

# FUNDING AGREEMENT – DESIGN AND CONSENTING GRANT UNDER 2P SCHEME

[INSERT APPLICATION ID]  
[INSERT APPLICANT NAME]



Auckland Council (“Funder”)		[Insert Applicant Name] (“Recipient”)	
<b>Street address</b>	135 Albert Street Auckland 1010	<b>Street address</b>	[Insert Applicant Address]
<b>Company No.</b>	Not applicable.	<b>Company No.</b>	[Insert Company No. (if applicable)]
We agree to provide the Funding to You, and You accept the Funding, on the terms of this Agreement.			

**Important: By signing this Agreement, you acknowledge that you:**

- have read and understood the terms of this Agreement
- have had the opportunity to seek independent advice about this Agreement before signing it
- are satisfied with your obligations under the Agreement

**Interpretation explanation:** Throughout this Agreement, when we refer to ‘we’ ‘our’ or ‘us’ we mean **Auckland Council** or the **Funder**, and when we refer to ‘you’ or ‘your’ we mean **the Recipient**.

Signed under delegated authority for and on behalf of <b>Auckland Council</b> by:
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <p><i>Authorised signatory</i></p> <p><b>Name:</b></p> <p><b>Position:</b></p> <p><b>Date:</b> _____</p>

Signed for and on behalf of [Insert Applicant Name] by:
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <p><i>Authorised signatory</i></p> <p><b>Name:</b></p> <p><b>Position:</b></p> <p><b>Date:</b> _____</p>

