AGENDA

Joint Shareholders Committee Meeting
Monday, 13 July 2026

Date	Monday, 13 July 2026
Time	10:30 am
Location	Council Chamber District Council Building King George Place Timaru 1853656

Joint Shareholders Committee

Notice is hereby given that a meeting of the Joint Shareholders Committee will be held in the Council Chamber, District Council Building, King George Place, Timaru, on Monday 13 July 2026, at 10:30 am.

Joint Shareholders Committee Members

Timaru District Mayor Nigel Bowen (Chairperson), Clrs Graeme Wilson, Michelle Pye, Mackenzie District Council Mayor Scott Aronsen, Clrs Rit Fisher, Mark Adams (Deputy Chairperson)

Alternatives: Clr Stacey Scott (TDC), Sue Allan (MDC)

Quorum for a Joint Committee meeting is:

A total of four elected members must be present, or appointed alternates, with at least two members being from each Council.

Where the Joint Shareholders Committee is providing a forum for the Shareholders to meet and exercise their powers in relation to the Company, the requirements of the Company's constitution and shareholders' agreement will prevail.

Local Authorities (Members' Interests) Act 1968

Committee members are reminded that if you 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.

Order Of Business

1 Apologies

2 Identification of Items of Urgent Business

3 Identification of Matters of a Minor Nature

4 Declaration of Conflicts of Interest

5 Chairperson’s Report

6 Confirmation of Minutes

6.1 Minutes of the Joint Shareholders Committee Meeting held on 3 June 2026

Author: **Meghan Taylor, Acting Democracy Services Lead**

Recommendation

That the Minutes of the Joint Shareholders Committee Meeting held on 3 June 2026 be confirmed as a true and correct record of that meeting and that the Chairperson's electronic signature be attached.

Attachments

1. **Minutes of the Joint Shareholders Committee Meeting held on 3 June 2026**

MINUTES

Joint Shareholders Committee Meeting

Wednesday, 3 June 2026

Minutes of Timaru District Council
Joint Shareholders Committee Meeting
Held in the Council Chambers, District Council Building, King George Place, Timaru
on Wednesday, 3 June 2026 10:01 am

Present:	**Timaru District Council:** Mayor Nigel Bowen (Chairperson) and Clrs Graeme Wilson and Michelle Pye.
	Mackenzie District Council: Mayor Scott Aronsen and Clrs Rit Fisher and Mark Adams (Deputy Chairperson)
In Attendance:	**Councillor:** Stacey Scott (Downlands Water Supply Committee Chairperson)
	Timaru District Council Officers: Nigel Trainor (Chief Executive), Andrew Lester (General Manager Drainage and Water), Andrea Rankin (Chief Financial Officer), Elliot Higbee (Legal Services Manager), Rosie Oliver (Programme Office Lead), Meghan Taylor (Acting Democracy Services Lead), Alana Hobbs (Executive Support Coordinator), Alana Hobbs (Executive Support Coordinator)
	Mackenzie District Council Officers: Angela Oosthuizen (Chief Executive), Neil Jorgensen (General Manager - Operations and Regulatory Services), Robyn Laidlaw (Corporate Planner)

At 10.02am the meeting was adjourned.

At 10.29am the meeting reconvened.

1 Apologies

No apologies were received.

2 Identification of Items of Urgent Business

No items of urgent business were received.

3 Identification of Matters of a Minor Nature

No matters of a minor nature were raised.

4 Declaration of Conflicts of Interest

No conflicts of interest were declared.

5 Chairperson's Report

No Chairperson's report was received.

6 Confirmation of Minutes

6.1 Minutes of the Joint Shareholders Committee Meeting held on 29 April 2026

Resolution 2026/7

Moved: Clr Graeme Wilson
Seconded: Clr Michelle Pye

That the Minutes of the Joint Shareholders Committee Meeting held on 29 April 2026 be confirmed as a true and correct record of that meeting and that the Chairperson's electronic signature be attached.

Carried

7 Reports

7.1 Adoption of 2026 Meetings Schedule

The General Manager Corporate spoke to the report to adopt a revised meeting schedule for the Joint Shareholders Committee for the remainder of the 2026 calendar year.

Resolution 2026/8

Moved: Mayor Nigel Bowen
Seconded: Deputy Chairperson Mark Adams

That The Joint Shareholders Committee:

1. Receive and note the Adoption of 2026 Meetings Schedule report;
2. Approve a six weekly meeting frequency;
3. Adopt the proposed meeting schedule for the remainder of 2026 as follows:

   Monday 13 July 2026 at 10.30am
   Monday 24 August 2026 at 10.30am
   Monday 5 October 2026 at 10.30am
   Monday 16 November 2026 at 10.30am; and

4. Agree to cancel the previously scheduled meeting of 25 June 2026.

Carried

7.2 Downlands Water Scheme Structural Decision Advice

The Legal Services Manager and the Downlands Water Supply Committee Chairperson spoke to the report to advise the Joint Shareholders Committee (JSC) on the structural decision required for the Downlands Water Scheme (the Scheme) ahead of Day One of the joint Water Organisation (WO) on 1 July 2027.

The Chairperson of the Downlands Water Supply Committee noted ongoing discussions with Waimate District Council and advised they would be in attendance at a public meeting with affected Downlands scheme users in Waimate that is scheduled for tomorrow.

Discussion included how Waimate integrates in regard to council amalgamation Kickstart reform, options for Waimate’s future involvement in the scheme and timing considerations.

Joint water service provider agreements for Waimate Downlands customers were raised. The Legal Services Manager and Chief Executive advised that this would require structural change process. The Timaru Chief Executive further noted that the WO cannot have customers out of district signed up to a partly owned water supply.

Members discussed the retention of stormwater assets by councils and potential voting arrangements if the interests are transferred or they become a shareholder. The Legal Services Manager noted that the Downlands arrangement involved complex equity and ownership considerations across different organisations, which differed from stormwater arrangements. The Timaru Chief Executive advised that stormwater assets would remain owned by the respective shareholder councils, while Waimate District Council remained a separate entity.

The General Manager Drainage and Water advised that Waimate District Council holds approximately 14% of the scheme which doesn’t directly correlate to assets.

It was queried whether the Downlands Water Supply Scheme could be established as a ringfenced subsidiary of the Water Services Organisation, with ownership reflecting the respective interests of the parties, including Waimate District Council's shareholding. The Chief Executive advised that such an arrangement would be legally expensive.

Members discussed the options available to Waimate District Council, including joining in the Water Services Organisation, the Timaru Chief Executive noted the importance of obtaining certainty to enable progression of the constitution and shareholder agreement.

The Chairperson of the Downlands Water Supply Committee noted that only a small number of properties within Waimate District were serviced by the scheme and that Timaru District Council already administered customer billing, connections, and operational issues.

Members supported writing to Waimate District Council seeking a timely decision on its preferred option to enable progression of the preferred structure. The Legal Services Manager highlighted the legal obligation of the 31 October Deadline that was incorporated into the WSDP.

It was agreed that the Chair write to Waimate District Council requesting a decision on its preferred future involvement in the Downlands Water Supply Scheme, including consideration of joining the Water Organisation in its entirety, and seeking a decision within an agreed timeframe.

Resolution 2026/9

Moved: Mayor Nigel Bowen
Seconded: Clr Graeme Wilson

That the Joint Shareholders Committee:

1. Receives the report *Downlands Water Scheme Structural Decision Advice.*
2. Determines that the current cross-boundary co-ownership of the Downlands Water Scheme is not a reasonably practicable option for providing water supply services under the Local Government (Water Services) Act 2025 after 1 July 2027, and that a timely

decision prior to that date on future arrangements is required by the Downlands Joint Committee Councils.

