



**Far North  
District Council**



**Te Kaunihera o Tai Tokerau ki te Raki**

# **AGENDA**

## **Extraordinary Council Meeting**

**Tuesday, 2 February 2021**

**Time: 1.30 pm**  
**Location: Council Chamber**  
**Memorial Avenue**  
**Kaikohe**

**Membership:**

Mayor John Carter - Chairperson  
Deputy Mayor Ann Court  
Cr David Clendon  
Cr Dave Collard  
Cr Felicity Foy  
Cr Mate Radich  
Cr Rachel Smith  
Cr Kelly Stratford  
Cr Moko Tepania  
Cr John Vujcich

**COUNCIL MEMBERS REGISTER OF INTERESTS**

<b>Name</b>	<b>Responsibility (i.e. Chairperson etc)</b>	<b>Declaration of Interests</b>	<b>Nature of Potential Interest</b>	<b>Member's Proposed Management Plan</b>
<b>Hon Mayor John Carter QSO</b>	Board Member of the Local Government Protection Programme	Board Member of the Local Government Protection Program		
	Carter Family Trust			
<b>Deputy Mayor Ann Court</b>	Waipapa Business Association	Member		Case by case
	Warren Pattinson Limited	Shareholder	Building company. FNDC is a regulator and enforcer	Case by case
	Kerikeri Irrigation	Supplies my water		No
	Top Energy	Supplies my power		No other interest greater than the public's
	District Licensing	N/A	N/A	N/A
	Top Energy Consumer Trust	Trustee	Crossover in regulatory functions, consenting economic development and contracts such as street lighting.	Declare interest and abstain from voting.
	Ann Court Trust	Private	Private	N/A
	Waipapa Rotary	Honorary member	Potential community funding submitter	Declare interest and abstain from voting.
	Properties on Onekura Road, Waipapa	Owner Shareholder	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Property on Daroux Dr, Waipapa	Financial interest	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Flowers and gifts	Ratepayer 'Thankyou'	Bias/ Pre-determination?	Declare to Governance
	Coffee and food	Ratepayers sometimes 'shout' food and beverage	Bias or pre-determination	Case by case
	Staff	N/A	Suggestion of not being impartial or pre-determined!	Be professional, due diligence, weigh the

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
				evidence. Be thorough, thoughtful, considered impartial and balanced. Be fair.
	Warren Pattinson	My husband is a builder and may do work for Council staff		Case by case
<b>Ann Court - Partner</b>	Warren Pattinson Limited	Director	Building Company. FNDC is a regulator	Remain at arm's length
	Air NZ	Shareholder	None	None
	Warren Pattinson Limited	Builder	FNDC is the consent authority, regulator and enforcer.	Apply arm's length rules
	Property on Onekura Road, Waipapa	Owner	Any proposed FNDC capital work in the vicinity or rural plan change. Maybe a link to policy development.	Would not submit. Rest on a case by case basis.
<b>David Clendon</b>	Chairperson – He Waka Eke Noa Charitable Trust	None		Declare if any issue arises
	Member of Vision Kerikeri	None		Declare if any issue arises
	Joint owner of family home in Kerikeri	Hall Road, Kerikeri		
<b>David Clendon – Partner</b>	Resident Shareholder on Kerikeri Irrigation			
<b>David Collard</b>	Snapper Bonanza 2011 Limited	45% Shareholder and Director		
	Trustee of Te Ahu Charitable Trust	Council delegate to this board		
<b>Felicity Foy</b>	Director - Northland Planning & Development	I am the director of a planning and development consultancy that is based in the Far North and have two employees. Property owner of Commerce Street, Kaitaia		I will abstain from any debate and voting on proposed plan change items for the Far North District Plan.
				I will declare a conflict of interest with any planning matters that relate to resource

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
				consent processing, and the management of the resource consents planning team.
				I will not enter into any contracts with Council for over \$25,000 per year. I have previously contracted to Council to process resource consents as consultant planner.
	Flick Trustee Ltd	I am the director of this company that is the company trustee of Flick Family Trust that owns properties Seaview Road – Cable Bay, and Allen Bell Drive - Kaitaia.		
	Elbury Holdings Limited	This company is directed by my parents Fiona and Kevin King.	This company owns several dairy and beef farms, and also dwellings on these farms. The Farms and dwellings are located in the Far North at Kaimaumau, Bird Road/Sandhills Rd, Wireless Road/ Puckey Road/Bell Road, the Awanui Straight and Allen Bell Drive.	
	Foy Farms Partnership	Owner and partner in Foy Farms - a farm on Church Road, Kaingaroa		
	Foy Farms Rentals	Owner and rental manager of Foy Farms Rentals for 7 dwellings on Church Road, Kaingaroa and 2 dwellings on Allen Bell Drive, Kaitaia, and 1 property on North Road, Kaitaia, one title contains a cell phone tower.		



Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	King Family Trust	This trust owns several titles/properties at Cable Bay, Seaview Rd/State Highway 10 and Ahipara - Panorama Lane.	These trusts own properties in the Far North.	
	Previous employment at FNDC 2007-16	I consider the staff members at FNDC to be my friends		
	Shareholder of Coastal Plumbing NZ Limited			
<b>Felicity Foy - Partner</b>	Director of Coastal Plumbing NZ Limited			
	Friends with some FNDC employees			
<b>Mate Radich</b>	No form received			
<b>Rachel Smith</b>	Friends of Rolands Wood Charitable Trust	Trustee		
	Mid North Family Support	Trustee		
	Property Owner	Kerikeri		
	Friends who work at Far North District Council			
	Kerikeri Cruising Club	Subscription Member		
<b>Rachel Smith (Partner)</b>	Property Owner	Kerikeri		
	Friends who work at Far North District Council			
	Kerikeri Cruising Club	Subscription Member and Treasurer		
<b>Kelly Stratford</b>	KS Bookkeeping and Administration	Business Owner, provides book keeping, administration and development of environmental management plans	None perceived	Step aside from decisions that arise, that may have conflicts
	Waikare Marae Trustees	Trustee	Maybe perceived conflicts	Case by case basis
	Bay of Islands College	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Karetu School	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Māori title land – Moerewa and Waikare	Beneficiary and husband is a shareholder	None perceived	If there was a conflict, I will step aside from decision making

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Sister is employed by Far North District Council			Will not discuss work/governance matters that are confidential
	Gifts - food and beverages	Residents and ratepayers may 'shout' food and beverage	Perceived bias or predetermination	Case by case basis
	Taumarere Counselling Services	Advisory Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
	Sport Northland	Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
<b>Kelly Stratford - Partner</b>	Chef and Barista	Opua Store	None perceived	
	Māori title land – Moerewa	Shareholder	None perceived	If there was a conflict of interest I would step aside from decision making
<b>Moko Tepania</b>	Teacher	Te Kura Kaupapa Māori o Kaikohe.	Potential Council funding that will benefit my place of employment.	Declare a perceived conflict
	Chairperson	Te Reo o Te Tai Tokerau Trust.	Potential Council funding for events that this trust runs.	Declare a perceived conflict
	Tribal Member	Te Rūnanga o Te Rarawa	As a descendent of Te Rarawa I could have a perceived conflict of interest in Te Rarawa Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga o Whaingaroa	As a descendent of Te Rūnanga o Whaingaroa I could have a perceived conflict of interest in Te Rūnanga o Whaingaroa Council relations.	Declare a perceived conflict
	Tribal Member	Kahukuraariki Trust Board	As a descendent of Kahukuraariki Trust Board I could have a perceived conflict of interest in Kahukuraariki Trust Board Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga ā-Iwi o Ngāpuhi	As a descendent of Te Rūnanga ā-Iwi o Ngāpuhi I could have a perceived	Declare a perceived conflict

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
			conflict of interest in Te Rūnanga ā-Iwi o Ngāpuhi Council relations.	
<b>John Vujcich</b>	Board Member	Pioneer Village	Matters relating to funding and assets	Declare interest and abstain
	Director	Waitukupata Forest Ltd	Potential for council activity to directly affect its assets	Declare interest and abstain
	Director	Rural Service Solutions Ltd	Matters where council regulatory function impact of company services	Declare interest and abstain
	Director	Kaikohe (Rau Marama) Community Trust	Potential funder	Declare interest and abstain
	Partner	MJ & EMJ Vujcich	Matters where council regulatory function impacts on partnership owned assets	Declare interest and abstain
	Member	Kaikohe Rotary Club	Potential funder, or impact on Rotary projects	Declare interest and abstain
	Member	New Zealand Institute of Directors	Potential provider of training to Council	Declare a Conflict of Interest
	Member	Institute of IT Professionals	Unlikely, but possible provider of services to Council	Declare a Conflict of Interest



**Far North District Council**  
**Extraordinary Council Meeting**  
**will be held in the Council Chamber, Memorial Avenue, Kaikohe on:**  
**Tuesday 2 February 2021 at 1.30 pm**

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**Order Of Business**

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**1 KARAKIA TIMATANGA – OPENING PRAYER****2 APOLOGIES AND DECLARATIONS OF INTEREST**

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to review the matters on the agenda and assess and identify where they may have a pecuniary or other conflict of interest, or where there may be a perception of a conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the meeting or of the relevant item of business and refrain from participating in the discussion or voting on that item. If a Member thinks they may have a conflict of interest, they can seek advice from the Chief Executive Officer or the Team Leader Democracy Support (preferably before the meeting).

It is noted that while members can seek advice the final decision as to whether a conflict exists rests with the member.

**3 DEPUTATION**

No requests for deputations were received at the time of the Agenda going to print.

**4 MAYORAL ANNOUNCEMENTS**

## 5 REPORTS

### 5.1 BAY OF ISLANDS SPORT FIELDS, WAIPAPA

**File Number:** A3071430

**Author:** Andy Finch, General Manager - Infrastructure and Asset Management

**Authoriser:** Shaun Clarke, Chief Executive Officer

#### PURPOSE OF THE REPORT

To obtain a Council decision on the location of 12.8 hectares of Sports Fields within a Council owned plot of land comprising 46.77 hectares at Waipapa, noting that the decision will impact upon the potential future utilisation of the land balance (particularly in relation to possible commercial and/or residential development), but also that risk would be incurred in moving the location to achieve that advantage.