# Terms

BACKGROUND	
A.	Your property at [Insert Recipients Address] has been identified as having an intolerable risk to life arising from the Auckland extreme weather events in January and February of 2023, but one where the intolerable risk to life could be mitigated if certain interventions are undertaken to reduce that risk. A description of the proposed intervention works is outlined in Schedule 1 attached ( <b>Risk Mitigation Works</b> ).
B.	You have elected to opt into the Category 2P Grant Scheme and we have agreed to provide funding for design and consent work to be progressed for the proposed Risk Mitigation Works. A feasibility check will be completed prior to the consenting phase.
C.	This Agreement sets out the conditions of the Funding and next steps for the design and consenting grant.
Stages	<p>The Design and Consent grant is proposed to take place in 2 stages.</p> <ol style="list-style-type: none"> <li>1. Confirming Scope, completing Detailed Design and obtaining Quotes for the Risk Mitigation Works:</li> </ol> <p>If we determine that the Risk Mitigation Works demonstrate an Acceptable Feasibility, then the second stage is:</p> <ol style="list-style-type: none"> <li>2. Application and processing of any consents required for the Risk Mitigation Works:</li> </ol>
Steps in the Process which we require you to do	<p><u>Stage 1 - Design, Scoping and Quotes for the Scope of Risk Mitigation Works:</u> During this stage you are required to:</p> <ol style="list-style-type: none"> <li>1. Engage suitably qualified professionals (e.g., architects/drafters, design engineers, as necessary) to develop a detailed design for the Risk Mitigation Works. The design must be of a standard acceptable for consent purposes.</li> <li>2. Provide us with evidence of contractual arrangements you've entered with suppliers under this grant for design-related work (e.g., signed contract)</li> <li>3. Submit invoices (when received or monthly), along with evidence that the works and services are being delivered, to us via SmartyGrants</li> <li>4. Pay the invoices to the professional experts engaged immediately upon receipt of Funding from Auckland Council. You may be asked to provide evidence of payment. We will not be responsible for costs or consequences incurred by You due to late or non-payment of Your contractors.</li> <li>5. Once you have the detailed design, we recommend you obtain at least two quotes from licensed building practitioners to complete the Risk Mitigation Works and the estimated timeframe. The quotes should be based on the drawings prepared for your application for resource or building consent (if these are required). We recommend the quotes are provided on a fixed fee basis, with the offer open for acceptance for a minimum of three months.</li> <li>6. Submit the detailed design and the quote from your preferred contractor to us, via the SmartyGrant online system (see Handbook) to enable us to undertake a Feasibility Assessment (see below).</li> <li>7. Inform us and get our prior written approval before you instruct any change to the design or scope of works.</li> <li>8. clearly identify any Betterment Works, and separate their cost, from the Risk Mitigation Works.</li> <li>9. Obtain your neighbour's written consent for the Risk Mitigation Works to be undertaken if the works to be undertaken crosses two or more property titles (or abuts the neighbour's title).</li> </ol> <p><u>Stage 2 - Application and Processing of the Consent for the Construction Works:</u></p> <p>If your application successfully passes the Feasibility Assessment (see next section), you should obtain all consents necessary for construction of the Risk Mitigation Works. You are responsible for applying for all necessary consents, including resource, building consent and any engineering planning approvals. Points 2, 3, 4 and 7 above also apply in respects of any amounts claimed for payment in Stage 2.</p>
Feasibility Assessment	<p>Once the design work is complete for the Risk Mitigation Works, you must submit the documentation, together with proposal and quotation of your preferred contractor, to Auckland Council for a Feasibility Assessment.</p> <p>Auckland Council, in its sole discretion, will assess whether the proposed Risk Mitigation Works meet the feasibility criteria of the 2P Scheme (<b>Acceptable Feasibility</b>). This will include considerations such as whether:</p> <ul style="list-style-type: none"> <li>- The Risk Mitigation Works are operationally and technically feasible from an engineering perspective and expected to reduce risk to a tolerable level, the contractor's ability to perform the works including that it has adequate insurance for the contract works, and will hold that insurance for the full duration of the Risk Mitigation Works; and</li> <li>- The Risk Mitigation Works can reasonably be expected to be delivered within two years from the date of the Categorisation Decision; and</li> <li>- The total cost of the Design, Consent and Risk Mitigation Works will be no more than 25% of the capital value of the property* (based on the CV as at 26 January 2023), net of any EQC and insurance payments available to you for the Risk Mitigation Works.</li> </ul> <p>We may obtain and rely upon engineering reports to undertake this Feasibility Assessment.</p> <p>You may be required to provide us with further information and evidence throughout this process for us to undertake the Feasibility Assessment, or to support your application. Auckland Council may consider special circumstances in its sole discretion.</p> <p>*Where the expected total cost (which includes any applicable GST) is higher than 25% of the CV (and that is the sole reason that the Risk Mitigation Works do not demonstrate an Acceptable Feasibility) but you are willing and able to contribute all additional amounts, in our sole discretion we may still consider entering into a funding agreement with you for our fixed contribution. You will be required to evidence that you can fund the additional amounts to complete the works, including contingency for cost overruns.</p> <p>*Auckland Council's contribution can only be used for Risk Mitigation Work that is required to reduce the risk to the property from future weather events to a tolerable level. If you wish to undertake Betterment Works, the Betterment Works can be included but will be solely at your cost. The parties will update Schedule 1 to outline any Betterment Works that You intend to undertake in addition to the Risk Mitigation Works. You must also outline in Schedule 1 how these Betterment Works affect the cost, scope and timing of the Risk Mitigation Works. Any changes that you</p>

