



# Low Emission Transport Fund Request for Proposals

Adoption of Public  
Charging Infrastructure

Round 2, October 2021

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## Key dates

RFP released:	9am, Wednesday 6 October 2021
Deadline for Questions:	4pm, Wednesday 27 October 2021
Deadline for Proposals:	12pm, Wednesday 3 November 2021
Decision to be announced:	From mid-February 2022

## Section 1 What we are looking for

### 1.1 About the Fund

The transport sector currently produces 47 per cent of New Zealand's CO<sub>2</sub> emissions and between 1990 and 2018, domestic transport emissions increased by 90 per cent. With transport decarbonisation expected to play a key role in New Zealand's progress towards our 2050 goals, the Government is extending its investment into reducing transport emissions with the new Low Emission Transport Fund ("the Fund", or "LETF").

This Fund builds on the now-complete Low Emission Vehicles Contestable Fund, with an increase in size and scope. It will continue to be administered on behalf of the Government by EECA (the Energy Efficiency and Conservation Authority).

In addition to charging infrastructure support to aid overcoming barriers to uptake, the LETF will support the demonstration of high potential and replicable solutions, and adoption of low emission transport technology, innovation and infrastructure to help accelerate the decarbonisation of the New Zealand transport sector. The Fund will stimulate the uptake of low emission solutions, while providing additional knowledge and learnings for further replication to reduce greenhouse gas emissions from transport. Early action can start to accelerate wider deployment for demonstrated and critical low emission pathway solutions at a supported commercial scale.

The Fund will focus on transport sector projects that move people and/or goods on roads, off-road, and in the marine and aviation sectors to

- demonstrate innovative solutions that will enable future adoption and deployment;
- reduce energy related emissions in the transport sector;
- address market and organisational barriers through co-investment and diffusion of new knowledge and learnings; and
- share learnings and knowledge to stimulate wider replication of successful projects and solutions in the transport sector.

To best deliver the outcomes of the LETF, the Fund is divided into a portfolio of Investment Activities which will be released to the market as individual funding rounds.

#### **This Funding Round seeks project applications for Adoption of Public Charging Infrastructure.**

EECA is currently leading the development of a public electric vehicle charging roadmap for New Zealand. Future funding rounds for public charging infrastructure will reflect the results of this programme of work.

### 1.2 What we are looking for in this round

#### **Round 2: Adoption of Public Charging Infrastructure (First Round)**

The **Investment Activity** for this funding round is to seek proposals for co-funding for public EV charging infrastructure such as hyper power chargers and destination chargers to support and accelerate wider deployment and market uptake of electric vehicles as a key part of New Zealand's move to low emission transport.

This round is intended for public charging projects where the deliverable is a charger and infrastructure to help grow the network of public chargers around the country. A separate funding round for Demonstration of Vehicles & Technology includes charging infrastructure technology in its scope, e.g. projects which

demonstrate the ability of technology to address constrained infrastructure or power availability at charging locations of interest. More information can be found at [www.eeca.govt.nz/LETF](http://www.eeca.govt.nz/LETF).

This round's **Investment Activity** looks for Projects that will provide:

1. Public chargers in identified charging infrastructure gaps and locations to future-proof for expected increased demand. To minimise queueing and stay ahead of EV uptake, multi-head chargers at higher speeds will be prioritised.
2. Public destination chargers of 25kW DC minimum for community or neighbourhood charging, both individual or a network where users will spend between 30 mins and 2 hours.

These Projects should:

- Support EV uptake and provide consumers with confidence in the availability of public electric vehicle charging infrastructure.
- Ensure charging infrastructure standards such as interoperability, connectivity and energy efficiency are adequately met.
- Provide the Government and industry with information and guidance to better inform planning and optimal investment.
- Encourage new entrants and competition for provision of charging infrastructure and service providers.
- Enable innovation in new technology and business models.
- Who can apply is detailed in Section 1.4 and minimum eligibility requirements are found in Section 3.3 below.

### What is important to us?

Projects will need to ensure they fit with the Investment Activity described above, are able to deliver and represent strong value for money for Government investment. Projects will be considered in line with criteria that has been guided by the following **Investment Principles** and accompanying questions for consideration when putting together a Proposal:

- 1) **Enable future emission reductions:** Projects should demonstrate an indirect or direct contribution to the objective of transport sector decarbonisation;
  - What is the justification for selection of this charging location selection and how will this location maximise potential benefits?
  - What is your site selection methodology i.e. how will you select stations that are easily identified by drivers, safe and convenient to access?
  - What evidence do you have of current or near future unserved demand, and does this justify the specification of the charger you have proposed? Do you intend to install additional charging infrastructure capability as demand at this location grows?
- 2) **Demonstration of innovative and replicable low emission Projects:** Projects should focus on decarbonising high impact areas through supporting early adopters that demonstrate replication potential and de-risk new emerging innovations;
  - Does the project offer increased market competition, for example through additional options for end-users or new billing platforms?
  - What is the cost per kW installed?
  - Why has the selected charger size been chosen and how future-proofed is that selection?