3. Notes officers are commissioning, jointly with the Downlands Joint Committee Councils, the engineering, legal, asset valuation and accounting advice required to support a decision on future arrangements.
4. Notes that the commissioned advice will be developed into a decision report and provided to the three Councils, via the Downlands Water Supply Committee, for a structural decision on the Downlands Water Scheme.
5. Notes advice that the option must be substantially settled before 31 October 2026 and implemented from 1 July 2027.
6. Delegates to the Chairperson to formally write to Waimate to request a decision and give thought to Joining the Joint Water Services Organisation in its entirety based on reform, and give thought to when they might be able to make a decision on that.

Carried

7.3 Stormwater Options for Service Delivery

The Legal Services Manager spoke to the report to test options for stormwater service delivery with the Joint Shareholders Committee (JSC), to inform advice to the two shareholding Councils.

Discussion included the transfer of assets and functions to the Joint Water Services Organisation (JWSO) and the operational implications of retaining stormwater services within council. The Timaru Chief Executive advised that retaining stormwater would likely require councils to maintain or increase specialist capacity following the transfer of water services functions. It was further noted that the Commerce Commission aren’t yet in a position to regulate Stormwater.

The Legal Services Manager raised the value proposition, noting officers have not been able to quantify the benefits regarding what the assets provide relative to a return for the level of responsibility.

Further discussion included the challenges associated with asset ownership, regulatory requirements, ringfencing of revenue, and the treatment of assets and activities that may not clearly fall within proposed stormwater arrangements such as retention dams which is a flood structure managed by Stormwater however the asset would not transfer to the JWSO.

The Timaru Chief Executive noted that further analysis was required to assess the costs, benefits, and practical implications of alternative service delivery models, including options where the JWSO provides stormwater services while councils retain ownership of assets, and options involving full asset transfer.

Clarification was sough on whether Stormwater is exempt from rates capping.

Resolution 2026/10

Moved: Clr Rit Fisher
Seconded: Deputy Chairperson Mark Adams

That the Joint Committee consider this report and accompanying draft analysis in the accompanying report and provide direction for officers to inform the technical decision paper for the two shareholding Councils.

Carried

7.4 Constitution and shareholders agreement for the Water Organisation

The Legal Services Manager spoke to the report to obtain direction and comment from the Joint Shareholders Committee (JSC) on the draft versions of the constitution and shareholders agreement. This will inform officers preparation of these two foundational documents for approval by the two shareholding councils.

Members were invited to provide any further detailed feedback directly to officers for consideration prior to finalisation of the documents.

Discussion included constitution document distribution wording and approach, director appointments regarding vacancies, consistency between the governing documents, and election of board chairperson governance arrangements and control. The Legal Services Manager advised that the shareholders will be in control of the hiring and review of the skills matrix through this process and hiring on that basis. Further discussion included the director appointment term, there was preference to include an escape clause.

There was emphasis on the importance of maintaining flexibility within the constitution ensuring it can accommodate additional shareholder councils and provide appropriate (a and b) equitable voting arrangements for any future participants.

Resolution 2026/11

Moved: Mayor Nigel Bowen
Seconded: Clr Michelle Pye

That the Committee provide direction and comment on the draft constitution and shareholders agreement for officers to progress to a decision report for the two shareholding Councils.

Carried

8 Consideration of Urgent Business Items

No items of urgent business were received.

9 Consideration of Minor Nature Matters

No matters of a minor nature were raised.

10 Exclusion of the Public

Resolution 2026/12

Moved: Clr Nigel Bowen
Seconded: Deputy Chairperson Mark Adams

That at 11.14am the public be excluded from the following parts of the proceedings of this meeting, namely,—

11.1 Water Organisation Establishment Programme Update

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Plain English Reason
11.1 - Water Organisation Establishment Programme Update	s7(2)(i) - The withholding of the information is necessary to enable the Council to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	To enable Council to carry out commercial or industrial negotiations

Carried

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

- "(4)Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof)—
  - (a)shall be available to any member of the public who is present; and
  - (b)shall form part of the minutes of the local authority."

11 Public Excluded Reports

11.1 Water Organisation Establishment Programme Update

12 Readmittance of the Public

Resolution 2026/13

Moved: Mayor Nigel Bowen
Seconded: Clr Michelle Pye

That the meeting moves out of Closed Meeting into Open Meeting at 12.03pm.

Carried

The Meeting closed at 12.03pm.

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Mayor Nigel Bowen

Chairperson

7 Reports

7.1 Actions Register Update

Author: **Meghan Taylor, Acting Democracy Services Lead**

Authoriser: **Stephen Doran, General Manager Corporate**

Recommendation

That the Joint Shareholders Committee receives and notes the updates to the Actions Register.

Purpose of Report

1 The purpose of this report is to provide the Joint Shareholders Committee with an update on the status of the action requests raised by members at previous Joint Shareholder Committee meetings.

Assessment of Significance

2 This matter is assessed to be of low significance under the Council's Significance and Engagement Policy as there is no impact on the service provision, no decision to transfer ownership or control of a strategic asset to or from Council, and no deviation from the Long Term Plan.

Discussion

3 The actions register is a record of actions requested by members. It includes a status and comments section to update the Joint Shareholders Committee on the progress of each item.

4 There is currently one item on the actions register.

5 There is one item marked as ongoing.

6 No items are marked as completed and proposed to be marked as removed at the next meeting.

7 No items are marked as removed to be taken off the list at the next meeting.

Attachments

1. Joint Shareholders Committee Actions Register ⇩

Information Requested from Councillors (Joint Shareholders Committee)

Key ■ = Completed, for removal ■ = 60+ Days ■ = 90+ Days ■ = Removed

Information Requested	JWSO Chief Executive Advertising		
Date Raised:	3 June 2026	**Status:**	Ongoing
Issue Owner:	TDC Chief Executive	**Completed Date:**	
Background: At the Joint Shareholders Meeting it was requested that the advertising of the recruitment for the Chief Executive be brought forward. **July 2026:** Council have appointed an Interim Chief Executive for the Water Organisation while the Chief Executive recruitment process continues. The advertising for this role closed on 5 July 2026.			

#1852633

7.2 Water Organisation Establishment Programme Update

Author: **Rosie Oliver, Programme Office Lead**

Authoriser: **Nigel Trainor, Chief Executive**

Recommendation

That the Joint Shareholders Committee:

1. Receive and note the Water Organisation Establishment Dashboard Report; and
2. Confirm the mandate of the Interim Chief Executive to make decisions on behalf of the Water Organisation to reach its establishment milestones: Incorporation, Financial Independence, and Commencement of Services on 01/07/27; and
3. Endorse the Department of Internal Affairs Quarterly Monitoring Report for the Timaru Water Services Delivery Plan 30 June 2026 for the period April to June 2026; and
4. Delegate to the Chief Executives of each Council to finalise the WSDP update, including making amendments, and to submit this to the DIA.

Purpose of Report

1 The purpose of this report is to provide the Joint Shareholders Committee with an opportunity to review and provide feedback on programme progress and direction, to confirm the intended mandate of the Interim CE, and to enable review and endorsement of the Department of Internal Affairs Quarterly Monitoring Report for the Timaru Water Services Delivery Plan 30 June 2026 for the period April to June 2026.

Assessment of Significance

2 This report is of low significance being a progress update aligned with previously endorsed documents and decisions including Timaru District Council's Water Services Delivery Strategy, and the Commitment Agreement and Joint Shareholders Committee Terms of Reference previously adopted by both Mackenzie (MDC) and Timaru (TDC) District Councils.