#### EXECUTIVE SUMMARY

- Council has been considering the provision of additional sport fields for Kerikeri since 2012 and potentially earlier.
- A needs assessment was undertaken in 2019 and the results shared with Elected Members.
- Following a robust selection process, a 46.77 hectare site was acquired in Waipapa.
- This area is significantly more than is needed for the provision of the identified stage 1 sport fields which requires around 13 hectares.
- The question of what to do with the balance of the land has not yet been in scope for the work being done on the primary purpose of the site (the BoI Sport hub), but has now been raised by Elected Members for examination; this appropriately calls into immediate focus the viability of various potential commercial and residential development opportunities and the potential for a financial return to Council.
- The potential options are:
  - i. Commercial and/or residential development
  - ii. Public open space and/or
  - iii. On-going expansion of sports facilities, potentially community led
- The currently proposed design locates the sport fields in the centre of the site; this is appropriate and respectful of the project, but also stands to be sub-optimal in terms of potential future commercial/residential development if that is the direction Elected Members wish to take.
- The northern and southern extents of the site are in flood zone; the northern end is particularly vulnerable.
- Council has obtained MBIE funding in the sum of \$2m towards sport field provision; a key milestone is delivery by December 2021.
- There is community and sport code expectations that sport fields will be available for use by December 2021; this is a tight programme.

#### RECOMMENDATION

**That Council:**

**i) Either**

- a) Approve the current central location of the Stage 1 Sport Fields provision, as detailed in Figure 1, with the primary aim of the venture prioritised and protected from any risk, and the future use of the balance of the land available (approximately 30 hectares subject to a further Council report at a later date.**



Or

- b) Approve the relocation of the Stage 1 Sport Fields provision to either the north or south extents of the site, with the future use of the balance of the land available (approximately 30 hectares) subject to a further Council report at a later date**
- ii) Note that the decision is urgent to meet an obligation to MBIE to deliver the Stage 1 Sport Fields by December 2021.**

## **1) BACKGROUND**

Council has been considering the demand for sport field provision in and around Kerikeri since 2012 and potentially earlier. In July 2019 Council obtained a needs analysis from specialist sports field consultants (GLG) which was subsequently the subject of a workshop with Elected Members.

From this needs assessment a multi-criteria analysis was undertaken to identify and rank suitable sites in and around Kerikeri and Waipapa for the required land area of around 10 hectares. From this work the optimum site was identified as being a 46.77 hectare rural property opposite the Waipapa retail area on State Highway 10 which provided a flat contour which could easily be developed into sports fields, with close proximity to existing sports facilities and the potential for excellent vehicle access. Council approved the purchase at its meeting held on 26 February 2020, and the purchase was finalised on 1 May 2020 at the agreed price of \$4,975,000.

The key to unlocking the potential to this site was the creation of a new road access off State Highway 10. Approval in principal for the new access was given by NZTA in February 2020, subject to final details being confirmed by Council.

Following the purchase of the land Council prepared a feasibility report in August 2019, detailing a proposed layout of sport fields totalling some 12.8 hectares, along with options for the potential future staged expansion of sports provision at the site, potentially to an area of 27 hectares. The preliminary stage 1 layout also allocated land for a future wastewater treatment plant and water treatment plant to service the future expansion of Waipapa.

The preliminary footprint of the initial stage of the development is shown on Figure 1 below. The location of the fields was optimised around the fixed location of the proposed new road junction with State Highway 10, along with minimising construction costs, particularly in relation to flood zones at the north and south extents of the site.

Throughout the development of the proposal and land purchase the sports codes have been represented by James Coleman, the local football Community Development Officer.



Figure 1- Stage 1 Preliminary layout.

In Budget 2020, Government agreed to provide a \$3 billion investment in infrastructure to support New Zealand's economic recovery as part of the 11 May COVID-19 Response and Recovery Fund. A Council bid for \$2m towards sport fields provision at Waipapa was successful, with a defined milestone of completion of work by December 2021. The original submission was based on the preliminary layout detailed in Figure 1. An initial conversation with MBIE has indicated that any significant change in the layout would require MBIE approval, but this approval would likely be forthcoming. The key driver for MBIE is the delivery date of December 2021, and whilst this may be varied then a full justification based on delays to project delivery would need to be provided.

A working party was subsequently established to guide the delivery of this project, with membership including Elected Members, community representatives including James Coleman.

Staff have done no further work on potential options for the utilisation of the balance of the land beyond Stage 1, with resources being prioritised to the delivery of the current proposal.

In anticipation of a need to consider future residual land use, Council has been working with FNHL to understand the options that might be available. In late December 2020 FNHL approached Council with an indicative commercial development proposal for the site to sit alongside the sports field provision. This proposal is detailed in Figure 2. The intention of this proposal was to outline what may be achievable in terms of the site's development. The plan is not fixed, it is just a concept, but was raised with FNDC to highlight the future potential of the residual land. The land can accommodate a large mixed-use development that could underpin financially the sports hub through capital or rental income. The final design and mix of activities, on whatever land is residual, would be decided on in consultation with the Council and Community. The proposal is not to take precedent or impinge on the sports hubs timetable for delivery but does questions whether the fields are located in the best location, as they are central to the site which may limit future development options. The location of the sports fields was the result of a technical report that Haigh Workman undertook and any movement would need to be qualified, if indeed it was possible.

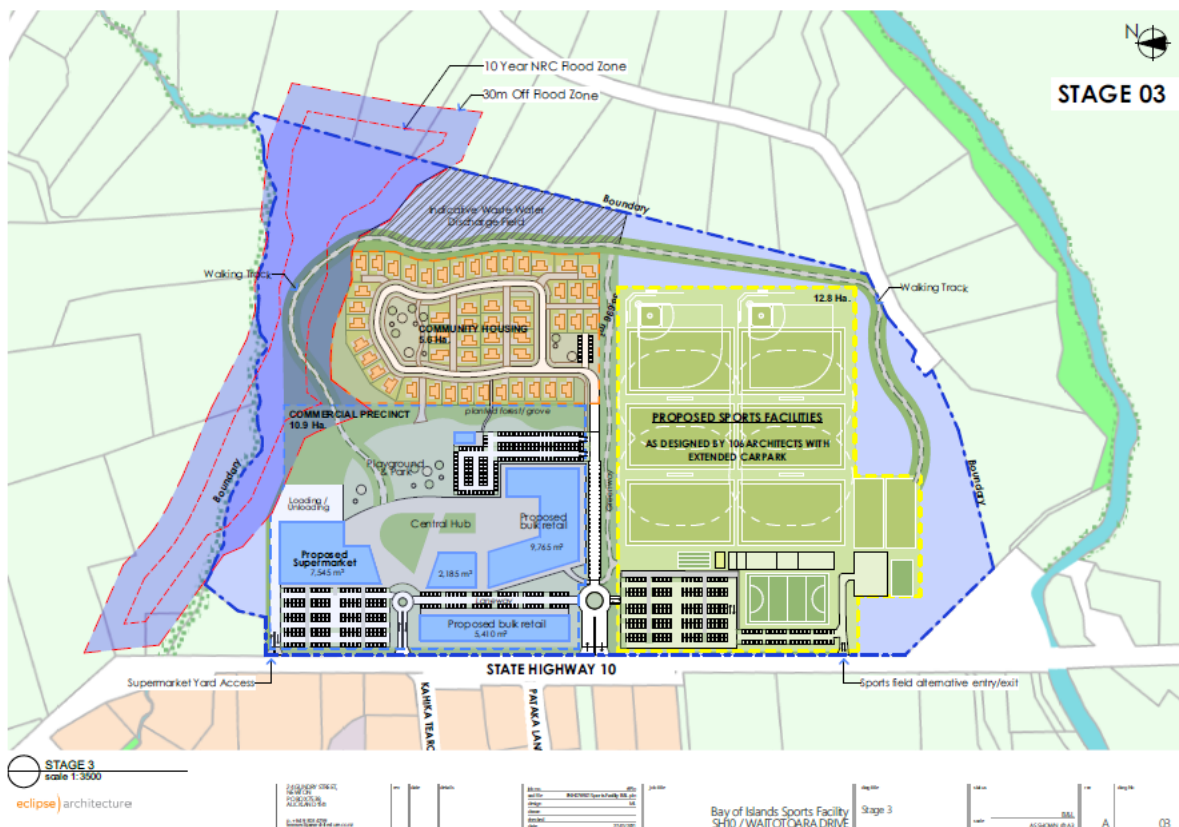


Figure 2 - Proposed Indicative Commercial Development

The northern and southern ends of the site are located within identified flood zones:

