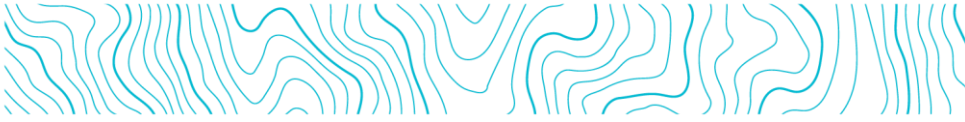


# Lower Hutt Low Carbon Acceleration Fund

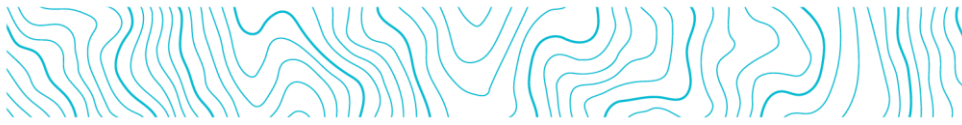
## Request for Proposals

Round 1: February/March 2024



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# 1 The opportunity in a nutshell

The earth is getting hotter, and it will affect us all. Climate change is caused primarily by human activity altering the composition of the atmosphere by producing increased levels of greenhouse gas emissions. We produce these gases when we burn fossil fuels such as petrol, diesel and gas, and release carbon emissions into the atmosphere.

The greater the warming, the more damage it will cause because rising temperatures are altering the climate and our ecosystems everywhere, leading to impacts such as sea level rise and increased risk of flooding events.

Lower Hutt now has in place the [Lower Hutt Climate Action Pathway Te Ara Whakamua o Te Awa Kairangi ki Tai](#) (the Pathway), co-designed with the Lower Hutt community, that shows a possible pathway for achieving the necessary emission reductions in key areas such as transport (eg vehicles, trucks), and energy (eg powering businesses).

## Te Ara Whakamua o Te Awa Kairangi ki Tai Lower Hutt Climate Action Pathway

### Where we are heading

**Net zero emissions by 2050. Building community resilience**  
This climate action pathway provides direction on where we need to target our future effort to reduce our transport, energy and waste emissions. It also focuses on waiuatanga - connecting with our natural world and preparing for the adverse effects of climate change.

2022-2024

**Act now and connect what's under way**  
As a community we are clear about where we are going and what we need to do to get there. We acknowledge the climate crisis, take responsibility for our contribution and understand the strength of our collective response.

2025-2029

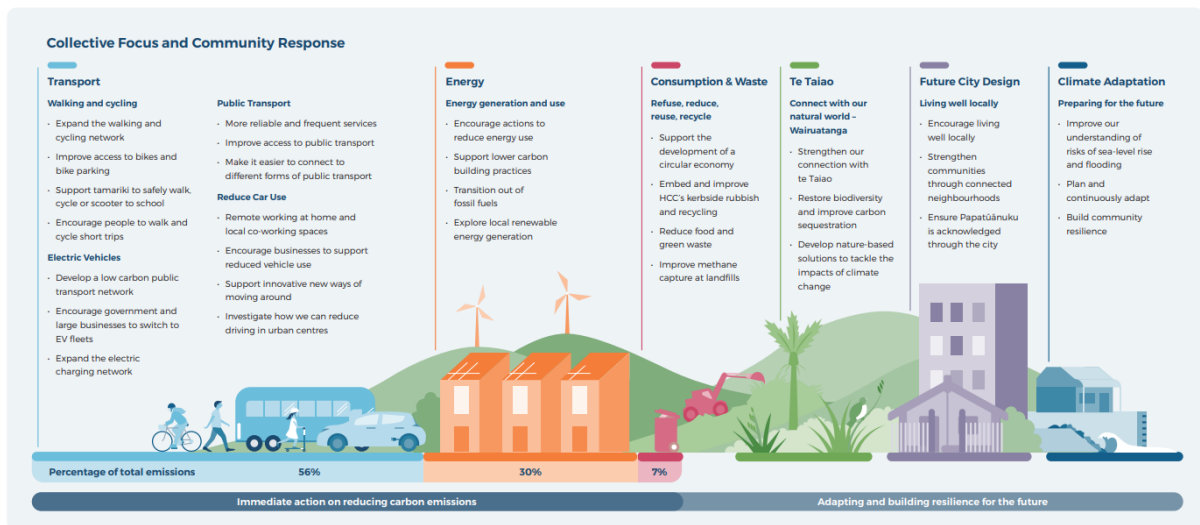
**Accelerate Action**  
We will continue to challenge the status quo, accelerate climate initiatives and measure our collective impact. Our firm action will ensure we are on track to have our emissions by 2030. As a future focused and innovative city, our courage and effective climate action will lead Aotearoa.

2030-2050

**Delivering for the future**  
We are on the Race to Zero with climate action delivering a steady and substantial reduction in emissions. We will be prepared for the impacts of climate change, with connected and resilient communities. Our connection to the natural world is a part of our everyday lives. Papatūānuku and Ranginui are acknowledged and celebrated throughout the city.

2030  
30% reduction in city emissions, 30% reduction in biogenic waste emissions (methane)

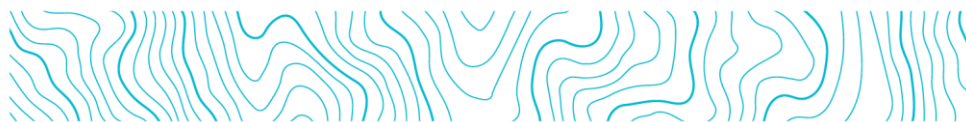
2050  
Net zero carbon emissions and a climate resilient city



Given the significant challenge in moving to zero carbon city-wide, Hutt City Council has developed a Lower Hutt Low Carbon Acceleration Fund (LCA Fund), which will provide funding in order to facilitate Projects to reduce emissions.

The objectives of the Fund are to support Lower Hutt in reducing its emissions faster, encourage action and innovation, and to show the feasibility of achieving change.

The Fund normally offers up to 50% co-funding towards suitable Projects, to be delivered in Lower Hutt, that achieve these objectives. The total funding envelope for this Round 1 is \$160,000, and the maximum amount of co-funding available per Project is \$40,000. Council may choose to extend the envelope by selling more NZ units than earned in the year to enable greater emissions reduction.