- Is there a significant opportunity for Project findings and new knowledge resulting from the Project? What barriers could be overcome? Note: barriers cannot be simply financial.
  - How replicable is the Project for broader application, what conditions would be necessary to enable further investment?
  - What are the key performance indicators that would lead you to further investment? What is the scale-up opportunity for your organisation or the market, and what are you prepared to commit to following this Project?
- 3) **Diffusion of knowledge and learnings:** Project data will create knowledge and learnings for Government and industry decision-makers, with the knowledge adopted by businesses and individuals to attract private investment and shift consumer behaviour;
- What knowledge and learnings are expected to be gained from Project data?
  - How do you plan to share knowledge and learnings and with what stakeholders/target audience (e.g. marketing, conferences, published papers, internal resource?). To what extent will data and information be made publicly available?
  - How do you intend to collect and analyse the data (e.g. including what specialist resources you might use) and what help or constraints might prevent you from meeting knowledge and data reporting requirements. *Note: you will agree to sharing knowledge, reporting and data with EECA as part of the Funding Agreement, as defined in Section 8.*
- 4) **Encouragement of sector transformation:** improvement of business, community and/or Government capability to develop commercially competitive and innovative responses to barriers and opportunities leading to broader market development;
- How will the Project help to decarbonise transport (e.g. might the Project help to improve the level of expertise, knowledge, capability and capacity of providers of EV charging infrastructure in NZ, remove regulatory barriers and so on)?
  - What benefits will the Project offer to the local community and businesses?
  - What growth in public uptake is expected?
  - How will the Project be promoted to targeted users?
  - What is the level of public servicing in the proposed locations (e.g. restaurants, shopping, entertainment facilities)?
  - What is the ability for the selected billing platform to integrate with existing platforms to provide choice and minimise creation of additional inconvenience for the customer?
- 5) **Leverage of co-funding:** the number of Projects will be maximised by leveraging co-funding opportunities, and provide a link with other Government funds;
- What level of co-funding or proportion of total costs is requested?
  - Is the application by one entity, or a partnership or consortium? (do they share costs, risks, promotion?).
  - How important is the Fund to supporting the delivery, scale, or speed with which these public benefits will be realised? What can still be achieved without funding? Note that co-funding is intended for Projects which would otherwise not happen.
  - How much more private investment might be unlocked by the Project?

- How soon can the Project deliver for you, and in what timeframe might it deliver benefit to the market?
- 6) **Value for money:** Projects will demonstrate value for money by seeking the best possible public benefits, co-benefits and outcomes with overall benefits exceeding the overall costs.
- What are the overall benefits or value of the Project activity?
  - What are the overall costs or externalities of the Project activity?
  - How will the Project lead to public benefits and how large are those benefits expected to be compared to the funding being sought from the Fund?
  - How does this Project contribute to increasing infrastructure availability or filling identified gaps in the charging network?
  - What are the public benefits of the proposed location (e.g. does it enable a new or underserved travel route which might otherwise not offer a return on investment)?
  - Is the charging infrastructure specification and related power requirement the best fit for the expected demand at the site? Is the site capable of supporting additional or higher power chargers within the current capability of the site?
  - Does the proposed location offer cost effective connection access and costs with regard to power supply available?
  - How has the proposed location been selected, balancing user convenience versus power availability?
  - Does the Project meet relevant safety standards and regulations? (e.g. technical guidance developed by WorkSafe (<https://worksafe.govt.nz/laws-and-regulations/regulations/electrical-regulations/regulatory-guidance-notes/electric-vehicle-charging-safety-guidelines/>), and EECA's Publicly Available Specifications (PAS) for commercial and residential charging (<https://www.eeca.govt.nz/regulations/publicly-available-specifications/>));
  - What is the Project's readiness to deliver?
  - Has the site been scoped for approvals, electricity requirements matched with supply, and costs estimated/quotes provided?
  - Have approvals (e.g. from the owner of the proposed site) been provided or can they be shown to be in progress and likely to be granted?
  - Have suppliers confirmed costs and timelines for delivery? Are there any risks associated with these?
  - Will the Project be delivered in a timely manner to meet the Fund's objectives?
  - Has the Applicant's co-funding been approved and committed to the Project at the appropriate level of financial authority?
  - Have any regulatory approvals required been identified and allowed for?
  - Has clarity of ownership of any assets purchased through the Fund been established?

Projects will be scored against how well they meet the Assessment Criteria for this round, found in Section 3.4.

### 1.3 Type of Projects

#### What can be funded?

The Fund will support investment in public charging infrastructure to decarbonise the transport sector. Applicants may propose Projects which include charging infrastructure, electrical connection, site works,



modest project management, and where necessary contribution to additional supply capacity where it provides public benefit.

For the avoidance of doubt, the interpretation of ‘transport’ takes a sector approach but does not directly address the wider transport system (such as building roads, transportation/city planning, urban development, mode shift policy etc).

At a minimum the applicant’s response must provide that the Project:

- is to be implemented in New Zealand;
- is related to application of a transport specific Project in the transport sector (i.e the primary purpose is to reduce emissions for shifting people and/or goods in the transport sector);
- develops or utilises commercially available technology or infrastructure;
- is supported by a suitable feasibility study or business case outlining why the Project proposed is the best approach;
- delivery is supported by a comprehensive Project plan with acceptable milestones and achievable timelines;
- has the necessary regulatory approvals, funding approvals and ownership of the assets purchased through the Fund; and
- has suitably assessed Project costs including supplier estimates for primary components of the Project.

Projects must be delivered in New Zealand, however Proposals can include the involvement of suppliers based overseas.

In addition, the following are factors that are important to us in considering Proposals:

- The Applicant’s share of funding is committed to the Project and any outstanding approvals will be attained within 30 days of being notified of Government funding approval;
- Any regulatory approvals required have been identified and can be achieved;
- Clarity about ownership of any assets purchased through the Fund;
- Clear deliverables and timelines; and
- Projects will be delivered in a timely manner to meet the Fund’s objectives.

**Additional qualifications:**

- Any technology proposed must be able to legally operate in New Zealand for the purpose intended by the application.
- Chargers are expected to be capable of interconnectivity.

