



30 January 2019

Ref: DOIA 1819-0464
DOIA 1819-0925

Andrew Riddell
fyi-request-9228-bc6b7617@requests.fyi.org.nz

Dear Mr Riddell

Thank you for your email of 22 September 2018 to the Ministry of Business, Innovation and Employment (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

This includes all communications sent to or received from any person, including from Far North District Council, Far North Holdings Limited, the Russell Wharf and Waterfront Trust and the Minister of Regional Economic Development related to the upgrade to the Russell Wharf and/or the decision to provide Regional Development Fund money towards the upgrade.

I apologise for the delay in providing a response to you.

On 11 December 2018 you also asked for:

now request all communications relating to the processing of this request, including the assessment of the request and the preparation of the Ministry's responses to this information request. For the purposes of this request 'communications' includes emails, letters, internal correspondence, briefings, file notes, and so on.

Please find attached the requested information. Some of the information has been withheld under the following sections of the Act:

- 9(2)(a), to protect the privacy of natural persons, including that of deceased natural persons;
- 9(2)(b)(ii), to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; and
- 9(2)(j), to enable a Minister of the Crown or any department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).



You have the right to seek an investigation and review by the Ombudsman of our response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Mark Jacobs", is written over a faint, illegible printed name.

Mark Jacobs
Director Regional Development
Provincial Development Unit

From: [Ward Tuite](#)
To: [Stacey O'Dowd](#)
Cc: [Stephanie Weller](#)
Subject: RE: Hi Ward - has this been actioned please? Action from RED Ministers [UNCLASSIFIED]
Date: Monday, 6 August 2018 11:19:00 a.m.
Attachments: [image001.png](#)

Hi Stacey

The ownership of the three wharves has been reviewed the PDU legal team and the funding agreements for the **Out of Scope** Russell Wharves have been sent to Far North Holdings Limited to present to their board today for execution. **Out of Scope**

I'm not sure why this was tagged to MPI, they have never been involved.

Trust this helps.

Ward Tuite

Regional Economic Development Project Manager
Regions & Project Delivery
Provincial Development Unit

Email - Imera: ward.tuite@mbie.govt.nz | **DDI - Waea Totika:** | **Facsimile - Waea Whakaahua:** +64 4 474 2659 | **Mobile - Waea Pukoro:** **§ 9(2)(a)** | **Website - Pae-ipurangi:** www.mbie.govt.nz/regions |
Postal - Poutapeta: Level 4, 160 Lambton Quay, Wellington 6140



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From: Stacey O'Dowd
Sent: Monday, 6 August 2018 10:19 a.m.
To: Ward Tuite
Subject: RE: Hi Ward - has this been actioned please? Action from RED Ministers [UNCLASSIFIED]

And this?

28/5/18	Minister Jones requested for Grant Berghan (MPI) to be across the ownership matter of the three wharves.	PDU	2 July	Underway
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From: Stacey O'Dowd
Sent: Monday, 6 August 2018 10:18 a.m.
To: Ward Tuite
Subject: Hi Ward - has this been actioned please? Action from RED Ministers [UNCLASSIFIED]
Importance: High

Out of Scope



Stacey O'Dowd
PRINCIPAL ADVISOR

Strategy and Governance
Provincial Development Unit

Stacey.O'Dowd@mbie.govt.nz | Telephone: 04 896 5282 |
www.mbie.govt.nz/regions



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Whāngārei

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From: [Gwyn Thurlow](#)
To: [Ward Tuite](#); [Pippa Brown](#)
Cc: [Richard Westbury](#)
Subject: RE: MBIE Funding Agreements [IN-CONFIDENCE]
Date: Monday, 16 July 2018 3:38:42 p.m.
Attachments: [Far North Holdings Ltd re Russell Wharf Grant Funding Agreement \(Final\).....docx](#)
[Out of Scope](#)

Hi Ward,

As discussed, **attached** are the updated Russell and [Out of Scope](#) documents. I'm removed the conditions FNHL have flagged as delivered in their comments, on the assumption he is correct. As a matter of fact, can that be confirmed?

I've included a 20 year time period for a prohibition of disposal. This aligns to the obligation to replay the funding from sale proceeds.

Kind regards,
Gwyn

From: Ward Tuite
Sent: Monday, 16 July 2018 10:19 a.m.
To: Pippa Brown
Cc: Gwyn Thurlow; Richard Westbury
Subject: FW: MBIE Funding Agreements [IN-CONFIDENCE]

Morena Pippa, Gwyn and Richard

Refer email below and emails forwarded to you last week, do you have an estimated eta and I will respond to Andy.

Cheers

Ward Tuite
Regional Economic Development Project Manager
Regions & Project Delivery
Provincial Development Unit

Email - Imera: ward.tuite@mbie.govt.nz | **DDI - Waea Totika:** | **Facsimile - Waea Whakaahua:** +64 4 474 2659 | **Mobile - Waea Pukoro:** [s 9\(2\)\(a\)](#) | **Website - Pae-ipurangi:** www.mbie.govt.nz/regions |
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From: Andy Nock [mailto:s 9(2)(a)]
Sent: Monday, 16 July 2018 9:53 a.m.
To: Ward Tuite
Subject: MBIE Funding Agreements

Hi Ward,

When can we expect a response to;

1. Russell and **Out of Scope** Wharf documents

And (2) **Out of Scope**

Cheers,

Andy

Andy Nock

**Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph: s 9(2)(a)**

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From: [Ward Tuite](#)
To: "Andy Nock"
Subject: RE: MBIE Funding Agreements [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Monday, 16 July 2018 10:41:00 a.m.

Morena Andy

I have referred your email to our legal team and Richard Westbury and I have asked for advice on eta of a response for the three agreements. I will be in touch as soon as I have received this.

Nga mihi

Ward Tuite

Regional Economic Development Project Manager
Regions & Project Delivery
Provincial Development Unit

Email - Imera: ward.tuite@mbie.govt.nz | **DDI – Waea Totika:** | **Facsimile – Waea Whakaahua:** +64 4 474 2659 | **Mobile – Waea Pukoro:** s 9(2)(a) | **Website – Pae-ipurangi:** www.mbie.govt.nz/regions |
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From: Andy Nock [mailto:s 9(2)(a)]
Sent: Monday, 16 July 2018 9:53 a.m.
To: Ward Tuite
Subject: MBIE Funding Agreements

Hi Ward,

When can we expect a response to;

1. Russell and **Out of Scope** documents

Out of Scope

Cheers,

Andy

Andy Nock

Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph: 9(2)(a)

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From: [Gwyn Thurlow](#)
To: [Ward Tuite](#); [Pippa Brown](#)
Subject: RE: [Out](#) and Russell [IN-CONFIDENCE]
Date: Wednesday, 1 August 2018 2:06:04 p.m.

You now have both from me!

From: Ward Tuite
Sent: Wednesday, 1 August 2018 1:00 p.m.
To: Pippa Brown
Cc: Gwyn Thurlow
Subject: FW: Opua and Russell [IN-CONFIDENCE]

Andy at his best!!!!

From: Andy Nock [mailto:[§ 9\(2\)\(a\)](#)]
Sent: Wednesday, 1 August 2018 12:56 p.m.
To: Ward Tuite
Subject: Opua and Russell

Hi Ward,

When can we expect final documents for signature?

Out of Scope



Cheers,

Andy

Andy Nock

Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph: § 9(2)(a)



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From: [Gwyn Thurlow](#)
To: [Ward Tuite](#)
Subject: RE: Opua and Russell Wharfs [IN-CONFIDENCE]
Date: Thursday, 2 August 2018 3:38:40 p.m.

No comments from me on these changes, Ward.

Kind regards
Gwyn

From: Ward Tuite
Sent: Thursday, 2 August 2018 2:55 p.m.
To: Gwyn Thurlow
Subject: Opua and Russell Wharfs [IN-CONFIDENCE]

Gwyn

Can you live with the changes???? I think we are almost there.

Ward

From: Andy Nock [mailto:[9\(2\)\(a\)](#)]
Sent: Thursday, 2 August 2018 2:12 p.m.
To: Ward Tuite
Subject: [Out of](#) and Russell Wharfs

Hi Ward,

Final comments. If agreed can you please return these by Friday close of play as we have our Board meeting Monday the 6th and I will get the agreements signed off.

Thanks for all your help.

Andy

Andy Nock

Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph [9\(2\)\(a\)](#)

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From: [Gwyn Thurlow](#)
To: [Ward Tuite](#); [Paul Swallow](#)
Cc: [Pippa Brown](#); [Stephanie Weller](#); [Robert Pigou](#)
Subject: RE: [Out of Scope](#) Russell Wharfs [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Tuesday, 31 July 2018 3:56:18 p.m.
Attachments: [Out of Scope](#)
[Compare Result - Russell.pdf](#)

Ward and others,

Per our discussions today, including separately with Robert and Andy Nock, here are proposed final agreements (hopefully) for Russell [Out of Scope](#). Compare's to FNHL's latest comments are **attached** as PDFs.

Links as follows:

[Out of Scope](#)




Russell Wharf: <http://mako.wd.govt.nz/oics/lisapi.dll/overview/81028095>

In summary, we will need from FNHL the following updated / outstanding CPs:

[Out of Scope](#)



- We want to see fully signed construction contracts (not annexed or approved by us, as suggested by FNHL) for both.
- We want to see fully signed board approval extract - 2 more directors need to sign. 

[Out of Scope](#)



[Out of Scope](#)



Once everyone is happy, you can send these on to Andy Nock.

Kind regards
Gwyn

From: Gwyn Thurlow
Sent: Monday, 30 July 2018 3:15 p.m.
To: Ward Tuite; Paul Swallow
Cc: Pippa Brown; Stephanie Weller
Subject: RE: [Out of Scope](#) Russell Wharfs [IN-CONFIDENCE:RELEASE EXTERNAL]


Ward

After looking at the bundle from FNHL, and to help you make decisions tomorrow, attached are links revised drafts (in clean) along with compares to Andy's comments to show the changes (attached as PDFs).

Out of Scope

Russell Wharf: <http://mako.wd.govt.nz/otcs/lisapi.dll/overview/81028095>

Kind regards
Gwyn

From: Gwyn Thurlow
Sent: Monday, 30 July 2018 1:44 p.m.
To: Ward Tuite; Paul Swallow
Cc: Pippa Brown
Subject: RE:  Russell Wharfs [IN-CONFIDENCE:RELEASE EXTERNAL]

Ward,

Given I don't think anyone has had the time to review all the documents sent across by FNHL, you have 2 options:


1. Keep the conditions in the document, as we drafted it, get it signed, and then review the CPs and tick them off. This should allow FNHL to get comfortable – all the CPs are in their control.
2. Review all the documents ASAP to allow us to sign a contract with no conditions precedent. Someone needs to do that urgently.

Option 1 is less risky for us. And allows to contract to be signed ASAP.

Option 2, will require someone to read all the documents to make sure it all lines up and is/does what it says on the cover letter. This wil/may delay signing, unless someone looks at this reasonably promptly. There is a risk that if something provided is wrong or missing then you cannot do anything because the document is unconditional.

As a separate point – has someone considered and accepted the higher project / costs blow out? Is that acceptable? How is the overrun going to be funded?