## 2 Key information

### 2.1 Context

This RFP is an invitation to submit for funding from the LCA Fund.

Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in section 8.

### 2.2 Our timeline

The table below shows our timeline for this RFP.

<b>Steps in the RFP process</b>	<b>Date</b>
RFP opens	9am, Thursday 15 February 2024
Deadline for questions from Applicants	4pm, Thursday 7 March 2024
Deadline for HCC to answer Applicants' questions	5pm, Monday 11 March 2024
<b>Deadline for Proposals</b>	<b>12pm, Thursday 14 March 2024</b>
Decision-Making Panel process (including assessing and moderating Proposals and any interviews of Applicants (if applicable))	By Friday 26 April 2024
Applicants notified of outcome	From Monday 29 April 2024
Contract and grant management and administration; grant funding paid on delivery of milestones and Projects; success stories shared as Projects are completed	From May 2024 onwards

### 2.3 How to contact us

All enquiries (such as questions on the scope of the Fund or assistance with filling in the Response Form) must be directed to our Point of Contact before the deadline.

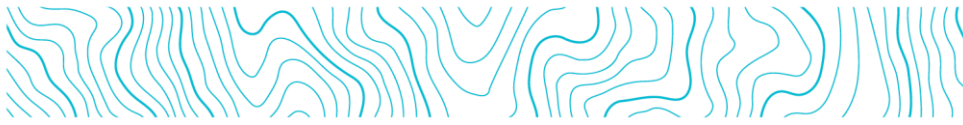
Our Point of Contact:

**Name:** Miriam Randall

**Role:** Senor Advisor - Climate and Sustainability

**Email address:** [LCAFund@huttcity.govt.nz](mailto:LCAFund@huttcity.govt.nz)

**Number:** 027 452 3526 or 04 570 6666



## 2.4 Developing and submitting your Proposal

This is an open competitive process. The RFP sets out the step-by-step process and conditions that apply.

Take time to read and understand the RFP. If anything is unclear or you have a question, email or call our Point of Contact for an explanation. Please do so before the Deadline for Questions.

In submitting your Proposal, you must use the Response Form available on the Hutt City Council website. Please don't forget to complete and sign the declaration at the end of the Response Form.

Note:

- The total size of your Proposal should not exceed 20MB.
- Your Proposal must not include any zipped or executable files.
- There are word count limits as recommended in relevant sections of the Response Form.
- Check you have provided all information requested, and in the format and order asked for.
- Having done the work, don't be late – please ensure you get your Proposal to us by the date specified.

## 2.5 Address for submitting your Proposal

Proposals must be submitted by email to HCC to: [LCAFund@huttcity.govt.nz](mailto:LCAFund@huttcity.govt.nz). Proposals sent by post or fax, or hard copy delivered to our office will not be accepted.

## 2.6 Our RFP Process, Terms and Conditions

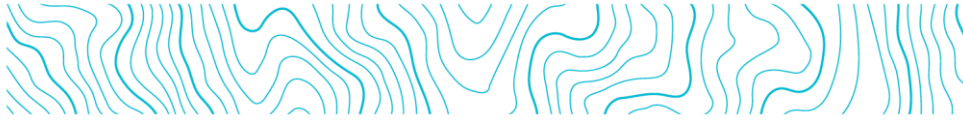
In submitting a Proposal, the Applicant agrees that it be held open by the Applicant for acceptance by HCC for at least three months from the Deadline for Proposals. This is referred to as the Proposal Validity Period.

The RFP is subject to the RFP Process, Terms and Conditions (RFP-Terms) described in Section 7.

## 2.7 Later changes to the RFP or RFP process

If, after publishing the RFP, we need to change anything about the RFP, or RFP process, or want to provide Applicants with additional information, we will let all Applicants know by placing a notice on the Low Carbon Acceleration Fund section of the HCC website (where you got this RFP documentation from): [Low Carbon Acceleration Fund | Hutt City Council](#)

It is your responsibility to check for any updates prior to submitting your Proposal.



## 3 What we are looking for

### 3.1 Background

Climate change is caused primarily by human activity altering the composition of the atmosphere by producing increased levels of greenhouse gas emissions. We produce these gases when we burn fossil fuels such as petrol, diesel, and gas, and release carbon emissions into the atmosphere.

The greater the warming, the more damage it will cause because rising temperatures are altering the climate and our ecosystems everywhere, leading to impacts such as sea level rise and increased risk of flooding events.

Lower Hutt now has in place the [Lower Hutt Climate Action Pathway Te Ara Whakamua o Te Awa Kairangi ki Tai](#) (the Pathway), co-designed with the Lower Hutt community, that shows a possible pathway for achieving the necessary emission reductions in key areas such as transport (eg vehicles, trucks), and energy (eg powering businesses).

Given the significant challenge in moving to zero carbon city-wide, Hutt City Council has developed a Low Carbon Acceleration Fund, which will provide funding in order to facilitate Projects to reduce emissions.

### 3.2 Objectives

The objectives of the Fund are to:

- a) **Support Lower Hutt in reducing its emissions faster:** achieve (or facilitate the achievement of) emission reductions that are additional to (and/or occur sooner than) what would otherwise occur in Lower Hutt.
- b) **Encourage action and innovation:** mitigate perceived or actual risks for adopters of relevant carbon reduction technologies and initiatives in Lower Hutt.
- c) **Show the feasibility of achieving change:** demonstrate leadership, share learnings and knowledge to stimulate wider replication of successful Projects and solutions in Lower Hutt.

### 3.3 What can be funded?

In principle, the Fund is open to any Project, provided:

- it aligns with the Fund objectives of producing the largest carbon reduction benefits based on a range of criteria,
- it involves the implementation of the Project in Lower Hutt,
- any co-funding requested is only for the additional part or incremental cost of the Project, relative to business as usual,
- any technologies involved meet relevant regulatory requirements.



