charity** registered in New Zealand under the Charities Act 2005,
  - a **Limited Partnership** registered in New Zealand under the Limited Partnerships Act 2008,
  - a **Māori Trust or incorporation** under the Te Ture Whenua Māori Act 1993, or a similar organisation managing Māori assets under multiple ownership.
  - a **tertiary education institution** (New Zealand-based),
  - a **statutory entity** listed under Parts 2 or 3 of Schedule 1 of the Crown Entities Act 2004, or
  - a **New Zealand local government body**, or
  - other.

### **Providing evidence of your co-funding requirements**

3. Do you have, or can source, 50% co-funding for your project?
- Yes
  - No
4. If No, are you seeking more than 50% contribution from the government on the basis that this project will have significant community or sector-wide benefits?
- Yes
  - No

### **Demonstrating that your project meets the definition of transformative innovation**

5. Does your project seek to deliver a new or different system, business model, process, experience, or product?
- Yes
  - No
6. Does your project seek to:
- deliver an innovation that is new/world first,
  - apply an existing innovation in a different way,
  - apply an overseas innovation to the New Zealand-Aotearoa visitor journey,
  - apply an existing innovation across the New Zealand-Aotearoa visitor journey, or
  - other.
7. If your project solely delivers one of the following, it is unlikely to be eligible for funding:
- General 'business as usual'
  - Upgrading a business or products to be more sustainable
  - Marketing or brand development
  - Drafting of Destination Management Plans
  - Retrospective costs
  - Qualifications
  - Infrastructure, such as carparks, toilet blocks or buildings.

### **Demonstrating the core values of tourism**

8. Which of the core values of tourism do you think your project delivers on? You can consider all that apply, but your project only needs to deliver on one to be eligible).
- tiaki: caring for and protecting people, place and planet, for our future.
  - pōtikitanga: our curious, ingenious and adventurous spirit.
  - manaaki: extending respect, hospitality, generosity and care to others.
  - whanaungatanga: creating a sense of connection, family and belonging.
  - other (none of the above).

### **Demonstrating the Programme's outcomes**

Which of the outcomes does your project align with? You can consider all that apply, but your project only needs to align with one to be eligible.

- outcome 1:** reduce carbon emissions resulting from tourism or have a positive impact on the climate,
- outcome 2:** improve the environmental sustainability of tourism through enhancing our natural environment and biodiversity,
- outcome 3:** improve the resilience of tourism to future changes, impacts and shocks,
- outcome 4:** lift productivity or capability of the tourism sector through technology, or
- outcome 5:** promote and protect Taonga Māori throughout the New Zealand-Aotearoa visitor journey (where the project is led or delivered by iwi / hapū or Māori enterprises).
- other (none of the above).

### **Demonstrating the applicability to New Zealand**

9. Is your project applicable to the New Zealand-Aotearoa visitor journey (refer to diagram)?

- Yes
- No

## Some projects and costs are NOT eligible to receive funding

### Projects that are NOT eligible to receive funding

The Programme is designed to support projects that will have a new and transformative impact on the tourism sector. Therefore, the Programme will not fund projects where the sole purpose is:

- general 'business as usual' for an applicant
- marketing or brand development, or
- making a business more sustainable or developing eco-friendly / sustainable products.

Some innovative projects may include one or more of these elements which will not exclude it from eligibility if it is not the sole purpose of the project.

In addition, projects that are more appropriately funded from other central government sources may not be eligible for funding.

### Costs that are NOT eligible to be covered by the Programme

Even if your project is eligible, there are some costs that the Programme will not fund. Costs associated with the following activities are not eligible to be funded

- Destination Management Planning (DMP) drafting: as developed by Regional Tourism Organisations (note: discrete products within DMPs may be eligible to receive funding)
- retrospective or backdated costs (i.e., costs incurred before funding from the Programme was secured)\*
- qualifications (academic costs or research specifically aimed at supporting the attainment of a qualification)
- attendance at conferences
- ordinary operating costs of a business (unless directly attributed to the project, such as labour costs associated with the project)\*
- statutory duties of local government
- contingency<sup>2</sup> or unforeseen costs
- infrastructure costs (horizontal and vertical structures and facilities, such as buildings, carparks, roads, toilets etc) (*Note: infrastructure costs may be included as part of the applicant's co-funding and your overall project cost*)\*, and
- purchase of land (*Note: purchase of land costs may be included as part of the applicant's co-funding and your overall project cost*)\*.

\* Refer to Examples on the following page for further clarification.

### **Further information on excluded projects and costs**

Due to the innovation focus of the Programme, there will be some areas where flexibility may be required on the above exclusions. The exclusions should be taken as a general rule, however all proposals will be considered on a case-by-case basis, and it is accepted that projects that would otherwise strongly achieve the objectives of the Programme may warrant a different approach.