Background

3 On 03 June 2026 the Joint Shareholders Committee (JSC) endorsed a detailed suite of programme documents (including the programme management plan (PMP), procurement, and communication plans) which established the baseline scope, schedule, budget forecasts and additional planning and administrative parameters for the establishment of a Water Organisation (WO) for the two shareholding Councils.

4 The JSC also received and noted the Water Organisation Establishment Dashboard Report for the period 23 April 2026 – 23 May 2026 which summarised overall, scope, quality, cost and schedule status, and which highlighted key achievements within the relevant reporting period, together with scheduled next steps, and key programme issues and risks with their corresponding mitigations.

Discussion – Programme Update

5 An updated **Water Organisation Establishment Dashboard Report for the period 24 May 2026 – 30 June 2026** is attached below with progress evaluated against parameters outlined in the PMP and benchmarked against priorities identified in the last Dashboard report.

6 As noted previously, the information included in the Dashboard leverages detail collated via the Programme Log which is regularly monitored and updated by the Programme Manager in consultation with the Programme Steering Group (PSG). This Log is a comprehensive, cumulative programme record.

7 However, for visual clarity the Milestone field within the Dashboard shows only those milestones for the current and upcoming reporting periods, Issues/Lessons and Risks are removed from these fields as/when mitigation is sufficient to resolve a matter, and completed Contracts are also removed from the Contracts reporting field. The irregular numbering therefore reflects hidden rows that are no longer relevant to governance decision making.

8 As indicated in the Dashboard report, one of the most time-critical milestones within the most recent reporting period was the appointment of an Interim CE or Interim CE with a remit to make decisions on behalf of the Water Organisation pending the arrival of the Establishment CE (with the latter role presently out for recruitment).

9 This role has now been appointed and the Interim CE commencing 28 June 2026 has reviewed the handover pack provided which included key programme documents and plans together with the draft Joint Operating Model (JOM) scope and optioneering/critical decisions required to shape and progress implementation. The Interim CE has also attended meetings of the PSG and Programme Team and initiated one:one discussions with the Programme Manager and with workstream leads as relevant.

10 The Interim CE is currently in the process of collating questions, feedback and proposed next steps to refine and update the required work programme including reforecasting of the budget with consideration given to packaging task costs into interim roles/salaries. In the next reporting period the Interim CE will also be assimilating time critical JOM recommendations in consultation with the PSG which will, for example, give shape to the required organisational operating model, the scope of any service agreements, and the scope of systems required for day one operations.

11 Noting the transitional programme governance structure and the need to maintain programme momentum in accordance with the critical path it is requested that the JSC formally confirm the mandate of the present Interim CE to undertake this work including the required interim decision making on behalf of the WO as relates to the JOM.

12 It is proposed that the Interim CE will bring a report to the August meeting of the JSC outlining key decisions made and direction confirmed in alignment with JOM recommendations, together with any significant programme (or budget) implications of these decisions. Minor updates to the forecast, forecasting assumptions and critical path will be reflected in the next routine programme update.

13 Other key updates and next steps for the present reporting period are as indicated in the Dashboard report.

Discussion – DIA Quarterly Report Timaru WSDP

14 The attached **Department of Internal Affairs Quarterly Monitoring Report for the Timaru Mackenzie Water Services Delivery Plan 30 June 2026 for the period April to June 2026** has

been collated by the Programme Manager and reviewed and updated by individual members of the Programme Steering Group. It will be reviewed at the PSG meeting on 08 July 2026 and a verbal update will be provided reflecting that discussion.

15 While taking in a longer reporting period it aligns with the present Water Organisation Establishment Dashboard Report for the period 24 May 2026 – 08 July 2026, providing a progress snapshot.

16 The DIA had requested a particular update regarding the commitment to transition funding and this has been included. It is noted also that the DIA has confirmed that this document covers the reporting obligation for each Council (there is no separate report for each).

17 This report must be endorsed and submitted to the DIA no later than 30 July 2026.

Options and Preferred Option

Programme Update and Mandate of the Interim CE

18 The Committee has two options. The first is to confirm the mandate of the Interim Chief Executive to make decisions on behalf of the Water Organisation to reach its establishment milestones: Incorporation, Financial Independence, and Commencement of Services on 01/07/27. This mandate includes refining and implementing the Joint Operating Model, which is one component of the establishment programme. Decisions within the approved programme plan sit with the Interim CE. Decisions outside the approved programme plan are significant and follow one of two routes.

19 Where a significant decision impacts one or both Councils, the Interim CE will obtain the approval of the Chief Executive of each affected Council. Where a significant decision affects only the Water Organisation, the Interim CE will consult the Chief Executives and the decision will be made by the Water Organisation board, or by this Committee until a board is in place. Material changes to the programme plan itself follow the significant decision route.

20 The second option is not to confirm this mandate and to recommend an alternative process, within the parameters of the Commitment Agreement, for decision making at pace.

21 Officers recommend that the Committee confirm the mandate. The establishment programme, delivered by the Programme Team, is an input to the Water Organisation's establishment and also supports the two Councils in their own transition activities. Confirming the mandate gives the Interim CE clear authority to make decisions within the approved programme plan, set day one and minimum viable organisation parameters, and prioritise effort where it matters most.

22 Decisions outside the plan carry Council and Committee oversight through the routes set out above. This clarity is critical given compliance timeframes and lead times for planning, design, consultation and procurement, particularly in the People and Information Services workstreams.

23 Should the Committee not confirm the mandate, decision making on behalf of the Water Organisation would lack a clear owner and a clear boundary. Each decision would need a bespoke approval path, slowing delivery and introducing the risk of non-compliance or non-viability at day one.

Quarterly Monitoring Report

24 The Joint Shareholders Committee has two Options available, to endorse the Department of Internal Affairs Quarterly Monitoring Report for the Timaru Mackenzie Water Services Delivery Plan 30 June 2026 for the period April to June 2026 or *not* to endorse the same.

25 Officers recommend that the Committee endorse the Quarterly Monitoring Report, subject to any requested refinements to be executed by the Chief Executive, as this will enable Timaru District Council to achieve DIA's required submission date of 30 July 2026.

Consultation

26 Consultation has been previously undertaken regarding this programme, and no additional consultation is necessary or appropriate at this time.

27 However, it is noted that the previously provided Water Organisation Establishment Communication and Engagement Plan *may* need to be reviewed and updated pending a final decision re stormwater assets and management responsibilities. In the event that an amendment to either WSDP is required then targeted consultation on that topic may be required to be undertaken.

28 Confirmation of the resourcing (lead contractor) required for this workstream is included among the milestones for the next reporting period.

Relevant Legislation, Council Policy and Plans

29 Local Government (Water Services Preliminary Arrangements) Act 2024

30 Local Government (Water Services) Bill, reported back from Select Committee on 3 July 2025

31 Timaru District Council's Significance and Engagement Policy

Financial and Funding Implications

32 Budget of $2,364,000 has been previously approved for this programme by Timaru District Council on 26 August 2025 and incorporated within the Commitment Agreement adopted by both Councils together with a contribution of $250,000 from Mackenzie District Council.

33 Mackenzie District Council intend to commit a further $1,000,000 to this programme via the Annual Plan 2026-27 which would provide a total available programme budget of $3,614,000 pending adoption of the relevant Mackenzie District Council Annual Plan.

34 The present maximum programme forecast sits at $5.815m leaving a potential maximum shortfall of $2,201,000 - $3,201,000.