Examples of Projects that could be funded are as follows:

- a) The additional cost associated with the replacement of gas boilers with low carbon alternatives, such as heat pumps;
- b) The additional cost associated with electric vehicles or electric mobility, to assist in the decarbonisation of an organisation's and/or business' vehicle fleet (eg vans, commercial vehicles, e-bike schemes, electric equipment, charging stations for electric fleets);
- c) Installation of public EV charging stations in Lower Hutt, to assist in facilitating more uptake of EVs;
- d) Projects that facilitate mode-shift to bicycles and micro mobility;
- e) Projects that involve systems change (eg local food production, with the potential for larger carbon reductions in the longer term);
- f) Projects involving feasibility and/or business case work (albeit research and development would be out of scope).

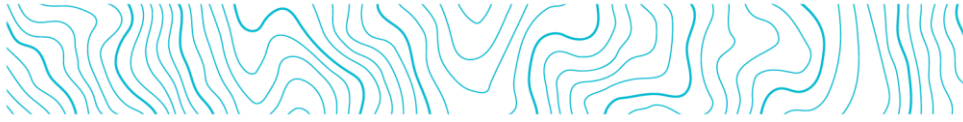
Certain types of Projects will not be funded, as follows:

- a) Projects involving the displacement of one fossil fuel by another, or those focused on transitional technologies (eg hybrid vehicles that cannot be plugged in);
- b) research and development, or the implementation of technologies or infrastructure that are not yet commercially available ([as EECA has a Technology Demonstration Fund for this purpose](#));
- c) Projects involving the installation of insulation or heaters in private homes (as relevant support is available through [EECA's Warmer Kiwi Homes Programme](#));
- d) Projects that already receive funding for the same purpose from another public investment fund.

### 3.4 Who can apply?

This fund is open to all legal entities operating in Lower Hutt. The following types of organisations are eligible:

- Businesses (such as limited liability companies)
- Trusts
- Māori trust boards
- Incorporated societies (eg clubs)
- Schools
- Non-Governmental Organisations (NGOs/ not-for-profits)
- Council-Controlled Trading Organisations



However, the following organisations are not eligible:

- Hutt City Council
- [Public Service Departments, Non-Public Service Departments, and Statutory Crown Entities such as the District Health Board](#)
- Greater Wellington Regional Council

### 3.5 Project size and co-funding

The Fund is intended to support ready-to-go Projects ranging from small to medium-scale Projects. While there is no specified minimum value, HCC considers it unlikely that Proposals requesting less than \$5,000 will be able to make a meaningful contribution to the Fund's objectives.

Applicants may apply for co-funding of up to 50% for their Project; the maximum amount of co-funding available per Project is \$40,000.

The Applicant's share of funding must be cash and not in-kind (such as existing assets, or the provision of already-purchased goods and services, or business as usual costs). Note also that Applicants' funding share may not come from other public investment funds or grants.

In the case of not-for-profit organisations, requests for a higher co-funding share will be assessed on a case-by-case basis, provided there is justification for this.

All eligible and complete Proposals, regardless of the amount of funding requested, will go through the same assessment process, and if successful, may be offered funding.

### 3.6 Incremental costs

Incremental cost shows how much a decision to opt for a low-emission options is costing over and above the higher emissions equivalent.

The LCA Fund is aimed at reducing barriers and cost risks, and co-funding can be used to reduce incremental costs. For example, a business may propose to replace a conventional van with an electric van. The incremental cost in this instance would be the difference in purchase price between the conventional and the electric van (including the installation of charging stations).

However, in any case, co-funding for incremental costs can be no more than 50% of the total Project costs.





## 4 Our assessment and decision-making approach

### 4.1 Assessment process

The approach for allocating funding is a one-stage contestable process. All eligible and complete Proposals, regardless of dollar value sought, will go through the same assessment process.

Eligible and complete Proposals will be assessed by a Decision Making Panel. The indicative assessment process and timing is shown below:

Date	Action
<b>by Thursday 14 March 2024</b>	Applicants submit Proposals in response to this RFP
<b>by Monday 1 April 2024</b>	HCC administrative review for eligibility and completeness, and preparation for the Panel
<b>by Friday 26 April 2024</b>	Decision Making Panel assesses eligible and complete Proposals
<b>from Monday 29 April 2024</b>	Applicants notified of decisions.

### 4.2 Decision Making Panel

Decisions on funding are made by a Decision Making Panel, which is made up as follows:

- Two Hutt City Council Elected Members
- One Mana Whenua representative
- Two to three community representatives, including members from the Climate Action Pathway Group
- One representative of the Lower Hutt business community

A quorum of four panel members is required to make funding decisions.

### 4.3 Minimum eligibility conditions

Before a Proposal can be assessed by our Decision Making Panel, it must meet all of the following eligibility conditions or it will be eliminated from further consideration, as follows:

- Be an eligible entity.
- Funding sought is for a Project to be implemented in Lower Hutt.
- The funding requested is for a maximum of \$40,000, with the co-funding share sought at no more than 50% (exceptions may apply).
- Be committed to working safely and ensuring the health and safety of workers and others affected by the Project work, and have appropriate systems and processes to undertake the work safely.



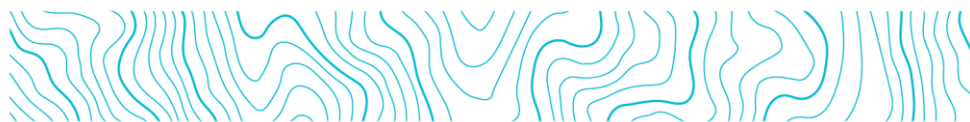
- Be committed to working in a manner that will not damage HCC’s reputation.
- Have completed the RFP Response Form in full.

#### 4.4 Assessment criteria

Proposals that meet all minimum eligibility conditions will be assessed on their merits by the Decision Making Panel according to the below assessment criteria, with a focus on emissions reduction. All criteria are weighted equally.

