



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



# Tourism Infrastructure Fund

**Guidance for Applicants**

**April 2023**

# Tourism Infrastructure Fund

## Guidance for Applicants

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### Legal disclaimer

The information provided in this guidance is intended to provide general advice to applicants and every effort has been taken to ensure that the information provided is accurate and current. However, users of this guidance are advised that:

- the information provided does not replace or alter the laws of New Zealand and other official guidelines or requirements
- the contents of this guidance should not be construed as legal or professional advice
- The Ministry of Business, Innovation & Employment (“MBIE”) may change, delete, add to, or otherwise amend the information without notice
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The Minister of Tourism and the Chief Executive of MBIE have discretion to determine which proposed projects (if any) will receive Tourism Infrastructure Fund co-funding.

# Tourism Infrastructure Fund Guidance for Applicants

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## 1. Glossary

<b>Term</b>	<b>Definition</b>
<b>Applicant/s</b>	Any territorial authority or not for profit community organisation (e.g. incorporated society or trust) that can demonstrate the support of the territorial authority, that has applied, or is in the process of applying, to the TIF for co-funding.
<b>DOC</b>	Abbreviation for the Department of Conservation
<b>MBIE</b>	Abbreviation for the Ministry of Business, Innovation and Employment. MBIE administers the Fund and provides resource to support the TIF Panel.
<b>NZTA</b>	Abbreviation for the New Zealand Transport Agency.
<b>Project</b>	Encompasses all activities, steps, tasks or elements needed to construct the visitor-related infrastructure for which an applicant is seeking co-funding.
<b>Proposal</b>	A description of a proposed project developed by an applicant for consideration by the TIF Panel so the Panel can recommend whether it should be funded.
<b>Priorities Statement</b>	A statement issued by the Minister of Tourism at the start of each funding round, signalling the Government's investment priorities for that particular round.
<b>TA</b>	Abbreviation for territorial authority.
<b>TIF</b>	Abbreviation for the Tourism Infrastructure Fund.
<b>TIF Panel</b>	The TIF Panel will consider assessments by the TIF Secretariat and recommend a package of projects that best contribute to the objectives of the TIF, including the Priorities Statement.
<b>TIF Secretariat</b>	Employed by MBIE to administer the TIF. Provides the first point of contact for enquiries about the TIF. Contactable by emailing: <a href="mailto:tif@mbie.govt.nz">tif@mbie.govt.nz</a> .

## 2. How to use this document

This document provides guidance on the process for applying to the Tourism Infrastructure Fund (TIF) and the eligibility and assessment criteria that will be used to determine which projects will be granted TIF funding. It is recommended that applicants make use of this information when completing the TIF Application Form, which is available on the TIF website at <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/tourism-infrastructure-fund/>.

This guidance is subject to revision. Please ensure you have a copy of the latest version, which is available on the TIF website at:

<https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/tourism-infrastructure-fund/tourism-infrastructure-fund-application-and-assessment-process/>.

## 3. Overview

### 3.1 Purpose and context

After a period of exceptional growth across the tourism sector a few years ago, infrastructure has been a priority for the industry and central and local government.

Round Seven of the TIF will ensure central government support and investment in local government infrastructure can continue over this uncertain time and help improve the visitor experience for kiwis and international visitors when they return. Priority will be given to the repair of visitor related infrastructure damaged by extreme weather events in the last year, and to support upgrades to improve resilience in regions where there is a low ratepayer base and high visitor numbers.

The TIF is intended to protect and enhance New Zealand's tourism reputation, both domestically and internationally by supporting the development of visitor-related public infrastructure which in turn contributes to quality experiences for visitors and maintains the social licence for the sector to operate.

In addition, the TIF also helps address challenges identified in the New Zealand – Aotearoa Government Tourism Strategy:

- ensuring visitors have a high quality experience
- supporting regions to respond to and benefit from increasing visitor numbers.

### 3.2 Contestability

The TIF is a contestable fund. To be considered for TIF funding, proposals must first satisfy the TIF eligibility criteria (refer section 3.5 below). All eligible proposals will be assessed against the TIF assessment criteria in section 3.6, and the proposals that align best with the objectives of the TIF (including the Priorities Statement issued by the Minister of Tourism at the start of each funding round) will be given priority for funding.

### 3.3 Priorities Statement

At the start of each funding round, the Minister of Tourism issues a Priorities Statement, signalling the Government's investment priorities for that particular round.

All eligible proposals will be assessed using a scoring system based on the assessment criteria (refer section 3.6). The scoring system will be weighted differently in each round, depending on the priorities identified in the Priorities Statement.

This will enable proposals that align most closely with the Priorities Statement to be prioritised, while not excluding other worthy proposals that score highly against the assessment criteria.

### 3.4 Feasibility studies

Funding will not be available for feasibility studies.