Gwyn

From: Ward Tuite
Sent: Monday, 30 July 2018 1:31 p.m.
To: Gwyn Thurlow; Paul Swallow
Cc: Pippa Brown
Subject: FW:  Russell Wharfs [IN-CONFIDENCE:RELEASE EXTERNAL]

Afternoon all

See email from Andy, please I need advice from the experts.....

Cheers

Ward

From: Andy Nock [mailto:§ 9(2)(a)]
Sent: Monday, 30 July 2018 1:24 p.m.
To: Ward Tuite
Subject: Out of Russell Wharfs

Hi Ward,

The contractor is needing us to execute the contracts for both wharfs if he is to adhere to the imposed deadlines.

Can you update me on progress?

Cheers,

Andy

Andy Nock

**Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph: § 9(2)(a)**

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From: [Paul Swallow](#)
To: [Ward Tuite](#)
Cc: [Gwyn Thurlow](#)
Subject: RE: [Out of Scope](#) Russel Wharves [IN-CONFIDENCE]
Date: Tuesday, 31 July 2018 11:20:07 a.m.

All good, no need to call me unless I need to do anything. Cheers. Paul

From: Ward Tuite
Sent: Tuesday, 31 July 2018 10:43 a.m.
To: Paul Swallow
Cc: Gwyn Thurlow
Subject: RE: [Out of Scope](#) Russel Wharves [IN-CONFIDENCE]

Hi Paul

I'll give you a call about this after 2pm, we have negotiated a solution with Andy (via Robert Pigou).

Cheers

Ward

From: Paul Swallow
Sent: Tuesday, 31 July 2018 9:43 a.m.
To: Ward Tuite
Cc: Gwyn Thurlow
Subject: RE: [Out of Scope](#) Russel Wharves [IN-CONFIDENCE]

Hi Ward, sorry I'm not in the office today. I haven't read the 500 pages but did read the contracts and they look good to go once any gaps are filled by applicant. Cheers. Paul

-----Original Appointment-----

From: Ward Tuite
Sent: Monday, 30 July 2018 1:43 p.m.
To: Pippa Brown; Stephanie Weller; Gwyn Thurlow; Paul Swallow
Subject: [Out of Scope](#) Russel Wharves [IN-CONFIDENCE:RELEASE EXTERNAL]
When: Tuesday, 31 July 2018 10:00 a.m.-10:30 a.m. (UTC+12:00) Auckland, Wellington.
Where: L4

Afternoon all

Can we meet tomorrow morning to discuss next steps for the Russell and [Out of Scope](#) Wharves. FNHL advised the contracts need to be executed if the contractor is to adhere to imposed deadlines. The issue is we were sent around 500 pages of documentation to review and the funding requests have changed. I need a steer on this.

Cheers

Ward

From: [Ward Tuite](#)
To: ["Irwin Wilson"](#)
Cc: ["Andy Nock"](#); ["Chris Galbraith"](#)
Subject: RE: PGF Funding - Russell Wharf and [Out of](#) [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Wednesday, 25 July 2018 2:13:00 p.m.

Afternoon Irwin

Noted and and Schedule 7 associated with other documents.

From: Irwin Wilson [mailto:[§ 9\(2\)\(a\)](#)]
Sent: Wednesday, 25 July 2018 1:36 p.m.
To: Ward Tuite
Cc: Andy Nock; Chris Galbraith
Subject: RE: PGF Funding - Russell Wharf and Opuā Wharf [IN-CONFIDENCE:RELEASE EXTERNAL]

Afternoon Ward

Further to the email of last evening, please find attached schedule 7, being the letter from the Russell Wharf Trust, that was required.

Appreciate assistance.

Regards
Irwin Wilson
Finance Manager
FNHL

From: Ward Tuite [mailto:Ward.Tuite@mbie.govt.nz]
Sent: Wednesday, 25 July 2018 7:27 a.m.
To: Kylie Cox <[§ 9\(2\)\(a\)](#)>
Cc: Andy Nock <[§ 9\(2\)\(a\)](#)> ; Chris Galbraith <[§ 9\(2\)\(a\)](#)> ; Irwin Wilson <[§ 9\(2\)\(a\)](#)>
Subject: RE: PGF Funding - Russell Wharf and Opuā Wharf [IN-CONFIDENCE:RELEASE EXTERNAL]
Importance: Low

Morena Kylie

Thanks for email and attached documentation. I will forward to our legal and investment team to review.

Nga mihi

Ward Tuite

Regional Economic Development Project Manager
Regions & Project Delivery
Provincial Development Unit

Email - Imera: ward.tuite@mbie.govt.nz | **DDI – Waea Totika:** | **Facsimile – Waea Whakaahua:** +64 4 474 2659 | **Mobile – Waea Pukoro:** +64 [§ 9\(2\)\(a\)](#) | **Website – Pae-ipurangi:** www.mbie.govt.nz/regions |

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Ministry of Business, Innovation and Employment

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From: Kylie Cox [mailto:§ 9(2)(a)]
Sent: Tuesday, 24 July 2018 7:11 p.m.
To: Ward Tuite
Cc: Andy Nock; § 9(2)(a)
Subject: PGF Funding - Russell Wharf and Opuā Wharf

Hi Ward

Please find attached a letter and the two PGF agreements.

We trust the letter and agreement are in order.

We await the Russell Wharf Trust letter, Schedule 7, and will have to you in the morning.

If you click on the drop box link below you will be taken to the schedules referred to in the attached letter

<https://www.dropbox.com/sh/sg5orevycpneso/AAC5LtWeDbD7IW2-Wn93MvOOa?dl=0>

Kylie Cox
Executive Assistant
Far North Holdings Limited
PO Box 7
OPUA, 0200
09 402 5659 or § 9(2)(a)
www.fnhl.co.nz

www.govt.nz - your guide to finding and using New Zealand government services

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From: [Gwyn Thurlow](#)
To: [Pippa Brown](#)
Cc: [Ward Tuite](#)
Subject: RE: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Tuesday, 5 June 2018 9:53:28 a.m.
Attachments: [RE Out of Scope](#) and the Three Wharves UNCLASSIFIED.msg

Hi Pippa and Ward,

Yes, should be, pending others' inputs. The document is with David as of Wednesday of last week. Email attached, FYI.

While I await feedback, I'll start on drafting the background for the remaining 2 wharves' funding documents.

I mentioned sending out 1 out to FNHL initially to use as a base to draft all 3 contacts – not sure how the Regional team wants to run it.

Happy to discuss.

Kind regards
Gwyn

From: Pippa Brown
Sent: Tuesday, 5 June 2018 9:13 a.m.
To: Gwyn Thurlow
Cc: Ward Tuite
Subject: FW: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Gwyn – is this going to be okay? If we can't get all three out – let's get the first one out if he wants to be looking at something today

Pippa Brown
Senior Solicitor

Legal Services, Commercial | Corporate Governance and Information Group
Ministry of Business, Innovation & Employment

pippa.brown@mbie.govt.nz | Telephone: (04) 901 8764 | Mobile: [s 9\(2\)\(a\)](#)
15 Stout Street, PO Box 1473, Wellington 6011

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HIKINA WHAKATUTUKI



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<http://thelink/how/Pages/request-legal-advice.aspx>
Or email us: WgtnLegal@mbie.govt.nz or akldlegal@mbie.govt.nz

From: Ward Tuite
Sent: Tuesday, 5 June 2018 8:46 a.m.
To: Pippa Brown <pippa.brown@mbie.govt.nz>
Cc: Stephanie Weller <stephanie.weller@mbie.govt.nz>
Subject: FW: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Morena Pippa

Mark, left a note for me to follow-up release of funding agreement to Andy Nock today, are we schedule to achieve this?

Cheers

Ward Tuite

Regional Economic Development Project Manager
Regions & Project Delivery
Provincial Development Unit

Email - Imera: ward.tuite@mbie.govt.nz | **DDI - Waea Totika:** | **Facsimile - Waea Whakaahua:** +64 4 474 2659 | **Mobile - Waea Pukoro:** 5 9(2)(a) | **Website - Pae-ipurangi:** www.mbie.govt.nz/regions |
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From: Mark Patterson
Sent: Thursday, 31 May 2018 12:01 p.m.
To: Andy Nock; Irwin Wilson
Cc: Pippa Brown; Ward Tuite
Subject: RE: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Hi Andy / Irwin,

In my absence over the next few days, I would like to link you to Pippa Brown who is our legal guru for the Unit.

Either Pippa or a someone from the legal team will work closely with you to finalise the agreements for the 3 wharves.

Andy – you have chatted to Pippa previously about the BOI Airport agreement.

Irwin – could I ask you liaise with Pippa please.

Cheers

Mark

From: Andy Nock [mailto:[s 9\(2\)\(a\)](#)]
Sent: Wednesday, 30 May 2018 5:20 p.m.
To: Mark Patterson
Cc: Irwin Wilson
Subject: RE: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Hi Mark,

Presume same funding agreements as for [Out of Scope](#) so how long to turn these around?

Cheers,

Andy

Andy Nock

Chief Executive
Far North Holdings Limited
PO Box 7
Opua 0241
Ph [s 9\(2\)\(a\)](#)

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From: Mark Patterson <Mark.Patterson2@mbie.govt.nz>
Sent: Wednesday, 30 May 2018 5:16 PM
To: Andy Nock [s 9\(2\)\(a\)](#)
Cc: Irwin Wilson [s 9\(2\)\(a\)](#)
Subject: Re: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Hi Andy,

We do just now. Good to crack on as grants. Investment agreements are being finalised

Cheers

Mark

Mark Patterson
Senior Advisor
Regions and Cities

On 30/05/2018, at 4:43 PM, Andy Nock <[redacted]> wrote:

Hi Mark,

Do we have a decision?

Cheers

Andy

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From: Mark Patterson <Mark.Patterson2@mbie.govt.nz>
Sent: Tuesday, May 29, 2018 10:44:31 PM
To: Andy Nock
Cc: Irwin Wilson
Subject: RE: Wharfs MBIE Funding [IN-CONFIDENCE:RELEASE EXTERNAL]

Hi Andy,

We are hoping to find out this morning. We have not had the formal notification come back from the Ministers meeting yet.

Will let you know when I do.

Cheers

Mark

From: Andy Nock [mailto:[redacted]]
Sent: Tuesday, 29 May 2018 9:18 p.m.
To: Mark Patterson
Cc: Irwin Wilson
Subject: Wharfs MBIE Funding

Hi Mark,
Was funding for the 3 wharf structures approved yesterday?

Cheers

Andy

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RELEASED UNDER THE
OFFICIAL INFORMATION ACT

From: [Alison Page](#)
To: [Ward Tuite](#)
Subject: Signed Russell Wharf Funding Agreement [IN-CONFIDENCE]
Date: Wednesday, 22 August 2018 11:20:03 a.m.
Attachments: [Executed Russell Wharf Extension and Upgrade Funding Agreement.pdf](#)

Hi Ward

Attached is the signed Funding Agreement to be sent to Far North Holdings Ltd.