**What will not be funded?**

For clarity, the following activities are outside the scope of this funding round:

Projects focusing on:

- private charging infrastructure, or projects which are largely for the benefit of a private entity or only provide limited public access;
- vehicles and transport technologies, biofuels, marine vessels, aviation;
- waste minimisation;
- projects that duplicate or are already covered by existing Government funds, policy, regulation or market settings initiatives (e.g Council buses);

- non-transport related Projects (i.e the primary purpose is not an activity that moves people or goods in the transport sector);
- energy production and electricity generation such as wind or solar (e.g. solar panels) for electricity generation or electrolysis for hydrogen.
- pure transport system projects such as transportation/city planning, urban development, mode shift policy etc;
- liquid and gas fuel storage and distribution infrastructure such as biofuel storage or gas or liquid fuel pipelines;
- reducing agricultural emissions or embodied carbon;
- displacing one fossil fuel for another (e.g. coal to natural gas);
- research & development, and the implementation of technologies or infrastructure that are not commercially available;
- pure desktop research, academic research and pre-commercial studies;
- any activities that would represent an ongoing financial liability for EECA;
- international travel;
- conventional and plug-in hybrid light vehicles such as cars, utes and vans;
- light vehicle conversions, for example ICE (combustion engine, such as diesel or petrol utes, vans or cars) to EV are excluded. Heavy vehicle conversions may be eligible, refer to the appropriate RFP for more detail;
- mobile plant including bulldozers, quad bikes, mobile cranes, forklifts, and tractors;
- mobile equipment including construction equipment, farming equipment, and motorcycles;
- unmanned aerial vehicles (for example drones);
- projects that are purely focused on marketing, promotion, education and information provision;
- marketing activity beyond the initial launch of the Project as agreed in the contract with EECA; and
- “Business-as-usual” costs of an organisation such as the costs associated with existing staff.

However if you are in any doubt, please contact us and discuss your Project. The scope is constantly being reviewed and we would be interested to see if any Project can be added to a future round of the Fund.

Opportunities for projects involving vehicles and transport technologies, biofuels, marine vessels and aviation are excluded from this funding round but may be eligible in future funding rounds. If you have such a project in mind we would be interested to hear from you.

#### 1.4 Who can apply?

This funding round is open to all New Zealand-based and New Zealand-registered legal entities except Public Service Departments, Non-Public Service Departments (such as the New Zealand Defence Force), and Statutory Crown Entities such as District Health Boards.<sup>1</sup>

For clarity, the following types of organisations are eligible to submit Proposals:

- State-owned Enterprises.
- Local Councils.
- Regional Councils.

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<sup>1</sup> <https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf>



Proposals must be for Projects delivered in New Zealand, however Proposals can include the involvement of Project partners based overseas.

### 1.5 Advice for potential Applicants

Proposals must be justifiable, quantified and supported by a business case. Projects that are ready-to-go and well costed will be viewed more favourably than those which include contingency costs and other estimates.

Where Applicants are looking for feedback as to whether their Project idea would potentially fit with the Fund's scope, please email or call an EECA Point of Contact.

The expectation is that co-funding Recipients will work with EECA to share their story and results across a variety of media as agreed.

Potential applicants are strongly encouraged to talk to EECA if you have questions or ideas to discuss.

### 1.6 Co-funding

The Fund will provide up to \$4.0 million to commit to co-funding Adoption of Public Charging Infrastructure projects as defined in this RFP in the July 2021 – June 2022 financial year. A second round may be run in this financial year depending on funding availability, with a decision to be made once recommendations have been finalised for round 1. The Investment Activity for the second round may differ from this round.

EECA will seek to optimise the level of Government co-funding to ensure impact of the LETF Fund is maximised across a suitably balanced portfolio of Projects with respect to the Fund objectives.

Applicants are required to outline a level of co-funding in each Proposal. Applicants should only request co-funding of an amount that enables the Project to be implemented or brought forward.

Investment decisions will be guided by the LETF Investment Principles, and co-funding will be considered acknowledging the following **Funding Principles**:

- Projects must be at least \$50,000 to be eligible (total core Project costs) as this is at a level to enable a meaningful contribution to Fund objectives;
- Co-funding requests can be made up to 50% of total core project costs and up to \$500,000 per Project, however a higher percentage and/or dollar value may be approved. In such cases the Assessment Panel must be satisfied that:
  - The Project is likely to result in significant public benefits;
  - The Project fills a strategic charging infrastructure gap; or
  - Commercial viability is unlikely to be achieved in the Project.
- Cumulative Group Projects approved (including the applicant's Group of Companies) must not exceed 20% of the funds in a given financial year), unless agreed by the EECA Board. *Note: For the purposes of the Fund, a Group is defined as individual entities consolidated at the controlling shareholder level, including foreign ownership. EECA will maintain a running total of approved applications for Group entities;*
- Total Central Government funding, including LETF funding, cannot exceed 50 per cent of the estimated total cost of the project;
- Applicant co-funding must be cash and not in-kind (such as existing assets or the provision of already-purchased goods and services);
- Applications for funding must meet the minimum eligibility requirements set out in Section 3.3 below; and

- 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.

### 1.7 Defining the incremental cost of a Project

We are interested to know the difference between the business-as-usual cost of undertaking your Project and the cost to purchase, create or implement a low emission solution, in order to compare the value offered by your Project against other Projects. Incremental cost shows how much your choice to use low emission options is costing you over and above for example the internal combustion engine equivalent, and including the costs of infrastructure such as charging stations, specific to low emissions activity.

Calculation of the incremental cost is a requirement of the Response Form.

### 1.8 Process and decision-making

#### Contestable Rounds

There is no set maximum number of Funding Rounds for the Fund or for any specific financial year that the Fund is operational, and EECA may choose not to run further investment activity in any financial year.

#### How decisions will be made

- Applicants submit Proposals in response to this RFP.
- An Assessment Panel evaluates eligible Proposals against the defined criteria and makes funding recommendations to the EECA Delegated Authority (DA).
- Based on recommendations from the Assessment Panel, EECA may negotiate aspects of the Project with the Applicant before offering an Agreement.
- EECA and the successful Applicants will execute LETF Funding Agreements for the delivery of the Projects. The contact template is available with this RFP on EECA's website.
- Unsuccessful Applicants can request a debrief on the decision relevant to their application.

