



# AGENDA

## Emergency Council Meeting Tuesday, 12 August 2025

**Date** Tuesday, 12 August 2025

**Time** 11:00 am

**Location** Council Chamber  
District Council Building  
King George Place  
Timaru

**File Reference** 1779998

## **Timaru District Council**

**Notice is hereby given that a meeting of the Emergency Council will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Tuesday 12 August 2025, at 11:00 am.**

### **Council Members**

Mayor Nigel Bowen (Chairperson), Cllrs Allan Booth, Peter Burt, Gavin Oliver, Sally Parker, Stu Piddington, Stacey Scott, Scott Shannon, Michelle Pye and Owen Jackson

Quorum – no less than 5 members

### **Local Authorities (Members' Interests) Act 1968**

Councillors are reminded that if they have a pecuniary interest in any item on the agenda, then they must declare this interest and refrain from discussing or voting on this item and are advised to withdraw from the meeting table.

Nigel Trainor

**Chief Executive**

**Order Of Business**

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- 1      Apologies**
- 2      Public Forum**
- 3      Declaration of Conflict of Interest**

## 4 Reports

### 4.1 Local Water Done Well - Timaru District Council and Otago Southland Joint Group of Councils

**Author:** Stephen Doran, Group Manager Corporate and Communications

**Authoriser:** Nigel Trainor, Chief Executive

#### Recommendation

That the Council:

1. Receives the report and accepts the level of significance.
2. Agrees to enter into the Otago Southland Joint Group of Councils Commitment Agreement.
3. Authorises the Chief Executive to sign the Otago Southland Joint Group of Councils Commitment Agreement, a draft of which is set out in Attachment 1 on behalf of Council, including any minor amendments that are required when finalising the document for signing.
4. Authorises a pre-approval for Waitaki District Council to join the group of four (Central Otago, Clutha, Gore and Timaru) at a later date.

#### Purpose of Report

- 1 To consider authorising the signing of a Joint Council Controlled Organisation (CCO) Commitment Agreement with Central Otago District Council, Clutha District Council and Gore District Council (Southern Water).
- 2 To consider if Council agree to authorising a pre-approval for Waitaki District Council to join the group of four (Central Otago, Clutha, Gore and Timaru) at a later date.

#### Assessment of Significance

- 3 The Significance and Engagement Policy does not require consultation on the signing of the agreement in and of itself.
- 4 Timaru District Council (TDC) has consulted with the community on the options for the water services delivery model with under the alternative requirements for decision making and consultation set out in the Local Government (Water Services Preliminary Arrangements) Act
- 5 Option 3 to establish a joint Water Services Council Controlled Organisation (WSCCO) was the preferred option by 50.6% of respondents.
- 6 We have had the consultation document independently reviewed by external lawyers via the Department of Internal Affairs (DIA) who gave the opinion that further consultation is not required if TDC agreed to joining Southern Water.

**Background**

- 7 Resolution 2025/86 was made by Council on the 22 July 2025, with the wording of the resolution as follows:
1. *Receives and notes the report and officer commenting on the submission themes and points raised in written and oral submissions on the Local Water Done Well consultation*
  2. *Confirms that Option 3 is the preferred option, but that Timaru District Council is unable to proceed with this option at this time due to a there being no other councils to partner with*
  3. *Approve the establishment of a joint or a standalone, Timaru District Council Water Services Council Controlled Organisation.*
  4. *Endorses the continuance of governance and officer engagement with other Councils through the establishment of a joint Council governance and management working group to progress future establishment of a joint Water Services Council Controlled Organisation.*
  5. *Resolves to keep ownership of stormwater assets, and management of stormwater services, in house (including in the event of any current or subsequent joint Water Services Council Controlled Organisation.*
  6. *Direct Officers to finalise the Water Services Delivery Plan based on this model for adoption at the 26 of August 2025 Council meeting.*
- 8 In line with the above resolutions the TDC Water Services Steering group have engaged with the Southern Water group of Councils. The discussions have been relatively positive with both groups.
- 9 Southern Water, at the time was made up of 4 Councils (Central Otago, Gore, Clutha and Waitaki), consulted on three options. These were a multi council WSCCO, Standalone Council CCO or in house, Waitaki also consulted on a 4<sup>th</sup> option of a multi council WSCCO with neighbouring South Canterbury Councils. Legal advice is that the Southern Councils will not have to consult again to have TDC join the Southern Water WSCCO.
- 10 To support this work, a Commitment Agreement Template has been developed by the DIA, for Councils to modify and adopt as they work to develop and establish a Joint Operating Organisation for Water Services. The Commitment Agreement Template has been populated to meet the requirements of the Southern Water Councils.
- 11 The paper also presents councillors with the option for Timaru District Council to sign this commitment agreement and contribute to the development of this model with a view to create a Water Services Organisation covering the multi councils.
- 12 The purpose of this paper is to seek that the Council authorises the Chief Executive to enter into the Commitment Agreement as attached to this paper, subject to any minor drafting changes that are required when the document is finalised.

**Discussion****Group of Councils - Project Formed**

- 13 The Southern Group is progressing with the WSCCO and believe there are advantages in having Timaru embedded in the group to have a say in the design of the WSCCO.

- 14 The Southern Group are very open and have assisted Timaru with any queries on the water schemes and the cost structures as they compare to Timaru.
- 15 As resolved by TDC the preferred option is for TDC to join a multi council WSCCO, there is an offer from Southern to join. Southern would like a commitment from Timaru before 3 Sept 2025, the pros and cons of pre or post 3 Sept 2025 is covered in the options analysis section following.
- 16 Current modelling is predominantly based on existing Council long-term plans and infrastructure strategies with some adjustments to reflect a reduction in potential costs for wastewater treatment plant upgrades.

#### **DIA Joint Commitment Agreement**

- 17 The DIA Water Services Delivery Plan (WSDP) Team have provided a Commitment Agreement Template which sets out how councils can work together to develop and establish a joint water organisation. It lists the key activities and programme, allocation of roles and sharing of resources, accountability measures and the governance structure.
- 18 The Commitment Agreement template has been completed by the project team and an external legal review conducted to help inform council decision making. The Draft Commitment Agreement, which has Waitaki removed, which is being considered by the Southern Water Councils is provided as Attachment 1.
- 19 Comment from TDC Councillors will be invaluable to ensure that any matters important to TDC are covered in the Commitment agreement.
- 20 The main point that will need to be negotiated is protection of the lower cost of water delivery in Timaru compared to the other Southern partners. The Southern partners have stated that harmonisation of prices will not be pursued, which is a key point for Timaru.

#### **Strategic Consistency**

- 21 For LWDW to be successful in the longer term, it requires a WSCCO to have scale in terms of connections which translates to revenue. Scale also results in several advantages including joint IT/IS systems, debt head room, calibre of professional Governance, attractiveness and calibre of staff, sharing of overheads.
- 22 The Southern group has the opportunity to expand as others come on board and the scale will continue to increase.
- 23 This grouping as it stands will have just under 50,000 connections, which brings more favourable Local Government Funding Agency (LGFA) covenants.
- 24 The requirements of Local Water Done Well (LWDW) requires the Southern Water Councils to revisit their respective Long-Term Plans and associated supporting strategies (including Financial & Asset Management Strategies), to ensure that water service delivery complies with the Local Water Done Well legislation requirements.
- 25 The options analysis completed to date includes consideration of impacts on the current LTPs. Impacts of the selected options will be further defined and put forward for community feedback through the planned consultation. Following decision making, amendments to Annual and/or LTPs will be made from FY 26/27.