	<p>intend to make, you need to convince us that they relate to reducing the risk to a tolerable level, and are not additional Betterment Works.</p>
<b>Following Feasibility Assessment</b>	<p>We will discuss the results of the Feasibility Assessment with you.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>(a) If we determine through our Feasibility Assessment, that the proposed Risk Mitigation Works demonstrate an Acceptable Feasibility, we will approve the availability of the second stage of the Funding for you to engage the relevant consultants and proceed to obtain all consents necessary for the Risk Mitigation Works.</li> <li>(b) If consents are not required, you may move directly into applying for Construction Grant funding agreement where we contribute a fixed amount for you to use in carrying out the Risk Mitigation Works;</li> <li>(c) If feasibility is at the margins, we will discuss the options with you. This may include progressing to the next stage on the understanding that you will be responsible for any costs above the maximum council funding of 25% of the property CV.</li> <li>(d) If we determine through our Feasibility Assessment, that the proposed Risk Mitigation Works do not demonstrate an Acceptable Feasibility, and you are unwilling or unable to fund the additional costs (where the lack of Acceptable Feasibility relates solely to cost), the property will be re-categorised as Category 3 in which case we will enter into discussions with you for a buy-out under the Category 3 Voluntary Buy-out Support Scheme.</li> </ul> <p>You may also choose to opt out of the Category 2P grant scheme, noting that the existence of an intolerable risk to life will continue to be noted on the LIM.</p>
<b>Funding</b>	<p>The Funding approved is set out in Schedule 2. Council may agree at its discretion to provide additional funding for reasonable costs to meet the deliverables set out in Schedule 2 and the parties will update Schedule 2 accordingly. If there is any change in scope and/or cost for the Risk Mitigation Works, you must obtain our prior written approval before agreeing to change of scope or cost with your contractors.</p> <p>We will make payments of the costs which we have agreed to fund to your nominated bank account within ten (10) working days of us receiving invoices for work completed, along with evidence that the work has been completed. You will be responsible for ensuring payment to suppliers.</p> <p>The Funding is only for agreed Design and Consent Costs. There will be no funding for costs not agreed, such as your time for managing the process, or other exclusions such as those identified in the Handbook. If you are in any doubt, please liaise with our technical representative before you incur any costs or agree to incur costs. You will be solely liable to pay any cost overruns that have not been agreed to by Auckland Council.</p> <p>Expected milestones and deliverables for each phase are attached in Schedule 2 to this Agreement, together with any special conditions agreed to between you and Auckland Council.</p>
<b>Funding Purpose</b>	<p>You acknowledge and agree that the Funding must only be used for:</p> <ul style="list-style-type: none"> <li>(a) Engaging suitably qualified professional(s) to develop a detailed design for the proposed Risk Mitigation Works required to reduce the risk to life at the Property to a tolerable level, which includes: <ul style="list-style-type: none"> <li>i. clearly defining the scope of the proposed Risk Mitigation Works;</li> <li>ii. the drawings, specifications and calculations (and any other information required to support consent process requirements) related to the proposed Risk Mitigation Works; and</li> <li>iii. obtaining quotations and a contract price from proposed contractors for completing the proposed Risk Mitigation Works.</li> </ul> </li> <li>(b) Obtaining all consents required by Auckland Council (in its regulatory capacity) for the Risk Mitigation Works.</li> </ul>
<b>Funding Period and Duration of Category 2P Grant Scheme</b>	<p>There is no set period for completing the design and consent phase of the Risk Mitigation Works. However, as a condition of obtaining a grant for the construction of the Risk Mitigation Works, is that the Risk Mitigation Works are reasonably expected to be completed within 2 years from the date of the Categorisation Decision, it is expected that You progress the Design and Consent stages with relative expediency. If you haven't commenced the Design and Consent Milestones within 6 months and otherwise can't demonstrate to us that the works can be completed within the timeframe threshold, Auckland Council reserves the right to terminate this Agreement.</p>
<b>Termination and Return and Recovery of Funds</b>	<p>Auckland Council can terminate this Agreement by notice in writing to you if:</p> <ul style="list-style-type: none"> <li>• you do not use the Funding for the agreed Funding Purpose,</li> <li>• you do not progress your process within 6 months (unless otherwise agreed with Auckland Council),</li> <li>• you act in breach of this Agreement.</li> </ul> <p>In such events, You are to repay any misused or unspent funds to us. If you do not do so we may take enforcement action. You agree to indemnify us for all costs and expenses of any enforcement action taken by us to recover funds advanced to you under this agreement.</p> <p>We may also elect to terminate this Agreement and not fund any further works or services, if during the consenting phase, Auckland Council in its regulatory capacity, does not consent the Risk Mitigation Works, or if there's a material change to the consented works to an extent that they cannot proceed as intended, i.e. to mitigate the intolerable risk to life. In this instance, we may terminate this Agreement but You will not be required to repay any funds spent on the Funding Purpose.</p>
<b>Non-Regulatory Capacity</b>	<p>This Agreement does not bind Auckland Council as a regulatory authority, and any consent or agreement we give under this Agreement is not an agreement or consent in Auckland Council's regulatory capacity, and vice versa.</p>