I have saved it at:

Executed Russell Wharf Extension and Upgrade Funding Agreement.pdf
<http://mako.wd.govt.nz/otcs/llisapi.dll/link/82887047>

Cheers
Alison

Alison Page

Contracting and Funding Administrator |
Investment Management and Performance team – Labour, Science and Enterprise group
Ministry of Business, Innovation & Employment | Te Manatu Pakihi, Auahatanga me Nga Kaupapa a-Mahi



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUNUHI



Email - Imera: alison.page@mbie.govt.nz | Mobile - § 9(2)(a) | Website - Pae-ipurangi:
www.mbie.govt.nz | Postal - Poutapeta: 15 Stout Street, PO Box 1473, Wellington 6011

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**PROVINCIAL
GROWTH
FUND**

FUNDING AGREEMENT

BETWEEN

**MINISTRY OF BUSINESS,
INNOVATION AND EMPLOYMENT**

AND

FAR NORTH HOLDINGS LIMITED

FOR

**RUSSELL WHARF
EXTENSION & UPGRADE PROJECT**

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

PART 1: KEY DETAILS

- 1 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**
Far North Holdings Limited (849248) a limited liability company having its Registered office address at Unit 9b, 15 Baffin Street, Opua (**Recipient**)
- 2 Funding Start Date** Commencement Date.
- 3 End Date** 30 June 2019
- 4 Background**
- Through the Provincial Development Unit, the Ministry is responsible for administering the Provincial Growth Fund, which aims to lift productivity potential in New Zealand's provinces.
- The Recipient was incorporated by the Far North District Council (the **Council**) to act as a vehicle for delivery of the Council's commercial activities. It is a Council Controlled Organisation under the Local Government Act 2002. The Council is the sole shareholder in the Recipient.
- As the Council's commercial trading vehicle, the Recipient facilitates and creates commercial and infrastructural assets in the Far North District, in doing so, it:
- Operates under good governance;
 - Seeks new business development opportunities;
 - Identifies, collaborates or enters joint venture opportunities;
 - Manages existing assets and bring commercial expertise in property management; and
 - Creates profits for the Council and improves asset value.
- The Recipient leads the delivery of property and infrastructure assets in its ownership and under its management. These actions contribute to the development of the Far North District.
- The Recipient's primary roles are:
- To plan, manage, operate and develop land, maritime, aviation and public assets within its ownership; or under the terms of any management agreement entered into; and
 - To plan, facilitate and secure commercial outcomes in its area of Influence that support the growth of the Far North District.
- The Recipient will assume any project cost short falls and fully underwrites the Project.
- The Recipient has sought a funding contribution from the Ministry for the purposes of the Project described below. The Ministry has agreed to contribute funding on the terms and conditions of this Agreement (**Agreement**).
- Key details of this Agreement are set out in this **Part 1**. The full terms and conditions are set out in **Part 2**. Defined terms and rules of interpretation are set

out in Part 3.

5 Conditions Precedent

No Funding is payable under this Agreement until the Ministry has confirmed to the Recipient in writing that it has received, and found to be satisfactory to it in form and substance, the following documents and evidence:

- (a) Evidence the Recipient has a legal interest, as lessee, and that FNDC have approved the transfer of freehold ownership, of the Russell Wharf and all necessary land and related interests required carry out the Project.
- (b) A copy of the extract of resolution of the Recipient's board in the form provided to the Ministry on or about 24th July 2018 signed by the Chair and two Directors.
- (c) A copy of the executed Construction Contract in respect of the Project.
- (d) A copy of a letter from the Recipient confirming the Co-Funding commitments at item 11 below.

6 Project

The Project is an upgrade to Russell Wharf and includes:

- replacing low tidal landings with floating concrete pontoons
- removing the fixed timber landing jetty and replacing it with a concrete pontoon
- a new dinghy dock
- a wharf extension to the west for more visitor space and improved passenger flow
- a sewage and water service to be provided as required by the RWT.

The Project excludes the Russell Wharf Building re-development of the information centre and the café building. Such building to be built by FNHL as a part of its Co-Funding of the Project.

A copy of the proposed "project plan" is provided at the Annexure to this Agreement.

7 Project Deliverables

The Recipient is to complete the following Deliverables for the Project to the satisfaction of the Ministry by the following dates:

Completion Date	Deliverable
6 th August 2018	Front Pontoon Installation commences FNDC Funded
19 th August 2018	Front Pontoon Complete
31 August 2018	Appointment of Approved Contractor(s) for the construction contract acceptable to the Ministry

	Duly executed construction contract based on NZS3910 with the Approved Contractor to deliver the Wharf Project for the budgeted cost of NZ\$ ^{s 9(2)(b)(ii)}
30 September 2018	Construction commenced
1 June 2019	Project competed in accordance with the construction contract
1 May 2019	Start redevelopment of Information Centre and Café (FNHL funded)
1 December 2019	Café and Information Centre completed

- Reporting, as required by this Agreement.

8 Key Personnel

Andy Nock – CEO, Far North Holdings Ltd
Chris Galbraith – General Manager, Far North Holdings Ltd
Max Haag, RS Eng, Engineer and Project Manager
Rob Brown, RS Eng, Engineer and Project Manager

9 Approved Contractors

Bellingham Marine or any other person approved in writing by the Ministry.

10 Funding

The aggregate total Funding available under this Agreement is NZ\$ ^{s 9(2)(b)(ii)} excluding GST (if any). This is the Total Maximum Amount Payable.

11 Co-Funding

The Recipient must have secured and committed the following Co-Funding to be used for the Project of no less than:

- NZD\$ ^{s 9(2)(b)(ii)} excluding GST (if any) from FNDC, in respect of the Project; and
- NZ\$ ^{s 9(2)(b)(ii)} excluding GST (if any) from the Recipient to build the information centre on the wharf, between May and December 2019.
- Co-funding must be applied to fund Project costs pro rata with Funding.

12 Reporting

The Recipient will provide the Ministry with the following reports:

- A monthly report by the 10th Business Day following the end of each month and within 20 Business Days of completion of the Project.
- A Post Contract Outcomes Report submitted within 2 months of completion of the Project.

Each monthly report must include the following information:

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- (a) Description and analysis of actual progress of the Project against planned progress;
- (b) Progress and achievement of any of the Deliverables;
- (c) Images of the progress of any development aspects of the Project;
- (d) The number of new jobs created and FTE employed in relation to the Project;
- (e) The training and development schemes provided in relation to the Project including the number of people who receive the training;
- (f) A statement of the Funding and any Co-Funding received, spent and remaining;
- (g) A costs update (including actual to date and cost to completion for each Deliverable and the Project);
- (h) Plans for the next month (not required in the final report following completion of the Project);
- (i) Any major risks arising or expected to arise with the Project, costs or performance of this Agreement;
- (j) Copies of any proposed and any published promotional material, media publicity or other documentation relevant to the Project or the Deliverables;

Each Post Contract Outcome report must include the following information:

- (a) an analysis of how the Funding has enabled the Recipient to achieve the key outcomes of the Project;
- (b) an analysis of how the Funding and the Project has brought wider benefits to the region/province;
- (c) detail of the number of jobs that the Project created;
- (d) detail of any training or development schemes that were provided in delivery of the Project and how many people that training and development was provided to;
- (e) detail of environmental sustainability created by the Project;
- (f) detail of better use of iwi assets;
- (g) detail of increased resilience to any proximate infrastructure;
- (h) detail of increased resilience of the regional economy; and
- (i) any other information that is notified by the Ministry in writing to the Recipient.

13 Insurance

Prior to commencement of construction of the Project the Recipient must ensure that at all times insurances are maintained in full force and effect, which:

- (a) insure in respect of its interests in the property and the plant and equipment on the property (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs) and to:
 - (i) provide customary cover against loss or damage, including by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
 - (ii) provide cover for site clearance, shoring or propping up, professional fees and tax;
 - (iii) provide for contractor's all risks insurance covering all contractors;
 - (iv) provide for professional indemnity insurance covering all contractors and consultants with a design responsibility;
- (b) include public liability and third party liability insurance; insure such other risks as a prudent person or entity in the same business would insure.

14 Special Terms

Without prior consent of the Ministry, the Recipient may not sell, lease, dispose, transfer, assign or cease to legally and beneficially own the Project and related property for a term of 20 years.

The Recipient must maintain sufficient co-funding to complete the project at all times, given the residual funding available under this Agreement and then expected cost to complete the Project.

Upon completion of the Project, the Recipient will maintain the completed Project and related facilities at the Russell Wharf and all related assets in accordance with best industry practice, in any way necessary to maintained in:

- (a) good and substantial repair and condition and, as appropriate, in good working order; and
- (b) such repair, condition and order as to enable them to be let in accordance with all applicable laws and regulations; for this purpose, a law or regulation will be regarded as applicable if it is either:
 - (i) in force; or
 - (ii) it is expected to come into force and a prudent property owner in the same business as the Recipient would ensure that its buildings, plant, machinery, fixtures and fittings were in such condition, repair and order in anticipation of that law or regulation coming into force.

The Recipient must comply with all financial covenants in respect of its finance arrangements, and represents and warrants that entry into, and the performance of, its obligations under this Agreement, will not be or cause an 'event of default'

(however so described) under its financing arrangements.

The Recipient acknowledges that the Ministry has entered into this agreement by way of a grant, not a loan on commercial terms, on the representation made by the Recipient that a loan (in aggregate across all three wharf projects: Opuia, Russell and Paihia) would cause it to exceed its financial covenants and debt to equity ratio.

15 Contact Person

Ministry's Contact Person:
Name: Ward Tuite
Email: ward.tuite@mbie.govt.nz

Recipient's Contact Person:
Name: Andy Nock
Email: § 9(2)(b)(ii), § 9(2)(a)

16 Address for Notices

To the Ministry:
Level 4
160 Lambton Quay
PO Box: 1473
Wellington 6140
Attention: Stephanie Weller
Email: pgf@mbie.govt.nz and cc stephanie.weller@mbie.govt.nz

To the Recipient:
PO Box 7, Opuia 0200
Attention: Andy Nock
Email: § 9(2)(a)

SIGNATURES

SIGNED for and 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:



Name: *Nigel Burke*
Position: *head POU*
Date: *26/8/18*

SIGNED for and on behalf of the **RECIPIENT** by the person named below, being a person duly authorised to enter into obligations on behalf of the Recipient:



Name: Andy Nock
Position: CEO
Date: *6/8/18*

END OF PART 1



PART 2: GENERAL TERMS

1 FUNDING

- 1.1 The Ministry will pay the Funding (up to the "Total Maximum Amount Payable" specified in the Key Details) to or on account of the Recipient, subject to the terms of this Agreement. The Recipient must use the Funding for, or ensure the Funding is applied towards, the purposes of the Project.
- 1.2 The Recipient can only request payment of the Funding in accordance with this Agreement and to the extent necessary to cover Eligible Costs.
- 1.3 The Recipient may submit a Payment Request to the Ministry's Contact Person, at the same time as the relevant monthly report is delivered to the Ministry.
- 1.4 Each Payment Request is to be signed by a director and an authorised signatory of the Recipient and must be in the form set out in the Schedule and include the confirmations set out therein, and must include:
- (a) the amount of Funding requested;
 - (b) a breakdown of total Eligible Costs incurred by the Recipient and which the requested Funding is to meet and confirmation that such costs are Eligible Costs for the purpose of this Agreement have been paid or are currently due and payable or will become payable within 30 days of the date of this Payment Request;
 - (c) originals of invoices received by the Recipient from third parties in relation to the Eligible Costs where those Eligible Costs are more than \$1,000 (on an individual basis or when grouped by supplier or subject matter) and statements and accounts showing the Eligible Costs incurred;
 - (d) if Co-Funding is provided for in the Key Details, contain a breakdown of the total Eligible Costs incurred and paid for, and/or to be incurred and paid for, by the Recipient, demonstrating that Co-Funding has or will be applied to satisfy a proportional amount of these Eligible Costs in accordance with clause 2(a)(ii);
 - (e) if the Payment Request includes a GST component, contain a valid GST invoice complying with the Goods and Services Tax Act 1985; and
 - (f) contain any other information required by the Ministry.
- 1.5 The Ministry is not required to pay any Funding in respect of a Payment Request:
- (a) where the Ministry is not satisfied with the progress of the Project;
 - (b) if any Deliverable(s) have not been completed by the relevant "Completion Date" specified in the Key Details;
 - (c) if the Ministry is not satisfied with the information that is contained within, or provided in connection with, the monthly reports or the Payment Request noting that in the context of the Payment Request the Ministry may elect to pay the Recipient for certain Eligible Costs that are the subject of the Payment Request and withhold payment for other Eligible Costs that the Ministry disputes;

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- (d) if the Ministry is not satisfied that the Recipient has applied Co-Funding in accordance with clause 2(a)(ii) of this Agreement;
- (e) if payment will result in the Funding exceeding the "Maximum Amount Payable" specified in the Key Details;
- (f) while there are one or more Termination Event(s);
- (g) if this Agreement has expired or been terminated; and/or
- (h) while the Recipient is in breach of this Agreement.

1.6 Subject to the terms of this Agreement, the Ministry will pay each valid Payment Request by the 20th day of the month after the month the Payment Request is dated, and if such day is not a Business Day, on the next Business Day.

2 CO-FUNDING

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 on the same terms and conditions approved by the Ministry; and
 - (ii) is applied to Eligible Costs proportionally with Funding provided under this Agreement; 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.

3 RECIPIENT'S RESPONSIBILITIES

Standards and compliance with Laws

- 3.1 The Recipient will use reasonable endeavours to undertake the Project as described in this Agreement.
- 3.2 In undertaking the Project, the Recipient will comply with all applicable laws, regulations, rules and professional codes of conduct or practice.

Deliverables, Key Personnel, Contractors and the Project

- 3.3 The Recipient will ensure that the Deliverables and the Project are carried out:
 - (a) promptly with due diligence, care and skill, and in a manner that meets or exceeds Best Industry Practice;
 - (b) by appropriately trained, qualified, experienced and supervised persons; and
 - (c) in accordance with any directions of the Ministry, notified by the Ministry in writing from time to time.

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- 3.4 The Recipient will ensure that the Deliverables are completed by the relevant "Completion Date" specified in the Key Details.
- 3.5 The Recipient will ensure that the Key Personnel undertake their respective roles in connection with the Project as specified in the Key Details, except as otherwise approved in writing by the Ministry. If any Key Personnel become unavailable to perform their role, the Recipient must promptly arrange replacement Key Personnel acceptable to the Ministry.
- 3.6 The Recipient may not contract (either directly or indirectly) the delivery of the Project or any of its obligations under this Agreement or the related construction contract except where:
- (a) it has the Ministry's prior written approval (which may be given on any conditions specified by the Ministry);
 - (b) the contractors are named as "Approved Contractors" in respect of particular roles in the Key Details; or
 - (c) the contract is for less than \$50,000.
- 3.7 The Recipient is responsible for the acts and omissions of any contractors.
- 3.8 The Recipient will ensure (and will procure that the head contractor when engaging with any other contractor ensures) that all agreements it enters into with contractors or any other party in connection with the Project are on an "arm's length" basis, provide value-for-money and do not give rise to any Conflict of Interest. The Recipient must provide the Ministry with reasonable evidence of compliance with this clause 3.8 in response to any request by the Ministry from time to time.

Information Undertakings

- 3.9 The Recipient will provide the Ministry with the reports (if any) specified in the Key Details, in accordance with the timeframes and reporting requirements set out in the Key Details.
- 3.10 The Recipient will provide the Ministry with any other information about the Project requested by the Ministry within the timeframe set out in the request.
- 3.11 The Recipient shall promptly notify the Ministry if:
- (a) the Recipient (or any of its personnel or contractors) becomes aware of, or subject to, a Conflict of Interest;
 - (b) the Recipient becomes aware of any matter that could reasonably be expected to have an adverse effect on the Project, or result in a Termination Event or a breach of any term of this Agreement by the Recipient.
- 3.12 The Recipient will not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry. The Recipient will keep the Ministry informed of any matter known to the Recipient which could reasonably be expected to have such an effect.

Funding, records and auditors

- 3.13 The Recipient will receive and manage all Funding in accordance with good financial management and accounting practices and to a high standard that demonstrates appropriate use of public funds.

- 3.14 The Recipient must keep full and accurate records (including accounting records) of the Project, and retain them for at least 7 years after the last payment of Funding under this Agreement. The Recipient must permit the Ministry (or any auditor nominated by the Ministry) to inspect all records relating to the Project and will allow the Ministry and/or the auditor access to the Recipient's premises, systems and personnel for the purposes of this inspection.
- 3.15 The Recipient must appoint a reputable firm of chartered accountants as auditors to audit its financial statements in relation to the use of the Funding.

Capital Assets

- 3.16 If the Recipient uses the Funding to purchase or develop any Qualifying Capital Asset and, at any point during the term of this Agreement or during the 20 years after the End Date, either:

- (a) the Recipient sells, disposes or transfers the Qualifying Capital Asset, without the Ministry's prior written consent; or
- (b) the Qualifying Capital Asset will no longer be used for the purpose intended by the Ministry at the time this Agreement was entered into,

then the Recipient must immediately repay to the Ministry an amount equal to the amount of Funding used by the Recipient in the purchase or development of the Qualifying Capital Asset, as determined by the Ministry. The Recipient shall notify the Ministry promptly upon taking any step or action to sell, dispose, transfer or change the purpose of the Project.

Insurance

- 3.17 The Recipient must effect and maintain insurance that is adequate to cover its obligations under this Agreement, plus any other insurance specified in the Key Details. The Recipient will, on request, provide the Ministry with evidence of its insurance cover required under this clause.

Health and Safety

- 3.18 Without limiting its other obligations under this Agreement, the Recipient will:

- (a) consult, cooperate and coordinate with the Ministry to the extent required by the Ministry to ensure that the Ministry and the Recipient will each comply with their respective obligations under the Health and Safety at Work Act 2015 as they relate to this Agreement and the Project;
- (b) perform its, and ensure that the contractors perform their, obligations under this Agreement and the Project (as applicable) in compliance with its and their obligations under the Health and Safety at Work Act 2015;
- (c) comply with all directions of the Ministry relating to health, safety, and security; and
- (d) report any health and safety incident, injury or near miss, or any notice issued under the Health and Safety at Work Act 2015, to the Ministry to the extent that it relates to, or affects, this Agreement or the Project.

4 PROJECT GOVERNANCE

- (a) If advised in writing by the Ministry the Recipient will:

- (i) provide reasonable notice to the Ministry of all Project management group meetings and Project governance group meetings; and
 - (ii) provide copies of all documents and notices to be tabled at the Project management group meetings and Project governance group meetings to the Ministry no later than a reasonable period prior to the meetings, and the minutes of those meetings within a reasonable period after each meeting
- (b) The Ministry may appoint observers who will be entitled to attend and speak at all Project management group meetings and Project governance group meetings (but will not be entitled to vote on any matter at those meetings).

5 INTELLECTUAL PROPERTY

- 5.1 The Ministry acknowledges that the Recipient and its licensors will retain ownership of all pre-existing intellectual property which they contribute to the Project, and all new intellectual property which they create in the course of the Project.
- 5.2 The Recipient grants a perpetual, irrevocable, world-wide, royalty-free, non-exclusive licence (including the right to sublicense) to the Ministry to use, reproduce and distribute each Licensed Work.
- 5.3 The Recipient warrants that it has obtained (or will obtain, prior to creation of each relevant work) all rights and permissions necessary to enable the grant and exercise of the licence in clause 5.2 without infringing the intellectual property rights of any third party.

6 TERM AND TERMINATION

- 6.1 This Agreement will be effective on and from the Commencement Date, which will be the latest to occur of:
- (a) the date this Agreement has been signed by both parties; and
 - (b) the date on which the Ministry has provided written notice to the Recipient that the Conditions Precedent specified in the Key Details have either been satisfied (in the opinion of the Ministry) or waived by the Ministry.
- 6.2 This Agreement will remain in force until the End Date, unless terminated in accordance with this Agreement (the Term).
- 6.3 The Ministry can terminate this Agreement with immediate effect, by giving notice to the Recipient, at any time while:
- (a) the Ministry reasonably considers that the Recipient has become or is likely to become, insolvent or bankrupt;
 - (b) the Recipient is subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets;
 - (c) the Recipient has ceased to carry on its operations or business (or a material part of them) in New Zealand; or
 - (d) any one or more of the follow events or circumstances remains unremedied:

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- (i) the Recipient is materially in breach of any obligation, or a condition or warranty, under this Agreement;
- (ii) the Recipient has provided the Ministry with information in connection with or under this Agreement that (whether intentionally or not) is materially incorrect or misleading, and/or omits material information;
- (iii) the Ministry reasonably considers that this Agreement or the Project has caused, or may cause, the Ministry and/or the New Zealand Government to breach any legal obligations (including its international trade obligations);
- (iv) the Recipient abandons the Project;
- (v) the Recipient is involved in any intentional or reckless conduct which, in the opinion of the Ministry, has damaged or could damage the reputation, good standing or goodwill of the Ministry, or is involved in any material misrepresentation or any fraud;
- (vi) the Recipient (or any of its personnel or contractors) is subject to a Conflict of Interest which cannot be managed to the Ministry's satisfaction; or
- (vii) any change in law, regulations, government policy or other circumstances materially affects the Ministry's ability to perform its obligations under this Agreement.

6.4 However, where the Ministry considers that a Termination Event set out in clause 6.3(d) can be remedied, the Ministry will give notice to the Recipient requesting a remedy, and will not exercise its right of termination unless the relevant event remains unremedied for at least 14 days (or any longer period agreed with the Recipient) after that notice has been provided by the Ministry.

6.5 The Ministry may recover Funding from the Recipient as follows:

- (a) **Misspent Funding.** At any time the Ministry may recover the amount of any Funding that has been spent or used other than in accordance with this Agreement, together with interest on all such amounts calculated at 10% per annum from the date of the misspending to the date the money is repaid.
- (b) **Co-Funding not provided.** On expiry or termination of this Agreement, if Co-Funding has not been used for the Project, 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.
- (c) **Project abandoned.** If the Recipient has abandoned the Project or stated an intention to abandon the Project, and does not within 10 Business Days of being requested to do so by the Ministry demonstrate to the Ministry's satisfaction that the Recipient will proceed with the Project, the Ministry may recover an amount up to the total value of the Funding, provided the Ministry may not recover under this subclause if the Recipient satisfies the Ministry that it acted on reasonable grounds in deciding to abandon the Project.