#### **Risk Analysis**



Risk	Impacts
DIA does not approve the WSDP and requires the document to be revised.	DIA requires the Group of Councils to alter the WSDP DIA requires the Group of Councils to change the Operating Model Design DIA requires other Councils to join the Group of Councils.
DIA does not approve the Group of Councils WSDP – and appoints a Crown Facilitator or Water Services Specialist	Reputation risk for Councils Reduction / loss in decision making control
Individual Councils do not approve of progressing with a Joint CCO approach.	Group may become unviable Individual Councils may not be able to complete a compliant WSDP Risk of DIA intervention with associated loss of decision-making control
WSDP Plan and Implementation Tasks are more complex / extensive than estimated	Potential increase in project budget Additional Council resource commitments
Continuing uncertainty for the Council 3 Waters teams as to how their work and roles may be affected	Potential loss of key staff Increasing difficulty to recruit staff
Local Government Election processes during Oct 2025.	Potential delay to key decisions – administration period may then impact Re-litigation of decisions by new Council New Councillors require up skilling in LWDW requirements
The Group of Councils is not fully compliant with new legislative requirements – within the required timeframes	Reputation risk for Councils Cost and time to rectify Potential DIA or Regulator Intervention
3 Waters legislative investment requirements impact on wider Council investment capacity	Impending increase in 3 Waters costs impacting affordability and Council investment in other areas
Ratepayers do not appreciate the impending costs increases for 3 Waters Services – irrespective of the delivery model adopted	Increasing affordability issue for larger group of ratepayers Negative publicity and reputation risk for Councils
Changes to legislation through Bill 3 may require additional resource commitments and amendments to arrangements.	Cost and time associated with rework Potential increase in project budget Additional Council resource commitments

## Options Analysis

WSDP Option	Pros	Cons
TDC WSCCO	<ul style="list-style-type: none"> <li>Provides for high level benefits of water services delivery through a CCO.</li> </ul>	<ul style="list-style-type: none"> <li>Stated direction is to adopt a Joint CCO – defers that decision</li> <li>Sunk / regret cost to achieve compliance as an inhouse delivery model and then transfer to a Joint CCO model.</li> </ul>
SWDW – Pre 3/9	<ul style="list-style-type: none"> <li><b>Participate in Joint CCO design decision from inception to ensure TDC requirements are met</b></li> <li><b>At outset Transition Board &amp; CE – larger group will attract higher calibre applicants</b></li> <li>More likely to attract other councils to the group and increase WS Connection count from x to y – Target 50k LGFA benefits</li> <li>Larger scale Joint CCO will create an entity that is more attractive and attract higher calibre applicants</li> <li>Improved efficiency gains for a larger entity</li> <li>SWDW plus TDC Joint CCO – core features, design principles &amp; implementation plan all defined in the SWDW WSDP</li> <li>SWDW model is looking to partner with other councils – conceivable</li> </ul>	<ul style="list-style-type: none"> <li>If an alternative Joint CCO option(s) is presented – TDC will not be able to adopt it</li> <li>Tight timeframe to draft a WSDP that align with SWDW WSDP</li> </ul>

	<p>that this could extend to wider South Island and noncontiguous councils in the future</p> <ul style="list-style-type: none"> <li>• Rural water schemes provided for in the SWDW model</li> <li>• <b>Better able to support regional strategies – at earliest point</b></li> <li>• <b>Leverage other Joint CCO transition work – at earliest point</b></li> <li>• <b>Will allow SWDW and TDC to align WSDPs.</b></li> <li>• <b>DIA support for this approach – may include funding and other resources</b></li> <li>• <b>Pathway for TDC WSDP approval expected to be more straightforward</b></li> <li>• <b>Avoid need to submit a Standalone CCO WSDP, which will require change</b></li> <li>• Ability to influence and plan for TDC priorities versus wider group priorities</li> </ul> <p><i>Bold items – particular to SWDW Pre 3/9 and non bold in common with SWDW Post 3/9</i></p>	
SWDW – Post 3/9	<ul style="list-style-type: none"> <li>• More likely to attract other councils to the group and increase WS Connection count–</li> </ul>	<ul style="list-style-type: none"> <li>• Joint CCO design decisions will have been made – TDC core requirements may not be met</li> </ul>

	<p>Target 50k LGFA benefits</p> <ul style="list-style-type: none"> <li>• Larger scale Joint CCO will create an entity that is more attractive and attract higher calibre applicants</li> <li>• Improved efficiency gains for a larger entity</li> <li>• SWDW plus TDC Joint CCO – core features, design principles &amp; implementation plan all defined in the SWDW WSDP</li> <li>• SWDW model is looking to partner with other councils – conceivable that this could extend to wider South Island and noncontiguous councils in the future</li> <li>• Rural water schemes provided for in the SWDW model</li> <li>• Better able to support regional strategies – later point</li> <li>• Leverage other Joint CCO transition work – later point</li> </ul>	<ul style="list-style-type: none"> <li>• Costly and time consuming to reconsider systems / processes and governance for an expanding entity</li> <li>• In lead up to 1/7/27 – there will be a period where further council onboarding cannot be supported and will be a via a second / third phase.</li> <li>• Requires TDC to submit a standalone CCO WSDP, which is open to other participants. Regret cost and time associated with amending this plan to align with SWDW WSDP.</li> <li>• Compliance priorities may trump TDC priorities</li> </ul>
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### Financial and Funding Implications

- 26 One of the metrics used is the average cost per connection, while this is used to look at the options it is not the best measure as it brings together a non-homogeneous set of water schemes, the indicated cost per connects is as follows:

		2024/25	2027/28	% Change	Annual change	2033/34	% Change	Annual change
CODC as part of Southern		1445	2706	87%	29%	3830	42%	8%
Clutha as part of Southern		2181	3375	55%	18%	3114	-8%	-2%
Gore as part of Southern		1667	2589	55%	18%	4506	74%	15%
Timaru as part of Southern		1565	1765	13%	4%	1848	5%	1%

### LGFA Covenants

## 27 The LGFA covenants improved with Multi Council WCCO.

The standalone TDC WSCCO meets all of the LGFA covenants, with head room of \$58m in year 10, the ratios are as follows:

Timaru Head Room	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Total net debt Timaru	\$ 120,717	\$ 138,221	\$ 164,059	\$ 168,713	\$ 171,230	\$ 173,800	\$ 176,422	\$ 179,060	\$ 196,332
Total net debt Total	\$ 120,717	\$ 138,221	\$ 164,059	\$ 168,713	\$ 171,230	\$ 173,800	\$ 176,422	\$ 179,060	\$ 196,332
Operating revenue Total	\$ 33,285	\$ 39,060	\$ 45,192	\$ 47,209	\$ 49,218	\$ 49,870	\$ 50,538	\$ 52,340	\$ 53,024
Operating revenue Timaru	\$ 33,285	\$ 39,060	\$ 45,192	\$ 47,209	\$ 49,218	\$ 49,870	\$ 50,538	\$ 52,340	\$ 53,024
<b>Net Debt to operating revenue</b>	<b>363%</b>	<b>354%</b>	<b>363%</b>	<b>357%</b>	<b>348%</b>	<b>349%</b>	<b>349%</b>	<b>342%</b>	<b>370%</b>
<b>Head room</b>	<b>\$ 30,955</b>	<b>\$ 33,592</b>	<b>\$ 51,519</b>	<b>\$ 53,818</b>	<b>\$ 57,093</b>	<b>\$ 55,356</b>	<b>\$ 53,570</b>	<b>\$ 57,051</b>	<b>\$ 58,326</b>
Timaru	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Total net debt	\$ 120,717	\$ 138,221	\$ 164,059	\$ 168,713	\$ 171,230	\$ 173,800	\$ 176,422	\$ 179,060	\$ 196,332
Funds from Operations Timaru	\$ 15,221	\$ 18,870	\$ 18,008	\$ 17,801	\$ 18,371	\$ 18,836	\$ 18,915	\$ 19,450	\$ 20,073
Funds from Operations Total	\$ 15,221	\$ 18,870	\$ 18,008	\$ 17,801	\$ 18,371	\$ 18,836	\$ 18,915	\$ 19,450	\$ 20,073
<b>FFO to debt ratio</b>	<b>12.6%</b>	<b>13.7%</b>	<b>11.0%</b>	<b>10.6%</b>	<b>10.7%</b>	<b>10.8%</b>	<b>10.7%</b>	<b>10.9%</b>	<b>10.2%</b>
<b>Benchmark FFO to debt ratio</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>	<b>9.0%</b>
Timaru	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Free Funds from Operations	\$ 15,221	\$ 18,870	\$ 18,008	\$ 17,801	\$ 18,371	\$ 18,836	\$ 18,915	\$ 19,450	\$ 20,073
Finance Costs Timaru	\$ 5,195	\$ 6,185	\$ 7,061	\$ 8,353	\$ 8,586	\$ 8,711	\$ 8,840	\$ 8,971	\$ 9,105
Finance Costs Total	\$ 5,195	\$ 6,185	\$ 7,061	\$ 8,353	\$ 8,586	\$ 8,711	\$ 8,840	\$ 8,971	\$ 9,105
<b>FFO to Interest Coverage</b>	<b>2.93</b>	<b>3.05</b>	<b>2.55</b>	<b>2.13</b>	<b>2.14</b>	<b>2.16</b>	<b>2.14</b>	<b>2.17</b>	<b>2.20</b>
<b>Benchmark FFO to Cash interest cover</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>

