

# Annual Review of PPP Projects – 2022

From: Waka Kotahi NZ Transport Agency, Level 5, The Majestic Centre, 100 Willis Street, PO Box 5084, Lambton Quay, Wellington 6145, [TGPPP@nzta.govt.nz](mailto:TGPPP@nzta.govt.nz)

To: Her Majesty the Queen in right of New Zealand, The Treasury, No. 1 The Terrace, Wellington, Attn. Head of PPP Programme, [PPP@treasury.govt.nz](mailto:PPP@treasury.govt.nz)

## ANNUAL REVIEW OF PŪHOI TO WARKWORTH PPP PROJECT – CONTRACT NZTA/JPA 4030

We refer to clause 14(a) (Annual Review) of the Master Reimbursement and Management Agreement (RAMA), made between Her Majesty the Queen in right of New Zealand and Waka Kotahi NZ Transport Agency on 2 November 2016. This report is the annual review of the Pūhoi to Warkworth PPP Project for the purpose of clause 14(a) (Annual Review).

Our previous report was given as at 30 June 2021 and recognised the ongoing process to resolve the Contractor's delay and cost claims related to the impacts of the Covid-19 pandemic up to that time. This report is given as at 30 June 2022.

All capitalised terms used in this report and not otherwise defined have the same meaning as given to them in the Master Reimbursement and Management Agreement.

### 1. Performance of contract management

The Pūhoi to Warkworth PPP project (P2Wk) reached Financial Close in November 2016. In the period to 30 June 2022, the Contractor (NX2) had completed 95% of the construction works, with the earthworks (99%), ground improvements (99%), structures (99%), culverts (100%) and granular pavement layers (95%) all complete or virtually complete. Asphalt pavement construction & surfacing (78% complete), kerb and channel (37% complete) wire rope barriers (36% complete), fencing (66% complete and landscaping & urban design (including ecological mitigation planting) (75% complete) comprise the vast majority of the construction works still to be undertaken. Despite the good site progress there is significant amount of Works Completion documentation necessary to demonstrate the works have been completed in accordance with the Project Agreement. Most of this information is yet to be completed and submitted to the Independent Reviewer for review.

There were no Notices of General Breach issued by Waka Kotahi to the Contractor under the Project Agreement during the year to 30 June 2022.

In June 2020 (signed Nov 2020) a COVID Settlement Agreement was reached between Waka Kotahi, NX2 and Fletcher/Acciona JV (the Construction JV), § 9(2)(j)

§ 9(2)(j)

§ 9(2)(j)

s 9(2)(i)

s 9(2)(i)

s 9(2)(i)

Waka Kotahi continues to meet the contract management requirements as detailed in the Pūhoi to Warkworth Project Agreement and the associated Works Provisioning Contract Management Plan.

2.

s 9(2)(i)

RELEAISED UNDER THE OFFICIAL INFORMATION ACT 1982

3. **Compliance with the Master Reimbursement and Management Agreement**

Waka Kotahi has continued to comply with the Master Reimbursement and Management Agreement throughout the year to 30 June 2022.

s 9(2)(i)

RELEAISED UNDER THE OFFICIAL INFORMATION ACT 1982

On 24 March 2022, the Crown via The Treasury notified Waka Kotahi, pursuant to clause 17.3 of the RAMA, that the Enhanced Framework under the RAMA applied, so Waka Kotahi must (among other things) not exercise any Material Action, as defined in the RAMA, without the Crown's prior written consent. Waka Kotahi has fully complied with the requirements of the Crown's notice, including actively engaging with The Treasury throughout the current claim negotiation process. As at 30 June 2022, the Enhanced Framework under the RAMA still applies.

#### 4. Forecast Information

There have been no claims to date against the "Indemnified Amount" under the Deed of Indemnity relating to the Pūhoi to Warkworth PPP Project, although it is noted that the Crown, via The Treasury, has been reimbursing Waka Kotahi for the Covid-19 related costs from the 2020 Integrated Settlement Agreement.

s 9(2)(i)

#### RECONCILIATION OF THE CROWN'S CONTINGENT LIABILITY

Aside from the outstanding COVID-19 claim and the issues discussed above (particularly the 'prospects' noted in section 4 above about the future risks of re-escalation of Covid-19) Waka Kotahi considers that the Crown has no additional contingent liability risk in relation to its indemnity as at June 2022 for the Pūhoi to Warkworth PPP project evaluated in this report.