Criteria	Key question(s)
<b>Objectives and emission reductions</b>	<p>To what extent does the Project align with the objectives of the LCA Fund?</p> <p>To what extent will the Project result in emission reductions in Lower Hutt?</p> <p>How will the Project accelerate action?</p> <p>What is the magnitude of emission reductions?</p>
<b>Capability and resourcing</b>	<p>To what extent does the Applicant have the expertise, resources, relationships and commitment necessary to deliver the Project?</p> <p>Does the Applicant have a track record in delivering, and how is this demonstrated?</p> <p>Has the Applicant credibly identified risks and barriers to success and how they will be addressed?</p>
<b>Ability to deliver quickly</b>	<p>Can the Applicant implement the Project within the next 6 to 18 months, and realise associated carbon emission reductions?</p> <p>Will the Project run over multiple years or within a shorter period?</p> <p>When will the Project deliver the benefits promised in the Proposal?</p>
<b>Value for money</b>	<p>What are the Project benefits in relation to its cost?</p> <p>How will the Project lead to emission reductions and how large are those reductions expected to be compared to the funding being sought from the LCA Fund?</p> <p>How innovative is the Project compared to any equivalent business as usual activities the Applicant would normally be undertaking?</p> <p>How important is the Fund to supporting the delivery, scale, or speed with which these emission reductions will be realised? What can still be achieved without funding?</p>

In addition to emission reductions, HCC understands Projects will likely provide private benefits (e.g. reduced costs, marketing opportunities etc.). These private benefits are the reason for the private co-



funding requirement and provide the motivation for many Applicants to participate. However, they cannot be used to justify public funding.

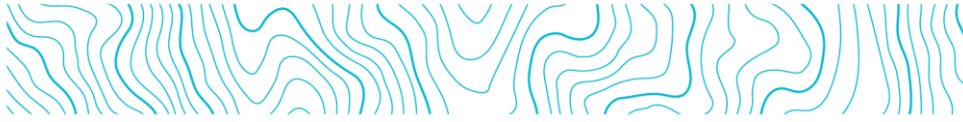
#### 4.5 Scoring

The following scoring scale will be used in assessing Proposals. Scores by individual Panel members may be modified through the moderation process conducted across the whole Decision Making Panel.

Description	Definition	Rating
Excellent	Exceeds the expectations. Exceptional demonstration by the Applicant of the relevant ability, understanding, experience, skills, and resource and quality measures required to deliver the Project. Response identifies factors that will offer potential added value, with supporting evidence.	9-10
Good	Satisfies the expectations with minor additional benefits. Above average demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource and quality measures required to deliver the Project. Response identifies factors that will offer potential added value, with supporting evidence.	7-8
Acceptable	Satisfies the expectations. Demonstration by the Applicant of the relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with supporting evidence.	5-6
Minor reservations	Satisfies the expectations with minor reservations. Some minor reservations about the Applicant's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	3-4
Serious reservations	Satisfies the expectations with major reservations. Considerable reservations about the Applicant's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	1-2
Unacceptable	Does not meet the expectations. Does not comply and/or insufficient information provided to demonstrate that the Applicant has the ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	0

#### 4.6 Further analysis of Proposals

In addition to the above assessment, HCC and/or the Decisions Making Panel may undertake the following processes and due diligence in relation to any Proposal:



- Reference checks
- Request clarification of aspects of the Proposal
- Request confirmation of delivery timelines and co-funding commitments
- Interview Applicants
- Conduct internal and/or external due diligence checks

Responses to HCC requests for the above should be timely and the findings will be taken into account in the assessment and decision-making process.

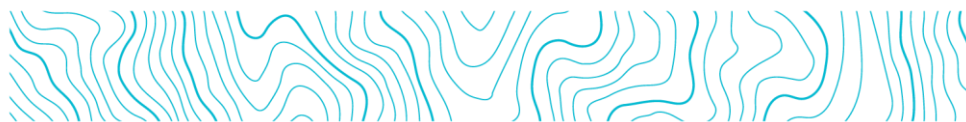
#### 4.7 Decision-making

The Decision Making Panel is the decision-maker for the LCA Fund. The Panel has the sole discretion to determine which Projects (if any) will receive funding and the value of any funding.

If the Decision Making Panel declines funding, the Applicant will be informed, and all Applicants will be able to request and be provided with a debrief. This completes the process.

Unsuccessful Applicants may reapply in future rounds, taking into consideration any feedback provided.

If the Decision Making Panel decides to approve funding, this will be communicated to the Successful Applicants. Results are embargoed until Hutt City Council has made a formal public announcement.



## 5 Funding agreement

### 5.1 Funding Agreement

Once a Proposal has been approved for funding by the Decision Making Panel, and subject to any Funding Agreement negotiations, HCC and the Successful Applicant will enter into a Funding Agreement that commits the Recipient to implement the Project.

The Proposed Funding Agreement that HCC intends to use for the delivery of the Project is available on the HCC website along with the other RFP documents.

The Funding Agreement will detail the obligations on the Recipient for the duration of the Project, which must be met in order to receive funding from the LCA funding.

A Recipient cannot change the Project scope once it has been approved by the Decision Making Panel. However, once the Project commences, minor changes to milestone dates can be approved with HCC's agreement.

All Funding Agreements will include details of the individual Project being funded. These details may include (but are not limited to):

- Any conditions that must be met as required by HCC
- The total funding package (funds supplied by the Applicant and the LCA Fund)
- Project tasks, targets and measures (milestones)
- Payment terms
- Reporting requirements
- The duration of the Funding Agreement

### 5.2 Prior agreement to terms and conditions

Please note the requirement set out in the Response Form regarding your agreement to the standard terms and conditions in HCC's Proposed Funding Agreement, or your Proposal to change those conditions.

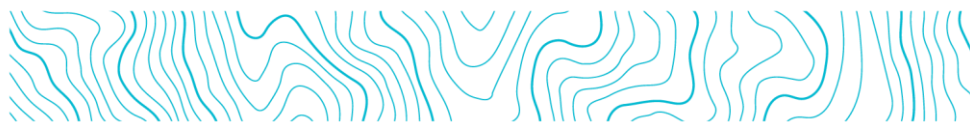
### 5.3 Funding payments

Funding will be paid for the completion of agreed milestones based on invoices and relevant supporting evidence from the Recipient.

### 5.4 Monitoring

HCC will monitor the implementation of the Project by the Recipient and the application of the funds provided from the LCA Fund. HCC may do so with the assistance of any other person that HCC chooses to use for this purpose at its discretion. Any such assistance will be funded by HCC.

Among other things, a Recipient may be required to provide regular progress reports to HCC.



## 6 General Information

### 6.1 Commercial-in-Confidence

All information collected and held during the RFP process will be held in the strictest confidence.