A joint WSCCO with Southern covenants close (slightly decrease on standalone Timaru) to a standalone Timaru, and an improvement on a 3 Council Southern water, the Covenants are all within in LGNZ requirements, they are as follows

Borrowing & Headroom	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Borrowing									
Southern & Timaru Water - Debt to operating revenue (\$000's)									
Total net debt Southern	\$ 200,536	\$ 232,625	\$ 264,212	\$ 297,633	\$ 318,158	\$ 341,083	\$ 371,140	\$ 393,188	\$ 402,762
Total net debt Timaru	\$ 120,717	\$ 138,221	\$ 164,059	\$ 168,713	\$ 171,230	\$ 173,800	\$ 176,422	\$ 179,060	\$ 196,332
Total net debt Total	\$ 321,253	\$ 370,846	\$ 428,271	\$ 466,346	\$ 489,388	\$ 514,883	\$ 547,562	\$ 572,248	\$ 599,094
Operating revenue Southern	\$ 54,283	\$ 62,979	\$ 72,512	\$ 79,052	\$ 80,964	\$ 88,532	\$ 95,339	\$ 96,716	\$ 101,749
Operating revenue Total	\$ 33,285	\$ 39,060	\$ 45,192	\$ 47,209	\$ 49,218	\$ 49,870	\$ 50,538	\$ 52,340	\$ 53,024
Operating revenue Timaru	\$ 87,568	\$ 102,039	\$ 117,704	\$ 126,261	\$ 130,182	\$ 138,402	\$ 145,877	\$ 149,056	\$ 154,773
<b>Net Debt to operating revenue</b>	<b>367%</b>	<b>363%</b>	<b>364%</b>	<b>369%</b>	<b>376%</b>	<b>372%</b>	<b>375%</b>	<b>384%</b>	<b>387%</b>
<b>Head room</b>	<b>\$ 116,465</b>	<b>\$ 139,793</b>	<b>\$ 160,077</b>	<b>\$ 165,402</b>	<b>\$ 160,124</b>	<b>\$ 177,155</b>	<b>\$ 182,346</b>	<b>\$ 172,905</b>	<b>\$ 174,893</b>
<b>Free Funds from Operations (FFO) to debt ratio</b>									
Southern & Timaru	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Total net debt	\$ 321,253	\$ 370,846	\$ 428,271	\$ 466,346	\$ 489,388	\$ 514,883	\$ 547,562	\$ 572,248	\$ 599,094
Funds from Operations Southern	\$ 14,762	\$ 15,487	\$ 23,325	\$ 24,477	\$ 27,111	\$ 31,133	\$ 35,414	\$ 37,786	\$ 41,190
Funds from Operations Timaru	\$ 15,221	\$ 18,870	\$ 18,008	\$ 17,801	\$ 18,371	\$ 18,836	\$ 18,915	\$ 19,450	\$ 20,073
Funds from Operations Total	\$ 29,983	\$ 34,357	\$ 41,333	\$ 42,278	\$ 45,482	\$ 49,969	\$ 54,329	\$ 57,236	\$ 61,263
<b>FFO to debt ratio</b>	<b>9.3%</b>	<b>9.3%</b>	<b>9.7%</b>	<b>9.1%</b>	<b>9.3%</b>	<b>9.7%</b>	<b>9.9%</b>	<b>10.0%</b>	<b>10.2%</b>
<b>Benchmark FFO to debt ratio</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>	<b>9%</b>
<b>Free Funds from Operations (FFO) to cash interest coverage ratio</b>									
Southern & Timaru	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
Free Funds from Operations	\$ 29,983	\$ 34,357	\$ 41,333	\$ 42,278	\$ 45,482	\$ 49,969	\$ 54,329	\$ 57,236	\$ 61,263
Finance Costs Southern	\$ 10,101	\$ 11,799	\$ 12,842	\$ 14,585	\$ 16,430	\$ 17,563	\$ 18,829	\$ 20,488	\$ 21,705
Finance Costs Timaru	\$ 5,195	\$ 6,185	\$ 7,061	\$ 8,353	\$ 8,586	\$ 8,711	\$ 8,840	\$ 8,971	\$ 9,105
Finance Costs Total	\$ 15,296	\$ 17,984	\$ 19,903	\$ 22,938	\$ 25,016	\$ 26,274	\$ 27,669	\$ 29,459	\$ 30,810
<b>FFO to Interest Coverage</b>	<b>1.96</b>	<b>1.91</b>	<b>2.08</b>	<b>1.84</b>	<b>1.82</b>	<b>1.90</b>	<b>1.96</b>	<b>1.94</b>	<b>1.99</b>
<b>Benchmark FFO to Cash interest cover</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>	<b>1.50</b>

## Operating costs

28 The operating costs for Southern are higher than Timaru, a comparison is as follows:

Expenses Comparison	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34
<b>Southern - three waters</b>									
Operating expenses	26,142	30,257	37,630	41,355	38,832	41,244	42,544	39,913	40,357
Finance Costs	10,101	11,799	12,842	14,585	16,430	17,563	18,829	20,488	21,705
Overheads & Support	4,552	6,827							
Depreciation	19,905	21,075	23,680	24,487	25,162	27,392	28,033	28,421	30,156
Total	60,700	69,958	74,152	80,427	80,424	86,199	89,406	88,822	92,218
<b>Timaru - three waters</b>									
Operating expenses	12,862	15,985	20,849	21,375	21,903	22,432	22,965	23,502	24,000
Finance Costs	5,373	6,478	7,438	8,800	9,091	9,286	9,415	9,604	9,738
Overheads & Support	3,133	4,327							
Depreciation	18,510	21,469	21,661	21,853	23,428	23,428	23,428	24,881	24,881
Total	39,878	48,259	49,948	52,028	54,422	55,146	55,808	57,987	58,619
<b>Difference</b>									
Operating expenses	13,280	14,272	16,781	19,980	16,929	18,812	19,579	16,411	16,357
Finance Costs	4,728	5,321	5,404	5,785	7,339	8,277	9,414	10,884	11,967
Overheads & Support	1,419	2,500	-	-	-	-	-	-	-
Depreciation	1,395	- 394	2,019	2,634	1,734	3,964	4,605	3,540	5,275
Total	20,822	21,699	24,204	28,399	26,002	31,053	33,598	30,835	33,599
<b>Difference %</b>									
Operating expenses	51%	47%	45%	48%	44%	46%	46%	41%	41%
Finance Costs	47%	45%	42%	40%	45%	47%	50%	53%	55%
Overheads & Support	31%	37%							
Depreciation	7%	-2%	9%	11%	7%	14%	16%	12%	17%
Total	34%	31%	33%	35%	32%	36%	38%	35%	36%

The finance rate assumptions for Southern and Timaru is close, the difference is the level of debt for each party

The depreciation rates are on average the same, the difference is the book value of the assets

The operating expenses are higher for Southern; this has been discussed and can be put down to the number of water schemes, the type of water scheme. We can confirm that there is significant difference across the different Councils in the number of schemes that they operate, with some requiring more mechanical machinery to run the schemes. If the prices for delivery are not harmonised, then this will not be a significant issue. Overheads are also low in Timaru and this needs to be reviewed.

