



**Far North
District Council**



Te Kaunihera o Tai Tokerau ki te Raki

AGENDA

Supplementary Reports Ordinary Council Meeting

Thursday, 19 May 2022

Time: 10:00 am
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

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10 REPORTS

10.1 THREE WATERS REFORM BETTER OFF FUNDING

File Number: A3705481

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

Authoriser: Blair King, Chief Executive Officer

TAKE PŪRONGO / PURPOSE OF THE REPORT

The purpose of this paper is to formalise the steer provided by elected members at a workshop held on 12 May 2022, and to update elected members on funding agreement conditions, funding criteria and the process to be followed to apply for central government funding known as the 'Better Off Support Package' for local authorities.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- Over the past four years central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater) – Three Waters Reform.
- Government have announced a three-water support package for local government, called the 'Three Waters Better Off Support Package'.
- \$35.18m has been allocated to the Far North across two Tranches.
- A workshop was held with Elected Members and representatives from the Department of Internal Affairs (DIA) on 12 May 2022.
- Following the steer provided by Elected Members at this workshop, this report seeks approval to prepare a schedule of projects for a Tranche 1 funding application.

TŪTOHUNGA / RECOMMENDATION

That Council:

- a) approves, in principle, a funding application from Far North District Council for Tranche 1 of the Better Off funding package.**
- b) notes that staff will bring forward a further report to Council for approval of a schedule of projects for which funding will be sought.**

1) TĀHUHU KŌRERO / BACKGROUND

Central government through the Department of Internal Affairs (DIA) is undertaking a reform process for the Three Waters services to address significant challenges in managing these services and to ensure safe, affordable, reliable services for the health and wellbeing of our communities and the environment. This reform will be mandated.

A new water regulator, Taumata Arowai, and a Three Waters National Transition Unit have already been established. Three Waters services will be provided by four publicly owned water services entities from July 2024. The Far North will be part of Entity A comprising the Northland Councils and Auckland.

In July 2021, the Prime Minister and Minister of Local Government announced a three-water support package for local government, called the 'Three Waters Better Off Support Package'.

This "better off" support package has allocated \$35.18 million to Far North District Council. Tranche 1 funding of \$8.79m will be available from July 2022, with the balance, \$26.38m in Tranche 2, from July 2024.

Local authorities do not have to apply for the full Tranche 1 amount upfront, funds not applied for in Tranche 1 will be made available in Tranche 2. All of the Better Off funding needs to be spent within 5 years, no later than 30 June 2027, regardless of which Tranche it is allocated under. There is a greater risk of not being able to spend all the money within the 5-year timeframe if the maximum amount of funding available is not applied for in Tranche 1.

Each region has been allocated a Relationship Manager from Crown Infrastructure Partners to help complete the funding proposal and access the funds.

A workshop was held with elected Members on Thursday 12 May 2022 to discuss the better off funding package. This workshop provided a steer to staff that FNDC will make a funding application for Tranche 1 of the funding package. This paper formalises that steer.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Draft Funding Agreement Considerations

Crown Infrastructure Partners (CIP) will be administering the funding, agreements and reporting on behalf of DIA. The funding agreement template provided by DIA is included in Attachment 1.

The funding agreement terms and conditions are mostly standard. However, attention is drawn to the General Terms Clause 2.10 and Schedule 2: Transition Support Arrangements.

The legal implications of Clause 2.10 have not been fully tested. There is conflicting legal advice about whether this clause means Council's would be restricted from publicly opposing or critiquing the Three Waters Reform. On 11 May 2022, Minister Mahuta stated to a meeting of Mayors and Chief Executives from across New Zealand that this would not be the case.

Additionally, in signing the funding agreement Council would be agreeing under Schedule 2 to collaborate and cooperate with the DIA, including its National Transition Unit, to provide for the implementation and carrying out of certain parts of the Three Waters Reform Programme (to the extent the law permits), with a view to achieving the Reform Objectives. This would be done with regard to the Council's available resources and competing demands, ensuring the Council can continue to carry out its other functions and activities.

Participation in the reform programme may take the form of requests for information, requests for secondment or involvement of employees in reform activities and enabling or facilitating affected staff to engage with the National Transition Unit in relation to their potential employment with a Water Services Entity.

Schedule 2 also requires Council to provide information on decisions that relate to, or may affect, the provision of water services. This includes adoption or amendment of Long-Term Plans or Annual Plans, policies, certain asset purchases or disposals, new contracts or borrowing arrangements that extend beyond 30 June 2024, that relate to water services.

Funding Criteria and Information

The DIA guidance document released in April 2022 for the Better Off Support Package is included in Attachment 2.