### 3.5 Eligibility criteria

#### *Applicant eligibility*

The TIF is open to all TAs and any not-for-profit community organisations (e.g. incorporated society or trust) that can demonstrate support from their local TA. Private sector-led projects and/or commercial ventures will not be eligible for funding. While regional councils are technically able to apply, projects considered eligible by the fund are mostly the responsibility of local council to co-fund and deliver.

To apply for TIF funding, TAs must first meet **at least** one of the following tests, with priority given to TAs that meet two or more of these tests (for community organisation-led applications, the supporting TA will be assessed against these criteria):

- annual visitor to rating unit ratio of more than 5
- annual revenue from tourism in the region (territorial authority level) of less \$1 billion
- Local Government Finance Agency lending limits have been reached.

In assessing TAs' eligibility, MBIE will refer to the following data sets:

#### Guest nights to rating unit ratio

To determine the ratio, guest night numbers can be obtained from the Accommodation Data Programme which can be found at [Accommodation Data Programme \(shinyapps.io\)](https://shinyapps.io/accommodation-data-programme/). Rating unit figures will be sourced from TAs' annual reports (**note** this is the number of rateable properties and not the population figure).

#### ECT Tourism Revenue

To determine revenue from tourism, MBIE will use the Tourism Electronic Card Transaction (TECT) for the different TAs, which is available at

<https://www.mbie.govt.nz/immigration-and-tourism/tourism-research-and-data/tourism-data-releases/tourism-electronic-card-transactions/>

#### Other data sources

Applicants are encouraged to use the TECTs or any other data from reliable sources that supports their application.

#### ***Project eligibility***

To be eligible for TIF funding, proposed projects:

- must be for publicly-available infrastructure used significantly by tourists
- must be for new infrastructure or enhancements (like-for-like replacement will not be funded)
- must not be for the development of new attractions, accommodation or commercial activities
- must demonstrate that they do not compete with commercial activities in the area
- must seek co-funding of over \$25,000 (although a series of linked projects can be joined in one application)
- must be financially sustainable
- must not be receiving funding from NZTA (i.e. roading projects).

Several individual projects can be submitted in one application (i.e. they can be considered as one project), provided all the other criteria for co-funding are also satisfied. Applicants who submit multiple proposals are expected to clearly rank each by priority.

### 3.6 Assessment criteria

All eligible proposals will be assessed against the assessment criteria, using a scoring system. The assessment criteria will be weighted according to their importance in relation to the objectives of the TIF (including the Priorities Statement for that particular funding round). The assessment criteria are:

<b>Addresses identified problem resulting from visitor growth</b>	<b>Comments</b>
The extent to which the project addresses infrastructure capacity constraints related to visitor numbers (and the scale of those constraints).	Prioritises projects that address deterrents to visitor flows (including health and safety); or will significantly enhance the quality of the visitor experience. Consideration given to the urgency of the project.
The extent to which the project supports regional dispersal.	Also prioritises projects that address deterrents to visitor flows. Projects linked to, or supporting DOC's regional dispersal investment will be prioritised. Prioritises projects supporting networks of visitor experiences, such as significant tourist routes, by increasing capacity.
<b>Value for money</b>	<b>Comments</b>
The extent to which the project represents value for money.	Project is a cost-effective option for addressing the need. Project is a cost-effective design. A range of alternatives have been considered. Project enables increased yield from visitors. Consideration given to innovative approaches that enhance productivity, reduce costs (operating or capital), leverage economies of scale, and/or raise revenue.
Support is targeted at projects that would otherwise not happen; or happen more slowly, or on a smaller scale than desirable.	Projects for which funding has already been approved are not eligible, unless there is a clear benefit to bringing forward the completion, or scaling up, of the project.
<b>Financial position of applicant</b>	<b>Comments</b>
The extent to which applicants are financially constrained.	Consideration will be given to the applicant's financial performance and asset management (based on the independent financial assessment), the rating base in relation to the number of visitors, and tourism revenue.
<b>Level of co-funding</b>	<b>Comments</b>
Applicants are expected to maximise their funding contribution.	Applicants are expected to co-fund the project to the maximum extent they are able. Applicants are able to demonstrate that they have investigated alternative funding options (in particular how to raise revenue from those who benefit, for example user chargers or tourism-related business contributions).
Other central government funding options have been exhausted.	Projects that have received other government funds will need to demonstrate why further central government investment is merited as the TIF is not generally intended as an extension of other government investment. Consideration given to scale of funding provided by other agencies, including DOC, to infrastructure associated with the project.

<p>Balance of resident versus visitor demand for infrastructure will be taken into account in considering council contributions.</p>	<p>Provision of water and sewerage is a core council responsibility, with clear volume measures that can be used to determine the local share of demand.</p> <p>Councils would need to cover local demand, and contribute to visitor demand (in recognition of the local economic benefit from tourism).</p> <p>Assessing local share of demand for other types of infrastructure will be less definitive, but will be given consideration.</p>
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### 3.7 Co-funding

All applicants must demonstrate an intention to co-fund their project to the fullest extent that they are able. As the TIF is targeted at TAs with low ratepayer bases, applicants will be assessed on the extent to which they have sought to maximise their contribution, and will be prioritised where they have clearly demonstrated this is the case.