This information will include:

- The identity of entities engaging with HCC and related parties at any stage prior to a Funding Agreement being signed.
- Information provided to or by HCC prior to Proposals being submitted.
- Proposals.
- Materials used to comment on and assess Proposals.

### 6.2 Local Government Official Information and Meetings Act

HCC is bound by the Local Government Official Information and Meetings Act 1987 (LGOIMA) and subject to other public law obligations. Accordingly, while the information provided by Applicants is intended to be held in the strictest confidence, the information that HCC holds can be requested by third parties and HCC must provide information as required to do so by law.

The LGOIMA does enable HCC to withhold information under certain conditions. Where possible, HCC will consult with the relevant Applicants and Recipients if it receives an LGOIMA request.

### 6.3 Publication of decisions

HCC will make public all LCA funding, including who the Recipients are, the amounts of funding provided, and a brief description of each Project.

This will be done following either the approval of funding or the signing of a Funding Agreement. The content and method of publication will be agreed with each Recipient, but will typically include a media announcement.

### 6.4 Conflicts of interest

#### 6.4.1 Conflict of Interest with respect to the Decision Making Panel

The Decision Making Panel operates a Conflict of Interest policy under which conflicts (real or perceived) are declared and managed. If Applicants consider that there are any Conflicts of Interest relating to their interests and/or their Proposals and members of the Decision Making Panel, they are requested to contact HCC in writing via [LCAFund@huttcity.govt.nz](mailto:LCAFund@huttcity.govt.nz).

#### 6.4.2 Applicant Conflict of Interest

Applicants must ensure that, where relevant, fair and appropriate procurement processes are used in order to ensure value for money and to manage Conflicts of Interest.



Applicants must disclose any Conflict of Interest (real or perceived) to HCC, as and when it arises, for the duration of the Funding Agreement. If in doubt, Applicants must disclose the situation to HCC in writing via [LCAFund@huttcity.govt.nz](mailto:LCAFund@huttcity.govt.nz).

## 6.5 Due diligence and financial matters

### 6.5.1 Due diligence

At any stage during the assessment process, HCC may undertake due diligence checks on Applicants as needed to meet government requirements. Signing and submitting the Response Form is considered consent to these checks taking place.

### 6.5.2 GST

All amounts included in Proposals should be GST exclusive. The funding figures cited in any documents are GST exclusive.

### 6.5.3 Financial Year

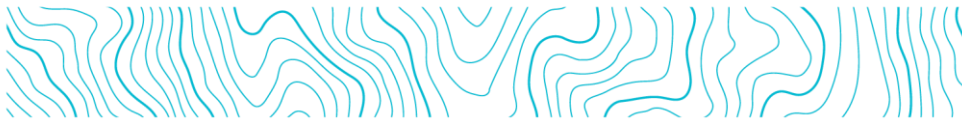
The Council's financial year runs from 1 July to 30 June. Proposals should use this timeframe when providing financial information.

### 6.5.4 Tax advice

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

## 6.6 Declaration

As part of the LCA Fund process, Applicants will be required to sign and submit declarations (part of the Response Form) to confirm that the information they provide is accurate and to acknowledge that they have read and understood this RFP, including its terms, conditions and criteria and the information relating to obligations under the Local Government Official Information and Meetings Act.



## 7 RFP Process, Terms and Conditions

### Note to Applicants

In managing the LCA Fund, HCC will endeavour to act fairly and reasonably in all of its dealings with interested Applicants, and to follow due process which is open and transparent.

This section contains our RFP Process, Terms and Conditions (“RFP-Terms”) which apply to the Fund. Check to see if any changes have been made for this RFP, as outlined in Section 2.7.

Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 8.

If you have any questions about the RFP-Terms, please email our Point of Contact.

### 7.1 RFP Process

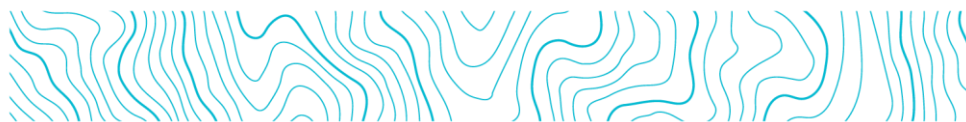
#### 7.1.1 Preparing a Proposal

- a) Applicants are to use the Response Form provided and include all information requested by HCC in relation to the RFP.
- b) By submitting a Proposal the Applicant accepts that it is bound by these RFP Terms.
- c) Each Applicant will:
  - i. examine the RFP and any documents referenced in the RFP and any other information provided by HCC;
  - ii. consider all risks, contingencies and other circumstances relating to the delivery of its Project and include adequate provision in its Proposal to manage such risks and contingencies;
  - iii. document in its Proposal all assumptions and qualifications made about the delivery of the Proposed Project, including any assumption that HCC or a third party will deliver any aspect of the Proposed Project or incur any cost related to the delivery of the Proposed Project;
  - iv. ensure that pricing information is quoted in NZ\$ exclusive of GST;
  - v. if appropriate, obtain independent advice before submitting a Proposal;
  - vi. satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing, and expected delivery dates.

#### 7.1.2 Proposal Validity Period

- a) Proposals are to remain valid and open for acceptance by HCC for the Proposal Validity Period.





### 7.1.3 Applicants' Deadline for Questions

- a) Each Applicant should satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP, Applicants should seek clarification before the Deadline for Questions.
- b) All requests for clarification must be made by email to HCC's Point of Contact. HCC will endeavour to respond to requests in a timely manner, according to the schedule in section 2.2.
- c) If HCC considers a request to be of sufficient importance to all Applicants it may provide details of the question and answer to other potential Applicants. In doing so HCC may summarise the question and will not disclose the Applicant's identity. The question and answer will be posted on the HCC website. An Applicant may withdraw a request at any time.
- d) In submitting a request for clarification an Applicant is to indicate, in its request, any information that is commercially sensitive. HCC will not publish such commercially sensitive information. However, HCC may modify a request to eliminate such commercially sensitive information, and publish this and the answer where HCC considers it of general significance to all Applicants. In this case, however, the Applicant will be given an opportunity to withdraw the request or remove the commercially sensitive information.

