

Waipoua River Road Construction Contract

Principal

Meeting: Council Meeting
Date of meeting: 25 August 2021
Reporting officer: Joanne Reid, Delivery Manager

Purpose | Ngā whāinga

To seek approval for Council to act as Principal to the Waipoua River Road (WRR) project construction contract.

Executive summary/Whakarāpopototanga

In 2019 Council received funding to seal ~1.6km of Waipoua River Road (including the installation of traffic light signals). The original funding application and development of the project assumed that Kaipara District Council (KDC) would be the Principal, however a risk was raised that any overrun would fall on Council.

Subsequent discussions with the Department of Conservation (DoC) (who are developing Rakou Rangatria) failed to reach agreement. However, there was agreement with MBIE to increase the contingency for the project.

For the WRR project to progress, it is recommended Council acts as Principal to the construction contract.

It is anticipated that unless Council acts as the Principal to the Contract, the project will not go ahead and there is a requirement to withdraw from the funding agreement with the Ministry of Business, Innovation & Employment (MBIE).

Recommendation | Ngā tūtohunga

That Kaipara District Council:

- a) Agrees to act as Principal to the Waipoua River Road construction contract.
- b) Delegates authority to the Mayor and Chief Executive to approve the award of Contract 963 for Waipoua River Road Sealing Physical Work, subject to;
 - i. Te Roroa approving the award of the contract, and
 - ii. The contract price being within the approved project budget of \$1,800,000 + GST.

Context | Horopaki

Waipoua River Road is a Te Roroa asset. In September 2019, MBIE allocated \$1,600,000 to KDC to deliver the Waipoua River Road (WRR) project.

The scope of the WRR project is to seal approximately ~1.6km of Waipoua Road, from the state highway to the proposed visitor centre being developed through the Rakau Rangitira project (a joint Te Roroa and Department of Conservation project). The WRR project includes the installation of traffic signals to manage sections of the one lane road safely.

In September 2020, Council approved delegation to award the WRR construction contract to the Mayor and Chief Executive, to the value of \$1,600,000 + GST. At this time, however, it was identified that the tendered price for the construction contract provided only \$10,000 of project contingency (from overall budget of \$1.6m) and as a result, the project was put on hold and the construction contract was not awarded.

In November 2020, council staff undertook discussions to identify a Principal to the construction contract alternative to Council; due to Te Roroa being the owner of the road and the level of risk associated with such a small contingency. Discussions with Te Roroa and DoC progressed, however no suitable alternative Principal was identified.

MBIE have since endorsed \$200,000 of budget to be transferred to the WRR project to cover any funding shortfall and provide sufficient contingency.

Te Roroa have stated an inability to meet future maintenance requirements following the road being sealed (including application of a second coat seal). To support future maintenance requirements and ensure a good quality long term seal, council staff are progressing discussions with Te Roroa and DoC to establish a future maintenance agreement. Clause 4 of the MBIE Funding agreement (**Attachment A**) specifies ongoing maintenance obligations are not a requirement of the WRR Project and so this discussion should not impact the ability of the WRR project to progress.

Discussion | Ngā kōrerorero

Te Roroa have confirmed they do not have the resources to act as Principal.

DOC have advised they are not able to act as Principal to the contract due to the risk's associated with acting Principal for a contract which they do not administer the funds for or have direct management of project delivery.

Option 1: Council acts as Principal to the construction contract

Advantages: Enable's the WRR project to progress and reach completion within MBIE timeframes

Disadvantages: Council would carry the risk of liability for overspend on the project

Option 2: Staff initiate discussions with MBIE to withdraw from the WRR Project funding agreement.

Advantages: Council would not carry the risk of liability for overspend on the project

Disadvantages: The WRR project would not be completed, and the \$1.8m allocated funding would most likely be reallocated by MBIE to an alternative proposition. The Funding Agreement (**Attachment A**) stipulates that the ministry may recover the total value of funding if a project is abandoned (Clause 6.6(d): Attachment A)

The recommended option is **Option 1**.

Financial implications

There is financial risk associated with the role of Principal to a construction contract. The Principal is liable for justified project spend, even where this may exceed available budget and contingency.

Risks and mitigations

There is a risk that the MBIE funding is retracted if the WRR Project works are not completed within the agreed timeframes (contract end date 30 June 2022). To achieve completion within these timeframes, the project is required to re-initiate in September '21.

There is a risk the project costs have increased from those provided in the original tender, reducing the level of contingency available. This increase (if any) will be known prior to contract award and the level of contingency available will be confirmed.

There is a risk MBIE withdraw the funding agreement and look to recover funding claimed to date should they deem the project be unachievable within the remaining timeframe and/or abandoned.

Impacts on Māori

Te Iwi o Te Roroa have been engaged throughout the WRR Project and are in support of the request for Council to act as Principal to the construction contract.

Significance and engagement | Hirahira me ngā whakapāpā

The decisions or matters of this report are considered to have a low degree of significance in accordance with Council's Significance and Engagement Policy. No feedback is required, and the public will be informed of Council's decision via the agenda and minutes publication of this meeting, on the website and through other channels if appropriate.

Next steps | E whaiake nei

- Establish Council as principle to the construction contract and re-open discussions with the contractor to confirm pricing and schedule of works
- Contract award
- Execute the project

Attachments/Ngā tapiritanga

	Title
A	Contract - Executed (Kaipara Roding Package - Agreement 1)