	When acting in its regulatory capacity, Auckland Council may consider all applications to it without regard to this Agreement.
<b>Other Key Terms</b>	<p>You acknowledge and agree:</p> <ul style="list-style-type: none"> <li>(a) Funding is only for the Funding Purpose</li> <li>(b) This Agreement represents a one-off proposal and is not a precedent for further or ongoing works for the Property or any future weather events</li> <li>(c) By providing this Funding and any approval throughout this process, Auckland Council does not guarantee or warrant the effectiveness of the Risk Mitigation Works undertaken.</li> <li>(d) This Agreement is not legally binding until it has been signed by a delegated authoriser of Auckland Council and the registered owner (or all registered owners if more than one) of the Property</li> <li>(e) You must inform us at <a href="mailto:2pgrants@aucklandcouncil.govt.nz">2pgrants@aucklandcouncil.govt.nz</a> of any known health and safety hazards at the Property, in addition to those known to us that have formed the categorisation of Your Property.</li> <li>(f) It is Your responsibility to ensure you have complied with terms of any mortgage including notifying bank of this Agreement.</li> <li>(g) It is Your responsibility to comply with any Home and Content insurance policy obligations which relate to these works, including any obligation to notify your home insurance company of the occurrence of the Risk Mitigation Works.</li> </ul>

Funder Representative and Point of Contact	
<b>Name</b>	[Insert Funder Representative Name]
<b>Phone</b>	[Insert Funder Representative Phone Number]
<b>Email</b>	[Insert Funder Representative Email Address]

Recipient Representative	
<b>Name</b>	[Insert Recipient Representative Name]
<b>Phone</b>	[Insert Recipient Representative Phone Number]
<b>Email</b>	[Insert Recipient Representative Email Address]

**Schedule 1: Property Details and Description of the Planned Risk Mitigation Works**

<b>Property</b>	[Insert full property details: address, legal description and record of title]
<b>Description of the Planned Risk Mitigation Works</b>	<p>[insert description of the planned risk mitigation work.]</p> <p>[insert description of any Betterment Works that the Homeowner intends to do that relate or affect the undertaking of the Risk Mitigation Works.]</p>

**Schedule 2: Expected deliverables and costs for design and consent work**

Key steps / milestones	Estimated deliverable Timeframe
Contract with engineering professionals, e.g. architects, quantity and/or site surveyors, as applicable to the scope of Risk Mitigation Works	
Completion of detailed design, to a standard ready for consent application (as applicable)	
At least two quotes from contractors to complete the scope of Risk Mitigation Works, fixed price, lump sum quotes if possible and practicable	
Resource consent submitted (if applicable)	
Resource consent granted (if applicable)	
Building consent submitted (if applicable)	
Building consent granted (if applicable)	

**Costs/Agreed Funding**

<b>Costs/Agreed Funding</b>	<b>Insert name of professional/contractor, date of contract and agreed costs</b> (This Schedule will be regularly updated by the parties if required by the Agreement).
<p>Engineering and professional fees</p> <p>(, e.g. architects, quantity and/or site surveyors, as applicable to the scope of Risk Mitigation Works)</p> <p>Fee for:</p> <ol style="list-style-type: none"> <li>1. Achieving Resource consent:</li> <li>2. Achieving Building Consent:</li> </ol>	