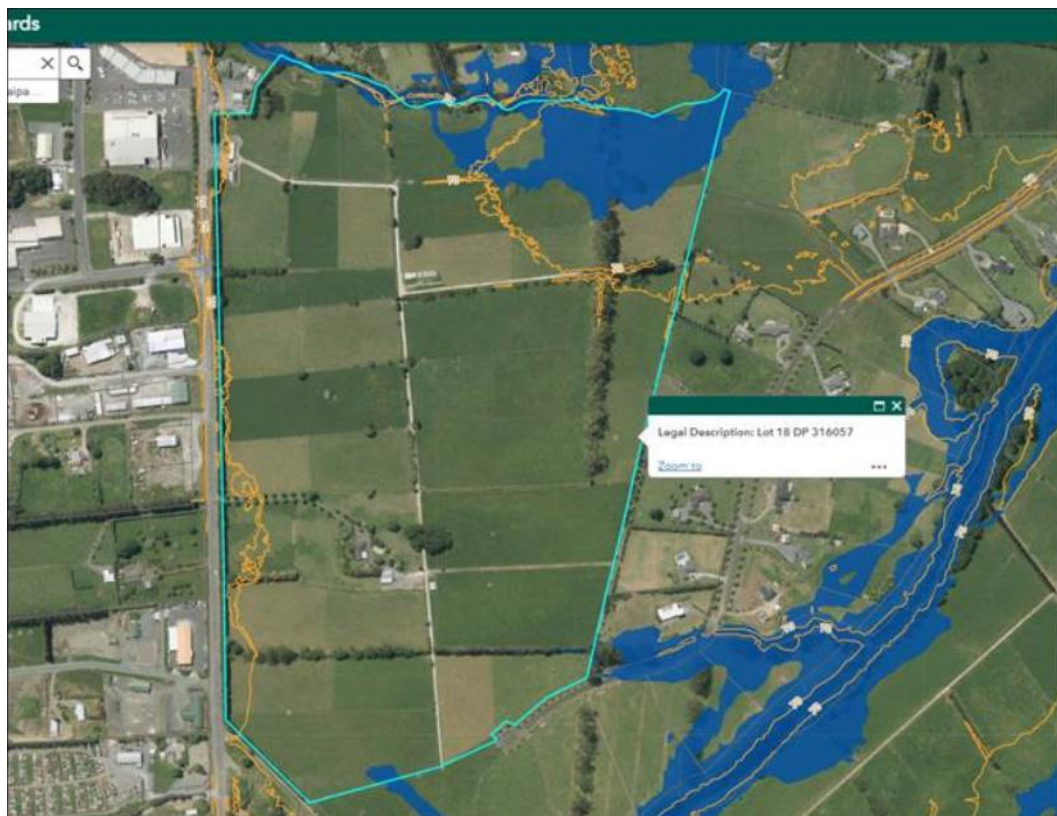
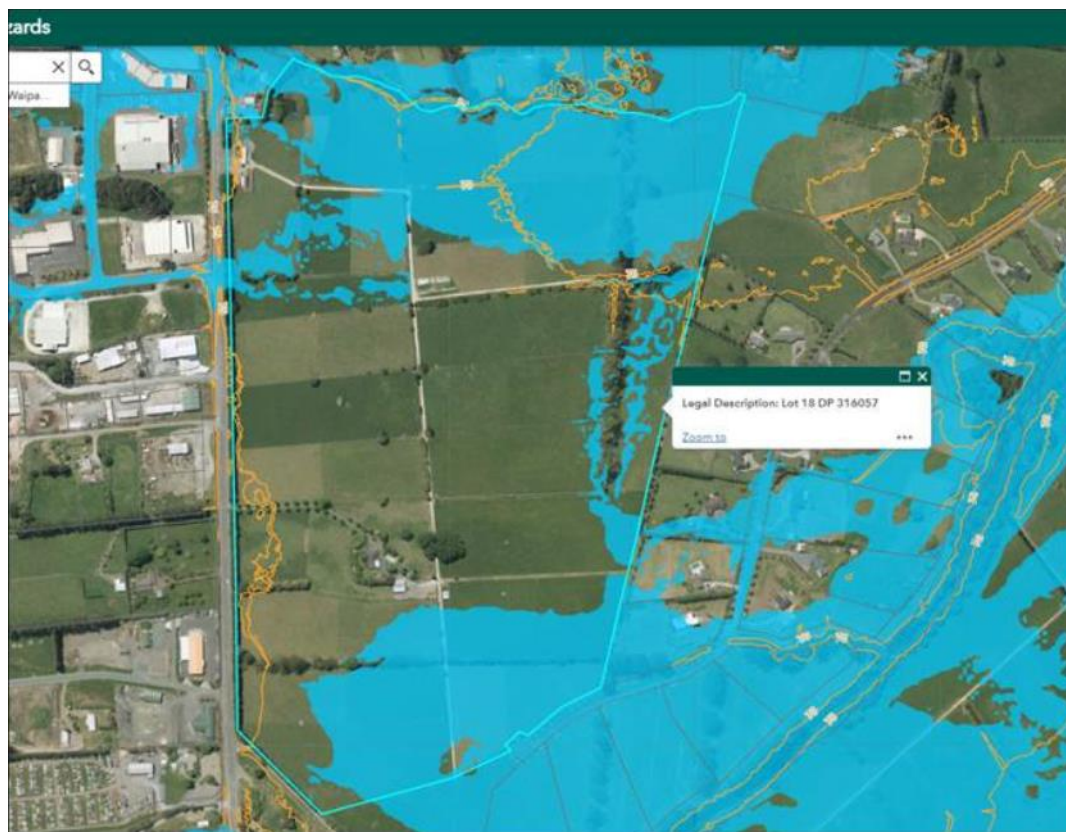


Figure 3 - 1 in 10 yr flood event (NRC Flood Hazard Mapping)





*Figure 4 - 1 in 100 yr flood event (NRC Flood Hazard Mapping)*

Whilst it is understood that Northland Regional Council (NRC) are progressing work to mitigate the flooding risk in Waipapa, in the time available a planning assessment has not been undertaken to identify the possible mitigation that may be required to obtain a resource consent to build in the flood zone. An NRC resource consent would be dependent upon the proposal to mitigate the flooding risk. If the intention was to construct bunds to divert floodwaters, a resource consent would be required, and Council would need to demonstrate that the diversion is not adversely affecting downstream properties. If Council were to affect downstream properties, gaining consent would be unlikely or very time consuming.

The working group have given a clear steer that even occasional flooding of the sports fields would be unacceptable.

## **2) DISCUSSION AND OPTIONS**

The issue to be resolved is the potential utilisation of the balance of the land, and the impact of this on the location of the proposed fields within the overall boundary of the site. With urgency to meet the timescale for delivery, a decision on the placing on the sport fields, namely as currently proposed in the centre of the site, or alternatively to the north or south, needs to be made by 6 February 2021 to achieve a stage 1 delivery date of December 2021. The concept diagram, Figure 2, is an example only of one option which Elected Members may wish to consider. Others being the future expansion of sports provision or public open space. The mix of commercial and/or residential development is also negotiable.

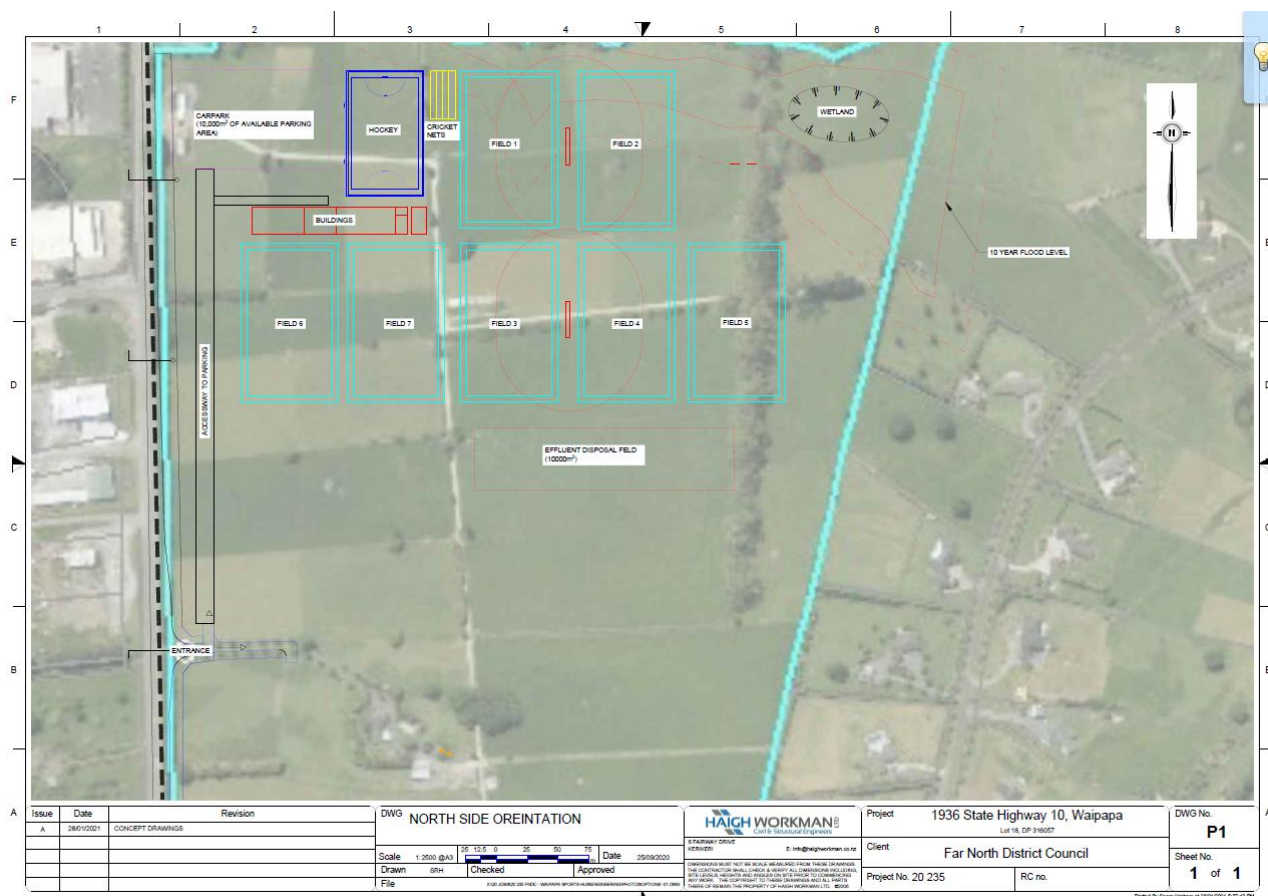


Figure 5 - Indicative field layout north



Figure 6 - Indicative field layout south

FNHL have advised that the possible return on a commercial/ residential development would be significant (potentially \$3-4m per annum), but this would vary subject to (a) whether the site is a single lot or split, as if the residual land is split into two lots it has cost implications as services and infrastructure are duplicated, and (b) on the mix and density of activities Council are comfortable with.

The northern end of the site floods more regularly, with reported flooding during a 1 in 10-year event. Further north and closer to the Whiriwhiritoa Stream the land becomes increasingly low lying with a ground water table likely less than 0.7m below ground level. If the facility is moved to the northern side of the site, the majority of the sports complex will be located within a flood hazard area. Constructing sport fields within the 1 in 10-year flood zone would be challenging.

- The southern end of the site is less impacted by flooding. The 1 in 100 yr. flood event indicates some shallow overspill from the Kerikeri River. However, the southern alternative is close to the residential properties off Waitotara Drive.

Should the location of the sport fields be either north or south, the project would also need to make an assessment under the National Environmental Standards for Freshwater (NESFW) as there may be natural wetlands present in these areas. This would have implications for earthworks and associated diversion and discharges of stormwater within 100 metres of these areas.

- A preliminary estimate for the cost of flood mitigation for sport fields located in the northern flood zone would be approximately \$1m, and in the southern flood zone \$200k.
- In summary, Elected Members will need to exercise their judgement to determine the best overall future use of the site, and in particular the location of the stage 1 sport fields (central, north or south), with a view to the future use optimal use for the balance of the site.