The benchmark is that applicants are expected to co-fund on at least a 50-50 basis with central government. Proposals offering co-funding below 50 per cent will still be considered.

Co-funding must be monetary and not 'in-kind'.

Funding will not be provided for projects already approved and funded.



### 3.8 The TIF process

The steps in the process of securing TIF funding in any funding round are as follows:

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#### **Proposal development (estimated 3 weeks)**

Minister of Tourism announces Priorities Statement for the Round

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MBIE opens funding round and calls for proposals

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Territorial authorities or community organisations supported by TAs prepare proposals

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Proposals are submitted using the TIF application form, to the TIF secretariat prior to funding round deadline

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#### **Proposal assessment (estimated 4 weeks)**

TIF Secretariat screens proposals against TIF eligibility criteria and assesses eligible proposals against assessment criteria

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TIF Secretariat provides ratings and recommendations to TIF Panel

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#### **Decision-making (estimated 4 weeks)**

TIF Panel considers assessments, and develops a package of proposals that best contribute to the objectives of the TIF, including the Priorities Statement of the round.

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Proposals are submitted to the Minister of Tourism and the Chief Executive of MBIE

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Minister of Tourism makes final decisions on which proposals are to be co-funded (over \$500,000.) Chief Executive of MBIE makes final decision on which proposals are to be co-funded (under \$500,000.)

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Minister of Tourism announces successful proposals.

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#### **Funding agreement and implementation**

Notification in writing to applicants

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Funding agreements negotiated and signed by MBIE and applicants

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Reporting on progress begins as set out in funding agreements, and progress is reviewed and evaluated by MBIE

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Payments progressively released on achievement of agreed milestones.

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## **Proposal development**

The opening of each funding round will be announced on the TIF website. An alert will be sent to all TA Mayors, Chairs and CEOs, and other parties that have requested TIF notifications.

To apply for TIF funding, applicants will need to develop proposals. The proposal is a description of a proposed project (or a group of projects) in a form that will enable it to be assessed.

All required information is indicated in the TIF Application Form, available on the TIF website. The form has been designed to minimise compliance costs for applicants, whilst still giving applicants sufficient opportunity to demonstrate how their proposal meets the TIF eligibility and assessment criteria, in a manner that suits them.

Applicants should ensure that they have read and fully understand the TIF eligibility and assessment criteria, this guidance document and other information on the TIF website before submitting their proposal.

They should also ensure that they have completed the TIF Application Form to the best of their ability, and answered all relevant questions.

All proposals must be submitted to the TIF Secretariat using the TIF Application Form. Any proposal received by MBIE that does not use the TIF Application Form will be returned to the applicant and will not be considered further.

MBIE reserves the right to accept late proposals in the following situations:

- if it is MBIE's fault that the proposal was received late
- in exceptional circumstances, where MBIE considers that there is no material prejudice to other applicants. MBIE will not accept a late proposal if it considers that there is risk of collusion on the part of an applicant, or the applicant may have knowledge of the content of any other proposal.

There is no scope within the TIF process to assess out-of-round applications (including for feasibility studies). Applications submitted to the TIF Secretariat between funding rounds will be returned to the applicant for resubmission at the next funding round.

## **Assessment process**

The TIF Secretariat will screen all completed proposals that are submitted within the deadline, against the eligibility criteria (refer section 3.5). All eligible proposals will then be ranked against the assessment criteria (refer section 3.6), using a scoring system. The scoring system will be adjusted to reflect the priorities identified in the Priorities Statement for that particular round.

The TIF Secretariat will then provide the TIF Panel with the individual score and its recommendation for each of the eligible proposals. In developing its recommendations to the Minister of Tourism or the Chief Executive of MBIE, the TIF Panel will evaluate the assessments of the TIF Secretariat and may make changes to the scores and recommendations.

## **Decision-making**

Once the TIF Panel is satisfied with the assessment of the proposals, it will recommend to the Minister of Tourism or the Chief Executive of MBIE, for approval, a package of projects which best aligns with the objectives of the TIF, including the Priorities Statement for that round.

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

### **3.9 Key parties**

#### **TIF Secretariat**

The TIF Secretariat within MBIE administers the TIF and provides assistance to the TIF Panel and the Minister of Tourism.

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

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

The Secretariat will not coach applicants on the content of their proposals as the Secretariat needs to avoid conflicts of interest and maintain independence.

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

The Secretariat can be contacted at [tif@mbie.govt.nz](mailto:tif@mbie.govt.nz).

#### **TIF Panel**

The TIF Panel is appointed by the Minister of Tourism.

More information on the TIF Panel can be found at <https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/tourism-infrastructure-fund/tourism-infrastructure-fund-panel/>.