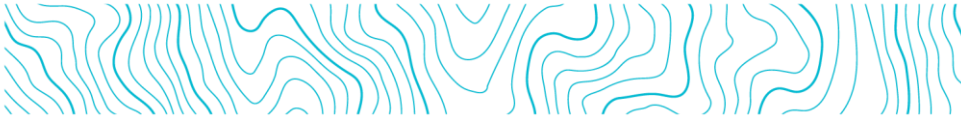
### 7.1.4 Submitting a Proposal

- a) Each Applicant is responsible for ensuring that its Proposal is received by HCC at the correct email address according to the schedule in section 2.2. HCC will acknowledge receipt of each Proposal.
- b) HCC intends to rely on the Applicant's Proposal and all information provided by the Applicant (e.g. correspondence and negotiations). In submitting a Proposal and communicating with HCC, each Applicant should check that all information it provides to HCC:
  - (i) is true, accurate and complete, and not misleading in any material respect; and
  - (ii) does not contain Intellectual Property that will breach a third party's rights.
- c) HCC may invite Applicants to rectify any minor errors or omissions in their Proposals according to the schedule in section 2.2 during HCC's administrative review and eligibility check process. Otherwise, any Proposal not meeting all the minimum eligibility conditions specified in Section 4.3 will be disqualified from the remainder of the process.

## 7.2 Assessing Proposals

### 7.2.1 Decisions Making Panel

- a) HCC will convene a Decision Making Panel. In addition, HCC may invite independent advisors to assist in the assessment of any Proposal, or any aspect of any Proposal.



### 7.2.2 Third party information

- a) Each Applicant authorises HCC to collect additional information from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of its assessment of the Applicant's Proposal.
- b) Each Applicant is to ensure that all referees listed in support of its Proposal (if provided) agree to provide a reference.
- c) To facilitate discussions between HCC and third parties each Applicant waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.

### 7.2.3 Proposal clarification

- a) HCC, or the Decision Making Panel, may at any time request from any Applicant clarification of its Proposal as well as additional information about any aspect of its Proposal. HCC is not required to request the same clarification or information from each Applicant.
- b) The Applicant must provide the clarification or additional information in the format requested. Applicants will endeavour to respond to requests in a timely manner. The Decision Making Panel may take such clarification or additional information into account in assessing the Proposal.
- c) Where an Applicant fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Decision Making Panel may cease assessing the Applicant's Proposal and HCC may eliminate the Proposal from the RFP process.

### 7.2.4 Assessment and decision-making

- a) The Decision Making Panel will base its assessment on the Proposals submitted in response to the RFP. The Decision Making Panel may adjust its assessment of a Proposal following consideration of any clarification or additional information as described in Sections 7.2.2 and 7.2.3.
- b) In deciding which Applicants to recommend funding for, the Decision Making Panel will take into account the results of the assessment. The Decision Making Panel may also take into account any of the following additional information:
  - (i) the results from reference checks and any other due diligence;
  - (ii) any matter that materially impacts on HCC's trust and confidence in the Applicant;
  - (iii) any other relevant information that HCC may have in its possession.
- c) The Decision Making Panel will decide what Applicants to award funding to. The Panel has the sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. The Panel will take into account the advice from experts if they choose to seek such advice, as well as advice of the HCC Chief Executive on any risks, issues



or concerns which may arise. The Panel may also impose any additional conditions it sees fit, prior to funding being approved.

- d) If the Panel declines funding, the Applicants will be informed and may be offered a debrief, then the process is complete.
- e) If the Panel decides to approve funding, they will make a contingent decision which will be communicated to the Successful Applicants.

#### 7.2.5 Negotiations

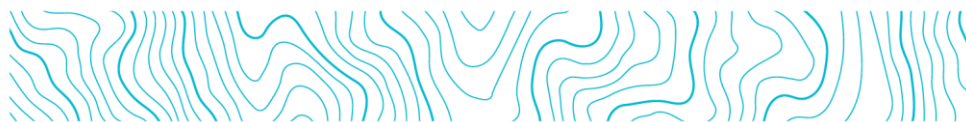
- a) HCC will invite a Successful Applicant to enter into negotiations with a view to entering into a Funding Agreement. Where the outcome is unsatisfactory or unreasonably stalled HCC may discontinue the negotiations.
- b) Each Applicant agrees that any legally binding Funding Agreement entered into between the Successful Applicant and HCC will be essentially in the form set out in the Proposed Funding Agreement, which is part of the RFP documentation.

#### 7.2.6 Applicant's debrief

- a) All Applicants will be able to request and be provided with a debrief. Each Applicant will have 30 Business Days, from the date of when they were notified of the outcome of their Proposal, to request a debrief. When an Applicant requests a debrief, HCC will provide the debrief within 30 Business Days of the date of the request.
- b) The debrief may be provided by letter, email, phone or at a meeting. The debrief will:
  - (i) provide the reasons why the Proposal was or was not successful;
  - (ii) explain how the Proposal performed against the minimum eligibility conditions and the assessment criteria;
  - (iii) indicate the Proposal's relative strengths and weaknesses;
  - (iv) explain, in general terms, the relative advantage/s of the successful Proposal/s;
  - (v) seek to address any concerns or questions from the Applicant;
  - (vi) seek feedback from the Applicant on the RFP and the RFP process.

#### 7.2.7 Notification of outcome

- a) At any point, but no later than 30 Business Days after the Decision Making Panel has made decisions on which Proposals will be offered funding, HCC will inform all unsuccessful Applicants of the outcome regarding their Proposal.



### 7.2.8 Issues and complaints

- a) An Applicant may, in good faith, raise with HCC any issue or complaint about the RFP, or the RFP process at any time.
- b) HCC will consider and respond promptly and impartially to the Applicant's issue or complaint.
- c) Both HCC and the Applicant agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFP.
- d) The fact that an Applicant has raised an issue or complaint will not be used by HCC or the Decision Making Panel to unfairly prejudice the Applicant's ongoing participation in the RFP process, or in any future funding rounds.