The decision cannot be deferred due to the need to ensure Council meets published milestones with MBIE, the sports codes and the community.

This report does not make a specific recommendation, but instead provides two options with each carrying benefits and risks. It is a political decision on which staff are seeking Council direction in order to proceed.

Elected Members in arriving at a decision need to consider:

- The delivery timing constraints;
- The significant potential returns to the ratepayer from commercial and residential development opportunities, which are expected to be less if the sport fields are located centrally;
- The increased costs of building sport fields in the flood zone, (significant at the north end and less at the south end);
- The time and cost risk of obtaining a resource consent should the sport fields be relocated, particularly to the northern end;
- The potential impact on the adjacent residential properties, particularly Waitotara Drive at the southern end;
- Whether Waipapa can sustain additional commercial growth above that already proposed in existing commercial areas;
- The risk of NZTA withdrawing approval for a new junction off State Highway 10, should they consider increased capacity will impact the efficiency and safety of the new junction.

### **Reason for the recommendation**

To obtain a Council decision on the location of Sport Fields to allow the project to proceed.



**3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

The funding available for the project currently comprises:

1. MBIE Covid 19 Funding - \$2m to December 2021
2. Council Annual Plan - \$2m to June 2021 (subject to carry forward).

The draft Long-Term Plan includes the following which is subject to Council approval:

1. Financial Year 2021/2022 - \$4.2m (Year 1)
2. Financial Year 2022/2023 - \$0.8m uninflated value – (Year 2)
3. Financial Year 2029/2030 - \$9m uninflated value – (Year 9)
4. Financial Year 2030/2031 - \$13.5m uninflated value - (Year 10)

Should a decision be made to change the location of the Stage 1 Sport Fields from the current central location, then approximately \$10k to \$15k of costs would need to be written off.

**ATTACHMENTS**

1. **Previous Council Report 2020-02-26 Council Report [A2837703] - A3071957** [↓](#)
2. **Waipapa Sports Hub Agreement Execution - A3071941** [↓](#)
3. **210115 Bay of Islands Sports Facility - A3071960** [↓](#)

**Compliance schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	High – the use of the balance of the land has the potential for commercial returns.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	N/A
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	Local Relevance to Kerikeri and Waipapa.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	N/A
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Sports Codes and the community of Kerikeri and Waipapa.
State the financial implications and where budgetary provisions have been made to support this decision.	As detailed in the report.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report



**BAY OF ISLANDS SPORTS FIELD DEVELOPMENT, KERIKERI****File Number: A2837703****Author: Jeanette England, Assets Manager - District Facilities****Authoriser: Andy Finch, General Manager - Infrastructure and Asset Management**

The Council is satisfied that, pursuant to the Local Government Official Information and Meetings Act 1987, the information to be received, discussed or considered in relation to this agenda item should not be made available to the public for the following reason/s:

- s7(2)(a) the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons
- s7(2)(i) the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

**PURPOSE OF THE REPORT**

To seek approval to purchase 46.77ha (more or less) of land for the proposed Bay of Islands (BOI) Sports Field Development at the agreed price of \$4,975,000. This purchase requires an increase to the existing Long-Term Plan (LTP) budget of \$1,840,717.

**EXECUTIVE SUMMARY**

- There is an ongoing need for Council to address the shortage of sports fields in the Kerikeri area. This issue dates back to 2012 when FNDC undertook a study on football fields in the area.
- Council have previously endorsed the need for additional sports fields through the Long-Term Plan (LTP) process.
- The 2018/2028 LTP included a total budget of \$3,134,283 intended for land purchase and development of facilities which was subsequently reforecast to 2019/2020.
- An in-depth property analysis has been undertaken on properties of 10ha or more within the vicinity of Kerikeri.
- This analysis showed three preferred properties of which one, that is currently on the market, has been selected and a Sale and Purchase Agreement, subject to due diligence and Council approval for \$4,975,000 has been entered into.
- The Sale and Purchase Agreement is subject to Council Approval, NZTA approval for a proposed junction on State Highway 10, and a due diligence period of two months ending 31 March 2020.
- The property is valued at GV \$4,975,000 and RV from Telfer Young is \$4,750,000.
- If Council wish to proceed with this purchase, there is currently a budget shortfall of \$1,840,717.

**RECOMMENDATION****That Council approves:**

- a) **The purchase of 46.77ha (more or less) of land at 1936 State Highway 10, Waipapa being Lot 18 DP316057 Identifier 26858 and Lot 17 DP333643 Identifier 137900 for the development of a new BOI Sports Field Development at \$4,975,000 plus GST if any.**
- b) **An increase of \$1,840,717 to the existing allocated Long-Term budget of \$3,134,283 for the purchase of the land at 1936 State Highway 10, Waipapa.**

## 1) BACKGROUND

In 2012 FNDC undertook a football field capacity study. This study indicated that more fields were required to accommodate the needs of the local community. The Baysports complex has two football fields but it was identified at the time that five additional fields were required to meet demand. There was also a community interest group proposing that Kerikeri needed a sports hub and that a larger property should be considered. This consideration would provide for the football pitches required and an all-inclusive sports facility in the future.

A Multi Criteria Assessment (MCA) was undertaken for Kerikeri properties of 10ha or more. This identified areas of enough land that could be utilised for a multi-sport facility and for future development.

The highest-ranking property in 2012 was on State Highway 10 (SH10), Waipapa and a conditional offer was made on this property subject to a 6-month period for due diligence. The offer subsequently expired and there was no further interest from the vendor to renew.

Following a Needs Analysis and Elected Member workshop, a further MCA exercise was undertaken in November 2019. This identified three properties which would meet the requirements for the provision of sports fields, one of which was the previously identified site on SH10, Waipapa. This was confirmed as the preferred site.

A budget of \$1m for land purchase and a further \$1.4m for a facility was included in the 2012/2022 LTP. This was subsequently increased to \$3.134m in the 2018/2028 LTP.

## 2) DISCUSSION AND OPTIONS

**Decision Required** The recommendation is for Council to purchase the property at 1936 SH10, Waipapa for the purpose of building the additional sports fields required to meet current and future demand.

To purchase this property, the current budget of \$3,134,283 needs to be increased by \$1,840,717 which will provide the total amount of \$4,975,000, being the purchase price.

An additional \$2,000,000 has been requested in the 2020/2021 Annual Plan (AP) for this purpose, which will no longer be required if this purchase is concluded prior to 30 June 2020.

### Longer Term Benefits of a larger site

Whilst the need for a 10-ha site has currently been identified, a larger sized land purchase would address the current need for additional sports fields and relieve pressure on other facilities currently being utilised, such as the Kerikeri High School playing fields. It would also allow further future sports related and other third-party development of the site, which has the potential to offset the land purchase price to Council.

### District Plan (DP) Considerations

The District Planning team were included in the recent MCA and cost benefit exercise. This land is zoned Rural Production which will require amending in the District Plan to allow for the proposed activities on this site.

### MCA Findings

As a result of the MCA, Option 1 presents as the most favourable in terms of meeting current and future needs. Staff then undertook boundary site visits on 23 November 2019 to determine suitability, location and site access.

A more detailed report outlining the results and the preferred site is attached.

### Option 1: Preferred Site

#### 1936 SH10, Waipapa (46.77 ha)

- Provides a large land area suitable for development of a sporting hub and requires minimal remediation works to make the ground suitable for use as a Sports Hub.
- The proposed site is geographically close to other areas of sport activity.

- The proposed site is currently on the market for sale.
- Good road frontage to SH10
- A Traffic Impact Assessment (TMA) and pre-application meeting with NZTA was undertaken by consultants Haigh Workman (Refer to attached report)
- The TMA has been submitted to NZTA with the entrance to the site being unchanged from the existing entrance and this will form a new side road off SH10 and has the potential to link with Waitotara Drive.

**Option 2:****125 Waipapa Road (26.05ha)**

- This site had good road frontage along Waipapa Road with the potential to develop good access.
- In close proximity to Kerikeri Sports Complex.
- The land is of an irregular shape which could compromise the full range of activities and facilities.
- Could potentially have a negative impact of neighbouring properties at Blue Marlin Drive and Awhitu Road.

**Option 3****1828 SH10 (100.76ha)**

- This site has good road frontage for access (subject to NZTA approval)
- Good site with a number of locations available within the land area for development
- There is significant land area within the site that has limited development potential
- There is a significant area of bush within the property.

**Future costs**

There is a budget in the LTP of \$702,902 in 2020/2021 and \$718,263 in 2021/2022 to obtain a resource consent and undertake design works.

The total cost and funding mechanisms for developing the site and constructing a new junction off SH10 at Waipapa are currently unknown.

**Next Steps**

Subject to approval, staff will continue to pursue Option 1 and undertake the further due diligence to confirm suitability.

Council will receive a formal report on options and recommendations for future investment and development required to meet the community needs. Should future recommendations require significant additional capital funding above that already allocated in the 2018/2028 LTP forecasts, then it may be necessary to carry out further community consultation in accordance with LGA requirements. This would be undertaken as part of the 2021/2031 Long Term Plan.

**3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

The purchase price of the recommended land is \$4,975,000. The current GV is \$4,975,000 and RV is \$4,750,000.

Funding is allocated in the 2018/2028 LTP for the purchase of this land but is insufficient for this purchase. An additional \$1,840,717 is required to enable the purchase to proceed.

Funding of the land purchase is through a ward-based rate and the additional funding required will result in an increase in rates of \$3.02.

Further funding has been allocated in the currently LTP in both 2020/2021 and 2021/2022 for the development of a BOI Sports Fields.

**ATTACHMENTS**

1. **Kerikeri Sports Field Needs Assessment Report - A2850645**
2. **Kerikeri Sports Field Traffic Assessment V2 - A2850646**
3. **Preferred Site Summary Report - GLG Consultants - A2850647**

**Compliance schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	This report has a high significance due to changing the sporting facility opportunities and a significant capital cost.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Communities that are healthy, safe, connected and sustainable is the major outcome of this project.  The AMP Managing Our Assets – Parks and Recreation 2018-2028 notes the acquisition of additional land for sports fields.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This project does not have district wide relevance. Although the acquisition of land for sports fields is in the current LTP the Bay of Islands-Whangaroa Community Board's opinion should be sought with the required increase in funding.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	Iwi consultation will need to be considered once we have the selected property with an offer in place and is in a due diligence period.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	It will only be possible once we have an offer in place and is in a due diligence period.
State the financial implications and where budgetary provisions have been made to support this decision.	The current LTP has approved funding for land acquisition and facility development which is insufficient and partnerships and/or external funding sources will be required for the Sports Hub development.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report



## INFRASTRUCTURE REFERENCE GROUP FUNDING AGREEMENT FOR WAIPAPA SPORTS HUB

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

**AND** Far North District Council, NZBN 9429041902202, a territorial authority listed in Part 2 of Schedule 2 to the Local Government Act 2002 (**Recipient**)

### BACKGROUND

The Ministry wishes to contribute to the Project by providing Funding from the appropriation set out in Schedule 1 (**Details**) on the terms set out in this Agreement.