#### **Limitation of advice**

All information or advice given by any of these parties about the content of proposals does not commit the Minister of Tourism or the Chief Executive of MBIE to make a particular decision about a proposal. Proposals will be fully assessed by the TIF Secretariat and recommendations made to the TIF Panel in accordance with TIF criteria and processes. The TIF Panel may change the ratings to ensure the best alignment with the Priorities Statement.

This limitation extends to members of the TIF Panel. Decisions made and advice formulated by the TIF Panel in its formal sessions, and any views expressed by individual members of the TIF Panel outside of these, do not commit the TIF Panel to make any recommendations to the Minister of Tourism regarding the allocation of TIF funds.

The Minister of Tourism and the Chief Executive of MBIE have discretion to determine which proposed projects (if any) will receive TIF co-funding.

## 4. Guidance for completing the TIF Application Form

### 4.1 What does a good application look like?

A good application should link back to the purpose of the TIF. As described in section 3.1, the TIF was set up in response to New Zealand's significant visitor growth (both international and domestic) over recent years, recognising the need both to continue to offer a great visitor experience, and to maintain local community support for tourism.

The TIF is aimed at supporting local councils that are disproportionately affected by visitor growth and are financially constrained in responding to that growth, either to build the infrastructure they need or anticipate needing.

In submitting their applications, applicants should clearly demonstrate the following:

- a problem (current or anticipated) associated with visitor growth
- a proposed solution that addresses the identified problem
- support from the local community and relevant regional tourism organisation/economic development agency
- their inability to fund the proposed solution without central government support
- how the proposed solution will deliver benefits for visitors, and build community support for tourism.

### 4.2 How to complete the TIF application form

*This guidance is set out in the same order as the sections in the TIF Application Form.*

#### Section 2: Eligibility and project overview

##### *Section 2.1: Eligibility checklist*

- a. Applicants are to use the checklist to assure themselves that both they and their proposal are eligible to apply for TIF co-funding. If applicants do not answer 'Yes' to every question under 'Project eligibility', it is unlikely their proposal will be eligible for TIF co-funding (refer to section 3.5 of this guidance for information on eligibility).

##### *Section 2.2 (a-h): Project overview*

This purpose of this checklist is to ensure applicants have considered the following before making an application for TIF funding.

- a. Proposed project should address an identified and evidenced current or anticipated problem.
- b. TIF co-funding will only be available for projects that deliver benefits to visitors and the local community.
- c. Applicants should indicate how TIF co-funding will add to the delivery of the project.
- d. Applicants must demonstrate that they have considered other funding options and have contributed the maximum co-funding possible. Co-funding must be in monetary form only.
- e. Applicants need to demonstrate that they will have certainty of access to the proposed infrastructure over the expected life of the asset. For infrastructure on land not owned by the applicant, the applicant will need to have made the appropriate access arrangement with

the landowner (e.g. an easement, licence to occupy, or lease arrangement) before making an application to the TIF.

- f. Under the Health and Safety at Work Act 2015, MBIE has an obligation to require applicants to demonstrate their management of health and safety risks relating to construction projects.
- g. Prior to contracting, the applicant must demonstrate to MBIE that it has robust health and safety processes in place by evidencing:
  - a best-practice procurement framework (e.g. LGNZ procurement guidelines) for selecting a contractor for the project
  - a health and safety management system for managing and monitoring external contractors for the life of the project.

### **Section 3: Project description**

#### *3.1 Problem definition and need for additional infrastructure*

##### 3.1.1

Applicants need to present a clearly identified and evidenced problem, resulting from visitor growth, which has led to this application for TIF co-funding. The problem can either be current or something that can reasonably be anticipated (e.g. attraction X will be completed two years from now and additional supporting infrastructure will be required). Applicants should quantify the problem where possible.

#### *3.2 Proposed infrastructure*

##### 3.2.1

Applicants should clearly demonstrate how the proposed infrastructure addresses the problem identified. The proposal should be for visitor-related public infrastructure that delivers benefits for visitors, and builds community support for tourism. Public infrastructure is defined as infrastructure whose use cannot be charged for, or the amount charged cannot reasonably be said to recoup the capital cost of the project. Applicants should list the other solutions considered and explain why the proposed solution is best to address the problem identified.

The proposed infrastructure should offer value for money. This does not mean applicants should only consider the cheapest option. Instead, proposed solutions should be cost-effective and fit-for-purpose in relation to the problem identified. Applicants are encouraged to consider whole-of-life methodologies to demonstrate that the proposed solution offers value for money.

For example, a case might be made for more expensive self-cleaning toilets where the toilets are located in a remote location (i.e. a cost-effective solution when compared with cost of manual cleaning).

Applicants need to ensure the proposed infrastructure does not compete with commercial activities in the region. Applicants should determine that there is no comparable infrastructure planned or offered by private businesses in the community.