6.6 Clauses 1.5, 3.2, 3.13, 3.14, 3.16, 5, 6, 7, 8, 9, 10, 11, 12 and 13 survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Termination Event that occurred before expiry or termination.

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7 WARRANTIES

7.1 The Recipient warrants that, in the course of its activities in connection with the Project, it will not infringe any intellectual property or other rights of any third party.

7.2 The Recipient warrants that, as at the date of this Agreement:

- (a) all information and representations disclosed or made to the Ministry by the Recipient in connection with this Agreement are true and correct, do not omit any material matter, and are not likely to mislead or deceive the Ministry as to any material matter;
- (b) it has disclosed to the Ministry all matters known to the Recipient (relating to Project, the Recipient or its personnel) that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry; and
- (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.

7.3 The Recipient acknowledges that the Ministry has entered into this Agreement in reliance on these warranties.

7.4 The Recipient acknowledges and agrees that the Ministry has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Project other than the Funding.

8 LIABILITY

8.1 The maximum liability of the Ministry under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.

8.2 The Ministry is not liable for any claim under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.

9 CONFIDENTIALITY

9.1 Subject to clause 9.2 and 9.3, each party will keep the other party's Confidential Information in confidence, and will use or disclose that Confidential Information only to the extent necessary to perform its obligations, and/or take the intended benefit of its rights, under this Agreement. However, this will not prohibit:

- (a) either party from using or disclosing any information with the written prior consent of the other party;
- (b) use or disclosure of information that has become generally known to the public other than through a breach of this Agreement;
- (c) either party from disclosing information to its personnel or contractors with a need to know, so long as the relevant personnel and contractors use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under this

Agreement, and so long as they are informed of the confidential nature of the information and in the case of the Recipient, the Recipient receives an acknowledgement from its personnel or contractors that they acknowledge, and will comply with, the confidentiality obligations in this Agreement as if they were party to it;

- (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or
- (e) the Ministry from using or disclosing to any third party any Licensed Work, provided that prior to any such disclosure the Ministry removes all information that is commercially sensitive to the Recipient from the relevant work.

9.2 The Recipient acknowledges and agrees that nothing in this Agreement restricts the Ministry's ability to:

- (a) discuss, and provide all information in respect of, any matters concerning the Recipient, the Project or this Agreement with any Minister of the Crown, any other government agency or any of their respective advisors;
- (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the "no surprises" policy advised by Ministers of the Crown; and
- (c) publicise and report on the awarding of the Funding, including the Recipient's and any of its contractor's names, the amount and duration of the Funding and a brief description of the Project, on websites; in media releases; general announcements and annual reports.

9.3 The Recipient acknowledges 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.

10 PUBLICITY

10.1 Before making any media statements or press releases regarding this Agreement and/or the Ministry's involvement with the Project, the Recipient will consult with the Ministry, and will obtain the Ministry's prior approval to any such statements or releases.

10.2 The Recipient will refer any enquiries from the media or any other person about the terms or performance of this Agreement to the Ministry's Contact Person.

10.3 The Recipient will acknowledge the Ministry as a source of funding in all publications and publicity regarding the Project, provided that the Recipient must obtain the Ministry's approval of the form and wording of the acknowledgement prior to including the acknowledgement in the publication or publicity (as the case may be).

10.4 If requested by the Ministry, the Recipient will establish or erect temporary and/or permanent signage (which may be in the form of a plaque) at the site of the Project acknowledging the Ministry as a source of funding for the Project. The Ministry may provide such signage and the Ministry will consult with the Recipient in respect of a suitable location for such signage.

10.5 The Recipient does not have the right to enter into any commitment, contract or agreement on behalf of the Ministry or any associated body, or to make any public statement or comment on behalf of the Ministry.

11 DISPUTES

11.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement, or in relation to any question regarding its existence, breach, termination or invalidity (in each case, a *Dispute*), either party may give written notice to the other specifying the nature of the Dispute and requesting discussions under this clause 11 (*Dispute Notice*). As soon as reasonably practicable following receipt of a Dispute Notice, the parties will meet (in person, or by audio or video conference) and endeavour to resolve the Dispute by discussion, negotiation and agreement.

11.2 A party must not commence any proceedings in connection with a Dispute unless at least 40 days have elapsed since the issue of a corresponding Dispute Notice, and that party has used reasonable endeavours to comply with this clause 11. However, nothing in this clause will prevent either party from seeking urgent interim relief from a court (or other tribunal) of competent jurisdiction.

12 CONTACT PERSONS

12.1 All matters or enquiries regarding this Agreement will be directed to each party's Contact Person (set out in the Key Details).

12.2 Each party may from time to time change the person designated as its Contact Person on 10 Business Days' written notice to the other Party.

13 GENERAL

13.1 Each notice or other communication given under this Agreement (each a notice) will be in writing and delivered personally or sent by post or email to the address of the relevant party set out in the Key Details or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other party. A notice under this Agreement is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and
- (c) **Email:** sent by email:
 - (i) If sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
 - (ii) If subclause (i) does not apply, at 9am (local time) on the Business Day most immediately after the time of sending,



provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

- 13.2 The Recipient agrees to execute and deliver any documents and to do all things as may be required by the Ministry to obtain the full benefit of this Agreement according to its true intent.
- 13.3 No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.
- 13.4 This Agreement constitutes the sole and entire understanding with respect to the subject matter hereof and supersedes all prior discussions, representations and understandings, written or oral.
- 13.5 No amendment to this Agreement will be effective unless agreed in writing and signed by both parties.
- 13.6 The Recipient may not assign or transfer any of its contractual rights or obligations under this Agreement, except with the Ministry's prior written approval.
- 13.7 The Ministry may assign or transfer any of its contractual rights or obligations under this Agreement without the Recipient's prior approval. The Ministry may at any time disclose to a proposed assignee or transferee any information which relates to, or was provided in connection with, the Recipient, the Project or this Agreement.
- 13.8 No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver. A single exercise of any of those powers or rights does not preclude further exercises of those powers or rights or the exercise of any other powers or rights.
- 13.9 The exercise by a party of any express right set out in this Agreement is without prejudice to any other rights, powers or remedies available to a party in contract, at law or in equity, including any rights, powers or remedies which would be available if the express rights were not set out in this Agreement.
- 13.10 This Agreement is not intended to confer any benefit on or create any obligation enforceable at the suit of any person not a party to this Agreement.
- 13.11 Any provision of this Agreement that is invalid or unenforceable will be deemed deleted, and will not affect the other provisions of this Agreement, all of which remain in force to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 13.12 This Agreement is to be governed by the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 13.13 This Agreement may be executed in any number of counterparts (including scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement.

END OF PART 2

PART 3: DEFINITIONS AND CONSTRUCTION

Defined terms

In this Agreement, unless the context requires otherwise:

Approved Contractor means an “Approved Contractor” specified in the Key Details.

Authorisation is defined as any consent, authorisation, registration, certificate, licence, permission approval, authority, exemption or waiver required from, by, or with a governmental agency or require by law, including any consent under the Resource Management Act 1991.

Best Industry Practice means that degree of skill, care and foresight and operating practice that would reasonably and ordinarily be expected of a skilled and competent supplier of services engaged in the same type of undertaking as that of the Recipient or any contractors (as applicable) under the same or similar circumstances as those contemplated by this Agreement;

Business Day means any day other than a Saturday, Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

Co-Funding means the “Co-Funding” or any part of the Co-Funding (as the context requires), described in the Key Details.

Commencement Date has the meaning given in clause 6.1 of Part 2.

Confidential Information of a party (*Owner*), means any information in the possession or control of another party (*Holder*) that:

- (a) was originally acquired by the Holder in connection with this Agreement through disclosures made by or at the request of the Owner; and/or
 - (b) was originally acquired by the Holder in connection with this Agreement through any access to, or viewing, inspection or evaluation of, the premises, facilities, documents, systems or other assets owned or controlled by the Owner; and/or
 - (c) is derived from information of a kind described in paragraph (a) or (b) above;
- but excludes any information which the Holder can show:
- (d) was lawfully acquired by the Holder, entirely independently of its activities in connection with this Agreement, and is free of any other obligation of confidence owed to the Owner; and/or
 - (e) has been independently developed by the Holder without reference to the Owner’s Confidential Information, and without breaching any other obligation of confidence owed to the Owner.

Notwithstanding the foregoing, the terms of this Agreement are Confidential Information of which each Party is both an Owner and a Holder.

Conflict of Interest means any matter, circumstance, interest or activity of the Recipient, its personnel or contractors, or any other person with whom the Recipient has a relationship that:

- (a) conflicts with:
 - (i) the obligations of the Recipient (or its personnel or contractors) to the Ministry under this Agreement; or

- (ii) the interests of the Recipient in relation to this Agreement and/or the procuring of the Project; or
- (b) otherwise impairs or might appear to impair the ability of the Recipient (or any of its personnel or contractors) to diligently and independently carry out the Project in accordance with this Agreement.

Deliverable means a deliverable to be provided by the Recipient to the Ministry, as set out in the Key Details.

Eligible Costs means, in respect of the Project, the actual costs reasonably incurred by the Recipient:

- (a) on or after the Funding Start Date and no later than the End Date;
- (b) in good faith for the purpose of carrying out the Project or for purposes incidental to the Project, including all internal costs, disbursements and expenses incurred by the Recipient for such purposes (and to the extent the Recipient is carrying out any other activities) reasonably and proportionately allocated towards such purposes; and
- (c) to the extent that the expenditure relates to work performed by parties not at "arm's length", that expenditure is assessed at reasonable market value, and contains no unacceptable overhead and no element of "in group profit".

End Date means the "End Date" specified in the Key Details.

Funding means the funding or any part of the funding (as the context requires) payable by the Ministry to the Recipient in accordance with the terms of this Agreement, as described in the Key Details.

Funding Start Date means the "Funding Start Date" specified in the Key Details.

Key Details means Part 1 of this Agreement.

Key Personnel means the "Key Personnel" specified in the Key Details.

Licensed Work means all reports, documents, information and other materials provided by the Recipient to the Ministry under or in connection with the Project or this Agreement.

Payment Request means a request submitted to the Ministry by the Recipient seeking payment of Funding substantially in the form set out in the Schedule to this Agreement.

Project means the "Project" described in the Key Details.

Qualifying Capital Asset means a capital asset (as determined in accordance with generally accepted accounting practice, as defined in the Financial Reporting Act 2013) purchased or developed by the Recipient using no less than \$50,000 of Funding.

Recipient means the Recipient specified in the Key Details.

Termination Event means any one or more of the events or circumstances set out in clause 6.3.