### AGREEMENT

The Ministry will pay the Funding to the Recipient, and the Recipient accepts the Funding, on the terms and conditions set out in Schedule 1 (**Details**), Schedule 2 (**Funding Agreement Standard Terms and Conditions**), Schedule 3 (**Project**), Schedule 4 (**Social Procurement Outcomes**), Schedule 5 (**Monthly Report Template**) and Schedule 6 (**Preliminary Concept Design of Project Works**).

**SIGNED** by the **SOVEREIGN IN RIGHT** )  
**OF NEW ZEALAND** acting by and )  
 through the Chief Executive of the )  
 Ministry of Business, Innovation and )  
 Employment or their authorised )  
 delegate: )

\_\_\_\_\_  
 Nicki Sutherland  
 Director, Regional Development (North)

\_\_\_\_\_  
 Date

**SIGNED** for and on behalf of )  
**FAR NORTH DISTRICT COUNCIL** by its )  
 authorised signatory: )

A handwritten signature in blue ink, appearing to read 'R. Clarke'.

\_\_\_\_\_  
 Signature

Robert Shaun Clarke

\_\_\_\_\_  
 Full name

Chief Executive

\_\_\_\_\_  
 Position

13 November 2020

\_\_\_\_\_  
 Date

**SCHEDULE 1 – DETAILS****1 CONTEXT**

- 1.1 In Budget 2020, Cabinet agreed to provide a \$3 billion investment in infrastructure to support New Zealand's economic recovery as part of the 11 May COVID-19 Response and Recovery Fund [CAB-20-MIN-0219.04 refers].
- 1.2 The Government established the Infrastructure Reference Group (**IRG**) to identify a pipeline of shovel-ready projects to support the economy during the COVID-19 rebuild. This process was supported by Crown Infrastructure Partners.
- 1.3 On 24 June 2020, the Cabinet Economic Development Committee, agreed that the Ministry (acting through the Provincial Development Unit) would be responsible for delivering projects approved by IRG Ministers where they are best placed to do so [CAB-20-MIN-0341 refers].

**2 APPROPRIATION AND APPROVAL PROCESS**

- 2.1 Funding is from a Non-departmental Other Expenses Supporting Infrastructure Appropriation, Vote Business, Science and Innovation authorised by Cabinet on 20 July 2020.

**3 FUNDING**

- 3.1 **Funding Total:** This Agreement provides funding for a total amount of up to \$2,000,000 (plus GST, if any) (**Funding**). This is the Total Maximum Amount Payable by the Ministry.
- 3.2 **Application of Funding:** The Recipient:
- (a) must apply the Funding in accordance with the Project (Schedule 3), subject to any variation of the Project agreed with the Ministry in writing; and
  - (b) must not use the Funding for any part of the Project that is or was already funded by any party (including the Recipient, unless otherwise approved by the Ministry in writing), or in relation to any activity which the Ministry advises the Recipient that it may not apply the Funding to.
- 3.3 **Overruns:** The Parties acknowledge that the Funding in clause 3.1 (Schedule 1) is the Total Maximum Amount Payable by the Ministry for the Project, and that the Recipient will be liable for all cost overruns in relation to the delivery of the Project. The Ministry will not be liable for any cost overruns. The Recipient will carefully monitor the likelihood of cost overruns through its budgeting and reporting process, and will notify the Ministry as soon as it is aware that there is a likelihood that Project Costs will exceed the Total Maximum Amount Payable under this Agreement.
- 4 PROJECT**
- 4.1 **Project:** The Recipient will use the Funding to develop five football fields, construct a carpark and a toilet/changing room at Waitotara Drive, north of Kerikeri, as further set out in Schedule 3.
- 4.2 **Project Outcomes:** The outcomes of the Project that align with the Funding criteria include:
- (a) new employment, the preservation of jobs and the redeployment of workers in communities and within the infrastructure sector hit by COVID-19; and
  - (b) investment toward a more productive, sustainable and inclusive economy, enabling our regions to grow and support a modern and connected New Zealand.

- 4.3 **Delivery:** The Recipient must ensure that:
- (a) the Construction Commencement Date is within 12 months from the Commencement Date (Schedule 3);
  - (b) it obtains all consents required (including without limitation, statutory consents, permissions and licences) to carry out the Project in accordance with the consenting timeframes set out in Schedule 3. The Recipient will notify the Ministry immediately if any consent is not achieved, expires, is withdrawn, is breached or otherwise lapses;
  - (c) its contractor(s):
    - (i) have accountability and deliver any construction contracts on time, within budget and to meet the relevant building codes and consents, as required for the Project to be undertaken; and
    - (ii) provide all necessary information to it that will allow the Recipient to promptly notify the Ministry if any material event or circumstance occurs which may be detrimental to the Project and its delivery (including any identified funding short fall or potential cost overruns); and
  - (d) the Project is carried out:
    - (i) promptly with due diligence, care and skill, and in a manner that meets or exceeds Best Industry Practice;
    - (ii) by appropriately trained, qualified, experienced and supervised persons;
    - (iii) in accordance with any directions of the Ministry, notified by the Ministry in writing from time to time;
    - (iv) to the high standard set out in any Project documentation submitted to the Ministry, including any Minister of the Crown or any Government Agency, and any further plans, designs, or other Project documents submitted to, and approved by, the Ministry; and
    - (v) in a manner that takes into account the Construction Sector Accord's principles and guidelines.

## 5 PROCUREMENT

- 5.1 In delivering the Project, the Recipient must ensure that all tendering and procurement arrangements:
- (a) occur at pace, time being critical; and
  - (b) comply with any agreed Social Procurement Objectives detailed in Schedule 4.



## 6 PAYMENT TERMS

- 6.1 Subject to the terms of this Agreement, the Ministry will pay the Funding to the Recipient in the following instalments:

Instalment	Completion Date	Project Deliverable	Instalment payable (plus GST, if any)
1	Commencement Date	This Agreement executed by both parties.	Up to \$100,000
2	June 2021	Provide the Ministry with a detailed budget for each element of the Project.  Provide evidence of completion of detailed design work in respect of the Project.  Provide evidence that all consents required for the Project have been obtained by the Recipient.  The Ministry and Recipient have agreed the identity of the construction contractor providing a certificate (or similar) under clause 6.2(c).	Up to \$900,000
3	October 2021	The certificate provided by the Recipient under clause 6.2(c) demonstrates that the Project is at least 50% complete.	Up to \$800,000
4	December 2021	Completion of the Project.  Final Report provided to the Ministry under clause 8.3 of Schedule 1.	Up to \$200,000
			Total Funding: \$2,000,000

- 6.2 **Payment preconditions:** The Ministry is not required to make any payments under this Agreement until the following conditions have been satisfied (in the Ministry's sole discretion):

- (a) in relation to each Instalment (except the First Instalment), the Recipient has provided the Ministry with copies of the invoices for all payments over \$1,000 paid by the Recipient to third parties using the previous Instalment;
- (b) the Recipient has provided a valid GST invoice for the Instalment;

- (c) in relation to each Instalment (except the First Instalment), the Recipient provides a certificate (or similar) signed by the relevant construction contractor or project manager which:
  - (i) certifies the progress of the Project;
  - (ii) certifies the costs incurred by the Recipient;
  - (iii) certifies the Project is on track to be completed by the Completion Date;
  - (iv) notifies the Ministry of any variations to the relevant construction contract; and
  - (v) provides the cost to complete the Project;
- (d) in relation to each Instalment (except the First Instalment), the Recipient has delivered all Monthly Reports required under clause 8 (Schedule 1) to the Ministry's satisfaction;
- (e) the Recipient is not in breach of any provision of this Agreement; and
- (f) the Ministry is satisfied in its sole discretion that:
  - (i) the Project is progressing as approved; and
  - (ii) the Funding has been applied in accordance with clause 4 (Schedule 1), including pursuant to any discussions with the Recipient.

## **7 TERM**

- 7.1 **Commencement Date:** The Commencement Date is the date that this Agreement has been signed by both Parties.
- 7.2 **Completion Date:** The Completion Date is the date that is 14 months from the Commencement Date.

## **8 REPORTING REQUIREMENTS**

- 8.1 **Monthly Reports:** The Recipient will provide the Ministry with a Monthly Report, completed on a template attached as Schedule 5, by the 8th Business Day following the end of each month.
- 8.2 **Ministry satisfaction:** For the avoidance of doubt, if any one or more of the Monthly Reports do not satisfy the Ministry that the Project is progressing in accordance with clause 4 (Schedule 1), the Ministry will be entitled to terminate the Agreement and recoup all unspent funds in accordance with clause 4 (Schedule 2).
- 8.3 **Final Report:** A Final Report within 1 month following the Completion Date in the Ministry's approved form.
- 8.4 **Further information:** The Recipient will promptly provide all information requested by the Ministry necessary to verify the Recipient's performance under this Agreement, including (without limitation) its procurement documentation, subcontracts, financial and technical information, and records of the number and make-up of the workers hired to undertake the Project.