## 7.3 Standard RFP conditions

### 7.3.1 HCC's Point of Contact

- a) All enquiries regarding the RFP must be directed by email to HCC's Point of Contact. Applicants must not directly or indirectly approach any representative of HCC, or any other person, to solicit information concerning any aspect of the RFP.
- b) Only the Point of Contact, and any authorised person of HCC, are authorised to communicate with Applicants regarding any aspect of the RFP. HCC will not be bound by any statement made by any other person.
- c) HCC may change the Point of Contact at any time. HCC will notify any such change by posting a notice on its website.
- d) Where an Applicant has an existing Funding Agreement with HCC, then business as usual communications, for the purpose of managing delivery of that Funding Agreement, will continue using the usual contacts. Applicants must not use business as usual contacts to lobby HCC, solicit information or discuss aspects of the RFP.

### 7.3.2 Conflict of Interest

- a) Each Applicant must complete the Conflict of Interest declaration in the Response Form and must immediately inform HCC should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Applicant being disqualified from participating further in the RFP.

### 7.3.3 Ethics

- a) Applicants must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of HCC or the Decision Making Panel in relation to the RFP.



- b) An Applicant who attempts to do anything prohibited by Sections 7.3.1(a); 7.3.1(d) and 7.3.3(a) may be disqualified from participating further in the RFP process.
- c) HCC reserves the right to require additional declarations, or other evidence from an Applicant, or any other person, throughout the RFP process to ensure probity of the RFP process.

#### **7.3.4 Anti-collusion and bid rigging**

- a) Applicants must not engage in collusive, deceptive or improper conduct in the preparation of their Proposals or other submissions or in any discussions or negotiations with HCC. Such behaviour will result in the Applicant being disqualified from participating further in the RFP process.
- b) HCC reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Applicants to the appropriate authority and to give that authority all relevant information including any relevant Proposal.

#### **7.3.5 Confidential Information**

- a) HCC and the Applicant will each take reasonable steps to protect Confidential Information and, subject to Section 7.3.5(c) and without limiting any confidentiality undertaking agreed between them, will not disclose Confidential Information to a third party without the other's prior written consent.
- b) HCC and the Applicant may each disclose Confidential Information to any person who is directly involved in the RFP process on its behalf, such as officers, employees, consultants, contractors, professional advisors, Decisions Making Panel members, partners, principals or directors, but only for the purpose of participating in the RFP.
- c) Applicants acknowledge that HCC's obligations under Section 7.3.5(a) are subject to requirements imposed by the Local Government Official Information and Meetings Act 1987 (LGOIMA), the Privacy Act 1993 and any other obligations imposed by law. HCC will not be in breach of its obligations if Confidential Information is disclosed by HCC to the appropriate authority because of suspected collusive behaviour. Where HCC receives a LGOIMA request that relates to an Applicant's Confidential Information, HCC will consult with the Applicant and may ask the Applicant to explain why the information is considered by the Applicant to be confidential or commercially sensitive.

#### **7.3.6 Confidentiality of RFP information**

- a) For the duration of the RFP, to the date of the announcement of the Successful Applicant(s), or the end of the RFP process, the Applicant agrees to keep the RFP strictly confidential and not make any public statement to any third party in relation to any aspect of the RFP, the RFP process or the award of any Funding Agreement without HCC's prior written consent.
- b) An Applicant may disclose RFP information to any person described in Section 7.3.5(b) but only for the purpose of participating in the RFP. The Applicant must take reasonable steps to ensure that such Recipients do not disclose Confidential Information to any other person or use Confidential Information for any purpose other than responding to the RFP.



### 7.3.7 Costs of participating in the RFP process

- a) Each Applicant will meet its own costs associated with the preparation and presentation of its Proposal and any negotiations.

### 7.3.8 Ownership of documents

- a) The RFP and its contents remain the property of HCC. All Intellectual Property rights in the RFP remain the property of HCC or its licensors. HCC may request the immediate return or destruction of any or all RFP documents and any copies. Applicants must comply with any such request in a timely manner.
- b) All documents forming the Proposal will, when delivered to HCC, become the property of HCC. Proposals will not be returned to Applicants at the end of the RFP process.
- c) Ownership of Intellectual Property rights in the Proposal remain the property of the Applicant or its licensors. However, the Applicant grants to HCC a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process.

### 7.3.9 No binding legal relations

- a) Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between HCC and any Applicant, except in respect of:
  - (i) the Applicant's declaration in its Proposal;
  - (ii) the Proposal Validity Period;
  - (iii) the Applicant's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with HCC;
  - (iv) the Assessment approach to be used by HCC to assess Proposals as set out in Section 4 and in the RFP-Terms (as varied by Section 2.7, if applicable);
  - (v) the standard RFP conditions set out in Section 7;
  - (vi) any other matters expressly described as binding obligations in Section 2.
- b) Each exception in Section 7.3.9(a) is subject only to HCC's reserved rights in Section 7.3.11.
- c) Except for the legal obligations set out in Section 7.3.9(a) no legal relationship is formed between HCC and any Applicant unless and until a Funding Agreement is entered into between those parties.



### 7.3.10 Elimination

- a) HCC may exclude an Applicant from participating in the RFP if HCC has evidence of any of the following, and is considered by HCC to be material to the RFP:
- (i) the Applicant has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP;
  - (ii) the Proposal contains a material error, omission or inaccuracy;
  - (iii) the Applicant is in bankruptcy, receivership or liquidation;
  - (iv) the Applicant has made a false declaration;
  - (v) there is a serious performance issue in a historic or current Funding Agreement delivered by the Applicant;
  - (vi) the Applicant has been convicted of a serious crime or offence;
  - (vii) there is professional misconduct or an act or omission on the part of the Applicant which adversely reflects on the integrity of the Applicant;
  - (viii) the Applicant has failed to pay taxes, duties or other levies;

### 7.3.11 HCC's additional rights

- a) Despite any other provision in the RFP HCC may, on giving due notice to Applicants:
- (i) amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP;
  - (ii) make any material change to the RFP on the condition that Applicants are given a reasonable time within which to respond to the change.
- b) Despite any other provision in the RFP HCC may:
- (i) accept a late Proposal if it is HCC's fault that it is received late;
  - (ii) in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Applicants. HCC will not accept a late Proposal if it considers that there is risk of collusion on the part of an Applicant;
  - (iii) in exceptional circumstances, answer a question submitted after the Deadline for Questions;
  - (iv) accept or reject any Proposal, or part of a Proposal;
  - (v) accept or reject any non-compliant, non-conforming or alternative Proposal;
  - (vi) decide not to enter into a Funding Agreement with any Successful Applicant;



- (vii) liaise or negotiate with any Applicant without disclosing this to any other Applicant;
  - (viii) provide or withhold from any Applicant information in relation to any question arising in relation to the RFP. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to an Applicant, is inappropriate to supply at the time of the request or cannot be released for legal reasons;
  - (ix) amend the Proposed Funding Agreement at any time, including during negotiations with an Applicant;
  - (x) waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so;
- c) HCC may request that an Applicant agrees to HCC:
- (i) selecting any individual element/s of the Project that is offered in a Proposal and capable of being delivered separately, unless the Proposal specifically states that the Proposal, or elements of the Proposal, are to be taken collectively;
  - (ii) selecting two or more Applicants to deliver a Project as a joint venture or consortium.