Applicants also need to demonstrate that there are no impediments (such as disputed land access rights) that stand in the way of the construction or maintenance of the proposed infrastructure.

### 3.2.2

Applicants should provide evidence of support in the local community for the proposed infrastructure. Applicants should consult with their relevant regional tourism organisation/economic development agency to ensure a cohesive approach to investment across the region. Applicants should also demonstrate that the proposal has gone through some form of consultative process.

For example, the proposed project aligns with relevant strategic plans or other planning documents, such as a Regional Economic Development Action Plan, or has been consulted as part of councils' long-term or annual planning processes. Applicants should provide documented evidence to support their claims.

The aim is to ensure projects co-funded through the TIF contribute to engendering broader community support for tourism in the area.

**Please Note: During the project recipients will be asked to keep the Ministry aware of any subsequent consultation process which could result in the project either not proceeding or requiring significant change from the original proposal.**

### 3.2.3

Proposed projects must contribute to a demonstrably improved visitor experience. Applicants may also list other non-visitor related benefits that can reasonably be expected from the proposed project. Applicants are encouraged also to link the expected benefits to the objectives of the New Zealand - Aotearoa Government Tourism Strategy (<http://www.mbie.govt.nz/tourism-strategy>).

## *3.3 Funding the projects*

### 3.3.1

Applicants should demonstrate that their current financial position does not allow them to proceed with the proposed project on their own, and that TIF co-funding is necessary to deliver the needed infrastructure.

In making their cases, applicants should provide relevant financial information that enables the assessment of applicants' financial position and the degree of financial constraint. For example:

- highlighting the impacts for the proposed project of not securing TIF co-funding, such as requiring a rates increase or taking on more debt, or the proposed project not proceeding altogether
- noting the impact (e.g. on the rating base) of any required rate increases to support the proposed project
- commentary on any unallocated reserves, including the purpose for these reserves.
- how the proposed project fits within the council's capital works programme (i.e., high/low priority, funded/unfunded)

Applicants will be given priority if they can demonstrate they are making the maximum contribution possible within their means.

The TIF will not provide co-funding for projects that are already fully funded. However, a case can be made for co-funding where it enables the infrastructure to be built earlier than planned, where it can be shown that an earlier completion will both meet the demonstrated visitor demand and enable the expected benefits to be realised sooner.

For projects that are able to start immediately, it is expected that the applicant's share of co-funding will have been confirmed at the time of application.

### 3.3.2

Applicants must provide evidence that they have considered other relevant funding avenues prior to applying to the TIF, and attach all relevant documentation.

### 3.3.3

Applicants must describe all costs (linking to the key milestones identified in 3.2.4) relating to the project (including pre-construction costs), and costs that will be incurred but for which the applicant is not seeking co-funding. For each task, applicants should list both their share of funding and the level of TIF co-funding sought.

Applicants should set out a detailed timeline for the key steps in the project from its commencement to its completion. This is to demonstrate applicants have undertaken a robust planning process prior to lodging this application.

**Note:** The TIF decision-making process could take up to 2-3 months from the closing date of applications. Please take this into account when planning your project timeline, especially if the project start date is contingent on TIF funding being secured.

For projects due to be completed over the longer term, applicants need to set clearly defined milestones to which MBIE can then connect the funding. Applicants are advised to set achievable milestones as funding may be withheld or cancelled in the event that milestones are not met according to the agreed timeframes.

In most circumstances, TIF co-funding will not be available for the following:

- obtaining land access
- resource consents
- building consents
- staff resourcing
- ongoing servicing of existing infrastructure

The level of precision required for estimates will depend on the proposed project. For projects that are able to start immediately, applicants are expected to provide greater and more certain detail on each of the budget item. Applications for projects that will be completed over a number of years are



expected to indicate where costs are estimated and the key assumptions that have applied when making the estimations.

### *3.4 Risks and mitigations*

Applicants are expected to have performed a robust risk analysis of the proposed project and have appropriate mitigations for each of the risks identified. Applicants approved for funding are also expected to inform MBIE should any additional significant risks arise during the life of the project.

## **5. The Funding Agreement**

### **5.1 The funding agreement between MBIE and the applicant**

Once a proposal has been approved by the Minister of Tourism or the Chief Executive of MBIE, MBIE and the applicant will enter into a funding agreement that commits the applicant to deliver the project. The funding agreement will detail the obligations on the applicant for the duration of the project.

All funding agreements will comprise MBIE's standard terms and conditions (see example attached as Schedule 1) and details of the individual project being funded, including (but not limited to):

- any conditions that are required by MBIE
- the total funding package (funds supplied by the applicant and the TIF)
- project tasks
- targets and measures
- payment terms
- reporting requirements
- the duration of the funding agreement.

### **5.2 Monitoring – Reporting and audit requirements**

MBIE will monitor the implementation of the project by the applicant and the application of the funds provided from the TIF, with the assistance of any other person that MBIE chooses to use for this purpose at its discretion. Among other things, successful applicants will be required to provide regular progress reports to MBIE.