Construction

In the construction of this Agreement, unless the context requires otherwise:

Currency: a reference to any monetary amount is to New Zealand currency;

Defined Terms: words or phrases appearing in this Agreement with capitalised initial letters are defined terms and have the meanings given to them in this Agreement;

Documents: a reference to any document, including this Agreement, includes a reference to that document as amended or replaced from time to time;

Inclusions: a reference to "includes" is a reference to "includes without limitation", and "include", "included" and "including" have corresponding meanings;

Joint and Several Liability: any provision of this Agreement to be performed or observed by two or more persons binds those persons jointly and severally;

Parties: a reference to a party to this Agreement or any other document includes that party's personal representatives/successors and permitted assigns;

Person: a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

Precedence: if there is any conflict between the different parts of this Agreement, then unless specifically stated otherwise, Part 2 will prevail over the Key Details, and the Key Details will prevail over any Attachments;

Related Terms: where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

Statutes and Regulations: a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

Writing: a reference to "written" or "in writing" includes email and any commonly used electronic document format such as .DOC or .PDF

END OF PART 3

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Schedule: Payment Request

To: MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

Dated: [•]

PAYMENT REQUEST NO. [•]

1. We refer to the Funding Agreement dated [•] and agreement number [•] between [x] as recipient (**Recipient**) and The Sovereign in right of New Zealand, acting by and through the Chief Executive of the Ministry of Business, Innovation and Employment (**Ministry**) (the **Agreement**). Terms defined in the Agreement have the same meaning in this Payment Request.

2. This is a Payment Request for the purpose of clause 1.4 of the Agreement.

3. The Deliverables which are the subject of this Payment Request are:

[insert description of Deliverables].

4. The amount of Funding requested is \$[x] excluding GST if any.

5. The Funding requested in this Payment Request is required to meet the following Eligible Costs that have been incurred by us:

[include breakdown description of Eligible Costs].

6. Invoices/statements and accounts evidencing the above Eligible Costs are attached.

**Note that for any Eligible Costs that are more than \$1,000 (on an individual basis or when grouped by supplier or subject matter) a copy of the original invoices received from third parties in relation to the Eligible Costs must be provided.*

7. That each of the items referred to in paragraph 6 are Eligible Costs for the purpose of the Agreement have been paid or are currently due and payable or will become payable within 30 days of the date of this Payment Request.

8. [Co-Funding will be used to meet the following Eligible Costs that have been incurred by us:

[include breakdown description of Eligible Costs that Co-Funding will meet]

9. *[include valid GST invoice if relevant].*

10. We confirm that:

(a) no Termination Event is subsisting; and

(b) each of the warranties set out in the Agreement are correct as at the date of this Payment Request.

Except to the extent otherwise agreed in writing by the Ministry, all those items forming part of the Eligible Costs identified in the previous Payment Request as due or becoming due and payable, have been paid in full.

By and on behalf of the Recipient by


21


[insert name of Recipient]

Director

Authorised Officer

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 Plan REF: 55555

 Number: 479/11



RS Eng Ltd

 09 438 3275

 office@rseng.co.nz

 2 Smeaton Road,

 Whangarei 01031

RUSSELL WHARF DEVELOPMENT

VARIABLE WHARF UPDATES - FAR NORTH

 Case: **Far North Holdings Limited**

Location: **THE STRAND RUSSELL**

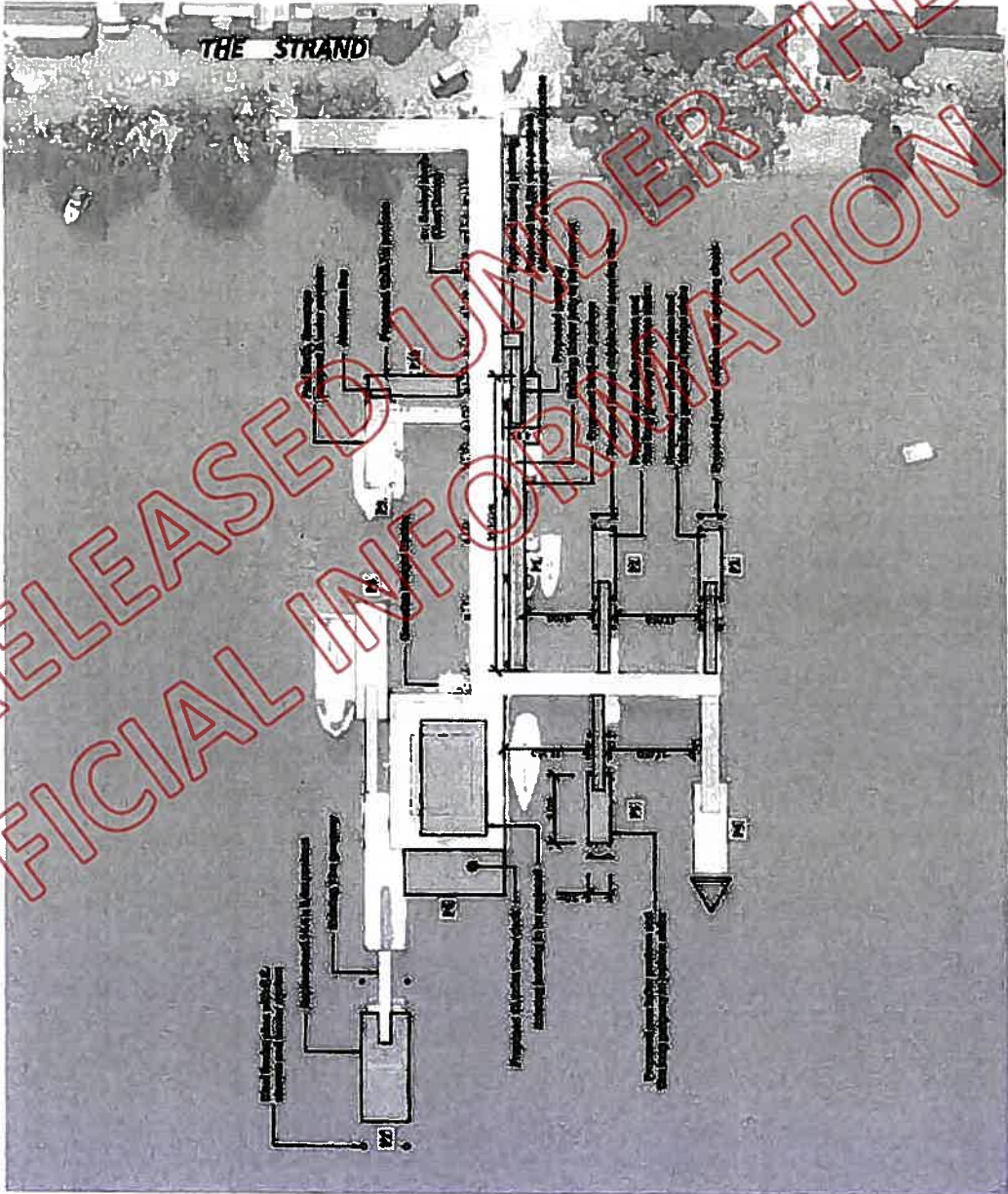
 Resource Consent Number:

 Date:

 Scale: 1:500

 Sheet: 1 of 1

 Project No: 5567



Handwritten signature or initials.

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From: [Ward Tuite](#)
To: ["Andy Nock"](#)
Cc: [PGE](#)
Subject: Signed Russell Wharf Funding Agreement [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Wednesday, 22 August 2018 3:38:31 p.m.
Attachments: [Executed Russell Wharf Extension and Upgrade Funding Agreement.pdf](#)

Kia ora Andy

Co-signed funding agreement for Russell Wharf pdf attached.

Thank you again for your patience

Nga mihi

Ward

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25/07/2018

From: The Russell Wharf and Waterfront Trust
Registered Charity Number: CC47111
Registered Office: PKF Poutsma Lemmon, Williams Road Paihia.

To whom it may concern,

The Russell Wharf and Waterfront Trust (RWWT) is a community organisation and currently has 3 trustees. Over the last 8 years the trust and its trustees have taken up the responsible for proposing, consulting and completing the projects to do with the wharf on behalf of the community. The objective of the trust is to maintain and improve the Russell Wharf and Waterfront environment.

The RWWT has a working partnership with the Far North District Council (FNDC) and Far North Holdings (FNH). This is a successful partnership has resulted in the completion of 5 projects to improve the environment. Each project has been fully consulted with the community and a project does not move forward if it is not ratified by the community with a clear majority.

We are proud to provide a summary of the outcome of the latest project and it shows that the town fully endorses and supports FNH in carrying out the urgent works on the Russell Wharf, including the appointment of a marine contractor to carry out these works in this financial year.

The consultation has been exhaustive and we have used the councils LTP process to provide a solid and auditable approach to a passionate topic. On top of the works to be completed a new ownership structure for the wharf has been ratified and the town and FNH will be building a new management model and agreement. This work is expected to be completed in the next 2 to 3 months.

On behalf of the wider community I would like to thank the government, Shane Jones and Winston Peters for helping us bring back to life this vital asset. Without the Russell Wharf the town and the region would suffer. Thank you also for supporting our process to ensure that this and the future plans are in line with the community aspirations.

If you have any questions or we can help further please call me on 021983531 and we look forward to having this work completed before Christmas.



Riki Kinnaird
Current Chairman of the RWWT

The latest project that the partnership has worked on has been to:

1. Get the urgent repairs and maintenance work to The Russell Wharf planned and completed. The target cost of this works is about \$2m of work over the next few years.
2. Set up a model that protects and provides the best for the Russell Wharf and the town in the future.

The Council's LTP ratified decision that supports the community objectives.

On the 28th of June the FNDC, following sign off by Audit NZ, ratified their decisions made in May on their Long Term Plan. This includes the Russell Wharf topic.

In short, the council ratified their decision to approve option 4a in the LTP (transfer the wharf to FNHL for \$1). This decision reflects the majority of the 568 public submissions on option 4. 416 of the submissions or 73% wanted option 4a, with a large number of these wanting the conditions proposed

by the RWWT. Note there were over 250 submissions from Russell people and 80% wanted option 4a with conditions.

The councils ratified decision wording is as follows:

1. That Council approves option 4a (transfer the wharf to FNHL for \$1) as proposed in the Consultation Document, subject to the execution of a legally-binding agreement between FNHL and the Russell Wharf and Waterfront Trust that provides for:
 - community and tangata whenua input into the Wharf's development, future direction, management and governance
 - a first option for the Trust to buy the wharf should FNHL wish to divest it in the future
 - the building is of suitable structure to fit the character of the Russell Strand Heritage Zone.
2. That accumulated depreciation reserves for the Russell Wharf be retained by Council and FNHL be advised to apply for funds, if required, up to the maximum of the reserve fund at the point of transfer.

Next Steps overview:

We are at stage 3 of a 5 stage process (see below). The current Russell Wharf Trust has now been given a remit to continue the work it proposed in the LTP and work with Far North Holdings and the Council to:

1. Get the urgent R&M work completed asap
2. Formalise a new legal management agreement between the town and FNHL
3. Set up the framework for the new legal entity for the town to help run the wharf and make decisions.
4. Set up the process for the community to elect the new legal entity trustees, and complete the process.

Once the above is in place and people are elected as new trustees the current wharf trust trustees will hand over this complete working model to the new committee.

The community will be consulted on both the legal agreement and the new legal entity.

Timings of Next Steps:-

Step 1 Completed: Encourage feedback from all residents and people to the FNDCs LTP plan proposal to transfer the wharf to its commercial arm Far North Holdings and the town get control of this asset

Stage 2 Completed: We, along with about 13 others presented at the FNDC hearings to Councillors.