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<sup>2</sup> If contingency costs are necessary for your project to go ahead, please get in touch with MBIE ([tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz)) to discuss options for including a reasonable contingency in your business case.



The examples below are hypothetical and provide further clarification on how excluded costs may impact your application for the Programme.

### **Hypothetical examples**

#### **Example A – retrospective costs:**

Project A has a total project cost of \$2 million, which includes \$100,000 of costs already incurred by the project prior to applying for the Programme (retrospective costs). The applicant must remove the retrospective costs from the budget for the project for the purposes of applying to the Programme.

The applicant would then apply for a total project cost of \$1.9 million, of which the Programme will fund up to 50% (\$0.95 million)

#### **Example B – direct labour costs:**

Project B has a total project cost of \$1 million, which includes \$300,000 in labour costs. The labour will be supplied by the applicant's existing workforce. The labour costs are eligible to be funded by the Programme if they are labour costs directly associated with the project and only the direct labour cost is being claimed (i.e. not including overheads or profit). Project related labour costs are eligible from the date the Funding Agreement has been executed (not retrospective labour costs).

#### **Example C – purchase of land and construction of a building:**

Project C has a total project cost of \$5 million, which includes \$1.5 million to purchase land and \$2.5 million to construct a building. As both land purchase and construction of a building are costs which cannot be funded by the Programme, Project C can only seek a maximum of \$1 million from the Programme. The applicant must fund 100% of the land and construction costs.

#### **Example D – construction of a carpark:**

Project D has a total project cost of \$5 million, of which \$1.5 million involves the construction of a carpark. Project D can seek 50% of the cost of the project (\$2.5 million) from the Programme, but the applicant's co-funding portion must be used to fund the infrastructure costs.

# ASSESSMENT CRITERIA

The following criteria will be used to prioritise applications

<b>ASSESSING THE PROJECT (75% of the assessment score)</b>	
<b>CRITERIA FOR PURPOSE</b>	<b>Implications</b>
The extent to which the project seeks to deliver an innovation that is new/world first	Prioritises projects that delivers new and/or world first innovation.
Applicability to the New Zealand visitor journey	Prioritises projects which can be applied to multiple firms operating across the entire NZ visitor journey.  However, it also prioritises projects which can be applied to one firm or multiple firms operating across one or more aspects of the visitor journey.
Primary outcome	The extent to which the project will deliver one of Programme’s outcomes – climate, environmental sustainability, resilience, technology or Taonga Māori.
Secondary outcomes - The extent to which the project:	The extent to which the project delivers on a secondary outcome (in addition to the primary outcome)
<ul style="list-style-type: none"> <li>Will reduce carbon emissions or have a positive impact on climate change</li> </ul>	Prioritises projects which make a significant positive impact on carbon emissions
<ul style="list-style-type: none"> <li>Will improve environmental sustainability of tourism through enhancing our natural environment and biodiversity</li> </ul>	Prioritises projects which make a significant positive impact on the natural environment and biodiversity
<ul style="list-style-type: none"> <li>Will improve the resilience of tourism to future changes, impacts and shocks</li> </ul>	Prioritises projects which make a significant positive impact on the resilience of the sector
<ul style="list-style-type: none"> <li>Will improve the productivity or capability of the sector</li> </ul>	Prioritises projects which make a significant positive impact on the productivity or capability of the sector
<ul style="list-style-type: none"> <li>Will promote and protect Taonga Māori throughout the visitor journey</li> </ul>	Prioritises projects which make a significant positive impact on the promotion or protection of Taonga Māori
<b>ASSESSING THE APPLICANT AND THEIR PLAN (25% of the assessment score)</b>	
The extent to which the project is delivered with the support or under the leadership of Māori	Prioritises the extent to which the applicant is a Māori business, Kaitiaki Māori are actively involved in the delivery of the project, or the applicant is Kaitiaki Māori such as an iwi, whanau or hapū group
The extent of the applicant’s expertise to deliver the project	Prioritises the extent to which the applicant has relevant expertise and capability to deliver the project

The extent of the applicant's experience of delivery	Examines the level of experience the applicant has in delivering similar projects or innovations
The completeness of the project business plan	Examines the strength of the business plan
Risks and mitigation	Consideration of the risks identified with the project and the planned mitigation of these risks.
Outcomes/measurability	Consideration of the level to which the project is achieving intended outcomes and how these are monitored and evaluated
<b>CO-FUNDING (for Stream Two projects only)</b>	
The extent to which the Stream Two project has significant positive community/sector wide impacts beyond commercial value (could be eligible for up to 75% grant)	Prioritises the extent to which the Stream Two project positively impacts the community or sector (beyond just commercial value) and how this can be/will be demonstrated

# APPLICATION PROCESS

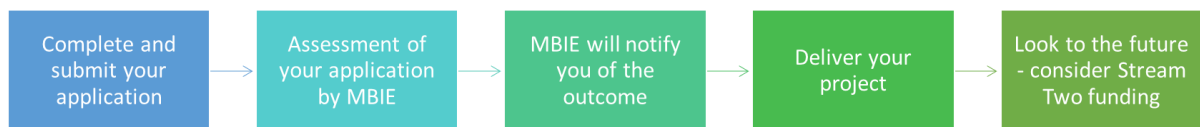
The application process differs depending on whether you are applying for funding from Stream One or Stream Two.