35 In order to ensure sufficient resourcing to deliver the work programme required to establish a viable, compliant WO on 01 July 2027 it may therefore be necessary for both Shareholding Councils increase their budget allocation moving forward with exact amounts subject to a revised forecast to be brought to the next meeting of this Committee.

Other Considerations

36 There are no other considerations.

Attachments

1. Water Organisation Establishment Dashboard Report for the period 24 May 2026 – 30 June 2026 ⇩

2. Department of Internal Affairs Quarterly Monitoring Report for the Timaru Mackenzie Water Services Delivery Plan 30 June 2026 for the period April to June 2026 ⇩

Water Organisation Establishment Dashboard Report June 2026

ProgrammeName	Waters Establishment	**Reporting Period**	24.05.26 - 30.06.26
Business Unit	CE Office	**Programme Classification**	Significant, Complex
Programme Sponsor	Chief Executive, Nigel Trainor; Chief Executive, Angela Oosthuizen	**Programme Manager**	Programme Office Lead, Rosie Oliver

Status area	Status	Comments
Status Summary		Competing BAU priorities continue to constrain available internal capacity for delivery and timelines for review/decision making (Issue 001) and there is still an oustanding dependency on confirmation of the Joint Operating Model (JOM) with implications for planning and implementation across all workstreams (Issue 002). However, an Interim CE with the mandate to provide direction on behalf of the Water Organisation has now been appointed so that recommendations on the day-one JOM can be progressed as relevant, pending JSC formalisation of that mandate. An interim Procurement Proposal will be reviewed by the PSG on 08.07.26 with corresponding financial delegations for the People and, possibly, the Communication/Engagement workstream, to resource delivery of agreed time-critical tasks within budget forecasts and in accordance with satisfactory supplier fee proposals and estimates. Should the JSC approve the mandate of the interim Lead on 13.07.26, and should the PSG approve the interim Procurement Proposal on 08.07.26, then overall programme status will update to green as at 13.07.26. The amber status reflects the 30.06.26 reporting deadline.
Scope Status		The immediate issue around scope clarity was previously resolved through the preparation and review of the Programme Management Plan and the detailed Establishment Programme which clearly outline the workstreams and the tasks and deliverables for which each lead is accountable. Pending QA review by the Water Organisation Lead, the programme team and steering group continue to have a high level of confidence in the scope noting that external Subject Matter Experts (SMEs) eg People workstream will be contracted to provide additional scope direction and task leadership across key workstreams in accordance with the Procurement Proposal subjec to PSG approval on 08.07.26.
Quality Status		There is still a dependency around review/endorsement of individual elements of the preferred JOM by the Establishment CE. However, the appointment of the Interim CE and the anticipated confirmation of workstream SME support should enable the team to confirm and progress quality and MVP parameters for day one operations sequentially.
Cost Status		The programme forecast was previously updated with estimates from SME workstream leads aligned to their updated workstream scopes with forecast to completion (compliant and viable operations at day one) shown to exceed the budget cited in the Commitment Agreement. The Interim CE will now review these forecasts together with the CEs and CFOs/Financial Managers of each Council and, as the larger unknowns are resolved (ie confirmed JOM, systems, service agreements; clarity re transfer details and resolution of complexities), forecasts will be continually updated to align with the revised parameters. If required, JSC endorsement for an approach to both TDC and MDC to increase the (loan funded) programme budget will be sought. Earlier registration of the Water Organisation (July/August 2026) could also facilitate earlier access to LGFA financing in the new calendar year (to be confirmed).
Schedule Status		With the preparation of the detailed Programme Plan and Establishment Programme all tasks were rescheduled to fit the time remaining in order to achieve compliance and a viable operating model on day one. On the assumption that JSC and PSG decision making on 13.07.26 and 08.07.26 respectively will resolve many of the identified resourcing and decision making gaps it is then anticipated that required tasks will be completed in accordance with the overall critical path and, for the most part, their rescheduled timeframes. However, there is significant outstanding risk around the timeliness of governance decision making (eg Downlands, stormater, adoption of foundation documents) and around the unknown time/cost complexity that coud be involved in (1) informing and (2) progressing the respective Transfer Agreements as the Programme Team is only in the early stages of collating the more complex asset/liability data (property, easements, contracts, non-financial liabilities etc).

Cost details

Establishment (WO) Budget	Spend to date	Committed	Estimate to Completion	Estimate at Completion	Estimated Variance	Comments
$2,614,000	$176,850	$176,850	TBC	$3,990,000 - 4,285,000	$1,376,000 - $1,671,000	It is again noted that spend to date and committed costs are currently identical. This will change as procurement decision making and record keeping comes into alignment with the Procurement Plan and the Contracts log is ble to be updated in anticipation of spend, rather than retrospectively. PSG approval of the interim Procurement Proposal - and subsequent proposals - will be required to progress this (ETA 08.07.26)

Council Budget	Spend to date	Committed	Estimate to Completion	Estimate at Completion	Estimated Variance	Comments
$ TDC $ MDC $ Total	TBC	TBC	TBC	$820,000 $710,000 $1,530,000	$820,000 $710,000 $1,530,000	It has been agreed that a mechanism for tracking/reporting separate, related spend by TDC and MDC is required to enable JSC oversight of total programme expenditure across all three budget owners, and to faciliate negotiations supporting the Transfer Agreements in due course. This mechanism will be confirmed for the next reporting period.
Total	**Spend to date**	**Committed**	**Estimate to Completion**	**Estimate at Completion**	**Estimated Variance**	**Comments**
	$176,850	TBC	TBC	$5,520,000 - 5,815,000	$2,906,000 - 3,201,000	The previous total forecast estimate at completion indicates that the budget is insufficient for the required work programme and resourcing. Estimates are risk-averse at this time due to the number of unknowns/assumptions and reforecasting will be undertaken for the next reporting period.

Achievements for this period
Completion of draft Joint Operating Model scope/optioneering and programme handover pack for Interim CE
Appointment and onboarding of interim CE for Water Organisation
Recruitment process for Establishment Chair and CE ongoing, candidates identified and interviews scheduled
Revisions as directed to Constitution (legal review underway with JSC decision to come)
Asset revaluations (TDC and MDC) completed
Asset and Liability data collation tool created and process, roles and responsibilities to complete now defined with appropriate resource identified (allocation/approval pending). Data collection underway.
Legal review and risk analysis of intial data set for Pleasant Point Water Supply/content for transfer agreement (eg asset/liability/property/easement/contract data and respective roles, responsibilities, duties, powers, arrangements relating to matters of shared interest) underway as test case to inform breadth/depth of detail to be required
Close out of work on stormwater optioneering with report to JSC for final decision
Preparation of interim naming options for JSC decision
Preparation of immediate Procurement Proposal for People workstream to resource delivery of time-critical tasks
Systems can deliver actuals for reporting 30.06.26 (TDC and MDC)
Interim draft disclosures to Commerce Commission (new deadline to be advised) and work in hand to satisfy all requirements
Work commenced on 3 x combined (MDC/TDC) AMPs (BAU budgets
Prepration and distribution of WSS template (Corporate Planning)
Planned activities for this period not achieved
Downlands options analysis prepared/presented to Downlands Committee - meeting date now TBC
Revisions as directed to Shareholders Agreement (will lag re Constitution)
Financial model to support optioneering and analysis in development (TDC data isolation completed, model cannot be progressed until JOM direction established)
FAQ to officers (should be finalised and issued prior to 13.07.26)
Letter to Mana Whenua (unconfirmed)
Preparation and approval of broader Procurement Proposal and financial delegations (Water Services Delivery, Finance, Legal, People and Communication/Engagement workstreams) to resource delivery of time-critical tasks
Quarterly update report on WSDP prepared for DIA pending JSC endorsement/final changes (in draft but not yet endorsed)
Collation of data for Asset and Liability registers (TDC and MDC), initial drafts to PSG (begun but no initial drafts)
Legal review and risk analysis of comprehensive asset and liability registers and other content for transfer agreement (eg respective roles, responsibilities, duties, powers, arrangements relating to matters of shared interest)
Commerce Commission disclosures 30.06.26 (TDC and MDC) - deadline has been revised by Commerce Commission
Appointment of lead contractor for People workstream
Planned activities for next period
Interim JOM decisions clarify direction and next steps re structures, systems, service agreements
Reforecasting of budgets and resourcing to the programme
Commerce Commission disclosures finalised in accordance with updated deadline
Ongoing collation of data for Asset and Liability registers (TDC and MDC) including property, easements, contracts, non-financial liabilities information