**9 ADDRESS FOR NOTICES**

Ministry	Recipient
Ministry of Business, Innovation and Employment 15 Stout Street PO Box 1473 WELLINGTON 6011  Email address: <a href="mailto:shane.wratt@mbie.govt.nz">shane.wratt@mbie.govt.nz</a>  Contact person: Shane Wratt  Attention: Provincial Development Unit	Far North District Council Private Bag 752 KAIKOHE 0440  Email address: <a href="mailto:david.clamp@fndc.govt.nz">david.clamp@fndc.govt.nz</a>  Contact person: David Clamp  Attention: Infrastructure and Asset Management

**SCHEDULE 2 – FUNDING AGREEMENT STANDARD TERMS AND CONDITIONS****1 INTERPRETATION**

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

**“Agreement”** means this agreement, including Schedules 1 to Schedule 6;

**“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 not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003;

**“Commencement Date”** means the date that this Agreement has been signed by both Parties;

**“Completion Date”** means the date set out in Schedule 1;

**“Confidential Information”** includes all information and data (in any form) concerning the organisation, administration, operation, business, clients, finance, and methods of the Ministry, including any information provided by the Ministry under or in connection with this Agreement;

**“Construction Commencement Date”** means the date that construction works must commence, as described in Schedule 3.

**“Final Report”** means the report, as described in Schedule 1;

**“Funding”** means the funding amount set out in Schedule 1;

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

**“Instalment”** means the payment instalments in Schedule 1;

**“Intellectual Property Rights”** includes copyright and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trademarks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity;

**“Deliverable”** means the Project Deliverables in Schedule 1;

**“Monthly Report”** means the report completed on the template in Schedule 5;

**“Parties”** means the Ministry and the Recipient and their respective successors and permitted assigns;

**“Project”** means the project described in Schedule 1 and Schedule 3;

**“Project Costs”** means the total costs of the Project described in Schedule 3;

**“Social Procurement Objectives”** means the agreed objectives described in Schedule 4; and

**“Total Maximum Amount Payable”** has the meaning given in Schedule 1.

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

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

- 1.4 The singular includes the plural and vice versa.
- 1.5 "Including" and similar words do not imply any limitation.
- 1.6 References to a statute include references to that statute as amended or replaced from time to time.
- 1.7 Monetary references are references to New Zealand currency.
- 1.8 If there is any conflict of meaning between Schedule 1 and Schedule 2, Schedule 2 will prevail.
- 2 FUNDING**
- 2.1 The Ministry must pay the Funding (up to the Total Maximum Amount Payable) at the rate and in the manner set out in Schedule 1 to the Recipient, subject to the terms of this Agreement.
- 2.2 The Recipient must provide a valid GST invoice that complies with the Goods and Services Tax Act 1985 for each Instalment. The invoice must:
- (a) be sent directly to the Ministry via email to [monitorpgf@mbie.govt.nz](mailto:monitorpgf@mbie.govt.nz);
  - (b) be copied to the relevant Ministry contact person as set out in clause 9 of Schedule 1;
  - (c) include sufficient information reasonably required to enable the Ministry to validate the claim for payment including a reference to this Agreement (under which the invoice is issued); and
  - (d) be clearly and legibly marked to Ministry staff as advised by the Ministry to the Recipient from time to time.
- 2.3 The Funding is inclusive of all taxation except GST. The Ministry will be entitled to deduct any withholding tax required to be withheld by law from payments made to the Recipient and will not be required to gross-up or increase any such payments in respect of such amounts withheld.
- 2.4 The Recipient must use the Funding only to carry out the Project in accordance with this Agreement.
- 2.5 In consideration of the Funding, the Recipient must:
- (a) progress the Project to the Ministry's satisfaction;
  - (b) complete the Project to the Ministry's satisfaction by the Completion Date;
  - (c) carry out the Project in accordance with:
    - (i) the best currently accepted principles and practice applicable to the field(s) of expertise relating to the Project; and
    - (ii) all applicable laws, regulations, rules and professional codes of conduct or practice; and
  - (d) refund any unspent Funding to the Ministry within 10 Business Days of the Completion Date.
- 2.6 Where all of the monies received by the Recipient to carry out the Project (including the Funding) exceeds the total Project Costs of the Project, the Recipient must refund to the Ministry the excess amount. The Recipient is not required to refund, under this clause 2.6, any amount that exceeds the Total Maximum Amount Payable.
- 2.7 The Recipient must ensure (and must procure that any contractor it uses 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 and provides value for money. To the extent that the expenditure relates to work performed by parties not at "arm's length", that

- expenditure must be assessed at reasonable market value, and contain no unacceptable overhead and no element of "in group profit".
- 3 PROJECT DELIVERY AND PROGRESS**
- 3.1 If:
- (a) the Ministry is not satisfied with the progress of the Project;
  - (b) the Construction Commencement Date has not been met;
  - (c) the Recipient does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which, in the Ministry's opinion, may damage the business or reputation of the Ministry; or
  - (d) the Recipient breaches any of its obligations under this Agreement,
- the Ministry may (without limiting its other remedies):
- (e) renegotiate this Agreement with the Recipient; or
  - (f) terminate this Agreement immediately by notice to the Recipient, and clause 4.4, 4.5 and 4.6 will apply.
- 4 TERM AND TERMINATION**
- 4.1 Subject to clauses 4.2 and 4.3, this Agreement will commence on the Commencement Date and expire when:
- (a) the Final Report is completed and provided to the Ministry; and
  - (b) the Project is completed,
- to the Ministry's satisfaction.
- 4.2 The Ministry may terminate this Agreement at any time by giving at least 10 Business Days' notice to the Recipient.
- 4.3 The Ministry may terminate this Agreement immediately by giving notice to the Recipient, if the Recipient:
- (a) is in breach of any of its obligations under this Agreement and that breach is not capable of being remedied;
  - (b) fails to remedy any breach of its obligations under this Agreement within 5 Business Days of receipt of notice of the breach from the Ministry;
  - (c) does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which in the Ministry's opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand;
  - (d) has given or gives any information to the Ministry which is misleading or inaccurate in any material respect; or
  - (e) becomes insolvent, bankrupt or subject to any form of insolvency action or administration.
- 4.4 Termination of this Agreement is without prejudice to the rights and obligations of the Parties accrued up to and including the date of termination.
- 4.5 On termination of this Agreement, the Ministry may (without limiting any of its other rights or remedies):
- (a) require the Recipient to provide evidence of how the Funding has been spent; and/or
  - (b) require the Recipient to refund to the Ministry:
    - (i) any of the Funding that has not been spent or committed by the Recipient. For the purposes of this clause, Funding is committed where it has been

- provided or promised to a third party for the purpose of carrying out the Project and the Recipient, after using reasonable endeavours, is unable to secure a refund or release from that promise (as the case may be); or
- (ii) the proportion of the Funding that equates to the uncompleted part of the Project, as reasonably determined by the Ministry; and/or
- (c) if the Funding has been misused or misappropriated by the Recipient, require the Recipient to refund all Funding paid up to the date of termination, together with interest at the rate of 10% per annum from the date the Recipient was paid the money to the date the Recipient returns the money.
- 5 REPORTING REQUIREMENTS AND AUDIT**
- 5.1 The Recipient must report on the progress of the Project to the Ministry:
- (a) as set out in Schedule 1;
- (b) as otherwise reasonably required by the Ministry; and
- (c) in any format and on any medium reasonably required by the Ministry.
- 5.2 The Recipient must:
- (a) maintain true and accurate records in connection with the use of the Funding and the carrying out of the Project sufficient to enable the Ministry to meet its obligations under the Public Finance Act 1989 and retain such records for at least 7 years after termination or expiry of this Agreement;
- (b) permit the Ministry, at the Ministry's expense, to inspect or audit (using an auditor nominated by the Ministry), from time to time until 7 years after termination or expiry of this Agreement, all records relevant to this Agreement;
- (c) allow the Ministry reasonable access to the Recipient's premises or other premises where the Project is being carried out; and
- (d) appoint a reputable firm of chartered accountants as auditors to audit its financial statements in relation to the use of the Funding.
- 6 WARRANTIES**
- 6.1 Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.
- 6.2 The Recipient warrants that:
- (a) it is not insolvent or bankrupt and no action has been taken to initiate any form of insolvency administration in relation to the Recipient;
- (b) all information provided by it to the Ministry in connection with this Agreement was, at the time it was provided, true, complete and accurate in all material respects; 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.
- 6.3 The Recipient acknowledges that the Ministry has entered into this Agreement in reliance on these warranties.
- 6.4 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.
- 7 INTELLECTUAL PROPERTY**
- 7.1 All Intellectual Property Rights in the reports provided under clause 8, Schedule 1 will be owned by the Ministry from the date the reports are created or developed.
- 7.2 All intellectual property produced by the Recipient or its employees or contractors in relation to the Project is, on creation, jointly owned by the Ministry and the Recipient. Each Party may use (which includes modifying, developing, assigning, or licensing) such intellectual property without obtaining the prior consent of the other Party. On request, the Recipient must provide to the Ministry such intellectual property in any format, and on any medium, reasonably requested by the Ministry.
- 7.3 The Recipient must ensure that material created or developed in connection with the Project does not infringe the Intellectual Property Rights of any person.
- 8 CONFIDENTIALITY**
- 8.1 The Recipient must:
- (a) keep the Confidential Information confidential at all times;
  - (b) not disclose any Confidential Information to any person other than its employees or contractors to whom disclosure is necessary for purposes of the Project or this Agreement;
- (c) effect and maintain adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons; and
  - (d) ensure that any employees or contractors to whom it discloses the Confidential Information are aware of, and comply with, the provisions of this clause 7.
- 8.2 The obligations of confidentiality in clause 8.1 do not apply to any disclosure of Confidential Information:
- (a) to the extent that such disclosure is necessary for the purposes of completing the Project;
  - (b) required by law; or
  - (c) where the information has become public other than through a breach of the obligation of confidentiality in this clause 8 by the Recipient, or its employees or contractors, or was disclosed to a Party on a non-confidential basis by a third party.
- 8.3 The Recipient must obtain the Ministry's prior written agreement over the form and content of any public statement made by the Recipient relating to this Agreement, the Funding, or the Project.
- 9 LIABILITY AND INSURANCE**
- 9.1 The Recipient must effect and maintain insurance that is adequate to cover its obligations under this Agreement. The Recipient must, on request, provide the Ministry with evidence of its insurance cover required under this clause.
- 9.2 The Ministry is not liable for any loss of profit, loss of revenue or other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement.
- 9.3 The maximum liability of the Ministry under or in connection with this Agreement whether arising in contract,