### **5.3 Health and Safety**

In accordance with the Health and Safety at Work Act 2015, MBIE and the applicant must exercise due diligence relating to health and safety during and after the construction of the infrastructure. This involves ensuring that applicants follow best-practice when selecting a contractor for the project (e.g. Local Government New Zealand procurement guidelines), and that the applicant has a health and safety management system in place for managing and monitoring external contractors for the duration of the project. Successful applicants will be required to demonstrate that they have a health and safety plan for managing the health and safety risks relating to the proposed project prior to signing a contract with MBIE.

### **5.4 Funding payments**

Funding will be paid progressively throughout the project on the completion of agreed milestones to MBIE's satisfaction. Successful applicants who have entered into a funding agreement, must submit claims to MBIE according to an agreed payment schedule supported by a satisfactory project status

report as detailed in the funding agreement. Payment will be in arrears on receipt of proof of expenditure in accordance with the funding agreement.

### **5.5 Conflicts of interest, procurement processes and audits**

Applicants must ensure that fair and appropriate procurement processes are used in order to ensure value for money and to manage conflicts of interest. For example, when appointing a third party to undertake project tasks, the appointment process should be open and transparent. Applicants should keep adequate records on how third parties are selected to deliver the works, goods or services required to complete the project, why they are qualified to deliver these, and how the price was agreed. The funding agreement may require particular procurement processes to be followed.

Throughout the duration of the funding agreement, conflicts of interest can arise. Applicants must disclose any conflict of interest (actual or perceived) to MBIE, as and when it arises, for the duration of the funding agreement. If in doubt, applicants must disclose the situation to MBIE.

Examples of conflicts of interest include: financial interest in the supply of goods or services; any friends or relatives with a financial interest in the supply of goods or services; and any personal bias, inclination, personal obligation, allegiance or loyalty that could affect the impartiality (or perceived impartiality) of decisions or actions.

Applicants should be aware that MBIE may audit any of the records of the applicant relevant to the funding agreement at any time, as stated in the standard terms and conditions of the funding agreements. Applicants must maintain true and accurate records in connection with the use of the funding and retain those records for at least seven years after the expiry of the relevant funding agreement or final funding agreement.

**If the Funding has been misused, or misappropriated, by the Recipient, MBIE may terminate the contract and require the Recipient to refund all co-funding paid up to the date of termination, together with interest on all sums due, which will be charged on a daily basis at a rate that is the same as the credit and debit rate charged by Inland Revenue, on each day on which interest is charged by MBIE, from the date on which the Recipient was paid the money by MBIE to the date the Recipient returns the money.**

### **5.6 Media releases and press statements**

Successful applicants are advised to obtain MBIE's prior approval to the form and content of any public announcement relating to their proposals or projects, prior to the Minister of Tourism announcing the successful applications. Failure to obtain MBIE's prior written approval may impact on funding decisions.

## **6. General information**

### **6.1 Official Information Act**

MBIE is bound by the Official Information Act 1982 (OIA). Accordingly, while the information provided by applicants is intended to be held in the strictest confidence, the information that MBIE holds can be requested by third parties and MBIE must provide information as required by law. The OIA enables MBIE to withhold information under certain conditions. Where possible, MBIE will consult with the relevant applicant when it receives an OIA request.

MBIE recognises that applicants are bound by the Local Government Official Information and Meetings Act 1987. Applicants should consult with MBIE where possible on request for information record under this Act.

## **6.2 Commercial-in-Confidence nature of TIF material**

All information collected and held during the TIF process will be held in the strictest confidence, notwithstanding MBIE's obligations under the OIA. This information will include:

- the identity of entities engaging with the TIF and related parties at any stage prior to a contract being signed
- information provided to or by MBIE and the TIF Panel
- working papers
- material used to comment on and assess proposals.

### *Publication of decisions*

MBIE may make public the names of all successful TIF applicants, the amounts of co-funding invested, and a brief description of each project, following the approval of co-funding by the Minister of Tourism or following the signing of a funding agreement. The content and method of publication will be agreed with each applicant. This policy also applies to all declined applications.

## **6.3 The TIF Panel and conflicts of interest**

The TIF Panel operates a robust conflict of interest policy under which conflicts of interest are declared and managed.

If applicants consider there are any conflicts of interest relating to their interests and/or their applications and members of the TIF Panel, they are advised to contact the TIF Secretariat who will determine how to manage the matter, following a discussion with the TIF Panel.

## **6.4 Declaration**

As part of the TIF process, applicants will be required to sign and submit declarations to confirm that the information they provide is accurate and to acknowledge that they have read and understood the contents of this guidance, including the information relating to MBIE's obligations under the Official Information Act.

## **6.5 Due diligence**

Before entering contracts, MBIE may undertake due diligence checks on applicants as needed to meet government requirements. Signing and submitting the proposal form is considered consent to these checks taking place.