Legal review and risk analysis of comprehensive asset and liability registers and other content for transfer agreement (eg respective roles, responsibilities, duties, powers, arrangements relating to matters of shared interest) including fully worked model for Pleasant Point Water Supply scheme
Appointment of lead contractor for People workstream, preparation of People workstream programme plan
Adoption of Constitution and Shareholders Agreement
Preparation of interim Statement of Expectations
Continuation of work on 3 x combined (MDC/TDC) AMPs
Work to commence on Tradewaste toolkit (Waugh)
Work to commence on stormwater modelling (Morphum)
Appointment of lead contractor for Communication/Engagement workstream
Appointment of lead contractor/FTE for Finance workstream
Confirm customer contacts and contracts (first draft) for MDC/TDC
Decision re Stormwater and progression of next steps
Decision re Downlands and progression of next steps
Decision re stockwater schemes (various) and progression of next steps
Financial model to support optioneering and analysis in development

Milestone Progress for this and next period

No.	Milestone	% Complete	Target Finish Date	Actual Finish Date	RAG Status	Comments/Actions
1	Commit to partnership and establish joint governance	100%	1/04/2026	31/03/2026		Commitment Agreement and JSC T of R in place
4	Adoption of Constitution and Shareholders' Agreement	90%	30/05/2026	Not finished		Draft Constitution attached to separate report, adoption is a dependency of an earlier company registration to secure access to LGFA finance for the WO in the new financial year. Shareholders Agreement will lag.
5	Appointment of Establishment Chair	20%	30/06/2026	Not finished		ETA 30.07.26 per Sheffield timeline
6	Appointment of Establishment CE	20%	30/07/2026	Not finished		ETA 30.08.26 per Sheffield timeline nb notice period to commence in role
7	Appointment of Interim CE	90%	30/05/2026	22/06/2026		Cathryn Lancaster appointed, this report seeks confirmation of fit for purpose delegations.
8	Appointment HR Lead Contractor	80%	30/06/2026	Not finished		Pending PSG approval of preferred supplier proposal. Next step will be preparation of detailed programme plan for this workstream to inform implementation.
9	Information Disclosure reporting to the Commerce Commission (Dividend Statement, policy for funding growth, information about charges).	90%	30/06/2026	Not finished		Draft submitted, extension approved for final changes.
11	Systems deliver actuals for reporting (ie adequate ringfencing)	100%	1/07/2026	30/06/2026		Completed for both TDC and MDC.

12	Decision on preferred way forward for Downlands Scheme	90%	13/07/2026	Not finished		There is risk around the timeliness of governance decision making and a complex decision making environment noting the Head Start reforms.
13	Appointment of lead contractor for Communication/Engagement workstream	0%	30/07/2026	Not finished		Supplier proposals to be sought with endorsement of preferred supplier/solution by PSG.
14	Appointment of lead contractor/FTE for Finance workstream	50%	30/07/2026	Not finished		Supplier, secondment or contractor proposals to be sought with endorsement of preferred supplier/solution by PSG.
15	Confirm customer contacts and contracts (first draft) for MDC/TDC	0%	30/07/2026	Not finished		Will require iteration up until go live.
16	Decision re Stormwater and progression of next steps	90%	13/07/2026	Not finished		There is risk around the timeliness of governance decision making and a complex decision making environment noting the Head Start reforms.
17	Decision re stockwater schemes (various) and progression of next steps	0%	24/08/2026	Not finished		There is risk around the timeliness of governance decision making and a complex decision making environment noting the Head Start reforms.
18	Establishment of Water Organisation	0%	1/07/2026	Not started		Hard deadline of 31 October 2026 but should be 30.07.26 to ensure access to LGFA finance for the WO from January.
19	Adoption of Interim Statement of Expectations	0%	30/12/2026	Not started		Deadline likely to be brought forward pending earlier registration of company.
INTERIM	Financial reporting commences for Water Organisation	0%	30/11/2026	Not started		Hard deadline for DIA and Comm Comm
FINAL	Company fully operational	0%	1/07/2027	Not started		Statutory deadline

Issues/Lessons

No.	Description	Raised	Owner	Mitigation/Treatment	Status	Lessons Learned
1	Budget and resourcing insufficient for work programme	13/05/2026	PSG to JSC	Approve updated PMP, budget and procurement strategy (mitigation in place). PSG to approve immediate Procurement Proposal and financial delegations to resource delivery of time-critical tasks (mitigation TBC) Workstream leads to procure agreed resourcing within delegation (TBC) Interim CE to review tasks and forecasts and advise re efficiencies. Interim CE and CEs/CFOs to update forecasts with consideration to task bundling/interim roles (Outstanding). CEs/CFOs/Interim CE to review cost allocation principles and seek JSC endorsement of additional guidance re interpretation of Commitment Agreement (Outstanding)		Initial budget based on single-entity CCO and did not include all relevant costs/workstreams. Cost allocation principles (Commitment Agreement) not very directive leading to some confusion around costs to be transferred vs remaining with Councils.

2	Lack of WO accountability partner in role roadblocks critical decision making	13/05/2026	PSG/Ces	Appoint Interim CE pending arrival of Establishment CE in role. Interim CE to review draft JOM/critical decisions and provide questions/feedback and next steps to progress decision making (Outstanding) JSC to approve fit for purpose delegation for Interim CE to progress critical decisions and workflows (TBC)		Timelines for Est CE to be role did not consider notice period, could be a 6 month lag. Delegation scope requires clarification to ensure effective leadership and decision making at pace.
5	MDC representation on JSC (original and alternate members unavailable)	4/06/2026	JSC/CE MDC	TDC Legal Services Manager to support MDC CE with process/paper for JSC to approve		NA appropriate process in place for resolution
6	Programme visibility of MDC budget, actuals, contracts relevant to the establishment of the WO/day one viability and compliance to ensure financial reporting is comprehensive	4/06/2026	PSG/CE MDC	Interim CE to liaise with CE MDC to agree solution and scope of information required, ensure clean coding and reporting from next period.		Complexity of multi-council financial forecasting and reporting. Initial budget setting exercise not broad enough in scope and funding mechanism agreed not able to capture all costs.
7	Decision to retain stormwater assets but transfer WSP responsibilities to WO will require community consultation and an amendment to TDC WSDP.	4/06/2026	Legal Services Manager/Comms and Engagement Lead	Pending confirmed governance decision, Legal Services Manager to advise scope of consultation and amendments required and liaise with DIA re approval. C and E Lead to plan, prepare and implement required consultation.		Additional subtlety and opportunities in contextual legislation. Early consideration being given to these matters in the wider context of the Transfer Agreements.