## Options and Preferred Option

- 29 As resolved by Council on 22 July 2025 Governance and Executive are to continue to explore options to join a multi council. There is an option available to join Southern Water, this is a joint WSCCO with Central Otago, Gore and Clutha as partners, with an invitation to both Timaru and Waitaki.
- 30 Southern Water would like a decision prior to 3 Sept 2025 from Timaru to assist with the decision making around the implementation plan that will be part of the WSDP due 3 Sept. In addition, this may assist with discussion with Waitaki District Council.
- 31 While Selwyn have expressed an interest in having additional partners in the WSCCO, Selwyn have been clear that no decision on this would be made until after the Local Government elections, in addition Selwyn would be required to consult with their community on a multi council WSCCO. An amendment to their approved WSDP would also need to be worked through with DIA. A Selwyn option therefore is not on the table at this point.

- 32 A summary of the options associated with the decisions requested in this paper is presented below.

**Decision 1 – That Council receives the report and accepts the level of significance.**

**Decision 2 – For the council to decide whether to approve entry to the Commitment Agreement with Central Otago, Gore and Clutha District Councils (Southern Water)**

**Decision 3a – That Council authorises the Chief Executive to sign the draft Otago Southland Joint Group of Councils Commitment Agreement as set out in Attachment 1 on behalf of Council, including any minor amendments that are required when finalising the document for signing.**

**Or**

**Decision 3b – Decline the offer to enter into a Commitment Agreement with Central Otago, Gore and Clutha District Councils (Southern Water)**

**Decision 4 - Authorises a pre-approval for Waitaki District Council to join the group of four (Central Otago, Clutha, Gore and Timaru) at a later date.**

#### **Relevant Legislation, Council Policy and Plans**

- 33 The Local Government (Water Services Preliminary Arrangements) Act places statutory requirements on the Councils that are required to be complied with. If a territorial authority struggles to comply with the requirements for a compliant WSDP, the Act provides for the Minister to appoint either of two new roles:
- 33.1 Crown facilitators, who may work with Councils to assist, advise, or amend draft WSDPs and;
  - 33.2 Crown water services specialists, who may prepare, direct, or adopt a WSDP in accordance with their notice of appointment.
- 34 In addition, the Act provides that a person who contravenes an obligation to disclose information can be fined up to \$500,000 or, in the case of an entity, \$5 million.

#### **Other Considerations**

- 35 None

#### **Attachments**

1. **Draft Commitment Agreement** [!\[\]\(91353dea0600335a09362f69ea4eac2b\_img.jpg\) !\[\]\(8ac20398c2287d97d8335789f07d6827\_img.jpg\)](#)

# Commitment Agreement

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## PARTIES

Central Otago District Council

Clutha District Council

Gore District Council

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**AGREEMENT** dated

August 2025

**PARTIES**

Central Otago District Council

Clutha District Council

Gore District Council

together, the "**Councils**".

**INTRODUCTION**

- A. The Councils have each voted to proceed with the planning for a joint operating model between the Councils in respect of the Service Areas.
- B. The Councils are required to submit a Water Services Delivery Plan ("**WSDP**") to the Secretary for Local Government (Department of Internal Affairs) by 3 September 2025 on how water services will be delivered in the Council's district as required under the Local Government (Water Services Preliminary Arrangements) Act 2024.
- C. The Councils commit to working together to:
  - (a) plan and develop a joint operating model for the delivery of water services for each Council's community to inform a WSDP; and
  - (b) establish a WO for the joint operating model in accordance with a WSDP adopted by the Councils (subject to community consultation).
- D. Each Council agrees to undertake the activities and responsibilities allocated to it in this agreement to achieve the Objectives.
- E. The Councils have entered into this agreement to record the terms of their commitment to achieve the joint operating model and Objectives.

**SIGNATURES****SIGNED** for and on behalf of

Central Otago District Council

By:

\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Date\_\_\_\_\_  
Date

Clutha District Council

By:

\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Date\_\_\_\_\_  
Date

Gore District Council

By:

\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Signature of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Name of Authorised Signatory\_\_\_\_\_  
Date\_\_\_\_\_  
Date

**SCHEDULE 1****Agreement Details**

<b>Commencement Date</b> <i>(Clause 6.1, Schedule 2)</i>	This agreement commences on the date it is last signed by all Councils.
<b>Expiry Date</b> <i>(Clause 6.1, Schedule 2)</i>	This agreement expires on:  Establishment of the WO in accordance with LG(WS) Act unless terminated earlier in accordance with the terms of this Agreement.
<b>Service Areas</b> <i>(Background A)</i>	The Districts of Central Otago, Clutha and Gore.
<b>Councils Executive Group</b> <i>(Clause 4, Schedule 2)</i>	<p><b>Members:</b> The members of the Councils Executive Group are:</p> <ul style="list-style-type: none"> <li>Central Otago District Council member: Mayor (or his/her delegate) and one elected representative.</li> <li>Clutha Council member: Mayor (or his/her delegate) and one elected representative.</li> <li>Gore Council member: Mayor (or his/her delegate) and one elected representative.</li> <li>.</li> </ul> <p><b>Optional observers (non-voting):</b> Chief Executive of each District Council (or his/her nominee).</p> <p><b>Meetings:</b> The Council Executive Group will meet every second week.</p> <p><b>Quorum:</b> At least one voting representative of each District Council.</p>
<b>Project Steering Group</b> <i>(Clause 4, Schedule 2)</i>	<p><b>Members:</b> The members of the Project Steering Group are:</p> <ul style="list-style-type: none"> <li>Central Otago District Council member: Peter Kelly</li> <li>Clutha Council member: Steve Hill</li> <li>Gore Council member: Deborah Lascelles</li> </ul> <p><b>Meetings:</b> The Project Steering Group will meet weekly</p> <p><b>Project Budget:</b> The Project Steering Group is required to approve any expenditure that exceeds the Project Budget.</p>

<b>Project Team</b>  <i>(clause 4 and 5.2, Schedule 2)</i>	<b>Members:</b> The members of the Project Team are: <ul style="list-style-type: none"> <li>Central Otago Council member: Julie Muir</li> <li>Clutha Council member: Jules Witt</li> <li>Gore Council member: Jason Domigan</li> </ul> <b>Meetings:</b> The Project Team will meet weekly.  <b>Project Budget:</b> The Project Team has authority to approve costs up to the agreed Project Budget. Costs that exceed this amount will require approval by the PSG.	
<b>Initial Contribution</b>  <i>(Schedule 2)</i>	Each Council will contribute an Initial Contribution of \$26,500 – to provide for consulting services during January/February 2025.	
<b>Address for notices</b>  <i>(clause 10, Schedule 2)</i>	Central Otago District Council	Clutha District Council
	1 Dunorling St. Alexandra, 9320  Email: <a href="mailto:peter.kelly@codc.govt.nz">peter.kelly@codc.govt.nz</a>  Attention: Peter Kelly	1 Rosebank Ter, Balclutha 9230  Email: <a href="mailto:steve.hill@cluthadc.govt.nz">steve.hill@cluthadc.govt.nz</a>  Attention: Steve Hill
	Gore District Council	
	29 Bowler Avenue, Gore, 9710  Email: <a href="mailto:dlascelles@goredc.govt.nz">dlascelles@goredc.govt.nz</a>  Attention: Debbie Lascelles	

**SCHEDULE 2****Agreement Terms and Conditions****1. DEFINITIONS AND INTERPRETATION****1.1 Definitions:** In this agreement the following definitions apply:

**"Agreement Details"** means Schedule 1 of this agreement.

**"Business Day"** means any day other than a Saturday, Sunday or a statutory public holiday in the Service Area(s) identified in the Agreement Details, New Zealand.

**"Commencement Date"** has the meaning given to that term in the Agreement Details.

**"Confidential Information"** means any of the following (whenever it was obtained):

- (a) all information of a confidential nature (reasonably determined) obtained by one Council from another Council under or in connection with this agreement;
- (b) all information relating to the operations and affairs of another Council; and
- (c) all information obtained by a Council in respect of all activities or information undertaken, produced or discussed under the umbrella of the Project.