To apply for the Innovation Programme funding, applicants should first complete the online self-assessment form to confirm their eligibility. If you or your business and your project meet the eligible criteria you will need to develop your proposal.

If your proposed innovation is still at an early stage and you need some assistance to determine its feasibility you should apply using the Stream One application form. If your proposal is validated and is ready to be delivered then you should complete and Stream Two Expression of Interest (unless you have successfully been granted Stream One funding, in which case please contact MBIE for next steps regarding applying for Stream Two).

## Stream One

### Stream One: Discovery application process



### Complete and submit your application

Applicants are required to submit a Stream One application form. You are asked to provide MBIE with the following information in your application form:

- your ability to demonstrate your presence in New Zealand, either as an individual or entity (or group of individuals or entities),
- a description of your project, including:
  - why it is transformative for tourism,
  - how it relates to the New Zealand-Aotearoa visitor journey and how many significant the impact may be (i.e. one business or region versus numerous businesses or regions),
  - the leadership or support from Māori, and
  - the expected time length and total cost of the project.
- details of co-funding sources,
- a description of how the project will achieve the Programme's purpose,
- details of the project's feasibility, including:
  - the project's status,
  - outputs and outcomes,
  - risk management and mitigation, and
  - your skills and experience to deliver the project.

### Assessment of your application by MBIE

MBIE will screen all completed Stream One applications that are submitted within the deadline, against the eligibility criteria. All eligible applications will then be ranked against the assessment criteria using a scoring system. MBIE will also be looking to fund a mix of projects across the programme's five outcome and different parts of the visitor journey where possible.

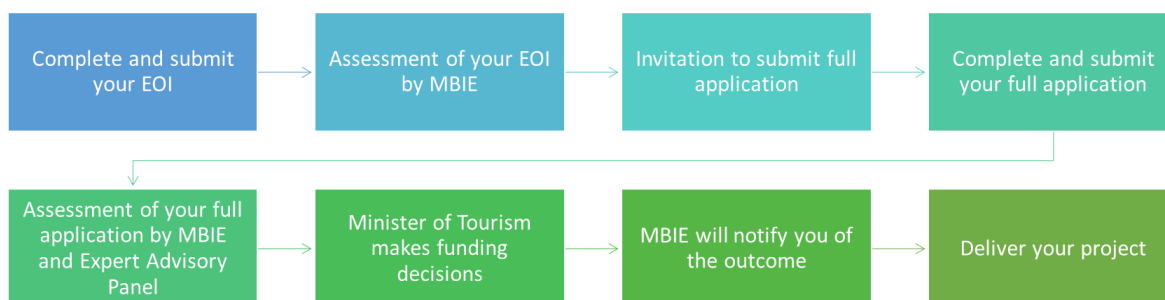
Stream One applications will be assessed monthly.

## MBIE will notify you of the outcome

Applicants can expect to hear about funding decisions for Stream One around one month after they are submitted. However, if this timeframe is due to change, MBIE will contact all applicants who are awaiting a decision. A decision to decline a proposal does not preclude an applicant from submitting a similar proposal in future funding rounds, provided they have addressed any concerns previously outlined by the Expert Panel or the Secretariat.

## Stream Two

### Stream Two: Development application process



### Complete and submit your EOI by MBIE

Applicants are required to submit a Stream Two expression of interest. You are asked to provide MBIE with the following information in your application form:

- your ability to demonstrate your presence in New Zealand, either as an individual or entity (or group of individuals or entities),
- a description of your project, including:
  - why it is transformative for tourism,
  - how it relates to the New Zealand-Aotearoa visitor journey and how significant the impact may be (i.e. one business or region versus numerous businesses or regions),
  - the leadership or support from Māori, and
  - the expected time length and total cost of the project,
- details of co-funding sources, including:
  - information to support the claim that the project will have significant community-wide or sector-wide benefits
  - what the funding will be used for
- a description of how the project will achieve the Programme's purpose, and
- details of the project's feasibility, including the status of the project and business case, and your relevant skills and experience to deliver the project.

### Assessment of your EOI

MBIE will screen all completed Stream Two EOIs that are submitted within the deadline, against the eligibility criteria. All eligible applications will then be ranked against the assessment criteria using a scoring system.