### 1.9 Reporting and knowledge sharing requirements

As a condition of co-funding, EECA will be seeking data, information and lessons learned during the Project.

Recipients will be required to agree to knowledge, reporting and data deliverables in Schedules 1 and 3 of the Funding Agreement, which will set out what information and knowledge generated during the Project will be provided, and how, when and with whom it will be shared.

These deliverables will include:

- Project progress reporting - to monitor progress and support fund risk management.
- Project specific lessons and outcomes learnt over the duration of the Project period.
- Project data and knowledge sharing: to provide information, data, analysis and performance reporting to assess the overall effectiveness and performance of the Project outcomes. Data will be collected by EECA and can be used to support diffusion of knowledge and learnings to the market (such as publicly available case studies for replicable projects).

Applicants should refer to Schedules 1 and 3 of the Proposed Funding Agreement for examples.

Recipients will work with EECA to share their story and results across a variety of media. Case studies of the Projects may also be published on the EECA website.

From time to time as required EECA may specify additional reporting requirements to support analysis of the performance of an individual Project, or to aid overall assessment of Fund performance.

## Section 2 Key Information

### 2.1 Context

This RFP is an invitation to submit a Proposal for funding from the LETF.

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. All dates and times are in New Zealand.

Steps in the RFP process	Date
RFP opens	9am, Wednesday 6 October 2021
Deadline for questions from Applicants	4pm, Wednesday 27 October 2021
Deadline for EECA to answer Applicants' questions	5pm, Friday 29 October 2021
<b>Deadline for Proposals</b>	<b>12pm, Wednesday 3 November 2021</b>
Assessment Panel process (including assessing and moderating proposals and any interviews of Applicants)	By Friday 4 February 2022
Panel recommendations and EECA approval process complete	By Friday 11 February 2022
Applicants notified of outcome	From mid-February 2022

### 2.3 How to contact us

All enquiries (such as questions on the scope of the Fund or assistance with the completion of the Response Form) must be directed to our Points of Contact by the “deadline for questions” above. We will manage all external communications through these Points of Contact.

Our Points of Contact:

**Name:** Camilla Cochrane

**Role:** Transport Funds Lead

**Email address:** [LETFund@eeca.govt.nz](mailto:LETFund@eeca.govt.nz)

**Number:** 027 457 0205

**Name:** Richard Briggs

**Role:** Manager Transport Portfolio

**Email address:** [LETFund@eeca.govt.nz](mailto:LETFund@eeca.govt.nz)

**Number:** 027 222 2426

### 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. In particular:

1. Develop a strong understanding of what we are looking for as detailed in Section 1.
2. In structuring your Proposal consider how it will be assessed. Section 3 describes our assessment and decision-making approach.

If anything is unclear or you have a question, email or call one of our Points 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 EECA website.

You must also complete and sign the declaration at the end of the Response Form.

## **2.5 Address for submitting your Proposal**

**Proposals must be submitted by email to EECA** at the following address:

[LETFund@eeca.govt.nz](mailto:LETFund@eeca.govt.nz).

Proposals sent by post or fax, or hard copy delivered to our office will not be accepted.

## **2.6 Proposal Validity Period**

In submitting a Proposal the Applicant agrees that it be held open by the Applicant for acceptance by EECA for at least six 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 Emission Transport Fund Section of the EECA website (where you got this RFP documentation from, [www.eeca.govt.nz/LETF](http://www.eeca.govt.nz/LETF)).

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

## Section 3 Our Assessment and Decision-Making Approach

### 3.1 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 and will be assessed by an Assessment Panel. The indicative assessment process and timing is shown below:

Date	Action
by 12pm, Wednesday 3 November 2021	Applicants submit Proposals in response to this RFP
by 5pm, Friday 5 November 2021	EECA email confirmation of receipt of your application
by Friday 19 November 2021	EECA administrative review for eligibility and completeness, and preparation for the Panel
by Friday 4 February 2022	Panel makes recommendations to the EECA Delegated Authority, who makes funding decisions
By mid-February 2022	Applicants notified of decisions. Results are embargoed until the official Government announcement.

### 3.2 Assessment Panel members

The Assessment Panel comprises the chair and up to three additional staff members of EECA, and at EECA's discretion may include external members as required. A quorum of **at least 3 voting members** will be required.

Panelists will sign a conflict of interest declaration upon appointment and will thereafter confirm that declaration and their agreement to the process for managing 'commercial in confidence' information, immediately before receiving the eligible applications in each round.

The proposed makeup of the Panel is as follows:

Role	Voting	Member
Chair of evaluation panel	✓	1 EECA internal appointment
Business group	✓	1 EECA business subject matter expert
Technical experts	✓	2 EECA or external technical subject matter experts
Panel Administration	x	1 EECA internal appointment

### 3.3 Minimum eligibility conditions

Before a Proposal can be assessed by our Assessment Panel, the Applicant and the Project must meet all of the following eligibility conditions or it will be eliminated from further consideration.