- tort (including negligence) or otherwise is the total amount which would be payable under this Agreement if the Project had been carried out in accordance with this Agreement.
- 9.4 The Recipient (including its employees, agents, and contractors, if any) is not an employee, agent or partner of the Ministry or of the Chief Executive of the Ministry. At no time will the Ministry have any liability to meet any of the Recipient's obligations under the Health and Safety at Work Act 2015 or to pay to the Recipient:
- (a) holiday pay, sick pay or any other payment under the Holidays Act 2003; or
  - (b) redundancy or any other form of severance pay; or
  - (c) taxes or levies, including any levies under the Accident Compensation Act 2001.
- 9.5 The Recipient indemnifies the Ministry against any claim, liability, loss or expense (including legal fees on a solicitor own client basis) ("loss") brought or threatened against, or incurred by the Ministry, arising from or in connection with a breach of this Agreement by the Recipient or the Project, or from the negligence or wilful misconduct of the Recipient, its employees or contractors.
- 9.6 Where the Recipient is a trustee, the Ministry acknowledges that the Recipient has entered into this Agreement as a trustee of the trust named in Schedule 1 in an independent capacity without any interest in any of the assets of the trust other than as trustee. Except where the Recipient acts fraudulently, the Recipient is liable under this Agreement only to the extent of the value of the assets of the trust available to meet the Recipient's liability, plus any amount by which the value of those assets has been diminished by any breach of trust caused by the Recipient's wilful default or dishonesty.
- 9.7 The Recipient must effect and maintain for the term of this Agreement:
- (a) adequate insurance to cover standard commercial risks; and
  - (b) other insurance reasonably required by the Ministry.
- 9.8 The Recipient must, upon request by the Ministry, provide the Ministry with evidence of its compliance with this clause.
- 10 DISPUTE RESOLUTION**
- 10.1 The Parties will attempt to resolve any dispute or difference that may arise under or in connection with this Agreement amicably and in good faith, referring the dispute to the Parties' senior managers for resolution if necessary.
- 10.2 If the Parties' senior managers are unable to resolve the dispute within 10 Business Days of it being referred to them, the Parties will refer the dispute to mediation or another form of alternative dispute resolution agreed between the Parties.
- 10.3 If a dispute is referred to mediation, the mediation will be conducted by a single mediator appointed by the Parties (or if they cannot agree, appointed by the Chair of the Resolution Institute of New Zealand) and on the terms of the Resolution Institute's standard mediation agreement (unless the Parties agree otherwise). The Parties will pay their own costs relating to any mediation or other form of alternative dispute resolution (unless they agree otherwise).
- 10.4 The Parties must continue to perform their obligations under this Agreement as far as possible as if no dispute had arisen pending final resolution of the dispute.
- 10.5 Nothing in this clause 10 precludes either Party from taking immediate steps to

seek urgent relief before a New Zealand Court.

## **11 FORCE MAJEURE**

- 11.1 Neither Party will be liable to the other for any failure to perform its obligations under this Agreement by reason of any cause or circumstance beyond the Party's reasonable control including, acts of God, communication line failures, power failures, riots, strikes, lock-outs, labour disputes, fires, war, flood, earthquake or other disaster, or governmental action after the date of this Agreement ("**Force Majeure Event**"). The Party affected must:

- (a) notify the other Party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event including an estimate of the time likely to be required to overcome it;
- (b) use its best endeavours to overcome the Force Majeure Event; and
- (c) continue to perform its obligations as far as practicable.

## **12 GENERAL**

- 12.1 A waiver by either Party of any rights arising from any breach of any term of this Agreement will not be a continuing waiver of any other rights arising from any other breaches of the same or other terms or conditions of this Agreement. No failure or delay on the part of either Party in the exercise of any right or remedy in this Agreement will operate as a waiver. No single or partial exercise of any such right or remedy will preclude any other or further exercise of that or any other right or remedy.
- 12.2 Assignment:
- (a) The Recipient must not assign, delegate, subcontract or transfer any or all of its rights and

obligations under this Agreement. The Recipient remains liable for performance of its obligations under this Agreement despite any approved subcontracting or assignment.

- (b) If the Recipient is a company, any transfer of shares, or other arrangement affecting the Recipient or its holding company which results in a change in the effective control of the Recipient is deemed to be an assignment subject to clause 12.2(a).

- 12.3 This Agreement may only be varied by agreement in writing signed by the Parties.

- 12.4 If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Agreement will be binding on the Parties.

- 12.5 Any notice to be given under this Agreement must be in writing and hand delivered or sent by email or registered post to the Parties' respective email address, postal address as set out in Schedule 1. A notice is deemed to be received:

- (a) if personally delivered, when delivered;
- (b) if posted, three Business Days after posting;
- (c) if sent by email, at the time the email enters the Recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error,

provided that any notice received after 5pm or on a day which is not a Business

Day shall be deemed not to have been received until the next Business Day.

- 12.6 This Agreement sets out the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.
- 12.7 The provisions of this Agreement relating to termination (clause 4), reporting requirements and audit (clause 5), warranties (clause 6), intellectual property (clause 7), confidentiality (clause 8), and liability and insurance (clause 9) will continue after the expiry or termination of this Agreement.
- 12.8 This Agreement may be signed in any number of counterparts (including emailed copies) and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties.
- 12.9 This Agreement will be governed by and construed in accordance with the laws of New Zealand.

**SCHEDULE 3 – PROJECT****1 PROJECT DETAILS**

<b>Project name</b>	Waipapa Sports Hub
<b>Location</b>	North of Kerikeri
<b>Project description</b>	<p>Construction or completion of the following works at Waitotara Drive, north of Kerikeri:</p> <p>a) Development of five football fields, including the following:</p> <ul style="list-style-type: none"> <li>• Large scale earthworks (including cut and fill to level site and stripping top soil);</li> <li>• Installation of irrigation system;</li> <li>• Engineered fill to sports ground specifications;</li> </ul> <p>b) Construction of a carpark (approximately 6,000 m<sup>2</sup>); and</p> <p>c) Construction of a toilet and changing room (approximately 50-100 m<sup>2</sup>).</p> <p>Each of these elements is labelled as “Core” on the diagram included in Schedule 6 (Preliminary Concept Design of Project Works).</p>

**2 PROJECT TIMEFRAME**

<b>Key milestone</b>	<b>Indicative timeframe</b>
<b>Plan and design</b>	
Award detailed design contract	November 2020
Award procurement contract	April 2021
Obtain all consents	June 2021
Obtain all property rights	June 2021
<b>Construction</b>	
Award construction contract	June 2021
Construction commences ( <b>Construction Commencement Date</b> )	July 2021
Construction complete	December 2021

## SCHEDULE 4 – SOCIAL PROCUREMENT OBJECTIVES

Outcome	Measure
Employment of targeted workers	<p>Prioritising workers identifying as:</p> <ul style="list-style-type: none"> <li>• Māori or Pasifika; and</li> <li>• local workers,</li> </ul> <p>with the employment of women prioritised at each level where possible.</p> <p>This applies to all workers excluding where specialised workers are required (eg, turf specialist).</p>
Local businesses	<p>70% of the direct contracts and sub-contracts will be awarded to businesses owned and operated by people who reside and operate in the region (targeting Māori and Pasifika businesses in particular).</p>
Supplier diversity	<p>25% of the direct contracts and sub-contracts will be awarded to Māori and Pasifika businesses.</p>
Skills and training	<p>Training should include, but not be limited to:</p> <ul style="list-style-type: none"> <li>• risk and hazard assessment; and</li> <li>• health and safety.</li> </ul> <p>Training applies to all new employees and those who have not already been trained in these areas.</p> <p>All contractors have career development programmes in place for their employees.</p> <p>Recipient will arrange &gt;1 training programme for contractors' employees.</p> <p>All training activities undertaken by the Recipient will be recorded, including the number of individuals participating and, where applicable, accreditations achieved.</p> <p>Training will be delivered by suitably qualified contractors or organisations.</p>
Worker conditions	<p>EAP services will be made available to all employees (optional for employees).</p>
Environmental responsibility	<p>Adoption of practices that enable the project to be delivered sustainably, including by:</p> <ul style="list-style-type: none"> <li>• protecting or enhancing the local ecosystem and its indigenous biodiversity;</li> </ul>

	<ul style="list-style-type: none"><li>• actively seeking to minimise the carbon impact of project delivery, to support the transition to a net zero emissions economy;</li><li>• minimising waste, re-using materials, and where possible incorporating the principles of the circular economy;</li><li>• using water resources efficiently;</li><li>• using low-impact, sustainably and locally sourced materials and products; and/or</li><li>• including resilience to the impacts of a changing climate.</li></ul>
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## SCHEDULE 5 – MONTHLY REPORT TEMPLATE

## IRG Shovel Ready Monthly Reporting Template



[NOTE: A pre-populated version of this document will be issued to the Recipient once the Funding Agreement is executed. The below is for information purposes only.]

Project Name:	Project Title			Project Number:	CIP Project Number
Project Owner:	Applicant	Project Sponsor:	Provincial Development Unit		
Project Manager:	Project Manager	Mobile:	PM Phone	E-mail:	Project Manager email
Total Project Cost (\$'m):	\$ 10.00	Govt. Funded (\$'m)	\$ 7.50	Co-Funded (\$'m):	\$ 2.50
Estimated FTE:	20	Target Start Date:	1/10/2020	Target Completion Date:	1/10/2023
Month end date:	September				

Project Costs						Total Project Cost (\$'m):		10
Month			Project to Date			Project Complete		
Actual \$'m	Plan \$'m	Var %	Actual \$'m	Plan \$'m	Var %	Forecast \$'m	Plan \$'m	Var %
		0.00%			0.00%		10	-100.00%
Commentary: [Commentary on variance and forecast cost to complete]								

Project Milestones [Add milestones as required]						
Milestone	Milestone Name	Contract Date	Latest Actual / Forecast Date	Variance (+/- days)	Govt. Funding Drawn \$'m	Co-Funding Drawn \$'m
1	PDU Supplied from contract	dd/mm/yy		-		
2	PDU Supplied from contract	dd/mm/yy		-		
3	PDU Supplied from contract	dd/mm/yy		-		
4	PDU Supplied from contract	dd/mm/yy		-		
5	PDU Supplied from contract	dd/mm/yy		-		
Average				-		

Commentary	[Commentary on progress towards milestones and variance between contract and forecast]
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Project Cashflows	Costs to Date			Monthly Cashflow Forecast			Quarterly Cashflow Forecast	
	Month \$'m	Project to Date \$'m	Forecast Project Complete \$'m	Next Month \$'m	Second Month \$'m	Third Month \$'m	Next Quarter \$(m)	Quarter After \$(m)
Govt. Funding Received			\$ 7.50					
Co-Funding Received			\$ 2.50					
Total Funding Received	-	-	\$ 10.00					
Commentary								