Stage 3 Started: when the council ratified their LTP decisions. The RWWT will generate a formal contract and ensure a new wharf trust is in place to run it.

- Receive decision from council on transfer of wharf ownership and conditions (28 June)
- Chapman Tripp have been engaged and will generate a draft management contract and a new community trust (least cost option is to evolve the current RWWT). This together for review with effected parties and the town for evolution and sign off.
- This work will cost around \$10k and take about 6 to 8 weeks. It has been on hold until today. We could not push go before this time.

- Work with the appropriate level of tangata whenua involvement and obtain guidance and input.
- Review the draft agreement and new trust structure with the towns committees and obtain feedback. This will be by a series of scheduled meetings.
- Then review with the whole town and amend as required. Information will be emailed out to as many people as we can, presented at a series of town meetings and we will also have a few drop in days to talk to people one to one.

Stage 4 Not started: Finalise contracts and RWWT, town community board member and FNHL to sign. Set up new community entity. In parallel FNHL will present to FNDC the schedule of works to be completed asap that the accumulated reserves will pay for (circa \$900k) and FNDC to transfer the monies to FNHL to pay for these. Once all of this work is completed the wharf asset will be transferred from FNDC to its commercial arm FNHL.

Stage 5: Elect the new trustees (process to be defined) and let the new RWWT and FNHL get on with it and move forward to make the wharf the best it can be.

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From: Byron Elliot (Byron)
To: s 9(2)(a)
Cc: Mark Patterson
Subject: Business case template
Date: Monday, 5 February 2018 3:38:23 p.m.
Attachments: [3a. Business case guidelines \(RGI\).docx](#)
[3b. Business case templates \(RGI\).docx](#)

Hi Andy,

As discussed, please find attached the business case template for the projects that you are seeking funding for.

Please send through by Friday 9 February the business cases (and supplementary information if required) for:

- Wharf package (alternatively, three separate cases)
 - Out of Scope
 - Russell Wharf
 - Out of Scope
- Out of Scope

Thank you for getting on to this with such a short timeframe – if you have any questions, please let either me or Mark Patterson (Senior Adviser, MBIE) know. Happy to help.

I also understand that Northland Inc may be able to offer support. Please touch base with Jude if you need.

Thank you,
Byron

Byron Elliot | Development Manager
Economic Development & Partnerships Directorate | Sector Partnerships & Programmes Branch
Ministry for Primary Industries | Pastoral House 25 The Terrace | PO Box 2526 | Wellington | New Zealand
Telephone: (+64)04 894 0188 | Mobile: s 9(2)(a) | Web: www.mpi.govt.nz

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Regional Growth Initiatives Multi Year Appropriation

3a. Business Case Guidelines

April 2017

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The role of the business case

This standard business case template developed by MBIE includes all of the necessary information for assessing the benefits and risks associated with requests for funding through the Regional Growth Initiatives Multi Year Appropriation (RGI MYA), and the rationale for government investment. The information the template requires is directly related to the eligibility and assessment criteria which will be applied to proposals, and therefore ensures all funding decisions are informed by robust information and can be made in a timely manner. The completeness of the business case can also demonstrate the extent to which the project is investment-ready.

This business case model comprises six key elements:

- an executive summary;
- a strategic case;
- an economic evaluation;
- a project plan;
- a management plan;
- a section detailing immediate *next steps*.

A completed business case should:

- confirm the wider strategic context of the organisation;
- demonstrate that the proposed option is appropriate for meeting needs within this strategic context;
- confirm the need for support through the RGI MYA;
- identify and (where possible) quantify the net benefits obtained by pursuing the preferred option;
- demonstrate the financial support for and the financial viability and value for money of the preferred option;
- identify key risks to the completion of the project, including strategic, project- and management-related risks, and demonstrate that appropriate measures can/will be taken to mitigate these;
- outline a plan for procurement or confirm means for the completion of the project;
- confirm arrangements for the successful delivery of the project, including timeframes.

The business case should be informed by Regional Economic Action Plans (or similar key strategic documents), and any feasibility studies, economic or risk evaluations, growth studies, workshops or due diligence conducted relating to the proposed project. They must have the express support of the regional lead which will take responsibility for the project. Sources of information should be clearly identified throughout the document and attached as annexes where appropriate and possible.

The information required in a business case is intended to be able to be scaled up and down and varied, depending on the nature and the scale of proposed projects. *Some sections of the business case will not be required for all proposals. Conversely, some proposals may require information above and beyond what this development guide suggests.* MBIE officials are able to provide advice on the information required for specific proposals where this is unclear, and should be consulted prior to undertaking the development of a business case.

EXECUTIVE SUMMARY

This section is intended to provide a high level overview of the proposed project, its intended outcomes and its objectives. It should also summarise the main points outlined in the five sections which follow.

The overview of the project should detail:

- The key product/service/resource towards which the funding sought will contribute
- The amount of funding being sought, and the period of time over which this is sought, including contributions from other sources
- A high level technical overview of the project, including:
 - explanation of any technical features, including specific technologies or processes*
 - a brief outline of how the project will be carried out, including indicative timeframes*
- The formal objectives of the project, i.e. its measurable, tangible outcomes
 - Investment objectives should be developed alongside key stakeholders to ensure that they are well-engaged and have an opportunity to influence the direction of the proposal. Objectives should be specific and measurable, and time-bound where possible.*
- Any project steps which fall beyond the period for which funding is sought, but are key to completing/implementing the project

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STRATEGIC CASE

This should outline the strategic context for the project and make a robust case for contribution central government. It should:

- *show that the project aligns with the strategies of key stakeholders;*
- *establish the project objectives, existing arrangements and resulting business needs;*
- *outline key product/service requirements; and*
- *identify potential strategic risks.*

The strategic case MUST include:

- (1) An outline of the objectives of project, explained where necessary
These should be the same as those provided in the executive summary. Any technical information needed to understand these objectives should have been explained in the executive summary.
- (2) An overview of the existing arrangements/situation, if applicable
Where possible, these should be discussed in relation to the project objectives. This section is intended to highlight any problems, difficulties or opportunities associated with the current situation, to show the need for change.
- (3) An outline of the business need
The business need is the gap between the current state and the desired future state as captured in the proposal objectives. These boundaries should be sufficiently defined to avoid scope creep, but broad enough to allow for some project flexibility.
- (4) An explanation of how the proposed project can meet the specified objectives
This section should make clear why the project is appropriate for meeting the objectives of the proposal, while balancing the need for co-investment and value for money.

It is suggested that (1)-(4) are presented in individual tables. *Templates for these are provided on p5 of the Business Case Templates document.*

- (5) A breakdown of the key strategic risks which may prevent the applicant meeting the objectives outlined and how these will be mitigated. These might be related to key constraints and dependencies of the project, and could include seasonality/environmental factors, migration, labour availability and technology constraints/failure.

Templates for these are provided on p6 of the Business Case Templates document.

The applicant should provide explanation of/reference to documents or methods used to determine and assess risks, e.g. feasibility studies, economic/risk evaluations.

(6) *Strategic context and high level objectives alignment*

The project should be able to be shown to support the strategic objectives of contributing agencies or stakeholders as outlined in relevant strategic/corporate documents. Key players are likely to include:

- Regional agencies, including the applicant
Projects which receive funding through the RGI MYA must be referenced in Regional Economic Action Plans, key strategic documents (e.g. tourism strategies) and/or regional and sub-regional growth studies, demonstrating the potential they have to contribute to economic growth in the region.
- MBIE
Proposed projects should align with the objectives and principles of the Regional Growth Programme, and the cross-cutting themes of the Business Growth Agenda (this adds weight to an application, but is not compulsory).
- Other central government agencies
- Trusts or community organisations

The objective of the RGI MYA is to *support high priority projects that will deliver regional economic growth through attracting investment, raising incomes and increasing employment opportunities.*

According to its principles, the RGI MYA will:

- (a) support initiatives that contribute to Government's RGP objectives of attracting further investments, raising incomes and increasing employment opportunities;
- (b) support high priority actions from Regional Economic Action Plans (or similar regional documents);
- (c) be flexible to ensure the funding can respond to the evolving RGP work and support priority projects in a timely manner;
- (d) encourage collaboration between government, iwi, business, local government and communities for the benefit of the region(s);
- (e) support initiatives that are regionally driven and that have contributions from outside of Crown funding.

The Business Growth Agenda (BGA) outlines areas of focus for government investment in business growth, in the interests of building a more competitive and productive economy. The BGA identifies six key inputs required by businesses to succeed and grow, being:

- Investment
- Export Markets
- Innovation
- Skilled and Safe Workplaces
- Natural Resources
- Infrastructure

A template for summarising this information can be found on p7 of the Business Case Templates document. Applicants, where appropriate, may also like to include information which demonstrates alignment of the proposed investment with wider national and sectoral priorities, multi-agency programmes, or organisational business strategies.

ECONOMIC EVALUATION

This should summarise the expected economic benefits of the project and weigh these against its costs. An analysis of existing arrangements may be included to enable comparison.

An economic evaluation seeks to capture benefits and costs regardless of to whom they accrue, and can include those not reflected in monetary transactions.

The level of analysis should be scaled up or down according to the size and the significance of the project for the region. Government officials should provide applicants with guidance on the level of information required, including whether a holistic economic evaluation is required or a sample of benefits and costs can be used.

A template for presenting this information can be found on p8 of the Business Case Templates document.

The appraisal period typically matches the economic life of any proposed asset or the period over which a service will deliver benefits.

Monetary values in present value terms should be given to benefits and costs wherever possible. GST, depreciation, capital charges and financing costs are typically excluded from analysis. Benefits and costs should be discounted to present values using the appropriate Public Sector Discount Rate as specified by the Treasury (<http://www.treasury.govt.nz/publications/guidance/planning/costbenefitanalysis>).

METHODS

Information about the costs and benefits of projects may be drawn from studies conducted by third parties or by the applicant.

- Sources of information and the method used to determine capital/whole of life costs (the more appropriate of these may be chosen) should be identified and outlined respectively. If specific per unit or other measurement bases have been used, how these were determined and any calculations should be shown and any assumptions stated.
- Sources of information and the method used to assign value to/weight net economic benefits should be clearly identified and outlined respectively. If specific per unit or other measurement bases have been used, how these were determined and any calculations should be shown and any assumptions stated.
- Where the number of potential benefits is too large for it to be practical to present these in one application, a sample of those which are most relevant *may* be used to show the relative benefits of particular options. Advice should be sought from government officials on whether this is appropriate.

OTHER REGIONS

Additional weight may be given to proposals which demonstrate an ability to generate net benefits for more than one region, though this does not influence the overall eligibility of proposals. Where this is the case, the applicant should briefly describe how these benefits come about and, where possible, quantify them.

PROJECT PLAN

This section should provide an outline of the project and procurement strategy, including required outputs, the intended procurement process, payment arrangements, and the main project-related risks. It should also provide a timeline for the project, information on key milestones, reporting requirements and the operating budget for the project.

The project plan MUST include:

- (1) A detailed plan of the procurement process, including the relevant avenues to be used
- (2) A summary of the requirements for the product/service to be procured, which have informed the description used for procurement.

A template for providing this information is available on pg 10 of the Business Case Templates document. A copy of documents associated with procurement may be used as evidence in the place of this.