#### 7.3.12 New Zealand law

- a) The laws of New Zealand shall govern the RFP and each Applicant agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process.

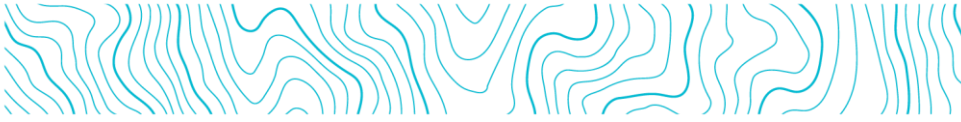
#### 7.3.13 Disclaimer

- a) HCC will not be liable in contract, tort, equity, or in any other way whatsoever for any direct or indirect damage, loss or cost incurred by any Applicant or any other person in respect of the RFP process.
- b) Nothing contained or implied in the RFP, or RFP process, or any other communication by HCC to any Applicant shall be construed as legal, financial or other advice. HCC has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.
- c) To the extent that liability cannot be excluded, the maximum aggregate liability of HCC, its agents and advisors is \$1.

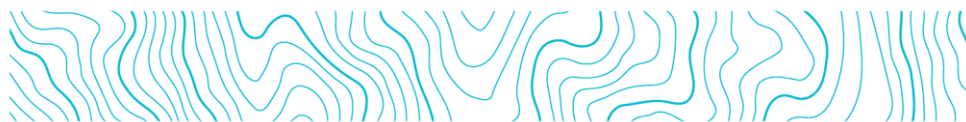
#### 7.3.14 Precedence

- a) Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
  - (i) Section 2.7;
  - (ii) Section 6;



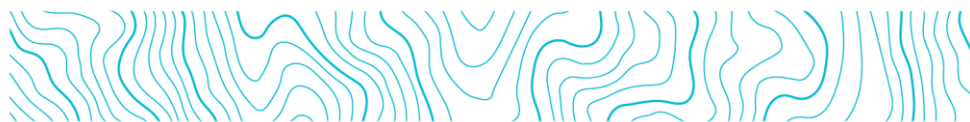


- (iii) all other Sections of this RFP document;
  - (iv) any additional information or document provided by HCC to Applicants through HCC's Point of Contact.
- b) If there is any conflict or inconsistency between information or documents having the same level of precedence, the later information or document will prevail.



## 8 Glossary of Terms

Term	Description
<b>Applicant</b>	The eligible legal entity (or group of entities), which has submitted or is in the process of submitting a Proposal to the LCA Fund for one or more Projects.
<b>Business Day</b>	Any week day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year’s Day.
<b>Confidential Information</b>	<p>Information that:</p> <ul style="list-style-type: none"> <li>(a) is by its nature confidential;</li> <li>(b) is marked by either HCC or an Applicant as ‘confidential’, ‘commercially sensitive’, ‘sensitive’, ‘in confidence’, ‘top secret’, ‘secret’, ‘classified’ and/or ‘restricted’;</li> <li>(c) is provided by HCC, an Applicant, or a third party in confidence;</li> <li>(d) HCC or an Applicant knows, or ought to know, is confidential.</li> </ul> <p>Confidential Information does not cover information that is in the public domain through no fault of either HCC or an Applicant.</p>
<b>Conflict of Interest</b>	<p>A Conflict of Interest arises if an Applicant’s personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to HCC under the RFP. It means that the Applicant’s independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:</p> <ul style="list-style-type: none"> <li>(a) actual: where the conflict currently exists;</li> <li>(b) potential: where the conflict is about to happen or could happen, or;</li> <li>(c) perceived: where other people may reasonably think that a person is compromised.</li> </ul>
<b>Deadline for Proposals</b>	The deadline that Proposals are to be submitted by the Applicant.
<b>Decision Making Panel (the Panel)</b>	<p>The Decision Making panel, comprising persons with relevant experience.</p> <p>The Panel assesses Proposals for LCA Fund investment, and makes decisions on which Proposals should receive LCA funding.</p>
<b>Funding Agreement</b>	The written agreement entered into by HCC and each Successful Applicant for the delivery of the Project(s).
<b>GST</b>	The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.



<b>Intellectual Property</b>	All Intellectual Property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.
<b>Point of Contact</b>	HCC and each Applicant are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. HCC's Point of Contact is identified in Section 2.3. The Applicant's Point of Contact is identified in its Proposal.
<b>Proposal</b>	Description of the Project, developed by an Applicant and submitted to the LCA Fund to be considered for LCA funding.
<b>Project</b>	A Project for which the Proposal has been submitted for. This encompasses all activities, steps, tasks or elements for which an Applicant is seeking LCA funding.
<b>Proposal Validity Period</b>	The period of time when a Proposal is held open by the Applicant for acceptance by HCC.
<b>Proposed Funding Agreement</b>	The Funding Agreement terms and conditions proposed by HCC for the delivery of the Project as described or referred to in Section 5.
<b>Recipient</b>	The Successful Applicant that enters into a Funding Agreement with HCC.
<b>RFP</b>	Means the Request for Proposals; the RFP comprises this RFP document, the Response Form, the Proposed Funding Agreement, and any other information provided through HCC's Point of Contact or the HCC website.
<b>Response Form</b>	The form and declaration prescribed by HCC and used by the Applicant to respond to the RFP.
<b>Successful Applicant</b>	An Applicant whose Proposal is determined by the Decision Making Panel to conditionally receive funding.