#	Minimum eligibility conditions	Meets condition
A	Be an eligible entity, i.e. New Zealand-based and New Zealand-registered legal entities except Public Service Departments, Non-Public Service Departments (such	Yes/No

	as the New Zealand Defence Force), and Statutory Crown Entities such as District Health Boards.	
B	The Project will be delivered in New Zealand (note the Project may utilise overseas suppliers but the resulting Project delivery and outcomes must be New Zealand based).	Yes/No
C	The Project must generate transport emission reductions, either directly or indirectly.	Yes/No
D	The Project must not be using elements or technology that are not legally approved for use.	Yes/No
E	The Project must deliver in the transport sector.	Yes/No
F	Be seeking funding for Projects in the areas noted in the RFP regarding eligibility.	Yes/No
G	The Applicant will have necessary internal/third party approvals and any budgets required to undertake the Project (subject to LETF funding) in place within one month of approval (or as agreed with EECA) in order for both Parties to execute the Funding Agreement.	Yes/No
H	The Project must rely on commercially available and proven technologies (those that are not commercially available such as R&D are excluded), but some level of development may be acceptable where Projects involve a live pilot and result in a commercially available solution.	Yes/No
I	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.	Yes/No
J	Be committed to providing knowledge, reporting and data deliverables as requested or required by EECA for sharing with EECA (including relevant Government Agencies) and the wider market (following confidentiality rules).	Yes/No
K	Be committed to use EECA or Gen-Less branding in any marketing or Project material with the public.	Yes/No
L	Be committed to working in a manner that will not damage EECA's reputation.	Yes/No
M	Have completed the RFP Response Form in full.	Yes/No
N	The Project must deliver solutions meeting current New Zealand, regulations, guidelines and legislation, including where applicable WorkSafe guidelines, and Waka Kotahi road regulations and vehicle compliance. Projects that include EV chargers must also follow EECA's Publicly Available Specifications (PAS) Guidelines on commercial and residential charging.	Yes/No
O	The Project must deliver realisable data and knowledge within a reasonable timeframe appropriate to the technology or target market of the Project. This is further specified in the Knowledge Sharing and Reporting Section of the RFP.	Yes/No

### 3.4 Assessment criteria

Proposals which meet all minimum eligibility conditions will be assessed on their merits by an Assessment Panel according to the following assessment criteria. All criteria are weighted according to the table below.

Applicants may, if they wish, provide supporting evidence to back up statements made in their response to the various questions on the RFP Response Form. These materials will form part of the Applicant's Proposal.

Criteria*	Weighting	Key question(s)
Fit with the Investment Activity	20%	<ul style="list-style-type: none"> <li>How well does the Project fit with one or more of the Investment Activities in the scope of the funding round?</li> </ul>
Fit with Investment Principles	50%	<ul style="list-style-type: none"> <li>How well does the Project fit with one or more of the Investment Principles for the funding round?</li> </ul> Refer to the Investment Principles Section.
Ability to deliver	15%	<ul style="list-style-type: none"> <li>To what extent does the Applicant have the expertise, resources, relationships and commitment necessary to deliver the initiative?</li> <li>What is the Applicant's track record of delivering comparable Projects?</li> <li>Has the Applicant credibly identified Project risks and barriers to success and how they will be addressed?</li> <li>How quickly can the Project be delivered?</li> <li>Has the Applicant sought confirmation and/or approvals from all relevant parties to the Project, e.g. landowners, Councils?</li> </ul>
Value for money	15%	<ul style="list-style-type: none"> <li>How will the Project lead to public benefits and how large are those benefits expected to be compared to the funding being sought?</li> <li>How important is the Fund to supporting the delivery, scale, or speed with which these public benefits will be realised? What can still be achieved without funding?</li> <li>Will the Project run over multiple years or within a shorter period? When will the Project deliver the benefits promised in the Proposal?</li> </ul>

\* Any additional considerations are detailed in the specific Investment Principles section for this RFP, see Section 1.2.

### 3.5 Scoring Scale

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 Assessment 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	7-8



	Project. Response identifies factors that will offer potential added value, with supporting evidence.	
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

\* Any additional considerations are detailed in the specific Investment Principles section for this RFP, see Section 1.2.

In addition to public benefits, EECA understands Projects may 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.

### 3.6 Scoring Scale

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 Assessment Panel.

### 3.7 Further analysis of Proposals

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

1. Reference check the Applicant organisation(s) and named personnel.
2. Request clarification of aspects of the Proposal.
3. Request confirmation of delivery timelines and co-funding commitments.
4. Interview Applicants.
5. Request business cases/and/or feasibility studies to support the Proposal.
6. Engage with other relevant Government Agencies on aspects of the Proposal.
7. Conduct internal and/or external due diligence checks.

Responses to EECA requests for the above should be timely and the findings will be taken into account in the assessment process.

### 3.8 Decision-making

The Assessment Panel will make recommendations for funding to the EECA Delegated Authority (“DA”).

The DA is the decision-maker for LETF funding, and has the sole discretion to determine which Projects (if any) will receive LETF funding and the value of any funding.

The DA will take into account the recommendations from the Assessment Panel, as well as advice on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The DA may also impose any additional conditions it sees fit, prior to funding being approved.

If the DA 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.

If the DA decides to approve funding, it will make a contingent decision which will be communicated to the Successful Applicants. Results are embargoed until the Government makes a public announcement of the results.

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

## Section 4 Funding Sought

### 4.1 Funding information to be provided by Applicants

Applicants are to provide details of their funding sought as part of their Proposal. In submitting the funding request Applicants must meet the following:

1. Applicants are to use the funding schedule template provided in the Response Form.
2. The funding schedule is to show a breakdown of all costs, fees, expenses and charges associated with the full delivery of the Proposed Project over the term of the Project.
3. Where the funding sought, or part thereof, is based on fee rates, all rates are to be specified, either hourly or daily or both as required.
4. Where the Project is an extension of what would have been a business-as-usual activity all Project components and costs in excess of the business-as-usual activity must be provided.
5. The Applicant must provide assurance of internal, Board or other approvals required, and any required budgets, for the Project to proceed.
6. The Applicant must provide evidence of approvals and/or permissions from entities that will influence the outcomes of the Project, for example landowners, Councils and Regulators. Where approvals and permissions are not provided, Applicants must acknowledge potential delays or risks. In scoring Proposals, the Assessment Panel takes into account the readiness of the Project and the ability of the Applicant to deliver.
7. In preparing their Proposal, the Applicant is to consider all risks, contingencies and other circumstances relating to the delivery of the Project and include adequate provision in the Proposal and funding information to manage such risks and contingencies.
8. The Applicant must document in its Proposal all assumptions and qualifications made about the delivery of the Project, including in the funding information. Any assumption that EECA or a third party will incur any cost related to the delivery of the Project must be stated, and the cost estimated if possible.
9. Costs should be submitted in NZ\$ and be exclusive of GST.
10. Where two or more entities cooperate and develop a Proposal together, the funding schedule is to include all costs, fees, expenses and charges chargeable by all entities. Note that one entity must be assigned as the lead Applicant, and the contract will be with that lead Applicant.