**"Councils"** means the councils who are named as counterparties to this agreement and who continue to be a participant of this agreement.

**"Existing Material"** means, in respect of any Council, all documentation and other materials used or provided by the Council under or in connection with this agreement that are:

- (a) owned by, or licensed to, that Council prior to the date of this agreement; or
- (b) developed independently from this agreement by that Council, and that are not developed, commissioned or created under or in connection with this agreement.

**"Expiry Date"** has the meaning given to that term in the Agreement Details.

**"Initial Contribution"** has the meaning given to that term in the Agreement Details.

**"Intellectual Property Rights"** means, in respect of any person, all intellectual and industrial property rights and interests (including common law rights and interests) owned or held by that person, or lawfully used by that person, including:

- (a) patents, trade marks, service marks, copyright, registered designs, trade names, symbols and logos;
- (b) patent applications and applications to register trade marks, service marks and designs; and
- (c) formulae, methods, plans, data, drawings, specifications, characteristics, equipment, designs, inventions, discoveries, improvements, know-how,

experience, software products, trade secrets, price lists, costings, brochures and other information used by that person.

"**LGOIMA**" means the Local Government Official Information and Meetings Act 1987.

"**LG(WS) Act**" means Local Government (Water Services) Act 2024 as enacted or to be enacted under clause 1 of the Local Government (Water Services) Bill.

"**LG(WSPA) Act**" means the Local Government (Water Services Preliminary Arrangements) Act 2024.

"**Objectives**" has the meaning given to that term in clause 2.1.

"**Scope and Project Plan**" has the meaning given to that term in clause 4.6(a).

"**Submission Date**" means the date the WSDP is submitted by the Councils to the Secretary for Local Government (Department of Internal Affairs) in accordance with section 18 of the LG (WSPA) Act.

"**WO**" means the water organisation (as defined in the LG(WS) Act) to be established by the parties to this agreement.

"**WSDP**" has the meaning given to that term in paragraph B of the Introduction section of this agreement.

1.2 **Interpretation:** In this agreement unless the context otherwise requires:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) reference to a party, person or entity includes:
  - (i) an individual, firm, company, trust, partnership, joint venture, association, corporation, body corporate, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
  - (ii) an employee, agent, successor, permitted assign, executor, administrator or other representative of such party, person or entity.
- (e) a reference to dollars or \$ is to New Zealand currency and excludes every tax and duty;
- (f) a reference to a clause or schedule is to a clause or schedule of this agreement;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

- (h) references to the word 'include' or 'including' are to be construed without limitation;
- (i) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (j) a reference to a document or instrument includes reference to that document or instrument as novated, altered, supplemented, or replaced from time to time;
- (k) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form (including email);
- (l) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day; and
- (m) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

## 2. PROJECT OVERVIEW

### 2.1 **Objectives:** The key objectives of this agreement ("**Objectives**") are:

- (a) for the Councils to continue to work closely, collaboratively and successfully to plan and develop a WSDP that meets each Council's needs and objectives for their respective communities;
- (b) to facilitate the Councils making decisions in a timely manner to ensure a joint operating model can progress in a timely way to meet the requirements for submissions of the joint WSDP and other requirements under the LG(WSPA) Act and the LG(WS) ACT;
- (c) to enable the Councils to consider how they would operate together in a way that facilitates an effective and efficient use of the Councils' resources, providing optimum benefit to the parties' ratepayers; and
- (d) to effectively establish a WO for the joint operating model in accordance with a WSDP adopted by the Councils.

### 2.2 **Relationship principles:** The Councils will:

- (a) work together collaboratively and in good faith;
- (b) ensure communication between them is open, proactive, transparent and inclusive, to avoid any surprises;
- (c) make every effort to understand the other Council's needs and objectives for the joint operating model, and make all reasonable endeavours to ensure the joint operating model meets such needs and objectives;
- (d) raise any issues that arise in connection with this agreement at the earliest opportunity, for joint resolution;
- (e) resolve disagreements between them promptly and amicably; and



- (f) as a courtesy and in the interest of clear and consistent communication, consult with the other Councils before commenting publicly on the joint operating model or this agreement.

### 3. KEY ACTIVITIES

#### 3.1 Council responsibilities: Each Council will:

- (a) work with the other Councils to:
  - (i) develop and document the Council's technical, operational, legal and other requirements for the joint operating model ("**Requirements**") and to agree reasonable and realistic timeframes for delivery of the joint operating model; and
  - (ii) plan and design the joint operating model to meet the Requirements, including at such time(s) required by the other Councils;
- (b) implement and make decisions in relation to matters for the project within the indicative timeframes listed in the Scope and Project Plan;
- (c) provide subject matter experts where relevant to assist with the development and design of the joint operating model;
- (d) provide a dedicated single point of contact for that Council for the management of the project delivery (ideally a project manager, who will also be the person authorised to make decisions (for example, approvals of proposed public comments on the project) on behalf of that Council);
- (e) provide a dedicated and senior level 'sponsor' for the project;
- (f) attend those meetings agreed by the Councils as appropriate or necessary for the effective governance of and/or the delivery of the joint operating model;
- (g) where there are any changes in Government policy or direction, which affects the purposes and activities of this agreement, inform the other Councils of those changes at the earliest possible opportunity thereafter, and the Councils agree to renegotiate, where necessary, any aspects of this agreement that has been or will be affected by this policy change; and
- (h) fund and provide resources to undertake the project under this Agreement; and
- (i) be responsible for complying with any requirements to undertake consultation or reporting in respect of its own council and local government processes.

#### 3.2 Council individual responsibilities not affected: Each Council acknowledges that the Councils' commitment to the obligations under this agreement does not limit or pre-empt each Council's own obligations as local government authorities at law, including in respect of decision-making responsibility and public consultation obligations.

**3.3 Lead council responsibilities:**

- (a) The Councils unanimously agree that the Central Otago District Council will be the project lead ("**Lead Council**") with the following responsibilities:
  - (i) holding contributions from each Council in a nominated account;
  - (ii) managing project expenditure and tracking against the Project Budget;
  - (iii) preparing agendas and scheduling governance meetings for the project; and
  - (iv) preparing reporting for governance meetings for the project.
- (b) The Project Steering Group ("**PSG**") may, from time to time, agree to replace the Lead Council, after which time, the relevant Council will assume the responsibilities of the Lead Council under this Agreement.

**3.4 Development expectations and timelines:**

- (a) Each Council acknowledges that the other Council(s) will be providing funding and resources to develop and design the joint operating model, and has an interest in ensuring a consistency of approach in the development and design of the joint operating model.
- (b) Accordingly, any Council may submit a request to the other Council(s), for consideration and agreement by all the Councils, to:
  - (i) adjust expected timelines and/or reprioritise resources allocated to the development and design of the joint operating model as necessary to manage resource and funding constraints, subject to not compromising the achievement of the Objectives; and/or
  - (ii) change the Requirements that are not reasonably viable in order for a Council to meet its own needs, and the Councils will work together to agree and implement any agreed change to the joint operating model, including any consequential changes to the Requirements for that joint operating model.

**3.5 Project communications:** The Councils agree that media releases, public announcements and public disclosures by any Council relating to this agreement or its subject matter (including informational or promotional, but not including any announcement intended solely for internal distribution or any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of such Council) shall be co-ordinated with, and approved by, all Councils, provided that this does not apply to any media release, public announcement or public disclosure made by a Council (the "**Announcing Council**"): 

- (a) which does not identify any other Council to this agreement; or
- (b) about the Announcing Council's business and operations or the Announcing Council's Confidential Information, excluding anything about or in connection with this agreement.

- 3.6 **Government communications:** The Councils agree that no Council may communicate directly with the Department of Internal Affairs in relation to the content of the joint WSDP without the prior written consent of the other Councils.