Stream Two EOIs will be assessed monthly. Applicants can expect to hear whether they will be invited to submit a full application for Stream Two around one month after they are submitted.

## Invitation to complete and submit a Full Application

Stream Two EOIs that are deemed eligible and meet the Programme's purpose will be invited to submit a Full Application. MBIE will send the Stream Two Full Application form to invited applicants.

## Complete and submit your Full Application form

Invited applicants are required to submit a Stream Two Full Application form and a completed business case for your project.

Please read the form and the below guidance in full before submitting your application.

You are asked to provide MBIE with the following information in your application:

- your ability to demonstrate your presence in New Zealand, either as an individual or entity (or group of individuals or entities),
- details of project personnel involved,
- a description of your project, including:
  - if Māori are involved in the leadership of the project or if there is confirmed support from Māori, and
  - the expected time length and total cost of the project,
- details and evidence of co-funding sources, information to support the claim that the project will have significant community-wide or sector-wide benefits, and
- a business case (see minimum requirements below).

Notes:

- a) You may have already provided MBIE with this information in your Stream Two Expression of Interest. However, the Stream Two Full Application also includes a section where applicants need to provide any information that has changed regarding their innovation project between submitting their Stream One application or Stream Two Expression of Interest and Full Application. (For example, there may be additional investors or amended co-funding arrangements).
- b) Section 3 of the Full Application form should only be filled out by applicants who have completed a Stream One project.

### *Business case for Stream Two*

Applicants applying for Stream Two funding are required to provide a business case.

There is no specific business case model or template that applicants are required to use, as each business case will be tailored to the individual project and applicant. There are examples of business cases available:

- on the Treasury's website: [treasury.govt.nz](https://treasury.govt.nz)
- at [business.govt.nz](https://business.govt.nz), or
- on the websites of most banks.

At a minimum, we would expect you to cover the following elements in your business case in order for MBIE to assess your project:

- Project overview
- Project plan including timeframes/milestones
- Project goals and objectives
- Organisation overview – including project management and governance structures

- Evidence of expertise/capability needed to deliver the project
- Organisation's experience in delivering similar projects
- How you will measure success/project outcomes
- Barriers for delivery (for example, regulatory and legal considerations)
- Risk assessment and mitigations
- Financial forecasts (including 3-year cash flow, balance sheet, profit and loss statement)
- Value for money/Return on Investment
- Market Analysis – including target market and competition, and marketing and sales plan (if applicable for your project and/or organisation)

If you are not sure what elements your business case should include, you can contact [tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz) and MBIE can connect you with advisors who can provide advice about your business case.

### **Assessment of your Full Application by MBIE and Expert Advisory Panel**

The assessment of Full Applications will take place after each of the three Stream Two funding rounds close.

MBIE will assess all Stream Two Full Applications, with a focus on the applicant's ability to deliver the project. MBIE will also conduct a due diligence check on all applicants who submit a Full Application. The applications' scores will be moderated by MBIE.

The Expert Advisory Panel will assess the application, with a focus on the innovation and its ability to meet the Programme's purpose. The Expert Advisory Panel provides independent recommendations on funding decisions to the Minister of Tourism.

### **Minister of Tourism makes funding decisions and MBIE will notify you of the outcome**

The Minister of Tourism approves all Stream Two funding decisions to projects that best align with the Innovation Programme and its purpose.

Applicants can expect to hear about funding decisions for Stream Two within two months after they are submitted. However, if this timeframe needs to change, MBIE will contact all applicants who are awaiting a decision.

A decision to decline a proposal does not preclude an applicant from submitting a similar proposal in future funding rounds, provided they have addressed any concerns previously outlined by the Expert Panel or the Secretariat.

## **Key parties**

### **MBIE and the Innovation Programme secretariat**

The Secretariat within MBIE administers the Innovation Programme and provides assistance to the Expert Advisory Panel and the Minister of Tourism.

The Secretariat should be the first point of contact for applicants with any queries. The Secretariat can:

- help with information on dates and deadlines
- help with information on the purpose and objectives of the Innovation Programme, the eligibility and assessment criteria, and the application, assessment and approval processes
- act as a central co-ordination and communication point for applicants.

The Secretariat will not coach applicants on the content of their proposals, but can connect you with individuals who can provide you with specific support to draft your application. You can contact at [tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz).

Once Stream One and Two projects have been approved for funding and funding agreements have been signed, MBIE will oversee the completion of project milestones, payments and any proposed changes to funding agreements.

### **Expert Advisory Panel**

The Expert Advisory Panel is appointed by the Minister of Tourism to provide:

The Panel's role is to provide:

- an independent recommendation for Stream Two funding decisions, based on:
  - a validation and meaningful assessment of the proposed innovations, and
  - assurance that the projects will meet the Programme's purpose and outcomes,
- advice to MBIE on some Stream One funding decisions as and when needed.