## Section 5 Our Funding Agreement

### 5.1 Proposed Funding Agreement

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

### 5.2 Funding Agreement

Once a Proposal has been approved for funding, and subject to Section 7.9 of this RFP, EECA and the Successful Applicant will enter into a Funding Agreement that commits the Recipient to implement the Project.

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 LETF.

A Recipient cannot change the Project scope once it has been approved. Once the Project commences, minor changes to milestone dates can be approved with EECA's agreement and managed through a Funding Agreement variation.

All Funding Agreements will comprise EECA's standard terms and conditions (see Proposed Funding Agreement), and details of the individual Project being funded. These details may include (but are not limited to):

1. Any conditions that must be met as required by EECA.
2. The total funding package (funds supplied by the Applicant and the LETF).
3. Project tasks, targets and measures (milestones).
4. Payment terms.
5. Reporting requirements.
6. The duration and term of the Funding Agreement.

Specific information relating to Funding Agreements is detailed below.

### 5.3 Prior agreement to terms and conditions

Applicants are to review and understand the terms and conditions set out in the Proposed Funding Agreement. Applicants need to indicate in their Proposals any standard terms and conditions that they wish to discuss and negotiate further if their Proposal is successful.

This is especially important if you intend to transfer ownership of any of the assets purchased/created during the Project.

### 5.4 Deadline for signing

EECA's expectation is that all Successful Applicants will sign their Funding Agreements within 30 days of being offered the funding. The funding offer will lapse after that period.

### 5.5 Funding payments

Funding will be paid for the completion of agreed milestones using claims from the Recipient and buyer-created invoices issued by EECA.

## **5.6 Monitoring – Reporting, record-keeping and auditing**

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

Among other things, a Recipient will be required to provide regular progress reports to EECA. The Funding Agreement may also require specific additional reporting in order to receive funds from the LETF.

Recipients should also be aware that EECA may audit their records relevant to the Funding Agreement at any time, as per the standard terms and conditions of the Funding Agreement.

## Section 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 EECA and related parties at any stage prior to a Funding Agreement being signed.
- Information provided to or by EECA and the Assessment Panel prior to Proposals being submitted.
- Proposals.
- Materials used to comment on and assess Proposals.

### 6.2 Official Information Act

EECA is bound by the Official Information Act 1982 (OIA) 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 EECA holds can be requested by third parties and EECA must provide information as required to do so by law.

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

### 6.3 Publication of decisions

EECA will make public all LETF 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

#### Conflict of Interest with respect to the Assessment Panel

The Assessment Panel operates a robust Conflict of Interest policy under which conflicts (real or perceived) are declared and managed. If Applicants consider there are any Conflicts of Interest relating to their interests and/or their Proposals and any persons at EECA, they are requested to contact EECA in writing via [LETFund@eeca.govt.nz](mailto:LETFund@eeca.govt.nz).

#### 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 EECA, as and when it arises, for the duration of the Funding Agreement. If in doubt, Applicants must disclose the situation to EECA in writing via [LETFund@eeca.govt.nz](mailto:LETFund@eeca.govt.nz).

## **6.5 Due diligence and financial matters**

### **Due diligence**

At any stage during the assessment process, EECA 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.

### **GST**

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

### **Financial Year**

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

### **Tax advice**

EECA 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 LETF 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 Official Information Act.



## Section 7 RFP Process, Terms and Conditions

### Note to Applicants

- In managing the Fund, EECA 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.

### RFP Process

#### 7.1 Preparing a Proposal

1. Applicants are to use the Response Form provided and include all information requested by EECA in relation to the RFP.
2. By submitting a Proposal the Applicant accepts that it is bound by these RFP Terms.
3. Each Applicant will:
  - a. examine the RFP and any documents referenced in the RFP and any other information provided by EECA;
  - b. 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;
  - c. document in its Proposal all assumptions and qualifications made about the delivery of the Proposed Project, including any assumption that EECA or a third party will deliver any aspect of the Proposed Project or incur any cost related to the delivery of the Proposed Project;
  - d. ensure that pricing information is quoted in NZ\$ exclusive of GST;
  - e. if appropriate, obtain independent advice before submitting a Proposal;
  - f. 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.

#### 7.2 Proposal Validity Period

Proposals are to remain valid and open for acceptance by EECA for the Proposal Validity Period.

#### 7.3 Applicants’ Deadline for Questions

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.

All requests for clarification must be made by email to EECA’s Point of Contact. EECA will endeavour to respond to requests in a timely manner, according to the schedule in Section 2.2.

If EECA 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 EECA may summarise the question and will not disclose the Applicant's identity. The question and answer will be posted on the EECA website. An Applicant may withdraw a request at any time.

In submitting a request for clarification an Applicant is to indicate, in its request, any information that is commercially sensitive. EECA will not publish such commercially sensitive information. However, EECA may modify a request to eliminate such commercially sensitive information, and publish this and the answer where EECA 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.

## **7.4 Submitting a Proposal**

Each Applicant is responsible for ensuring that its Proposal is received by EECA at the correct email address according to the schedule in Section 4.1. EECA will acknowledge receipt of each Proposal.

EECA 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 EECA each Applicant should check that all information it provides to EECA:

- is true, accurate and complete, and not misleading in any material respect; and
- does not contain Intellectual Property that will breach a third party's rights.