#### 4. PROJECT GOVERNANCE

- 4.1 **Governance structure:** The governance model for the project comprises the following:

- (a) Councils Executive Group ("CEG");
- (b) Project Steering Group ("PSG"); and
- (c) Project Team.

- 4.2 **Decisions made by the governance groups:**

- (a) Each Council will be responsible for their own decision-making using the Project Team's advice and assistance.
- (b) The CEG, PSG, and Project Team will make decisions on a consensus basis.
- (c) Where consensus is not possible, decisions will be escalated to the next governance level, with final decisions to be made by the Council members of the CEG.

- 4.3 **Meeting administration:** Each of the governance meetings will be scheduled by the Lead Council, who will circulate agenda items and decisions to be discussed ahead of the meeting date.

- 4.4 **Councils Executive Group:** The CEG shall be responsible for:

- (a) overseeing the executive direction of the project;
- (b) addressing issues that have been escalated to it by the PSG; and
- (c) keeping informed on the project by information provided from the Project Team.

- 4.5 **Project Steering Group:** The PSG shall be responsible for:

- (a) providing strategic directions and decisions on the project;
- (b) addressing issues that have been escalated to it by the Project Team;
- (c) reviewing and approving any proposed changes the direction of the project;
- (d) appointing members to the Project Team;
- (e) ensuring the strategic direction of the project continues to align with the Objectives and each Council's obligations under this agreement; and
- (f) approving the Project Budget.

- 4.6 **Project Team:** The Project Team shall be responsible for:

- (a) preparing a detailed scope of work and project plan (including project milestones) to deliver on the Objectives ("**Scope and Project Plan**"). The Scope and Project Plan may take the form set out in Schedule 3. The project plan and progress against the Scope and Project Plan will be reported to the PSG and CEG on a monthly basis;
  - (b) developing and maintaining a Project Budget and submitting same for approval by the PSG;
  - (c) engaging external expertise as required;
  - (d) preparing stakeholder/engagement framework ensuring all appropriate parties are included on an ongoing basis;
  - (e) preparing and attending workshops with the Councils' elected members as required to achieve the project and Objectives;
  - (f) preparing consultation packs in collaboration with individual Councils to support each Council's required consultation processes;
  - (g) running and/or supporting consultation processes as required;
  - (h) developing a joint WSDP in accordance with legislative requirements and each Council's requirements; and
  - (i) any of matters required under a terms of reference agreed for the Project Team.
- 4.7 **Commercial Terms Sheet:** The parties agree to work in good faith to complete the terms sheet set out at Schedule 5 that will outline the key commercial terms relating to the WO.
- 5. COST SHARING**
- 5.1 **Cost sharing principles:** The Councils agree to fund the costs of the project in equal parts in accordance with the Project Budget set out in Schedule 4 (as amended from time to time in accordance with this clause 5) (**Project Budget**).
- 5.2 **Project Team delegation:** The Project Team have authority to spend up to the approved Project Budget. Costs that exceed the approved Project Budget and any other amendments to the Project Budget will require approval by the PSG (and, for the avoidance of doubt, the provisions of clause 4.2(c) shall apply).
- 5.3 **Council Exit:** If a Council exits this agreement pursuant to clause 6.3:
- (a) contributions made by the Council on or prior to the date of exit (including the Initial Contribution) are not recoverable by the exiting Council;
  - (b) that Council remains responsible for their share of all costs incurred up to that date; and
  - (c) that Council remains liable to pay its share of any committed or budgeted (but unpaid) costs to the extent such costs cannot be reasonably mitigated or avoided (without penalty) by the remaining participating Councils.

**6. TERM**

- 6.1 **Term:** This agreement commences on the Commencement Date and continues until the Expiry Date, unless terminated earlier by all Councils in accordance with clause 6.2.
- 6.2 **Termination by agreement:** This agreement may be terminated at any time with immediate effect by agreement of all current Councils to this agreement for any reason, including if there is a material change of law or policy direction that affects the Councils' obligations under the LG(WSPA) Act and LG(WS) ACT.
- 6.3 **Council withdrawal:**
- (a) Subject to clauses 5.3 and 6.3(b), any Council may withdraw its participation in this agreement at any time prior to the Submission Date by giving written notice to the other Councils.
  - (b) Before a Council exercises its withdrawal right under subclause (a), that Council must use reasonable endeavours to:
    - (i) provide as early as possible notification to the other Councils that the Council is considering, or intending to withdraw from the Project, including to provide the other Council(s) with sufficient time to respond to and agree on any public releases in accordance with clause 3.5; and
    - (ii) provide the other Council(s) an explanation for the withdrawing Council's reason(s) for the withdrawal.
  - (c) Where any Council breaches a material obligation, or persistently does not perform its obligations, under this agreement, then the other Council(s) may request that such Council withdraws its participation from this agreement, in which case the parties will promptly discuss the next steps following such request.
- 6.4 **Effect of termination:** In addition to any other rights, powers or remedies a Council may have under this agreement or at law:
- (a) if this agreement ends or is terminated, the following will apply:
    - (i) each Council is released from its obligations under this agreement, except clauses 3.5 (Project communications); 5.3 (Council Exit); 6 Term); 7 (Dispute Resolution); 8 (Confidentiality); 9 (Intellectual Property); 10 (Notices); and 11 (General) that shall survive expiry or termination of this agreement;
    - (ii) each Council retains the rights and obligations it has accrued under this agreement as at the date of expiry or termination; and
    - (iii) each Council must return any Confidential Information of another Council in its possession to that other Council or, if requested by the other Council, destroy the Confidential Information, except to the extent that it is required to retain the Confidential Information in order to meet its legal, contractual and governance obligations.
  - (b) if a Council withdraws its participation in this agreement:

- (i) clause 6.4(a) will apply only in respect of that Council; and
- (ii) this agreement continues in force as between the remaining Councils.

## 7. DISPUTE RESOLUTION

7.1 **Notice in writing:** If a Council claims that a dispute has arisen, that Council must give written notice to the PSG. The written notice must specify the nature of the dispute.

### 7.2 **Negotiation:**

- (a) On receipt of a notice delivered in accordance with clause 7.1 and before any Council may refer a dispute to mediation, the PSG must, in good faith and acting reasonably, do their best to resolve the dispute quickly and efficiently through negotiation.
- (b) If the PSG has not resolved the dispute within 10 Business Days of receipt of the notice delivered in accordance with clause 7.1, the dispute shall be escalated to the CEG for resolution.
- (c) If the dispute has not been resolved by the CEG within 10 Business Days (or within such other period as agreed by the Councils) of the date of escalation under clause 7.2(b), any Council may submit the dispute to mediation in accordance with clause 7.3.

### 7.3 **Mediation:**

- (a) If the Councils do not resolve the dispute by negotiation, the Councils must, in good faith and acting reasonably, do their best to resolve the dispute by participating in mediation with an independent mediator.
- (b) If the Councils do not agree on a mediator, then the mediator will be appointed by the New Zealand Dispute Resolution Centre.
- (c) The Councils must mediate the dispute in accordance with principles agreed between them or, if no agreement can be reached, the New Zealand Dispute Resolution Centre Mediation Rules.
- (d) Unless the Councils agree otherwise, the mediator's fee and any other costs of the mediation itself (such as for venue hire or refreshments) will be shared equally between the parties, but the parties will each pay their own costs of preparing for and participating in the mediation (such as for travel and legal representation).

### 7.4 **Arbitration**

- (a) If the dispute has not been resolved within 40 Business Days (or within such other period as agreed by the parties) of the dispute being referred to mediation, any Council (the "**Initiating Council**") may refer such dispute to binding arbitration by issuing a written notice ("**Arbitration Notice**") to the other Council(s) (together with the Initiating Council, the "**Disputing Council(s)**") for final resolution in accordance with the provisions of this clause 7.4 and in accordance with the provisions of the

Rules of Arbitration of the New Zealand Dispute Resolution Centre, as amended or modified from time to time ("**NZDRC Rules**").