The Panel operates a robust conflict of interest policy under which direct and indirect conflicts are declared and managed. If applicants consider there are any conflicts of interest relating to their projects and/or interests and members of the Panel, they are advised to contact the Programme's secretariat.



# GENERAL INFORMATION

## Information shared with, and collected by, MBIE

### Official Information Act

MBIE is bound by the Official Information Act 1982 (OIA). While information provided by applicants is intended to be held in the strictest confidence, the information that MBIE holds can be requested by third parties and MBIE must provide information as required to do so by law.

However, the OIA enables MBIE to withhold information under certain conditions. Where possible, MBIE will consult with the relevant applicant if it receives an OIA request.

MBIE also recognises that some applicants are also bound by the OIA or Local Government Official Information and Meetings Act 1987. Applicants should consult with MBIE where possible on requests for information under these Acts.

### Commercial in confidence

All information collected and held during the Innovation Programme's process will be held by MBIE in the strictest confidence, notwithstanding MBIE's obligations under the OIA.

This information may include:

- the identity of entities engaging with the Programme and related parties at any stage prior to a contract being signed,
- information provided to or by MBIE and the Panel,
- Stream One applications and Stream Two EOIs and applications, including all information as part of these (e.g., business plans),
- working papers, and
- materials used to comment on and assess proposals and business plans.

### Publication of decisions

MBIE will make public the names of the Programme's Stream One and Stream Two successful applicants, the amounts of co-funding invested, and a brief description of each project.

This will be done either following:

- approval of a business plan, the signing of a funding agreement,
- signing of a funding agreement, or
- approval of co-funding by the Minister of Tourism.

### Declaration

As part of the Programme's process, applicants will be required to sign and submit declarations as part of the application forms to confirm that the information they provide is accurate, and to acknowledge that they have read and understood the contents of this guidance. This includes the information relating to MBIE's obligations under the OIA.

### Due diligence and financial matters

As part of the assessment of applications, MBIE will undertake due diligence checks on applicants as needed to meet government requirements. This will include financial due diligence that applicants have, or can source, the appropriate co-funding required or that they are in an adequate financial situation to deliver their project.

Signing and submitting an application to the Programme is considered consent to these checks taking place.

## **Financial matters**

### *GST*

All amounts included in the proposals and business plans should be GST exclusive. The funding figures cited in any documents are GST exclusive.

### *Tax advice*

MBIE does not provide tax advice. If needed, applicants should seek advice from tax specialists about how any funding granted may affect their tax positions.

## **Other information**

If applicants require additional information or guidance, they should visit the Programme's website at: <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/innovation-programme-for-tourism-recovery> or contact [tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz).

# Schedule 1: MBIE Sample Funding Agreement Standard Terms and Conditions

## FUNDING AGREEMENT STANDARD TERMS AND CONDITIONS

### 1. Interpretation

1.1. In this Agreement, the following terms have the following meanings:

“**Activities**” means the activities set out in the Details;

“**Agreement**” means this agreement, including Schedule 1 and this Schedule 2;

“**Business Day**” means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003;

“**Co-funding**” means the Co-Funding set out in the Details which cannot include funding from a central government agency, or in-kind funding

“**Commencement Date**” means the commencement date set out in the Details or, if no commencement date is set out, the date of this Agreement;

“**Committed**” means Funding that has been spent with a third party or that the Recipient has contractually agreed to spend with a third party for the purpose of carrying out the Project and the Recipient, after using reasonable endeavours, is unable to secure a refund or release from its obligations to the third party in relation to that Funding;

“**Completion Date**” has the meaning given in the Details;

“**Confidential Information**” means any information that is disclosed by the Ministry in connection with this Agreement and that the Ministry makes known is confidential or that would reasonably be expected to be confidential;

“**Details**” means Schedule 1;

“**Funding**” means the funding amount set out in the Details;

“**GST**” means goods and services tax within the meaning of the Goods and Services Tax Act 1985;

“**Intellectual Property Rights**” includes copyright and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trademarks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity but does not include Mātauranga Māori;

“**Parties**” means the Ministry and the Recipient;

“**Project**” means the project described in the Details; and

“**Uncommitted Funding**” means any Funding that is not Committed.

1.2. References to clauses and Schedules are to clauses and Schedules of this Agreement and references to persons include bodies corporate, unincorporated associations or partnerships.

1.3. The headings in this Agreement are for convenience only and have no legal effect.

1.4. The singular includes the plural and vice versa.

1.5. “Including” and similar words do not imply any limitation.

1.6. References to a statute include references to that statute as amended or replaced from time to time.

1.7. Monetary references are references to New Zealand currency, except where expressly stated otherwise.

1.8. If there is any conflict of meaning between the Details and Schedule 2, Schedule 2 will prevail, except where the Details expressly state otherwise.