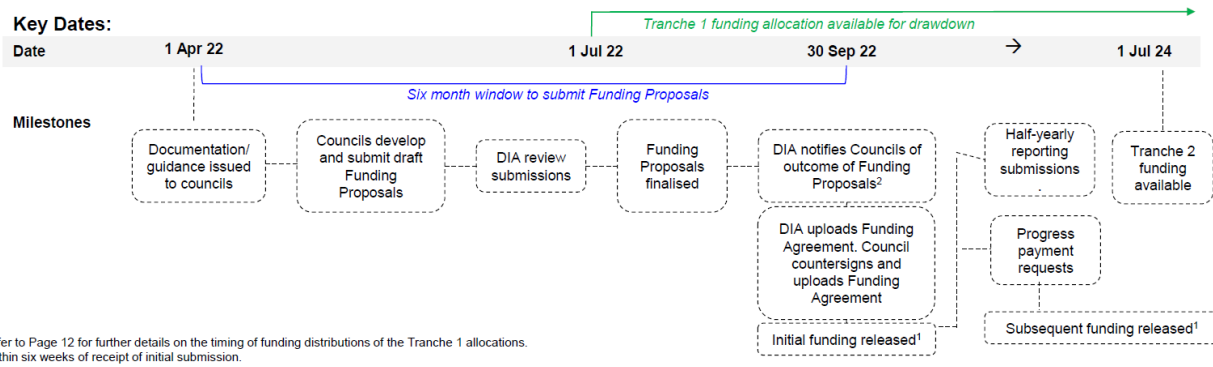
The Better Off Support Package is an investment by the Crown into the future for local government and community wellbeing; and is in recognition of the significance to the local government sector (and the communities they serve) of the transfer of responsibility for water service delivery. The use of this funding supports councils to transition to their new role post-reform through meeting some or all of the following criteria, as laid out in the Heads of Agreement:

- Supporting communities to transition to a sustainable and low-emissions economy, including by **building resilience to climate change and natural hazards**

- Delivery of infrastructure and/or services that **enable housing development and growth**, with a focus on brownfield and infill development opportunities where those are available.
- Delivery of infrastructure and/or services that **support local place-making and improvements in community wellbeing**.

Key dates for the application and funding process are outlined in Figure 1.

Figure 1: Key Dates for the 'Better Off' Application and Funding Process



Criteria for the Better Off Funding package recognises that local authorities are expected to engage with iwi/Māori in determining how to use their funding allocation. For Tranche 1 it is expected that the Funding Proposal demonstrates genuine engagement, extending beyond standing committees. However, the DIA do appear to be pragmatic in this respect, having noted that the expectations set out in the guidance document will be challenging to fully achieve for many Councils.

Tranche 1 Minimum Expectations (Current State):

- Identify Māori impacted by the kaupapa (purpose) of the work, with a focus on hapū, iwi, post-settlement government entities, other mana whenua
- Evidence of genuine engagement, extending beyond standing committees
- Identify issues/concerns arising from the engagement, and steps taken to accommodate and support these interests.

Tranche 2 Minimum Expectations (Target State):

- Relationships built on trust and mutual respect
- Funding Proposals have been co-designed and co-implemented from inception
- Decision-making on initiatives to fund and prioritise have been made jointly.

Prioritisation Factors and Wellbeing Assessment

Each programme, project or initiative will need to go through a wellbeing assessment based on Local Government Act 2002 wellbeing’s (cultural, social, environmental, economic), and a prioritisation process. Guidance is provided on how to prioritise the initiative or projects that would best fit the funding criteria. The prioritisation factors are shown in Figure 2.

Figure 2: Prioritisation Factors for Programmes, Projects or Initiatives

Prioritisation Factors	
Value for Money	Do the identified wellbeing outcomes justify the cost?
Strategic Plans	Is there existing strategic planning documentation to support this initiative?
Iwi/Māori Support	Has the council engaged with iwi/Māori on the intended use of the funding?
Risk Analysis	Does your risk analysis show any undue concerns in completing the project - for example, are the resources required readily available?
Community Support	Does the initiative have rate-payer and local community support?

Current Work

Staff across council are working to identify initiatives and projects that could fit the criteria, particularly those aligned to strategic plans which already have a good level of iwi/Māori and community support. Input from Elected Members is also encouraged, and they are invited to submit suggestions for consideration.

Staff will prepare a schedule of projects which will be reviewed by the Crown Infrastructure Relationship Manager before being presented to a future Council meeting for approval.

A Programme Manager and Māori engagement specialist will be needed to deliver this programme of work. The cost of these positions will be included in the proposed submission for funding.

Take Tūtohunga / Reason for the recommendation

To confirm the position of Council on applying for Tranche 1 Better Off funding as part of three waters reform.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no immediate financial implications arising from this report.