Risks

No.	Description	Likelihood	Consequence	Mitigation/Treatment	Residual Risk	Comments/Actions
1	Programme milestones may not be met	H	H	Endorsement of updated PMP, budget and procurement strategy to increase pace. Appointment of Interim CE to ensure timely decision making. Approval (PSG) of interim procurement/resourcing 08/06.2026.	L	Also covered as a live Issue above. One particular risk is the extent of unknowns within the Legal and Property workstream as the process of collating all relevant asset/liability information (specifically all property, easement and contract details) must be completed before the degree of complexity (and corresponding cost/lead times required for resolution) can be fully understood.
2	Cost overrun	H	H	TDC and MDC to increase budget provision in respective Annual Plans FY2026-27 per JSC recommendation.	L	Cannot be confirmed as a live Issue until cost forecasting can be informed by decisions of the Interim CE on JOM/Shared Services.
3	Lack of, or change in, Programme Scope or Direction	H	M	Appointment of Interim CE and confirmation of sufficient delegatinons, to ensure timely and robust decision making.	M	Risk of redirection from central government remains.
4	Programme and/or BAU workload exceeds officer capacity	H	M	Endorsement of updated PMP, budget and procurement strategy to enable sufficient capacity for both programme and BAU activities. Approval (PSG) of interim procurement/resourcing 08/06.2026.	L	Burn out (illness, absenteeism) and turnover present key risks together with slippage of both programme milestones and BAU delivery. Role vacancy, without backfill, is compromising the People workstream.
5	Lack of Mana Whenua participation	H	M	Mayors and CEs to provide a letter to Chairs indicating preferred way forward, next steps.	L	Intention has been signalled, follow up required at governance level.

6	Workforce stressed	H	H	Development of accurate and compliant messaging. FAQ to officers (transferring or remaining) Support for officers (People/EAP/Union)	M	Issue exacerbated by role vacancy in the People workstream and lack of Interim CE as development and timeliness of messaging requires strong knowledge of legislative environment together with direction on JOM and corresponding Organisational Structure. Cannot fully mitigate this risk as change is stressful even with sufficient and timely information and support.
Contracts and variations						
No.	**Description**	**Provider**	**Original value**	**Variation Values (# and Total)**	**Status**	**Comments/Actions**
Establishment Programme (transfer to WO)						
2	Stormwater Options Analysis	Rationale	Redacted	TBC pending work re rural/stockwater		Ongoing
4	Strategic advice re WSCCO establishment	Simpson Grierson	Redacted	NA		Ongoing
5	Water Transition Interim Chairperson and Interim CE process	Sheffield South Island Ltd	Redacted	NA		Ongoing
6	Interim CE	Lancaster Consulting Ltd	Redacted	NA		Ongoing
TDC BAU						
3	Growth Projections 2026	Rationale	Redacted	NA		Ongoing, sits with District Planning
MDC BAU						
3	Growth Projections 2026	Rationale	TBC	NA		Ongoing
4	AMP work	Rationale	TBC	NA		Ongoing

Sensitivity: General

Quarterly monitoring report - water services delivery plan

Water Services CCO

Timaru and Mackenzie

30 June 2026 for the period April to June 2026

Sensitivity: General

Council plans that establishing water organisations

Part A: Progress updates

Quarterly reporting period: 1 April to 30 June 2026

Milestone / deliverable	Expected completion date	On track to meet timeframe? (Yes/No)	Issues, risks and mitigations (if any)
Project Management Plan, Procurement Strategy, Comms and Engagement Plan endorsed by Joint Shareholder Committee	03.06.26	Yes	This has been completed leveraging the DIA Establishment Programme guidance together with review and input from internal SMEs. These documents provide a detailed programme towards implementation aligned to the WSDP with the exception noted below re stormwater. .
Appoint Establishment Chair and CE	30.06.26 revised to 30.08.26	No	Sheffield engaged to support, roles have been advertised and recruitment is underway with positions in the shortlisting/interview stages (Chair) and longlisting (CE). Risk around CE notice period has been mitigated by appointment of an interim (external) lead to serve as representative of the Water Organisation.
Constitution and Shareholders Agreement	03.06.26 revised to 13.07.26	No	First drafts reviewed by Joint Shareholder Committee, finals to be endorsed 13.07.26 for approval by Councils the following month, pending any further changes. Revised timing still supports critical path.

Sensitivity: General

Decisions re stormwater	03.06.26 revised to 13.07.26	No	Initial options analysis reviewed by Joint Shareholder Committee, position to be endorsed 13.07.26 for approval by Councils (subject to consultation if required) the following month pending any further changes. Revised timing still supports critical path.
Decisions re stock water	03.06.26 revised to September 2026	No	**MDC** (these are classed as drinking water supplies): Albury Water Supply Incorporated are working with Taumata Arowai and Council to meet the drinking water standards and to change ownership to the Incorporation. Allandale Water Supply is likely to combine with the Fairlie Water Supply. Decisions will be included in next update. **TDC**: The Beautiful Valley and Rangitata Stock Water schemes are not subject to the Water Services Act and are unlikely to be transferred. Ongoing management via an SLA will be negotiated with the Water Organisation.
Decisions re Downlands	03.06.26 revised to 13.07.26	No	Initial options analysis reviewed by Joint Shareholder Committee, position to be considered by the Downlands Committee on 13.07.26 for endorsement and recommendations to shareholding Councils re preferred way forward. Revised timing still supports critical path.
Development of draft JOM	03.06.26 revised to 30.09.26	No	Initial options analysis completed in draft, decisions on recommendations will be finalised for next reporting period by interim (external) lead as representative of the Water Organisation. Revised timing still supports critical path.
Assessment of community access to drinking water 1 July 2026	Completed	Yes	NA

Sensitivity: General

30 June 2026: Information Disclosure reporting to the Commerce Commission (Dividend Statement, policy for funding growth, information about charges).	30.06.26 revised new deadline pending from Commerce Commission	Yes	Draft completed disclosure completed, FY27 fees and charges, and rates to be resolved by Council 30 June 2026 with disclosure to occur after, but before the updated deadline from Commerce Commission.

Expected activity in next quarter

Milestone / deliverable	Expected activity
Appointment of Chair, CE	A panel will interview and confirm selected candidates by 01 September 2026
Constitution and Shareholders Agreement	Final revision for endorsement by Joint Shareholder Committee 13.07.26, and approval by Councils the following month
Decisions re stormwater	Review of final options for endorsement by Joint Shareholder Committee on 13.07.26, and then (subject to any consultation) approval by Council. Likely amendment to WSDP required (WSP responsibility to transfer to Water Organisation) with corresponding consultation requirement.
Decisions re stockwater	Work to be completed and decisions taken as noted above.
Decisions re Downlands	Options analysis is currently being updated with review and direction from the Downlands Committee scheduled for 13.07.26 with recommendations to the shareholding Councils to be followed up and agreed within the reporting period.
Development of draft JOM	Critical decision details to be reviewed and direction provided by interim (external) lead as representative of the Water Organisation. Next step to include drafting of corresponding Service Agreements.
Collation of Asset and Liability registers	Both Councils have completed their asset revaluation and have up to date asset registers. Work has started on using Pleasant Point as test case for the full schedule 2 transfer, specifically testing the scope and level of data to be included re property, easements, contracts, and non-financial liabilities.

Sensitivity: General

Preparation of Financial Model to inform Financial Strategy	Work has been completed for TDC to isolate key data however next steps cannot be clearly defined until decisions have been made regarding the Joint Operating Model and, with that, the extent of any service agreements in place or any shared systems. The scope of work will therefore be defined and work begung in the next reporting period.
Draft Asset Management Plans	Data collation and gap analysis including review of growth/demand data.