### 2. Funding

- 2.1. The Ministry must pay the Funding at the rate and in the manner set out in the Details. The Funding is the total amount payable by the Ministry for the Project.
- 2.2. The Recipient must provide a valid GST invoice to the Ministry for all Funding due in the manner set out in the Details. The invoice must:
  - (a) be sent directly to the Ministry in PDF format via email to [tourisminnovation@mbie.govt.nz](mailto:tourisminnovation@mbie.govt.nz);
  - (b) be copied to the relevant Ministry contact as set out in paragraph 13 of the Details;
  - (c) include sufficient information reasonably required to enable the Ministry to validate the claim for payment including a reference to this Agreement (under which the invoice is issued); and
  - (d) be clearly and legibly marked to Ministry staff as advised by the Ministry to the Recipient from time to time.
- 2.3. The Ministry is not obliged to make any payment under this Agreement until an invoice which complies with clause 2.2 has been received by it from the Recipient. Payments will be made to the credit of a bank account to be designated in writing by the Recipient.
- 2.4. The Funding is inclusive of all taxation except GST. The Ministry will be entitled to deduct any withholding tax required to be withheld by law from payments made to the Recipient and will not be required to gross-up or increase any such payments in respect of such amounts withheld.
- 2.5. The Recipient must use the Funding only to carry out the Activities in accordance with this Agreement.
- 2.6. In consideration of the Funding, the Recipient must:
  - (a) complete the Project Deliverable by the Completion Date set out in the Details; and
  - (b) refund any unspent Funding to the Ministry within 10 Business Days of the Completion Date.
- 2.7. The Recipient must:
  - (a) ensure that during the term of this Agreement the Co-Funding:
    - (i) is and remains secured and available to the Recipient to be applied towards the Project Outcome on the same terms and conditions approved by the Ministry; and
    - (ii) is applied to Activities as set out in the Schedule 1; and
  - (b) immediately notify the Ministry if it becomes aware of any circumstances that may result in the Co-Funding (or any part of the Co-Funding) not being secured and available to the Recipient to be applied towards the Project Outcome.

### **3. Term and Termination**

- 3.1. Subject to clauses 3.2 and 3.3, this Agreement will commence on the Commencement Date and expire when:
  - (a) the final report is completed and provided to the Ministry; and
  - (b) the Project is completed, to the satisfaction of the Ministry.
- 3.2. The Ministry may terminate this Agreement at any time by giving at least 20 Business Days' notice to the Recipient.
- 3.3. The Ministry may terminate this Agreement immediately by giving notice to the Recipient, if:
  - (a) the Recipient is in material breach of any of its obligations under this Agreement and that breach is not capable of being remedied;
  - (b) the Recipient fails to remedy any breach of its obligations under this Agreement within 5 Business Days of receipt of notice of the breach from the Ministry;
  - (c) the Recipient does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which in the Ministry's opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand;
  - (d) the Recipient has given or gives any information to the Ministry which is misleading or inaccurate in any material respect;
  - (e) the Recipient becomes insolvent, bankrupt or subject to any form of insolvency action or administration;  
or

- (f) the Ministry has what it considers are material concerns about the Recipient's health and safety practices and, if the concerns are capable of being rectified, the Ministry has suspended the Agreement and given the Recipient the opportunity to rectify the concerns in accordance with clause 12.2 of Schedule 2.
- 3.4. Termination of this Agreement is without prejudice to the rights and obligations of the Parties accrued up to and including the date of termination.
- 3.5. On termination of this Agreement:
- (a) the Ministry may require the Recipient to provide evidence of how the Funding has been spent;
  - (b) any Funding that has not yet been paid by the Ministry will not be paid;
  - (c) the Ministry may require the Recipient to refund to the Ministry:
    - (i) any Uncommitted Funding; and/or
    - (ii) where this Agreement is terminated under clause 3.3, the proportion of the Funding that equates to the uncompleted part of the Project, as reasonably determined by the Ministry;
  - (d) if the Co-Funding has not been used for the Project Deliverable, the Ministry may recover an amount that represents the same proportion of the Funding as the proportion of Co-Funding that has not been used is of the total Co-Funding.
  - (e) if the Funding has been misused or misappropriated by the Recipient, the Ministry may also require the Recipient to refund all Funding paid up to the date of termination, together with interest at the rate of 10% per annum from the date the Recipient was paid the money to the date the Recipient returns the money.
- 3.6. The provisions of this Agreement relating to termination (clause 3), audit and record-keeping (clause 4.2(b), (c) and (d)), warranties (clause 5), intellectual property (clause 6), confidentiality (clause 7), and liability (clause 8) will continue after the expiry or termination of this Agreement.