ĀPITIHINGA / ATTACHMENTS

1. Attachment 1 - Better-Off-Package-Funding-Agreement-April-2022 - A3705798 [↓](#) 
2. Attachment 2 - Three-Waters-Reform-Better-Off-Support-Package-Guidance-April-2022 - A3705809 [↓](#) 

Hōtaka Take Ōkawa / 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.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	High significance
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Three waters impact upon all wellbeings.
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.	District Wide Relevance
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. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	Consultation with Māori on Three Waters Reforms is being led by Government. However, this proposal will require significant Māori engagement.
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).	All residents of the Far North.
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



FUNDING AGREEMENT

BETWEEN

DEPARTMENT OF INTERNAL AFFAIRS

AND

[NAME OF RECIPIENT]

AND

**CROWN INFRASTRUCTURE PARTNERS
LIMITED (AS MONITOR)**

FOR

**THREE WATERS REFORM – BETTER OFF
PACKAGE (TRANCHE 1 FUNDING)**

AGREEMENT

The parties (identified below in Part 1) agree to be bound by the terms and conditions of this Agreement, as set out below in Part 1 (Key Details), Part 2 (General Terms), Part 3 (Definitions and Construction), Schedule 1 (Permitted Funding Activities) and Schedule 2 (Transition Support Arrangements).

PART 1: KEY DETAILS

- 1 **Parties** The Sovereign in right of New Zealand, acting by and through the [Deputy Chief Executive] of the Department of Internal Affairs (**DIA**)
[NAME OF RECIPIENT] (**Recipient**)
- Crown Infrastructure Partners Limited (**Monitor**)
- 2 **Background** The New Zealand Government is undertaking a reform programme for “Three Waters” (drinking water, wastewater and stormwater) service delivery for communities (**Three Waters Reform Programme**).
- The Crown entered into a Heads of Agreement with New Zealand Local Government Association Incorporated Te Kahui Kaunihera ō Aotearoa (**LGNZ**) under which, amongst other things, the Crown proposed that a Three Waters Reform financial support package be provided to local authorities, comprising:
1. a “no worse off” package which will seek to ensure that financially, no local authority is in a materially worse off position to provide services to its community directly because of the Three Waters Reform Programme and associated transfer of responsibility for the provision of water services (including the transfer of assets and liabilities) to the Water Services Entities; and
 2. a “better off” package of \$2 billion which supports the goals of the Three Waters Reform Programme by supporting local government to invest in the wellbeing of their communities in a manner that meets the priorities of both the central and local government, and is consistent with the agreed criteria for such investment set out in the Heads of Agreement,
- to be given effect in agreements between each local authority and the Crown (through DIA).
- The better off package will comprise:
1. \$1 billion of Crown funding, \$500 million of which is intended to be provided to local authorities from 1 July 2022 to enable early investment (“**Tranche 1 Funding**”); and
 2. the remaining \$1 billion to be funded by the new Water Services Entities.
- This Agreement relates to the provision of funding to the Recipient from the Tranche 1 Funding of \$500 million.
- The Crown’s objectives with the better off package are, acknowledging the Reform Objectives, to demonstrate central government confidence in the future for local government by providing the sector with additional funds to support local wellbeing outcomes in a way that aligns with the priorities of central and local government, including through meeting some or all of the following criteria:
1. supporting communities to transition to a sustainable and low-emissions economy, including by building resilience to climate change and natural hazards;

2. delivery of infrastructure and/or services that:
 - a. enable housing development and growth, with a focus on brownfield and infill development opportunities where those are available;
 - b. support local place-making and improvements in community well-being.

The Recipient is a [territorial authority with statutory responsibility for delivering Three Waters services within its own district or city]. The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme.

Crown Infrastructure Partners Limited is party to this Agreement to undertake a review and monitoring role on behalf of the DIA, as further described in this Agreement.

DIA has agreed to contribute funding to the Recipient on the terms and conditions of this Agreement (**Agreement**). This funding is being provided to enable the Recipient to undertake the activities described in Schedule 1.

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**.

- 3 **Conditions Precedent**

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

 1. This Agreement, duly executed by the Recipient.
 2. The final Funding Proposal prepared by the Recipient, in a form approved by DIA.

The Recipient is responsible for the content of the Funding Proposal and approval by DIA for the purposes of this Agreement shall not impose any obligations on DIA in respect of the Funding Proposal other than as expressly set out in this Agreement.

These conditions precedent must either be satisfied (in the opinion of DIA) or waived by DIA (at its sole discretion) by 30 September 2022. In the event that they are not satisfied or waived within that time, DIA may notify the Recipient that this Agreement has not come into effect and is null and void.
- 4 **Permitted Funding Activities**

The Recipient may only use the Funding:

 1. for the purposes set out in Schedule 1; and
 2. for any other purpose with DIA or the Monitor’s prior written approval,

(each a **Permitted Funding Activity**).
- 5 **Funding Proposal**

The Recipient is to undertake the Permitted Funding Activities in accordance with the Funding Proposal approved by the DIA (or otherwise with DIA or the Monitor’s prior written approval).
- 6 **End Date**

The End Date is [1 July 2027], or such later date determined by DIA in its discretion. **[Note: Recipients may propose an End Date having regard to the funding activities covered by this agreement, no later than 30 June 2027. DIA intend that the End Date is to be confirmed for each agreement]**
- 7 **Funding**

The total Funding available under this Agreement is up to **NZ\$[INSERT HERE]** plus GST (if any). This is the Total Maximum Amount Payable.