EECA may invite Applicants to rectify any minor errors or omissions in their Proposals according to the schedule in Section 2.2 during EECA's administrative review and eligibility check process. Otherwise, any Proposal not meeting all the minimum eligibility conditions specified in Section 3.3 will be disqualified from the remainder of the process.

## **Assessing Proposals**

### **7.5 Assessment Panel**

EECA will convene an Assessment Panel comprising members chosen for their relevant expertise and experience. In addition, EECA may invite independent advisors to assist in the assessment of any Proposal, or any aspect of any Proposal.

### **7.6 Third party information**

Each Applicant authorises EECA 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.

Each Applicant is to ensure that all referees listed in support of its Proposal (if provided) agree to provide a reference.

To facilitate discussions between EECA 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.

### **7.7 Proposal clarification**

EECA, or the Assessment Panel, may at any time request from any Applicant clarification of its Proposal as well as additional information about any aspect of its Proposal. EECA is not required to request the same clarification or information from each Applicant.

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 Assessment Panel may take such clarification or additional information into account in assessing the Proposal.

Where an Applicant fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Assessment Panel may cease assessing the Applicant's Proposal and EECA may eliminate the Proposal from the RFP process.

## 7.8 Assessment and decision-making

The Assessment Panel will base its assessment on the Proposals submitted in response to the RFP. The Assessment Panel may adjust its assessment of a Proposal following consideration of any clarification or additional information as described in Sections 8.2.2 and 8.2.3.

In deciding which Applicants to recommend funding for, the Assessment Panel will take into account the results of the assessment. The Assessment Panel may also take into account any of the following additional information:

- the results from reference checks and any other due diligence;
- any matter that materially impacts on EECA's trust and confidence in the Applicant;
- any other relevant information that EECA may have in its possession.

The Assessment Panel will make recommendations for funding of selected Projects to the EECA delegated Authority (DA). The DA has the sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. The DA will take into account the recommendations from the Assessment Panel, as well as advice on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The DA may also impose any additional conditions it sees fit, prior to funding being approved.

If the DA declines funding, the Applicants will be informed and may be offered a debrief, then the process is complete.

If the DA decides to approve funding, they will make a contingent decision which will be communicated to the Successful Applicants.

## 7.9 Negotiations

EECA 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 EECA may discontinue the negotiations.

Each Applicant agrees that any legally binding Funding Agreement entered into between the Successful Applicant and EECA will be essentially in the form set out in the Proposed Funding Agreement, which is part of the RFP documentation.

## 7.10 Applicant's debrief

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, EECA will provide the debrief within 30 Business Days of the date of the request.

The debrief may be provided by letter, email, phone or at a meeting. The debrief will:

- provide the reasons why the Proposal was or was not successful;

- explain how the Proposal performed against the minimum eligibility conditions and the assessment criteria;
- indicate the Proposal's relative strengths and weaknesses;
- explain, in general terms, the relative advantage/s of the successful Proposal/s;
- seek to address any concerns or questions from the Applicant;
- seek feedback from the Applicant on the RFP and the RFP process.

### **7.11 Notification of outcome**

At any point, but no later than 30 Business Days after the DA has made decisions on which Proposals will be offered funding, EECA will inform all unsuccessful Applicants of the outcome regarding their Proposal.

### **7.12 Issues and complaints**

An Applicant may, in good faith, raise with EECA any issue or complaint about the RFP, or the RFP process at any time.

EECA will consider and respond promptly and impartially to the Applicant's issue or complaint.

Both EECA 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.

The fact that an Applicant has raised an issue or complaint will not be used by EECA to unfairly prejudice the Applicant's ongoing participation in the RFP process, or in any future funding rounds.

## **Standard RFP conditions**

### **7.13 EECA's Point of Contact**

All enquiries regarding the RFP must be directed by email to EECA's Point of Contact. Applicants must not directly or indirectly approach any representative of EECA, or any other person, to solicit information concerning any aspect of the RFP.

Only the Point of Contact, and any authorised person of EECA, are authorised to communicate with Applicants regarding any aspect of the RFP. EECA will not be bound by any statement made by any other person.

EECA may change the Point of Contact at any time. EECA will notify any such change by posting a notice on its website.

Where an Applicant has an existing Funding Agreement with EECA 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 EECA, solicit information or discuss aspects of the RFP.

### **7.14 Conflict of Interest**

Each Applicant must complete the Conflict of Interest declaration in the Response Form and must immediately inform EECA 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.

### **7.15 Ethics**

Applicants must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of EECA or the Assessment Panel in relation to the RFP.

An Applicant who attempts to do anything prohibited by Sections 8.3.1(a); 8.3.1(d) and 8.3.3(a) may be disqualified from participating further in the RFP process.

EECA 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.

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

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 EECA. Such behaviour will result in the Applicant being disqualified from participating further in the RFP process.

EECA 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.

### **7.17 Confidential Information**

EECA and the Applicant will each take reasonable steps to protect Confidential Information and, subject to Section 8.3.5(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.

The Applicant acknowledges that EECA may 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, Assessment Panel members, partners, principals or directors, for the purpose of measuring the effectiveness of the Fund.

Applicants acknowledge that EECA's obligations under Section 8.3.5(a) are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, parliamentary and constitutional convention and any other obligations imposed by law. EECA will not be in breach of its obligations if Confidential Information is disclosed by EECA to the appropriate authority because of suspected collusive behaviour. Where EECA receives an OIA request that relates to an Applicant's Confidential Information EECA 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.

### **7.18 Confidentiality of RFP information**

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 EECA's prior written consent.

An Applicant may disclose RFP information 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.

### **7.19 Costs of participating in the RFP process**

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

## 7.20 Ownership of documents

The RFP and its contents remain the property of EECA. All Intellectual Property rights in the RFP remain the property of EECA or its licensors. EECA 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.