#### **4. Reporting Requirements and Audit**

- 4.1. The Recipient must report on the progress of the Project to the Ministry:
- (a) as set out in the Details;
  - (b) as otherwise reasonably required by the Ministry; and
  - (c) in any format and on any medium reasonably required by the Ministry.
- 4.2. The Recipient must:
- (a) maintain true and accurate records in connection with the use of the Funding and the carrying out of the Project sufficient to enable the Ministry to meet its obligations under the Public Finance Act 1989 and retain such records for at least 7 years after termination or expiry of this Agreement;
  - (b) permit the Ministry, at the Ministry's expense, to inspect or audit (using an auditor nominated by the Ministry), from time to time until 7 years after termination or expiry of this Agreement, all records relevant to this Agreement;
  - (c) allow the Ministry reasonable access to the Recipient's premises or other premises where the Project is being carried out; and
  - (d) appoint a reputable firm of chartered accountants as auditors to audit its financial statements in relation to the use of the Funding.

#### **5. Warranties**

- 5.1. Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.

- 5.2. The Recipient warrants that:
- (a) it is not insolvent or bankrupt and no action has been taken to initiate any form of insolvency or administration in relation to the Recipient;
  - (b) all information provided by it to the Ministry in connection with this Agreement (including any funding application or similar documents) was, at the time it was provided, true, complete and accurate in all material respects;
  - (c) it is not aware of any material information that has not been disclosed to the Ministry which may, if disclosed, materially adversely affect the decision of the Ministry whether to provide the Funding; and
  - (d) all consents required (including, without limitation, statutory consents, permissions and licences) to carry out the Project have been obtained. The Recipient will notify the Ministry immediately if any consent expires, is withdrawn, or otherwise lapses.

## **6. Intellectual Property**

- 6.1. All Intellectual Property Rights in the reports provided under clause 4.1 will be owned by the Ministry from the date the reports are created or developed.
- 6.2. All Intellectual Property Rights in any documentation produced by the Recipient or its employees or contractors and provided to the Ministry in relation to the Project is, on creation, jointly owned by the Ministry and the Recipient. Each Party may use (which includes modifying, developing, assigning, or licensing) such intellectual property without obtaining the prior consent of the other Party. On request, the Recipient must provide to the Ministry such documentation in any format, and on any medium, reasonably requested by the Ministry.
- 6.3. Except as set out in clauses 6.1 and 6.2, the Ministry will not obtain any Intellectual Property Rights in relation to any intellectual property that is developed by the Recipient in the course of the Project.
- 6.4. The Recipient must ensure that material created or developed in connection with the Project does not infringe the Intellectual Property Rights of any person.

## **7. Confidentiality**

- 7.1. The Recipient must:
- (a) keep the Confidential Information confidential at all times;
  - (b) not disclose any Confidential Information to any person other than its employees or contractors to whom disclosure is necessary for purposes of the Project or this Agreement;
  - (c) effect and maintain adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons; and
  - (d) ensure that any employees or contractors to whom it discloses the Confidential information are aware of, and comply with, the provisions of this clause 7.
- 7.2. The obligations of confidentiality in clause 7.1 do not apply to any disclosure of Confidential Information:
- (a) to the extent that such disclosure is necessary for the purposes of completing the Project;
  - (b) required by law; or
  - (c) where the information has become public other than through a breach of the obligation of confidentiality in this clause 7 by the Recipient, or its employees or contractors, or was disclosed to a Party on a non-confidential basis by a third party.
- 7.3. The Recipient acknowledges and agrees that:
- (a) the contents of this Agreement; and
  - (b) information provided to the Ministry,

may be official information in terms of the Official Information Act 1982 and, in line with the purpose and principles of the Official Information Act 1982, this Agreement and such information may be released to the public unless there is good reason, in terms of the Official Information Act 1982, to withhold it.

## **8. Liability**

- 8.1. The Ministry is not liable for any loss of profit, loss of revenue or other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement.
- 8.2. The maximum liability of the Ministry under or in connection with this Agreement whether arising in contract, tort (including negligence) or otherwise is the total amount which would be payable under this Agreement if the Project had been carried out in accordance with this Agreement.
- 8.3. The Recipient (including its employees, agents, and contractors, if any) is not an employee, agent or partner of the Ministry or of the Chief Executive of the Ministry. At no time will the Ministry have any liability to meet any of the Recipient's obligations under the Health and Safety at Work Act 2015 or to pay to the Recipient:
  - (a) holiday pay, sick pay or any other payment under the Holidays Act 2003; or
  - (b) redundancy or any other form of severance pay; or
  - (c) taxes or levies, including any levies under the Accident Compensation Act 2001.
- 8.4. The Recipient indemnifies the Ministry against:
  - (a) any taxes, levies, penalties, damages or compensation which the Ministry may be liable to deduct, withhold or pay by reason of the Recipient, or any person used by the Recipient to carry out the Project, being held to be an employee of the Ministry or of the Chief Executive of the Ministry; and
  - (b) any claim, liability, loss or expense (including legal fees on a solicitor own client basis) brought or threatened against, or incurred by the Ministry, arising from or in connection with a breach of this Agreement by the Recipient or the Project, or from the negligence or misconduct of the Recipient, its employees or contractors.
- 8.5. Where the Recipient is a trustee, the Ministry acknowledges that the Recipient has entered into this Agreement as a trustee of the trust named in the Details in an independent capacity without any interest in any of the assets of the trust other than as trustee. Except where the Recipient acts fraudulently, the Recipient is liable under this Agreement only to the extent of the value of the assets of the trust available to meet the Recipient's liability, plus any amount by which the value of those assets has been diminished by any breach of trust caused by the Recipient's wilful default or dishonesty.