- (3) A timeline of the proposed project from procurement to completion
This should show key milestones in this process, including the completion of the procurement process, contracting and the completion of the project. The evidence required to prove the completion of these milestones should be stated. Government officials may seek information on the rationale behind the timing of specific milestones.
- (4) An outline of the proposed payment schedule, expressed in relation to project milestones
Clear reasons should be provided for the suggested payment structure and the milestones which attract the release of funds.

A template timeline/payment schedule is provided on p9 of the Business Case Templates document.

- (5) A summary of key commercial risks and the steps taken/to be taken to mitigate these risks

A template for presenting these risks is provided on p9 of the Business Case Templates document.

- (6) An operating budget for the project, showing confirmed support and project spending distributed over the life of the project
The operating budget shows the affordability of the project over its lifecycle. It should demonstrate that all objectives of the project are achievable within the scope of the funding secured/applied for.

A template for presenting this budget is provided on p10 of the Business Case Templates document.

PROCUREMENT PROCESS/STRATEGY

Conducting proper procurement is important for ensuring that the market is properly engaged in the development of proposals. The procurement process should reflect the nature, size, complexity, value and risks associated with the project and the product/service to be obtained. Information requirements should be determined with government officials. Where the project is particularly large, complex or high risk, the applicant may need to seek advice from a procurement practitioner. Information on procurement strategy can also be found at <http://www.procurement.govt.nz/procurement/for-agencies/strategic-procurement/mastering-procurement-the-guide>.

Where a supplier/service provider has already been identified and conditionally confirmed, this should be noted and justification for using this supplier/provider clearly outlined. Evidence must be shown that due diligence has been conducted to ensure that this supplier/provider can deliver the product/service in line with requirements, taking into account the need for value for money.

RISKS

Risks identified in this section should be to both the procurement and delivery of the final output. Steps to mitigate should be proactive, rather than reactive. Responsibility for risks and mitigation should be clearly outlined to avoid role confusion and ensure that liability is appropriately distributed between the applicant and the provider.

Examples of risk factors include:

- poor quality of tenders
- preferred tender price exceeds budget
- contractor accident during delivery
- factors which might hinder delivery, e.g. weather conditions
- financial position of the contractor
- changes to project team
- uptake/usefulness of final outputs not as expected

OPERATING BUDGET

This section is distinct from the economic case in that the economic case assesses value for money, while the operating budget shows the affordability and funding implications of the chosen option. All material expenditure and financial contributions should be listed year by year over the operating life of the proposed project and totalled. If multiple sources of local government or Crown funding have been confirmed, contributions should be listed individually by agency. Sources of finance could also include private investment, debt, grants and sponsorship, or amounts received through user/entry fees.

The financial analysis should be updated as the project proceeds and the impacts on the financial statements of the organisation are known with greater accuracy – in particular, once the preferred supplier is identified, with confirmed costs, through an appropriate procurement process.

An appropriate contingency may be built into the proposal budget to provide for financial risks and their mitigation. Rules and limits for accessing contingent funding should be outlined.

MANAGEMENT PLAN

This should summarise project governance and management arrangements, management-related risks and arrangements for the ownership/management of the result of the project.

This section is designed to ensure that there are appropriate governance/oversight and management arrangements in place to allow for the successful delivery of the product/service. It MUST include:

- (1) An outline of the project management process to be followed
The applicant must demonstrate that this is best practice and/or has been successfully followed in the past.
- (2) Key project arrangements
This includes:
 - *the governance structure with project oversight and accountability*
The relationship between this governance structure and the applicant should be outlined
 - *the project management structure including key roles and responsibilities*
The outline should include the role to be played by any contracted third parties
For each member of the governance and management structures, relevant background should be provided which shows evidence of skills/qualifications/experience relevant to the project.
 - *the (intended or realised) creation of any external/independent bodies for the purpose of project oversight, funding or management*
e.g. limited liability companies, trusts, charitable organisations
 - *the ownership/management of the final project/product*
This should show how the project will be managed going forward
- (3) An outline of how post-project evaluation will be carried out, the time period and the ways in which the achievement of objectives will be measured

Note that where appropriate and practicable, projects should make use of existing regional governance structures in place for the implementation of the RGP.

NEXT STEPS

This section should be used to outline the priority steps to be taken in the first three to six months, if funding is approved. These will depend on the nature, size and specific conditions of the project, but may include finalising and recruiting for governance/project management structures, co-ordinating financial contributions, initiating the procurement process or commencing project tasks/groundwork.

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ANNEX I

The Regional Growth Programme

The Regional Growth Programme (RGP) is a programme of work commissioned and administered jointly by the Ministry of Business, Innovation and Employment (MBIE) and the Ministry for Primary Industries (MPI). It seeks to identify, prioritise and support those commercial opportunities in participating regions with the most potential to contribute to sustainable growth in jobs, incomes and investment in these regions. These opportunities, and related enablers and barriers, are identified in regional growth studies and considered in the development of Regional Economic Action Plans. MBIE and MPI then work in partnership with other central government agencies and a range of regional stakeholders, including businesses, iwi and Māori, economic development agencies and councils, to leverage these opportunities.

Regional Growth Initiatives Multi Year Appropriation

In working across central and local government and a range of stakeholders to identify priority areas of potential economic growth, the RGP is intended to enable better, more targeted use of existing government funding. The Regional Growth Initiatives Multi Year Appropriation (RGI MYA) is an appropriation under the Economic Development portfolio of Vote Business, Science and Innovation, announced as a part of Budget 2016. The objective of the appropriation is to:

support high priority projects that will deliver regional economic growth through attracting investment, raising incomes and increasing employment opportunities.

It is broadly intended to support a wide range of high priority, regionally-led initiatives that deliver a significant and enduring positive economic impact for these regions, for which no other source of funding exists. Initiatives should align with and support priorities identified within the RGP, promote greater innovation and cross-sectoral and cross-cultural actions, and encourage economic growth by improving services to businesses, increasing workforce skill levels, attracting investment and creating jobs. These are reflected in the principles of the RGI MYA, according to which it will:

- (a) support initiatives that contribute to Government's RGP objectives of attracting further investments, raising incomes and increasing employment opportunities;
- (b) support high priority actions from regional economic action plans (or similar regional documents);
- (c) be flexible to ensure the funding can respond to the evolving RGP work and support priority projects in a timely manner;
- (d) encourage collaboration between government, iwi, business, local government and communities for the benefit of the region(s);
- (e) support initiatives that are regionally driven and that have contributions from outside of Crown funding.



Regional Growth Initiatives Multi Year Appropriation

3b. Business Case Templates April 2017

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This document contains all templates which may be used in the preparation of a business case for funding through the RGI MYA. These are referenced in the development guide, which explains information requirements in depth.

Text in red throughout this document is intended to outline information required where this does not fit into tables/templates. This should be deleted in the final version.

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Adjust page numbers as required

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Regional Growth Initiatives Multi Year Appropriation Business Case

Project Name

Regional Lead/Applicant

Prepared by	
Prepared for	
Date	
Version	

Document Control

Document ID		
File name		
Version Number	Issue date	Changes/actions

Document sign-off

Name	Role	Sign-off date

Checklist and other annexes

COMPLETED

Executive summary	
Strategic case	
Economic evaluation	
Project plan	
<i>Operational budget</i>	
Management plan	
Next steps	

You should also attach any supporting documents. This must include evidence of endorsement by the regional lead which will be responsible for the relevant project, and could also include letters of support from regional stakeholders, governance documents, designs/concept development, feasibility studies, economic or risk evaluations or any document which supports assumptions, measurements or judgements made in the business case. Please list these in order below, and reference each document.

	Document (title)	Purpose
1		
2		
3		
4		

EXECUTIVE SUMMARY

Provide an overview of:

- The key product/service/resource towards which the funding sought will contribute
- The amount of funding being sought, the period of time over which this is sought, and details of any other contributors
- A high level technical overview of the project
- The formal objectives of the project
- Any project steps which fall beyond the period for which funding is sought
- A summary of the other sections of the business case

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STRATEGIC CASE

Investment objectives

Project Objective One	
Existing arrangement	
Business need/scope	
How will the project meet this need?	
Project Objective Two	
Existing arrangement	
Business need/scope	
How will the project meet this need?	
Project Objective Three	
Existing arrangement	
Business need/scope	
How will the project meet this need?	
Project Objective Four	
Existing arrangement	
Business need/scope	
How will the project meet this need?	

Key strategic risks

Risk	Responsible party	Risk treatment (by applicant)

Provide an explanation of/reference to any documents or methods used to determine and assess risks, e.g. feasibility studies, economic/risk evaluations.

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High level objectives alignment

Stakeholder	Relevant high level objective(s)	Explain contribution/alignment
	(1)	
	(2)	
	(3)	
	(1)	
	(2)	
	(3)	
	(1)	
	(2)	
	(3)	
	(1)	
	(2)	
	(3)	
	(1)	
	(2)	
	(3)	

Table should include

- Regional agencies, including the applicant
Documents should include Regional Economic Action Plans, key strategic documents (e.g. tourism strategies), regional and sub-regional growth studies
- MBIE
Proposed project should align with the objectives and principles of the Regional Growth Programme and the cross-cutting themes of the Business Growth Agenda
- Other central government agencies with potential or confirmed involvement in project
- Private investors and other external stakeholders
- Trusts or community organisations

Applicants, where appropriate, may also like to include information which demonstrates alignment of the proposed investment with wider national and sectoral priorities, multi-agency programmes, or organisational business strategies.

ECONOMIC EVALUATION

Cost/benefit breakdown

	PREFERRED OPTION <i>Requested investment</i>	<i>EXISTING SITUATION</i>
Period of expected economic benefits from project (years)		
<i>Capital/whole of life costs</i>		
Cost-benefit analysis of monetary costs and benefits		
Present value of monetary benefits		
Present value of costs		
Net present value		
Benefit/cost ratio		

Outline how (if) the proposed project will have any net benefits for regions other than the applicant.

Sources of information and the method used to determine capital/whole of life costs, and to assign value to/weight net economic benefits, should be identified and outlined. If specific per unit or other measurement bases have been used, how these were determined and any calculations should be shown and any assumptions stated.

PROJECT PLAN

Outline the procurement process used/to be followed
Outline the key project requirements, used/to be used in procurement

This information could be supported/replaced by an annexed copy of all procurement documents.

Project timeline

DATE	Project milestone	Associated payment	Evidence/reporting required
XX/XX/XXXX	e.g. confirm funding		
	release request for quote		
	delivery of final output	\$XXX (payment X/X)	

Key project risks

Risk	Responsible party	Risk treatment (by applicant)

Provide an explanation of/reference to any documents or methods used to determine and assess risks, e.g. feasibility studies, economic/risk evaluations.

Operating budget

Applicant and project name					
Preferred option	Year 0	Year 1	Year	Total
<u>Expenditure</u>					
<u>Capital expenditure</u>					
TOTAL					
<u>Operating expenditure</u>					
TOTAL					
<u>Co-funding secured, source</u>					
TOTAL					
Capital funding required					
Operating funding required					
Funding shortfall (if any)					

Identify the contingency amount built into the project, and any rules or limits for accessing additional contingent funding.