## **6.6 Financial matters**

### *GST*

All amounts included in proposals should be GST exclusive. The funding figures cited in this document are GST exclusive.

### *Tax advice*

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

## 7. Other information

If applicants require additional information or guidance, they should visit the TIF website (<https://www.mbie.govt.nz/immigration-and-tourism/tourism/tourism-funding/tourism-infrastructure-fund/>) or email the TIF Secretariat at [tif@mbie.govt.nz](mailto:tif@mbie.govt.nz).

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

(N.B. the “Details” will differ according to the individual project being funded. “Details” are not included in this example).

## 1. Interpretation

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

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

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

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

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

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

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

“**Deliverables**” means the deliverables set out in the Details;

“**Details**” means Schedule 1;

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

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

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

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

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

“**Project Tasks**” means the project tasks (if any) set out in the Details which must be completed by the Recipient before a Funding payment is made by the Ministry; and

“**Tiaki Promise**” means the commitment to care for New Zealand by Tourism New Zealand, Air New Zealand, the Department of Conservation, Tourism Industry Aotearoa, Local Government New Zealand, New Zealand Māori Tourism and Tourism Holdings Limited <https://tiakinewzealand.com/>

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

- 1.2. References to clauses and Schedules are to clauses and Schedules of this Agreement and references to persons include bodies corporate, unincorporated associations or partnerships.
- 1.3. The headings in this Agreement are for convenience only and have no legal effect.
- 1.4. The singular includes the plural and vice versa.
- 1.5. “Including” and similar words do not imply any limitation.
- 1.6. References to a statute include references to that statute as amended or replaced from time to time.
- 1.7. Monetary references are references to New Zealand currency, except where expressly stated otherwise.
- 1.8. If there is any conflict of meaning between the Details and Schedule 2, Schedule 2 will prevail, except where the Details expressly state otherwise.

## 2. Funding

- 2.1. The Ministry must pay the Funding at the rate and in the manner set out in the Details. The Funding is the total amount payable by the Ministry for the Project.
- 2.2. The Recipient must provide a valid GST invoice to the Ministry for all Funding due in the manner set out in the Details. The invoice must:
  - (a) be sent directly to the Ministry in PDF format via email to [tif@mbie.govt.nz](mailto:tif@mbie.govt.nz);
  - (b) be copied to the relevant Ministry contact as set out in paragraph 13 of the Details;
  - (c) include sufficient information reasonably required to enable to the Ministry to validate the claim for payment including a reference to this Agreement (under which the invoice is issued); and
  - (d) be clearly and legibly marked to Ministry staff as advised by the Ministry to the Recipient from time to time.
- 2.3. The Ministry is not obliged to make any payment under this Agreement until an invoice which complies with clause 2.2 has been received by it from the Recipient. Payments will be made to the credit of a bank account to be designated in writing by the Recipient.
- 2.4. The Funding is inclusive of all taxation except GST. The Ministry will be entitled to deduct any withholding tax required to be withheld by law from payments made to the Recipient and will not be required to gross-up or increase any such payments in respect of such amounts withheld.
- 2.5. The Recipient must use the Funding only to carry out the Project in accordance with this Agreement.
- 2.6. In consideration of the Funding, the Recipient must:
  - (a) complete each Project Task (if any) by the relevant payment date set out in the Details;
  - (b) complete the Project to the Ministry's satisfaction by the Completion Date;
  - (c) carry out the Project in accordance with:
    - (i) the methodology (if any) set out in the Details;
    - (ii) the best currently accepted principles and practice applicable to the field(s) of expertise relating to the Project; and
    - (iii) 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.
- 2.7. Where the total of the Funding under this Agreement and any other money received by the Recipient to carry out the Project exceeds the total cost of the Project, the Recipient must upon request refund to the Ministry the excess amount.

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

- 3.1. Subject to clauses 3.2 and 3.3, this Agreement will commence on the Commencement Date and expire when:
  - (a) the final report is completed and provided to the Ministry; and
  - (b) the Project is completed, to the satisfaction of the Ministry.
- 3.2. The Ministry may terminate this Agreement at any time by giving at least 20 Business Days' notice to the Recipient. Without limiting this clause 3.2, the Ministry may give notice of termination if the Project has not been completed within any timeframe that is specified in this Agreement or in the Recipient's funding application documents or, where no such timeframe was specified, within a reasonable period from the date of this Agreement.
- 3.3. The Ministry may terminate this Agreement immediately by giving notice to the Recipient, if:
  - (a) the Recipient is in material breach of any of its obligations under this Agreement and that breach is not capable of being remedied;
  - (b) the Recipient fails to remedy any breach of its obligations under this Agreement within 5 Business Days of receipt of notice of the breach from the Ministry;
  - (c) the Recipient does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which in the Ministry's opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand;

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

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

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

#### **5. Warranties**

- 5.1. Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.
- 5.2. The Recipient warrants that:
- (a) it is not insolvent or bankrupt and no action has been taken to initiate any form of insolvency or administration in relation to the Recipient;

- (b) all information provided by it to the Ministry in connection with this Agreement (including any funding application or similar documents) was, at the time it was provided, true, complete and accurate in all material respects;
- (c) it is not aware of any material information that has not been disclosed to the Ministry which may, if disclosed, materially adversely affect the decision of the Ministry whether to provide the Funding; and
- (d) all consents required (including, without limitation, statutory consents, permissions and licences) to carry out the Project have been obtained. The Recipient will notify the Ministry immediately if any consent expires, is withdrawn, or otherwise lapses.