## **9. Dispute Resolution**

- 9.1. The Parties will attempt to resolve any dispute or difference that may arise under or in connection with this Agreement amicably and in good faith, referring the dispute to the Parties' senior managers for resolution if necessary.
- 9.2. If the Parties' senior managers are unable to resolve the dispute within 10 Business Days of it being referred to them, the Parties will refer the dispute to mediation or another form of alternative dispute resolution agreed between the Parties.
- 9.3. If a dispute is referred to mediation, the mediation will be conducted by a single mediator appointed by the Parties (or if they cannot agree, appointed by the Chair of the Resolution Institute (or their nominee) and on the terms of the Resolution Institute standard mediation agreement (unless the Parties agree otherwise). The Parties will pay their own costs relating to any mediation or other form of alternative dispute resolution (unless they agree otherwise).
- 9.4. The Parties must continue to perform their obligations under this Agreement as far as possible as if no dispute had arisen pending final resolution of the dispute.
- 9.5. Nothing in this clause 9 precludes either Party from taking immediate steps to seek urgent relief before a New Zealand Court.

## **10. GST**

- 10.1 If the Recipient is liable for GST on any supply made under this Agreement, the Ministry will pay the amount of that GST to the Recipient in addition to and at the same time as the Funding payment, but only where the Recipient provides the Ministry with a valid tax invoice for that amount, complying with the requirements of the Goods and Services Tax Act 1985.

## **11. Force Majeure**

- 11.1. Neither Party will be liable to the other for any failure to perform its obligations under this Agreement by reason of any cause or circumstance beyond the Party's reasonable control including acts of God, communication line failures, power failures, riots, strikes, lock-outs, labour disputes, fires, war, flood, earthquake or other disaster, or governmental action after the date of this Agreement ("Force Majeure Event"). The Party affected must:
- (a) notify the other Party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event including an estimate of the time likely to be required to overcome it;
  - (b) use its best endeavours to overcome the Force Majeure Event; and
  - (c) continue to perform its obligations as far as practicable.
- 11.2. If by reason of a Force Majeure Event a Party has been unable to perform any material obligation under this Agreement for a period of one month, the other Party may give the first Party one month's notice terminating this Agreement.

## **12. General**

- 12.1. A waiver by either Party of any rights arising from any breach of any term of this Agreement will not be a continuing waiver of any other rights arising from any other breaches of the same or other terms or conditions of this Agreement. No failure or delay on the part of either Party in the exercise of any right or remedy in this Agreement will operate as a waiver. No single or partial exercise of any such right or remedy will preclude any other or further exercise of that or any other right or remedy.
- 12.2. Assignment:
- (a) The rights and obligations of the Recipient under this Agreement are personal to the Recipient and may only be assigned, delegated or subcontracted with the prior approval in writing of the Ministry (which may be given, declined, or given subject to conditions, in the Ministry's sole discretion). The Recipient remains liable for performance of its obligations under this Agreement despite any approved assignment, subcontracting or delegation.
  - (b) If the Recipient is a company, any transfer of shares, or other arrangement affecting the Recipient or its holding company which results in a change in the effective control of the Recipient is deemed to be an assignment subject to clause 11.2(a).
- 12.3. This Agreement may only be varied by agreement in writing signed by the Parties.
- 12.4. If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Agreement will be binding on the Parties.
- 12.5. Any notice to be given under this Agreement must be in writing and hand delivered or sent by email or post to the Parties' respective addresses as set out in the Details. A notice is deemed to be received:
- (a) if personally delivered when delivered;
  - (b) if posted, three Business Days after posting; or
  - (c) if sent by email, at the time indicated on the email that it was sent in its entirety to the email address of the recipient, provided that any notice received after 5pm or on a day which is not a Business Day shall be deemed not to have been received until the next Business Day.
- 12.6. This Agreement sets out the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.



- 12.7. This Agreement may be signed in any number of counterparts and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties.
- 12.8. This Agreement will be governed by and construed in accordance with New Zealand law.