- (b) The arbitral panel shall consist of one arbitrator. The arbitrator will be appointed by the agreement of the Disputing Council(s) or, failing agreement within 10 Business Days of the date of the Arbitration Notice, in accordance with the NZDRC Rules.
- (c) The seat of arbitration shall be Alexandra, New Zealand and the arbitration shall be conducted in the English language.
- (d) The award of the arbitration shall be in writing and must include reasons for the decision.
- (e) The award of the arbitration shall be final and binding on the Councils. No Council may appeal to the High Court under Clause 5 of the Second Schedule of the Arbitration Act 1996 on any question of law arising out of an award.
- (f) The award shall allocate or apportion the costs of the arbitration as the arbitrator deems fair.
- (g) Neither the existence of any dispute nor the fact that any arbitration is pending hereunder shall relieve any of the Councils of their respective obligations under this agreement.

7.5 **Implementation of agreement:** The Councils must do whatever is reasonably necessary to put into effect any negotiated or mediated agreement, arbitral award or other resolution. This includes exercising voting rights and other powers as required.

7.6 **Rights and obligations during a dispute:** During a dispute, each Council must continue to perform its obligations under this agreement.

7.7 **Interlocutory relief and right to terminate:** This clause does not restrict or limit the right of a Council to obtain interlocutory relief, or to immediately terminate this agreement where this agreement provides such a right.

## 8. CONFIDENTIALITY AND INFORMATION DISCLOSURE

8.1 **Confidentiality:** Each Council will keep confidential and secure all Confidential Information, and no Council shall disclose the other Councils' Confidential information to any person, or use the other Councils' Confidential Information, other than:

- (a) to the extent that use or disclosure is necessary for the purposes of giving effect to or exercising the rights and benefits of this agreement (which for the purpose of each Council, may involve disclosure to that council's elected members and staff);
- (b) if the discloser of the information has obtained the prior written approval of the providing Council to the use or disclosure;
- (c) if the use or disclosure is required by law including under the Local Government Official Information and Meetings Act 1987 ("**LGOIMA**"), or the Local Government Act 2002, provided that prior to that Council making a disclosure, that Council will

use reasonable endeavours to promptly consult in good faith with the other Councils:

- (i) regarding the requirement under which that Council is required to disclose the Confidential Information; and
- (ii) so that the other Councils are informed to arrive at a view on whether those Councils would also be required to make such disclosure if a request is made of them; or
- (d) in relation to disclosure, if the information has already become public, other than through a breach of an obligation of confidentiality by one of the Councils or another third party.

- 8.2 **LGOIMA:** Each Council acknowledges that the other Council(s) are subject to the LGOIMA. Accordingly, notwithstanding anything else in this agreement, each Council agrees to cooperate fully in providing the other Council(s) with any documents or other information that the other Council is required to provide pursuant to a request made under the LGOIMA.

## 9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 **Existing Intellectual Property Rights:** Notwithstanding any of the provisions of this agreement, each Council or its licensors retain ownership of all Intellectual Property Rights, including in Existing Material belonging to that Council or its licensors at the Commencement Date ("**Existing Intellectual Property Rights**").
- 9.2 **New Intellectual Property Rights:** Any new Intellectual Property Rights which are created as a result of, or in connection with, the provision of the Services or Deliverables, or otherwise in connection with this agreement, shall be jointly owned by the Councils, unless otherwise agreed by the parties.
- 9.3 **Licence:** If any Council's Existing Intellectual Property Rights is included in any new Intellectual Property Rights, then that Council grants to the other Council(s) and the other Councils accept, anon-exclusive, non-transferable, royalty-free licence during the term of this agreement to use the Council's Existing Intellectual Property Rights for the purposes of giving effect to and performing its obligations under this agreement. That licence will expire immediately on expiry or termination of this agreement.

## 10. NOTICES

- 10.1 **Giving notices:** Any notice or communication given to a Council under this agreement is only given if it is in writing and sent in one of the following ways:
- (a) Delivered or posted to that Council at its address and marked for the attention of the relevant department or officer (if any) set out in Schedule 1.
  - (b) Emailed to that Council at its email address and marked for the attention of the representative set out in Schedule 1.



- 10.2 **Change of details:** If a Council gives the other Councils three Business Days' notice of a change of its postal address or email address, any notice or communication is only given to that Council if it is delivered, posted or emailed to the latest postal address or email address.
- 10.3 **Time notice is given:** Any notice or communication is to be treated as given at the following time:
- (a) If it is hand delivered, when it is left at the relevant address.
  - (b) If it is sent by post, five Business Days after it is posted.
  - (c) If it is sent by email, on the date and at the time at which it enters the recipient's information system, as evidenced (if required by the recipient, where delivery is disputed) in a confirmation of delivery report from the sender's information system which indicates that the email was sent to the email address of the recipient.

However, if any notice or communication is given on a day that is not a Business Day or after 5pm on a Business Day in the place of the Council to whom it is sent it is to be treated as having been given at 9am on the next Business Day.

## 11. GENERAL

- 11.1 **Capacity:** The Parties each warrant and represent to each other that they have full power and authority to enter into this agreement and that all authorisations and approvals that are necessary or required in connection with the execution of this agreement have been obtained.
- 11.2 **No partnership, joint venture:** Nothing in this agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between any of the Councils, and a Council may not make, or allow to be made, any representation that any such relationship exists between any of the Councils. A Council shall not have authority to act for, or to incur any obligation on behalf of, any other Shareholder, except as expressly provided for in this agreement.
- 11.3 **No privity:** Other than as expressly provided for in this agreement, this agreement is not intended to confer a benefit on any person or class of persons who is not a party to it.
- 11.4 **Counterparts:** This agreement is deemed to be signed by a Council if that Council has signed or attached that Council's signature to any of the following formats of this agreement:
- (a) an original;
  - (b) a photocopy; or
  - (c) an electronic copy,
- and if every Council has signed or attached that Council's signature to any such format and delivered it to the other Council(s), the executed formats shall together constitute a single binding agreement between the Councils.
- 11.5 **Electronic signing:** A Party may sign this agreement by way of the application of that Party's (or its relevant signatory's) electronic signature in accordance with Part 4 of the Contract and Commercial Law Act 2017.

- 11.6 **Entire agreement:** This agreement contains everything the parties have agreed in relation to the subject matter it deals with. No Council can rely on an earlier written agreement or anything said or done by or on behalf of another Council before this agreement was executed.
- 11.7 **Severance:** If any provision of this agreement is, or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and shall not affect the enforceability, legality, validity or application of any other provision of this agreement.
- 11.8 **Further assurance:** Each Council shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.
- 11.9 **Variation:** No variation of this agreement will be of any force or effect unless it is in writing and signed by each Council to this agreement.
- 11.10 **Assignments and transfer:** A Council must not assign or transfer any of its rights or obligations under this agreement without the prior written consent of the other Councils.
- 11.11 **Costs:** Except as otherwise set out in this agreement, each Council must pay its own costs and expenses, including legal costs and expenses, in relation to preparing, negotiating, executing and completing this agreement and any document related to this agreement.
- 11.12 **Waivers:**
- (a) A waiver of any right, power or remedy under this agreement must be in writing signed by the Council granting it. A waiver only affects the particular right, obligation or breach for which it is given. It is not an implied waiver of any other right, obligation or breach or an implied waiver of that right, obligation or breach on any other occasion.
  - (b) The fact that a Council fails to do, or delays in doing, something the Council is entitled to do under this agreement does not amount to a waiver.
- 11.13 **Governing law:** This agreement is governed by the laws of New Zealand and the Councils submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement.