## **6. Intellectual Property**

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

## **7. Confidentiality**

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

## **8. Liability**

- 8.1. The Ministry is not liable for any loss of profit, loss of revenue or other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement.
- 8.2. The maximum liability of the Ministry under or in connection with this Agreement whether arising in contract, tort (including negligence) or otherwise is the total amount which would be payable under this Agreement if the Project had been carried out in accordance with this Agreement.
- 8.3. The Recipient (including its employees, agents, and contractors, if any) is not an employee, agent or partner of the Ministry or of the Chief Executive of the Ministry. At no time will the Ministry have any liability to meet any of the Recipient's obligations under the Health and Safety at Work Act 2015 or to pay to the Recipient:
  - (a) holiday pay, sick pay or any other payment under the Holidays Act 2003; or
  - (b) redundancy or any other form of severance pay; or
  - (c) taxes or levies, including any levies under the Accident Compensation Act 2001.



- 8.4. The Recipient indemnifies the Ministry against:
- (a) any taxes, levies, penalties, damages or compensation which the Ministry may be liable to deduct, withhold or pay by reason of the Recipient, or any person used by the Recipient to carry out the Project, being held to be an employee of the Ministry or of the Chief Executive of the Ministry; and
  - (b) any claim, liability, loss or expense (including legal fees on a solicitor own client basis) brought or threatened against, or incurred by the Ministry, arising from or in connection with a breach of this Agreement by the Recipient or the Project, or from the negligence or misconduct of the Recipient, its employees or contractors.
- 8.5. Where the Recipient is a trustee, the Ministry acknowledges that the Recipient has entered into this Agreement as a trustee of the trust named in the Details in an independent capacity without any interest in any of the assets of the trust other than as trustee. Except where the Recipient acts fraudulently, the Recipient is liable under this Agreement only to the extent of the value of the assets of the trust available to meet the Recipient's liability, plus any amount by which the value of those assets has been diminished by any breach of trust caused by the Recipient's wilful default or dishonesty.

## 9. Dispute Resolution

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

## 10. Force Majeure

- 10.1. 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.
- 10.2. If by reason of a Force Majeure Event a Party has been unable to perform any material obligation under this Agreement for a period of one month, the other Party may give the first Party one month's notice terminating this Agreement.

## 11. General

- 11.1. 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.

11.2. Assignment:

- (a) The rights and obligations of the Recipient under this Agreement are personal to the Recipient and may only be assigned, delegated or subcontracted with the prior approval in writing of the Ministry (which may be given, declined, or given subject to conditions, in the Ministry's sole discretion). The Recipient remains liable for performance of its obligations under this Agreement despite any approved assignment, subcontracting or delegation.
- (b) If the Recipient is a company, any transfer of shares, or other arrangement affecting the Recipient or its holding company which results in a change in the effective control of the Recipient is deemed to be an assignment subject to clause 11.2(a).

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

11.4. 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.

11.5. Any notice to be given under this Agreement must be in writing and hand delivered or sent by email or post to the Parties' respective addresses as set out in the Details. A notice is deemed to be received:

- (a) if personally delivered when delivered;
- (b) if posted, three Business Days after posting; or
- (c) if sent by email, at the time indicated on the email that it was sent in its entirety to the email address of the recipient, provided that any notice received after 5pm or on a day which is not a Business Day shall be deemed not to have been received until the next Business Day.

11.6. 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.

11.7. This Agreement may be signed in any number of counterparts and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties.

11.8. This Agreement will be governed by and construed in accordance with New Zealand law.

## 12. Health and Safety

12.1. The Recipient must promptly notify the Ministry of any notifiable events under the Health and Safety at Work Act 2015 that occur in the performance of the Agreement or that have the potential to impact the performance of the Agreement.

12.2. The Ministry may suspend this Agreement immediately by giving written notice to the Recipient if the Ministry has what it considers are material concerns about the Recipient's health and safety practices. Upon notice of the suspension, the Recipient will have an opportunity to rectify the health and safety issue(s) specified in the notice to the satisfaction of the Ministry. If the health and safety issue(s) raised in the suspension notice are not rectified to the satisfaction of the Ministry within 20 Business Days, the Ministry may terminate the Agreement immediately under clause 3.3 of Schedule 2.