Sensitivity: General

Part B: Additional monitoring information – items noted in letters of acceptance

Items noted in letters of acceptance	Progress update
Transitional funding arrangements for the WSCCO from 2026/27 to 2028/29	Amounts have been allocated from each council for the initial transition process. TDC have pledged $2.364M and MDC have pledged $250K noting additional funding is to be considered through their Annual Plan process. Nominally Timaru District Council will incur the costs for efficiency. The debt will be transferred to the WSCCO as part of the transfer agreement.

7.3 Structural decision: Stormwater

Author: **Elliot Higbee, Legal Services Manager**
Andrew Lester, General Manager Drainage and Water

Authoriser: **Nigel Trainor, Chief Executive**

Recommendation

That the Committee:

1. Receive and note this report *Structural Decision: Stormwater.*
2. Endorse the preferred option for stormwater service delivery: that Mackenzie and Timaru District Councils' will retain responsibility for stormwater service delivery as currently provided for in their respective Water Services Delivery Plans.
3. Note that this option will mean that the Mackenzie and Timaru District Councils are the water services providers for stormwater services in their district, and will continue to be responsible for the service, including planning, reporting and financial management obligations under the Local Government (Water Services) Act 2025.
4. Note that this preferred option, if endorsed, will be presented to Council for adoption.
5. Note that Timaru District Council will, in conjunction with Makenzie District Council, develop a shared service delivery arrangement for stormwater service with the joint water organisation.
6. Note that this arrangement will be reviewed after the stormwater risk management plan is completed, which is required by 27 August 2028.

Purpose of Report

1 This report seeks the Joint Committee's endorsement of a preferred option for stormwater service delivery, to go to the respective Council's for adoption.

Assessment of Significance

2 The decisions are not considered to be significant, as the preferred option is to retain the status quo previously consulted on. No consultation is required.

3 If, however, the Councils decided to transfer responsibility for stormwater to the joint Water Organisation (WO), then this would be a structural change requiring an amendment to the respective Water Services Delivery Plans (WSDPs), and statutory consultation with the public. The Department of Internal Affairs would also need to approve this.

Background

4 Currently TDC and MDC are the Water Service Providers (WSP) for stormwater and are responsible for the delivery of this service.

5 The Local Government (Preliminary Arrangements) Act 2024, and the Local Government (Water Services) Act 2025 (LGWSA), increase obligations on Water Service Providers, and enable alternative arrangements for service delivery. This new legislative regime required the

Councils to set out their proposed model for delivering water services in their Water Service Delivery Plans (WSDPs).

6 The LGWSA requires councils to ensure water services in its district are provided in accordance with the Act, however this responsibility may be discharged by transferring responsibility to a WO. Although there is significant flexibility in how water services can be provided, only a transfer agreement can remove a Council's underlying responsibility as a WSP. Section 10(1) lists the different ways water services can be provided; and ss 10(3) and (4) makes it clear that responsibility remains with the Council, unless a transfer agreement is entered:

> **10 How territorial authority ensures water services provided**
>
> (1) A territorial authority must ensure that water services are provided in its district in any 1 or more of the following ways:
>
> (a) providing water services itself directly:
>
> (b) a transfer agreement to transfer responsibility for providing water services to a water organisation (*see* sections 12 and 15):
>
> (c) a contract with a person or body to provide water services on behalf of the territorial authority (*see* section 22):
>
> (d) a joint water service provider arrangement (*see* section 26):
>
> …
>
> (f) another type of arrangement that is consistent with this Act, including receiving a transfer of responsibility for providing water services from the regional council (*see* section 41).
>
> (2) A territorial authority may use a method listed in subsection (1) for providing—
>
> (a) 1 or more water services; or
>
> (b) any or all aspects of a water service.
>
> (3) Subsection (4) applies to a territorial authority that enters into a contract or an arrangement under subsection (1)(c), (d), or (f).
>
> (4) The territorial authority—
>
> (a) continues to be responsible, as the water service provider under this Act, for ensuring the provision of the water services to which the contract or arrangement relates; and
>
> (b) must ensure that the other party to the contract or arrangement performs and exercises all regulatory requirements associated with providing the water services to which the contract or arrangement relates.

7 Both Councils decided in their WSDPs to transfer WSP responsibility for water supply, and wastewater service delivery to a joint Water Organisation (WO).

8 Stormwater service delivery was however approached differently: TDC identified that service delivery would continue to be undertaken by Council, and MDC identified that service delivery would be contracted to the WO, but assets would be retained by MDC.

9 When the Councils entered the commitment agreement establishing the WO, this position on stormwater service delivery was identified as requiring further analysis to test this approach. This report does that, along with an earlier report provided to this committee on 3 June 2026 does this. That earlier report identified the spatial complexities of stormwater assets, and service delivery. Attached to this report was work undertaken by Rational providing a draft recommended option for stormwater delivery. This was developed by the two councils' officers during a workshop. This report moves away from that recommended option, as set out below.

Discussion

10 The issue for the Committee is: what is the best model for stormwater service delivery for its communities?

What are the issues the status quo?

11 The status quo, as per the WSDPs, is that the two Councils will remain responsible for stormwater service delivery. This means that the Councils will be WSPs and must continue to manage compliance with service delivery, under the enhanced LGWSA requirements.

12 Specifically, status quo has the following issues:

12.1 TDC and MDC have different delivery models (inhouse vs. contract) which risks complexity in water service delivery for the districts.

12.2 Different delivery models may reduce scale benefits from joining the two districts stormwater service delivery

12.3 Even if TDC changed delivery to a contract model like MDC, the WSP responsibilities will still sit with Councils. This means both Councils remain responsible for stormwater service delivery, and statutorily in control of policy development and pricing for the service.[1] This requires the Councils to retain capacity to oversee service delivery, including planning, reporting and financial management, as they will still need to make these decisions.

12.4 Specifically, the Councils will remain responsible for their resource consents for stormwater services.

13 Despite these issues with the status quo Officers consider that the preferred option is to retain responsibility. This is because:

13.1 Stormwater is materially different to the other water services. Rather than a volumetric consumption / discharge-based service, stormwater services are a land use management function to mitigate nuisance from stormwater.

13.2 Transferring responsibility for stormwater to the WO would fragment this service, because Council will retain many other significant stormwater management responsibilities:

13.2.1 Responsibility for transport corridor stormwater functions by law cannot transfer, and remain with council

13.2.2 The Council's Resource Management Act and Building Act functions all intersect heavily with stormwater management

13.2.3 The Council's greenspace, and parks ownership have significant stormwater functionality

13.2.4 Should the Councils under the *Simplifying Local Government* policy framework amalgamate into a unitary authority, they will likely inherit flood management functions, which obviously have strong cross over with stormwater management.

From the communities' point of view, it must be preferable for responsibility for stormwater management to sit with one entity.

13.3 There is uncertainty about the extent of stormwater assets given the interface with transport corridors, parks and greenspaces. This creates complexity, and a real risk that

[1] S 22 LGWSA

despite transferring responsibility, Council would retain ownership responsibilities for property with strong stormwater relevance.

13.4 There is also currently uncertainty about revenue collection for stormwater once this function is moved to a WO, with limitations on scope not shared by the current rating regime. There is a five-year lead in time provided for a WO charging for stormwater services, which indicates the uncertainty in this space.