Personnel						
	Month	Project to Date	Forecast Project Complete	Target	Variance %	
FTE			20	20	-	
Resident						
Non-resident						
Apprentices						
No. previously unemployed						
No. local						
No. aged 15-24						
No. Māori						
No. Pasifika						
No. Women						
TRIFR	[Calc]	[Calc]				
Injuries						
Hours worked						
Commentary:	[Commentary on workers movement in period and progress towards stated FTE target]					
Supplier Diversity Outcomes						
Name of business	Business type (Māori, Pasifika, local)	Contract type (direct, sub-contract)	Contract purpose (briefly describe)	Length of contract (months)	Total value of contract (\$)	No. new employees (as result of contract)




Top 5 Risks and Contractor Claims [Choose Low/Medium/High]					
Risk #	Risk Name	Impact	Likelihood	Treated	Commentary on mitigants
1					
2					
3					
4					
5					
Contractor Claims:	[List any material contractor claims in dispute]				

Scope and Progress commentary	
Commentary:	[Commentary on progress during period, i.e. consents gained, work done etc... Progress towards scope and any major changes to scope]
Media Announcements:	[Any major media announcements or upcoming opportunities for media announcements]

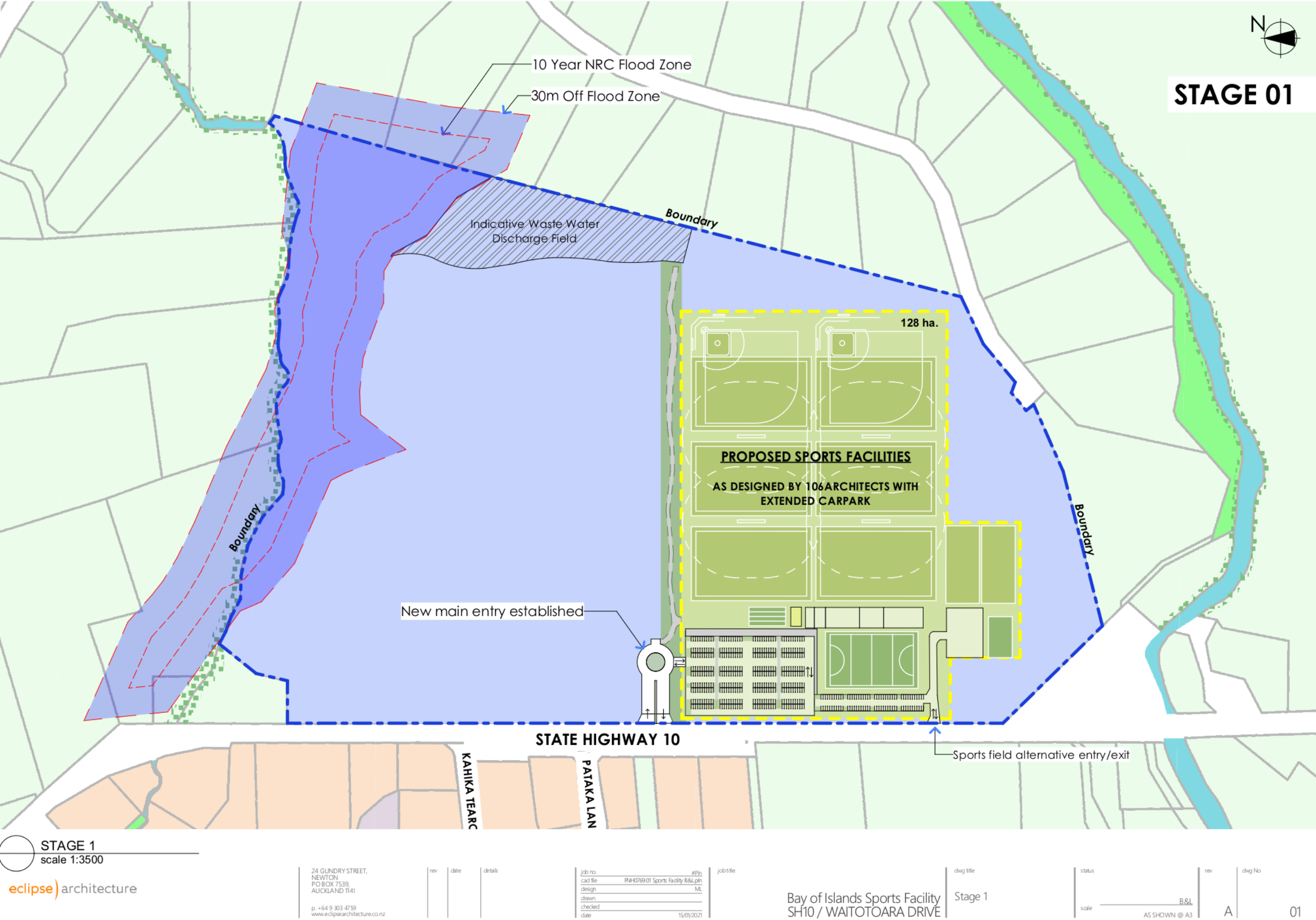
		Pre-work commencement status			
		Status	Expected/Actual Commencement date	Expected / Actual Completion date	Commentary on progress issues
Business Case	1	[Drop down options]			

RMA	1	[Drop down options]			
Building Consent	1	[Drop down options]			
PWA Designation	1	[Drop down options]			
Other Consents	1	[Drop down options]			
Design	2	[Drop down options]			
Procurement	3	[Drop down options]			
Main Contract	3	[Drop down options]			
Drop Down options are:					
1 - In Preparation; Filed with Authority; Approved; Rejected/Reworked; N/A					
2 - Yet to Commence; Underway; Completed; Reviewed; N/A					
3 - RFP in Preparation; RFP Issued; RFP Closed; Contract Evaluation; Contract Negotiation; Contract Executed					

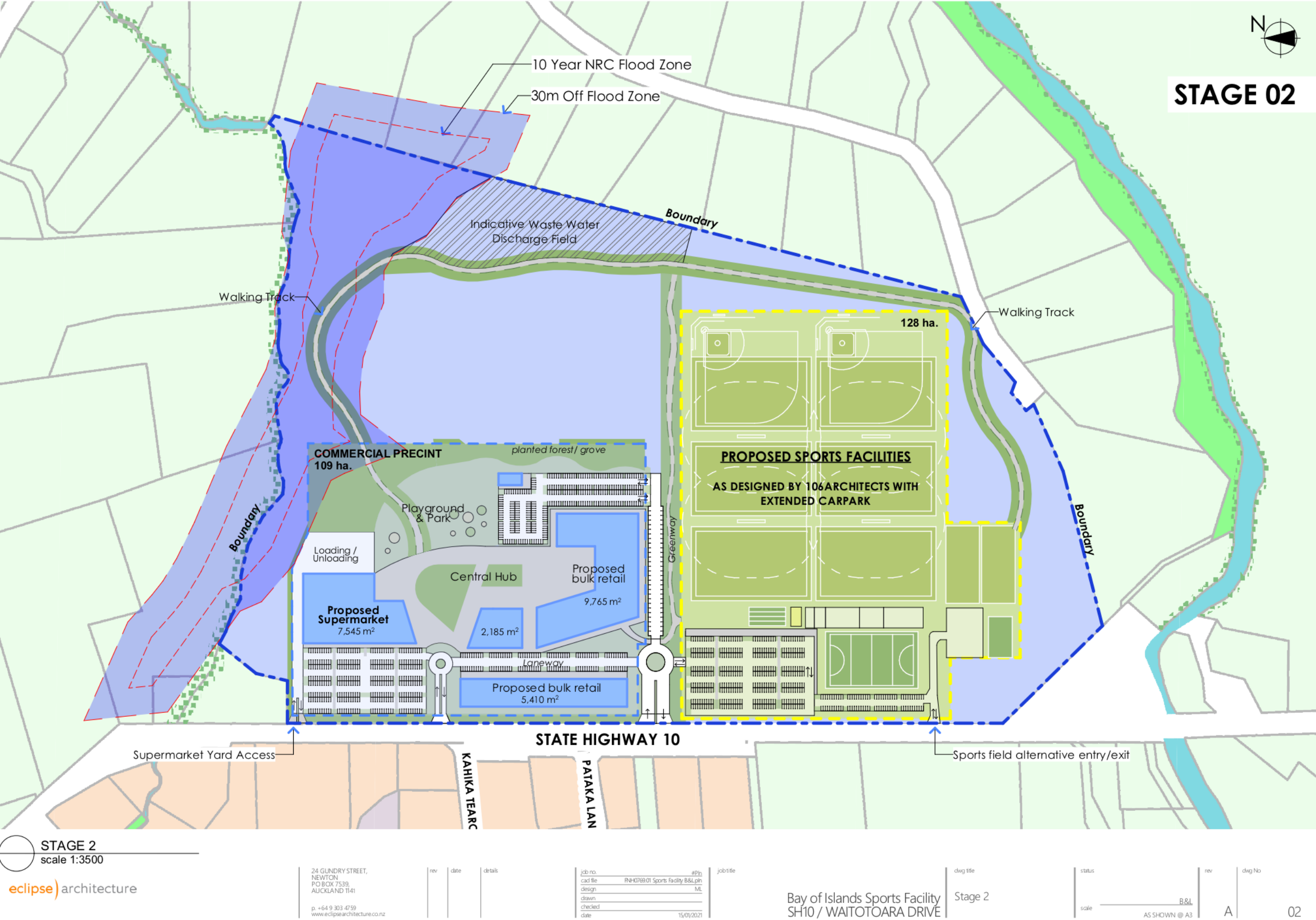
Social Procurement Objectives		
State your Social Procurement Objectives (as agreed within two weeks of contracting)	Show achievements to date against each of the Social Procurement Objectives	Provide additional narrative to show how tendering, procurement, employment and/or training arrangements are helping to achieve the Social Procurement Objectives, identifying any limitations or further support needed.

SCHEDULE 6 – PRELIMINARY CONCEPT DESIGN OF PROJECT WORKS











**6 PUBLIC EXCLUDED****RESOLUTION TO EXCLUDE THE PUBLIC****RECOMMENDATION**

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>
<b>6.1 - Ratcliffes Bay - Land Purchase</b>	s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

**7 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER**

**8 MEETING CLOSE**