## SCHEDULE 3

## Scope and Project Plan

Activities and Decisions	Indicative Timeframes
<b><u>Project initiation phase</u></b> <ul style="list-style-type: none"> <li>Agree project approach, high level plan, budget and cost allocation.</li> </ul>	10 Feb 2025
<b><u>Design phase</u></b> <ul style="list-style-type: none"> <li>Agree preferred service delivery model</li> <li>Agree financial projections for the service delivery options</li> <li>Agree approach to public consultation</li> <li>Council decisions on consultation options and information to be made publicly available</li> </ul>	End March 2025 End April 2025
<b><u>Planning phase</u></b> <ul style="list-style-type: none"> <li>Undertake public consultation</li> <li>Prepare joint WSDP</li> <li>Plan arrangements for the WO, including governance structures and financial arrangements</li> <li>Each Council ensures internal endorsement for joint WSDP</li> <li>Chief Executives from each Council certify information provided by that Council</li> </ul>	End April to End May 2025 Deliberations-Decisions June – July 2025 August 2025
Submit the joint WSDP (with certification) to the Secretary for Local Government for acceptance. The WSDP may require amendments and resubmission for acceptance.	3 September 2025
<b><u>Implementation phase</u></b> <ul style="list-style-type: none"> <li>Councils adopt the accepted WSDP</li> <li>Publish the adopted WSDP</li> <li>Execute the corporate documents required to establish the WO</li> <li>Establish the WO</li> <li>Set up operational arrangements for the WO</li> </ul>	After acceptance of the WSDP under the LG(WSPA) Act  Planning assumption – Joint CCO setup early 2026 for 1 July 2027 establishment

**SCHEDULE 4****Project Budget**

Approved Budget -

<b>Budget</b>	<b>Total</b>
Project Delivery & Governance Support	\$ 199,000
Consulting Support - Financial Modelling & Analysis	\$ 42,000
Consulting Support - Initial Assessment	\$ 8,500
Consulting Support - CCO definition	\$ 3,500
Consulting Support - Options Update for decision / Consultation Content	\$ 15,000
Consulting Support - WSDP Content	\$ 15,000
Communications Support	\$ 89,480
Design & Printing	\$ 10,000
Consulting Support - Asset Mgt Plan and Long Term Plan Baselineing & New Env't Standards	\$ 15,000
Legal - Commitment Agreement & Decision Paper Review	\$ 20,000
Legal - Comms Content Review	\$ 10,000
Legal - WSDP Review	\$ 10,000
Legal - Ad Hoc Advice	\$ 20,000
	<b>\$ 457,480</b>
<b>Contingency 20%</b>	<b>\$ 91,496</b>
<b>Sub Total</b>	<b>\$ 548,976</b>

Under section 5 of the Commitment Agreement cost sharing arrangements have been reconciled between the four Councils up to 30 June 2025 (see table below). In addition, the costs of further analysis associated with moving from the group of four Councils to the group of three Councils has been attributed to WDC.

	<b>Category</b>	<b>Amount</b>
A	Project costs	\$514,245
B	Funding contribution	
	Timaru DC cost recovery	\$39,346
	DIA funding 1	\$250,000
	DIA funding 2	\$100,000
C	Net Costs (A-B)	\$124,899
D	Council share (C divided by four Councils)	\$31,224

## SCHEDULE 5

## Commercial Terms Sheet

Term	Agreed position	Template document clause reference
General		
Name of the WO		<ul style="list-style-type: none"> <li>All template documents</li> </ul>
Matters which require the approval of shareholders.		<ul style="list-style-type: none"> <li>Single council shareholder: Constitution, Schedule 2</li> <li>Multiple shareholders: Shareholders' Agreement, Schedule 1; Schedule 2, clause 5.1(b); and Schedule 3</li> </ul>
Service Area(s) where the WO will provide "water services".		<ul style="list-style-type: none"> <li>Commitment Agreement: Background, paragraph A</li> <li>Shareholders' Agreement: Schedule 1; Schedule 2, clause 1.1; and Schedule 6</li> </ul>
Constitution (single- and multi-shareholder WOs)		
Whether Shareholders will be able to require changes to and approve the Water Services Strategy.		<ul style="list-style-type: none"> <li>Clause 3.2</li> </ul>
Maximum number of directors.		<ul style="list-style-type: none"> <li>Clause 12.2</li> </ul>
Preferred method of appointing/removing directors, including: <ul style="list-style-type: none"> <li>Will directors be appointed by the shareholders directly or a by a Shareholder Council?</li> <li>Will directors be appointed proportionate to the shareholding of each council, or some other methodology (please specify)</li> </ul>	<b>Single director per shareholder</b>	<ul style="list-style-type: none"> <li>Clause 12.3(a)</li> </ul>
Directors' term of appointment and maximum number of terms a director can be appointed for.	<b>Term - 3 years</b>	<ul style="list-style-type: none"> <li>Clause 12.6</li> </ul>

Quorum for board meetings.		<ul style="list-style-type: none"> <li>Schedule 2, clause 3.1(a)</li> </ul>
Skills the directors are required to have.		<ul style="list-style-type: none"> <li>Clause 12.5</li> <li>Schedule 3</li> </ul>
Shareholders' Agreement		
Initial shares to be issued and shareholding for each shareholder.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 2.2</li> </ul>
Price payable for each share in the WO issued.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 2.3</li> </ul>
Principles that any further shares must be issued in accordance with.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 9.3</li> </ul>
The name, registered office and address for service of the WO.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 2.4</li> </ul>
The initial business set up, operational steps and transactions to be undertaken by the WO and Councils.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 3.2</li> </ul>
The initial directors of the WO.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 4.2</li> </ul>
Whether to establish a Shareholders Council, and if yes, confirmation that the Terms of Reference in Schedule 4 apply.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 6.1</li> <li>Schedule 4</li> </ul>
Membership of the Shareholders Council (where established), including the total number of members, the initial membership, and the number of members for a quorum at meetings.		<ul style="list-style-type: none"> <li>Schedule 4</li> </ul>
Number of missed Shareholders Council meetings missed before a new representative will be appointed.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 6.6</li> </ul>

Matters to be included in the Statement of Expectations.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 8.1(b)</li> </ul>
Interest rate payable on payment default by any party under the Shareholder's Agreement.		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 12.3</li> </ul>
Time period before publication to provide the agreed Statement of Expectations to the Chairperson of the Board, the Chief Executive of the Company and the Shareholders Council (must be no more than one month).		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 2, clause 8.1(c)</li> </ul>
Deed relating to Indemnity, Access and Insurance		
Individuals who will be indemnified under the Deed.	[All directors and senior executives of the WO.]	<ul style="list-style-type: none"> <li>Parties to the Deed</li> </ul>
Transfer Agreement		
Responsibilities to be transferred to the WO; Responsibilities which won't be transferred		<ul style="list-style-type: none"> <li>Appendices 1 and 2 of Schedule 2</li> </ul>
Assets to be transferred to the WO; Assets which won't be transferred		<ul style="list-style-type: none"> <li>Appendices 1 and 2 of Schedule 2</li> </ul>
Employees and Contractors to be transferred to the WO		<ul style="list-style-type: none"> <li>Schedule 2, clause 5</li> </ul>
Contracts to be novated to the WO; Contracts which won't be novated		<ul style="list-style-type: none"> <li>Appendices 1 and 2 of Schedule 2</li> </ul>
Matters of Shared Interest which Council and the WO will work together on		<ul style="list-style-type: none"> <li>Schedule 3</li> </ul>
Ad hoc services to be provided by Council to WO		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 4, clauses 2 and 4</li> </ul>
Ad hoc services to be provided by WO to Council		<ul style="list-style-type: none"> <li>Schedule 1</li> <li>Schedule 4, clauses 2 and 4</li> </ul>

Date of commencement		<ul style="list-style-type: none"><li>• Schedule 1</li><li>• Schedule 5, clause 1.1</li></ul>
Date on which the transfer will take effect		<ul style="list-style-type: none"><li>• Schedule 1</li><li>• Schedule 2, clause 7.1</li></ul>
Purchase price/limitation of liability		<ul style="list-style-type: none"><li>• Schedule 1</li><li>• Schedule 2, clauses 3.1 and 11.2</li></ul>
Party (as between the Council and the WO) who will collect the water charges		<ul style="list-style-type: none"><li>• Schedule 1</li><li>• Schedule 3, clause 2</li></ul>
Council's Representative and Interface Governance Group Members		<ul style="list-style-type: none"><li>• Schedule 1</li><li>• Schedule 3, clause 4.2</li><li>• Schedule 3, clause 4.3</li></ul>



**5        Public Forum Items Requiring Consideration**