All documents forming the Proposal will, when delivered to EECA, become the property of EECA. Proposals will not be returned to Applicants at the end of the RFP process.

Ownership of Intellectual Property rights in the Proposal remain the property of the Applicant or its licensors. However, the Applicant grants to EECA 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.

## 7.21 No binding legal relations

Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between EECA and any Applicant, except in respect of:

- the Applicant's declaration in its Proposal;
- the Proposal Validity Period;
- the Applicant's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with EECA;
- the Assessment approach to be used by EECA to assess Proposals as set out in Section 3 and in the RFP-Terms (as varied by Section 2.7, if applicable);
- the standard RFP conditions set out in Sections 7.13 to 7.26;
- any other matters expressly described as binding obligations in Section 1.

Each exception in Section 7.21 is subject only to EECA's reserved rights in Section 7.23.

Except for the legal obligations set out in Section 7.21 no legal relationship is formed between EECA and any Applicant unless and until a Funding Agreement is entered into between those parties.

## 7.22 Elimination

EECA may exclude an Applicant from participating in the RFP if EECA has evidence of any of the following, and is considered by EECA to be material to the RFP:

- the Applicant has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP;
- the Proposal contains a material error, omission or inaccuracy;
- the Applicant is in bankruptcy, receivership or liquidation;
- the Applicant has made a false declaration;
- there is a serious performance issue in a historic or current Funding Agreement delivered by the Applicant;
- the Applicant has been convicted of a serious crime or offence;
- there is professional misconduct or an act or omission on the part of the Applicant which adversely reflects on the integrity of the Applicant;
- the Applicant has failed to pay taxes, duties or other levies;

- the Applicant represents a threat to national security or the confidentiality of sensitive Government information;
- the Applicant is a person or organisation designated as a terrorist by New Zealand Police.

### 7.23 EECA's additional rights

Despite any other provision in the RFP EECA may, on giving due notice to Applicants:

- amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP;
- make any material change to the RFP on the condition that Applicants are given a reasonable time within which to respond to the change.

Despite any other provision in the RFP EECA may:

- accept a late Proposal if it is EECA's fault that it is received late;
- in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Applicants. EECA will not accept a late Proposal if it considers that there is risk of collusion on the part of an Applicant;
- in exceptional circumstances, answer a question submitted after the Deadline for Questions;
- accept or reject any Proposal, or part of a Proposal;
- accept or reject any non-compliant, non-conforming or alternative Proposal;
- decide not to enter into a Funding Agreement with any Successful Applicant;
- liaise or negotiate with any Applicant without disclosing this to any other Applicant;
- 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;
- amend the Proposed Funding Agreement at any time, including during negotiations with an Applicant;
- waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so;
- decline to consider an Applicant's Proposal, if in EECA's opinion, awarding the funding to the Applicant may affect New Zealand's ability to comply with its international obligations including (and not limited to) treaties and international law.

EECA may request that an Applicant agrees to EECA:

- 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;
- selecting two or more Applicants to deliver a Project as a joint venture or consortium.

### 7.24 New Zealand law

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.



## 7.25 Disclaimer

EECA 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.

Nothing contained or implied in the RFP, or RFP process, or any other communication by EECA to any Applicant shall be construed as legal, financial or other advice. EECA has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.

To the extent that liability cannot be excluded, the maximum aggregate liability of EECA, its agents and advisors is \$1.

## 7.26 Precedence

Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:

- Section 2.7;
- Section 7 (RFP-Terms);
- all other sections of this RFP document;
- any additional information or document provided by EECA to Applicants through EECA's Point of Contact.

If there is any conflict or inconsistency between information or documents having the same level of precedence, the later information or document will prevail.

## Section 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 LETF for one or more Projects.
<b>Assessment Panel (the Panel)</b>	An advisory panel, comprising persons with relevant experience. The Panel assesses Proposals for LETF investment, and makes recommendations to the EECA Delegated Authority on which Proposals should receive LETF funding.
<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 EECA or an Applicant as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', classified' and/or 'restricted';</li> <li>(c) is provided by EECA, an Applicant, or a third party in confidence;</li> <li>(d) EECA 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 EECA 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 the Buyer 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>Delegated Authority</b>	The party within EECA's approval hierarchy with sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding.
<b>Funding Agreement</b>	The written agreement entered into by EECA 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>Term</b>	<b>Description</b>
<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>ICE</b>	Internal combustion engine.
<b>LEV</b>	Low Emission Vehicle.
<b>Non-Public Service Departments</b>	As defined by the State Services Commission, see <a href="https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf">https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf</a>
<b>Point of Contact</b>	EECA 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. EECA's Point of Contact is identified in Section 2.3. The Applicant's Point of Contact is identified in its Proposal.
<b>Proposal</b>	The response a Respondent submits in reply to the RFP. It comprises the Response Form, the Respondent's bid, financial and pricing information and all other information submitted by a Respondent.
<b>Project</b>	A description of a Project which the Proposal has been submitted for. This encompasses all activities, steps, tasks or elements for which an Applicant is seeking LETF funding.
<b>Proposal Validity Period</b>	The period of time when a Proposal is held open by the Applicant for acceptance by EECA.
<b>Proposed Funding Agreement</b>	The Funding Agreement terms and conditions proposed by EECA for the delivery of the Project as described or referred to in Section 5.
<b>Public Service Departments</b>	As defined by the State Services Commission, see <a href="https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf">https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf</a>
<b>Recipient</b>	The Successful Applicant that enters into a Funding Agreement with EECA.
<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 EECA's Point of Contact or the EECA website.
<b>Response Form</b>	The form and declaration prescribed by EECA and used by the Applicant to respond to the RFP.
<b>Statutory Crown Entities</b>	As defined by the State Services Commission, see <a href="https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf">https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf</a>
<b>Successful Applicant</b>	An Applicant whose Proposal is determined by the EECA Delegated Authority to conditionally receive funding.