## Terms and Definitions

Term	Definition
<b>Betterment Works</b>	Means any works to be undertaken to the property beyond the scope and Purpose of the Risk Mitigation Works.
<a href="#"><u>Category 2P Grant Scheme</u></a>	Auckland Council has established a Property Risk Mitigation Scheme to support Category 2P homeowners affected by the January and February 2023 severe weather events. The scheme will provide financial grants to support homeowners to make changes to their property so that the future intolerable risk to life from extreme weather events is reduced. This limited, one-time scheme has been made possible through a joint funding agreement between Auckland Council and the Crown.
<b>Date of the Categorisation Decision</b>	Is the date on the letter when you were notified of the categorisation of your property (as Category 2P)
<a href="#"><u>Category 3 Voluntary Buy-out</u></a>	Auckland Council has established a scheme to purchase Category 3 homes so that Aucklanders affected by the severe weather events of January and February 2023 can be supported to voluntarily relocate from residential housing situations where there is an intolerable risk to life. This is a limited, one-time scheme made possible through a joint funding agreement between Auckland Council and Crown, after public consultation with Aucklanders.
<b>Design and Consent costs</b>	Design and Consent costs refer to the expenses associated with the planning, creation, and refinement of architectural and engineering plans for consenting and the construction of the Risk Mitigation Works. These costs encompass the fees paid to design professionals, such as architects and engineers, as well as expenses related to the development of detailed drawings, specifications, and other design-related documents essential for the successful design, consenting and execution of the construction project.
<b>Feasibility Assessment</b>	This is outlined in more detail in the Handbook and in the Agreement. This assessment is the evaluation of the practicality, viability (both operationally and financially), and foreseeable success of the proposed risk mitigation work. In addition to what is stated in the Handbook and the Agreement, it involves analysing the scope of work and design to determine whether the undertaking of the Risk Mitigation Works is feasible and worth pursuing, based on the Acceptable Feasibility tests determined by Auckland Council. Whether the Risk Mitigation Works are operationally feasible, also includes an assessment, such as whether all property owners of properties upon which the Risk Mitigation Works are being undertaken (i.e. where the intolerable risk to life extends over two or more or multiple properties), agree to the Risk Mitigation Works being undertaken and will each agree to enter into a Construction Grant Agreement.
<b>Handbook</b>	The Category 2P homeowner handbook, which helps the homeowner understand the scheme details, such as the cost and time limits for work funded by the council. In support of this Agreement, the Handbook outlines the 2P Grant Scheme and its processes, including what the grants do and do not cover.
<b>Intolerable risk to life</b>	<p>Refers to a level of potential harm or danger considered unacceptable or unmanageable. It implies a balance between the benefits of an activity or circumstance and the acceptable degree of risk to human life associated with it. For the purposes of categorisation, how the council defines "intolerable risk to life" is set out in its Categorisation Approach. For flooding, there is an "intolerable risk to life" where there is a high risk to life to vulnerable people in an existing 1% AEP flood event. For landslides, there is an "intolerable risk to life" where the Annual Individual Fatality Risk is 1 in 10,000 or greater for the most vulnerable user.</p> <p>Auckland Council's Categorisation Approach was developed to implement the government's categorisation framework for Auckland homes affected by the January and February 2023 severe weather events. The Categorisation Approach sets out how properties will be categorised and includes information about the how the council will assess when there is an "intolerable risk to life".</p>
<b>LIM</b>	A LIM (Land Information Memorandum) report is a summary of information that Auckland Council holds on a property as required by section 44A of the Local Government Official Information and Meetings Act 1987 ( <b>LGOIMA</b> ).
<b>Milestones</b>	A milestone is a significant and measurable event or point in time during the progress of the construction project, marking the completion of a specific phase, achievement of a key task, or the attainment of a notable goal. Milestones serve as important markers to track and assess the project's advancement and ensure that it stays on schedule.
<b>Risk Mitigation Works</b>	This means the proposed works outlined in Schedule 1 as designed, refined and consented through the operation of this Agreement.
<b>Suppliers</b>	Suppliers are businesses or individuals that provide goods or services, while building contractors are professionals or companies hired to manage and execute construction projects.