13.5 There is an additional, TDC-specific benefit in retaining stormwater rating rather than transferring that revenue to a WO for direct charging. Section 21 of the Local Government (Rating) Act 2002 caps the combined revenue from the UAGC and uniform targeted rates at 30% of total rates revenue. A targeted rate only counts toward that 30% cap if it is "set on a uniform basis" (s 21(2)(b)). TDC's stormwater rate is assessed on land value, not on a uniform basis, so it adds to total rates revenue (the denominator of the 30% calculation) without counting toward the capped amount (the numerator). This creates headroom for TDC to levy more through the UAGC and uniform targeted rates. Removing stormwater revenue from TDC's rates base — by transferring it to a WO — would shrink that denominator and reduce the same headroom.[2]

14 In respect of the issues identified above at para 12, with retaining responsibility for stormwater services, officers consider that:

14.1 Although TDC has indicated that stormwater will be delivered by itself, it is entirely open for responsibilities for operating the service to be contracted as MDC intend to do. Unless this contract was significant (which officers consider it would not be, however this will need to be factually assessed with an updated significance and engagement policy) there would be no procedural requirements (a structural decision with statutory consultation obligations) for aligning service delivery. The complexity does not exist.

14.2 A range of services could be contracted, from the ongoing operation and maintenance of stormwater assets such as pump stations and sumps, through to asset planning (including preparation of a stormwater-specific Water Services Strategy) and capital delivery.

14.3 By aligning service delivery, practical economies of scale could be realised, however as commonly advised throughout the Local Water Done Well reform process, economies of scale are difficult to quantify, and given the relatively small scale of the Councils stormwater services minimal in any event. Any lessening in economies of scale is considered to be immaterial.

14.4 Officers have interrogated the burden of retaining responsibility for stormwater services. Specifically, consideration has been given to the financial requirements, and the planning, reporting and financial management requirements.[3] Realistically, this will require resourcing from the Councils to deliver, however existing process exist to provide appropriate ringfencing of these activities with the costs captured in the overhead model.

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[2] MDC's stormwater rate is a fixed charge per SUIP, which is a uniform basis. It therefore falls within s 21(2)(b) and counts toward the 30% cap, so MDC does not get the same benefit from retaining stormwater rating.

[3] These are at part 4 of the LGWSA and essentially are: prepare and adopt 1) a Water Services Strategy; 2) an annual budget; and 3) an annual report.

14.5 Resource consent management can be managed within existing Council processes or may be one of the services that is contracted.

15 For clarity, stormwater services are not subject to economic regulation. This would require a central government decision to impose, and it is understood that the Commerce Commission have no plans to do so. There are strong indications in the policy framework, that stormwater is being treated differently, and factually there is a good basis for this. It is simply a very different service from water supply, and wastewater services. It is noted that Auckland Council retains stormwater responsibility, with their CCO (Watercare Services Limited) only providing water supply, and wastewater services.

What about other options?

16 As can be seen from the Rationale report, officers spent some time interrogating a range of options. These are briefly set out below. In summary, the preferred option (option 3) was interrogated against option 4 because it attempted to remove risk from asset and revenue uncertainty by leaving these two functions with Council but transferring WSP responsibility. The other options where not further considered for the reasons set out.

Option	Name	Description	Comment
1.	Status Quo	Ownership and delivery remain as currently structured. Existing stormwater accountability and contracts continue with limited interface clarification. **Assumed WSP:** each council remains the WSP for stormwater services in its district.	Not considered further as inferior subset of option 3.
2.	Shared Asset Management Services	Ownership remains with councils. A joint/shared asset management function is established for planning, data, definitions, reporting and programme support. **Assumed WSP:** each council remains the WSP for stormwater services in its district.	Not considered further as inferior subset of option 3.
3.	Joint Operations	Ownership remains with councils. Joint asset management and operations/maintenance planning are delivered through a shared services arrangement with the WO . **Assumed WSP:** each council remains the WSP for stormwater services in its district; this option improves delivery coordination but does not transfer statutory responsibility to the WO.	Preferred option: MDC and TDC retain WSP responsibility for stormwater, but contracts certain stormwater services to WO.
4.	Joint Management	Ownership remains with councils. Statutory responsibility for defined stormwater services transfers to the WO, which becomes the water service provider (WSP) and provides joint asset management, operations, regulatory management, data, standards and interface management through an agreed stormwater SLA. Councils may deliver specified components under contract as non-WSPs	Alternative option: Both Councils amend WSDP to transfer responsibility to WO

		(including via LGWSA s22), avoiding duplicated WSP obligations. **Assumed WSP:** WO, subject to detailed design confirmation and service-zone mapping.	
5.	Joint Operations + Ownership	Public stormwater network assets transfer to the water organisation, with joint asset management and operations. **Assumed WSP:** WO	Not considered as high risk, limited benefit.
6.	Joint Management + Ownership	Public stormwater assets transfer to the water organisation and joint management/regulatory functions are centralised. **Assumed WSP:** WO	Not considered, as disbenefits outweigh the alternative option.

Why is the alternative option (option 4) not preferred?

17 As instructed, officers tested the approach to stormwater adopted in the respective WSDPs, and looked at a variety of different options. There is obvious attraction in allocating all water service delivery responsibility to one entity. There are obvious disbenefits in retaining a water service at council and requiring resource to be maintained to deliver this service – even with a shared service arrangement, the Councils will still need to consider and adopt water services strategies, annual budgets and reports for stormwater.

18 Officers refined an option (option 4) which transferred responsibility, but mitigated risks from asset uncertainty, and maximised the benefits for rates setting flexibility by not transferring these elements of the service.

19 The Rational report identified that option 4 achieved the highest evaluation, closely followed by option 3 (officers preferred option). It is noted that the report identified option 3 as "the most practical fallback if councils support joint operations but want to defer joint regulatory management".

20 The reason officers do not consider option 4 is preferred is heavily influenced by the users' experience, that stormwater is fundamentally a land use management service, which Council will remain heavily involved in, and retaining responsibility means that stormwater issues will not risk falling between two organisations (see details above at paras 13.1 and 13.2). Further, it is considered that the issues with the status quo are manageable (see above at para 14). Finally, limiting the WO establishment to only water supply, and wastewater enables focus on the complex establishment task. The decision has a natural review date of 27 August 2028 when the stormwater risk management plan is completed.

21 Further, the process requirements for transferring responsibility are not resource free and would require statutory public consultation and time. There is a downstream impact, in that the constitution would need to be changed for the WO to include stormwater services; finalising the constitution is a critical deliverable for WO establishment. These issues are manageable, but they are not cost free.

Options and Preferred Option

22 The following options are available to the Committee, endorse either:

Option 3 "joint operations" – the preferred option

22.1 Status quo of both Councils retaining responsibility for stormwater services, and a combined shared service arrangement with the WO for specific stormwater services; or

Option 4 "joint management – not preferred

22.2 Both Councils amend their WSDP to transfer responsibility for stormwater services to the WO, and retain assets, liabilities and revenue collection via rates; or

Instruct to interrogate another option – not preferred

22.3 It is open to the Committee to seek further analysis on another option.

Consultation

23 Only internal consultation has occurred.

Relevant Legislation, Council Policy and Plans

24 Local Government (Water Services) Act 2025

25 Local Government (Preliminary Arrangements) Act 2025

26 Local Government Act 2002

27 Local Government (Rating) Act 2002

28 Commerce Act 1986

Financial and Funding Implications

29 Further financial and funding Implications were not available prior to the release of the agenda.

Other Considerations

30 There are no further considerations.

Attachments

Nil

7.4 Foundation documents update

Author: **Elliot Higbee, Legal Services Manager**

Authoriser: **Stephen Doran, General Manager Corporate**

Recommendation

That the committee:

1. Receives this report: *Foundation Documents Update*
2. Provides direction on the joint Water Organisation's constitution and shareholders agreement
3. Endorses the constitution and recommends their adoption by the respective Councils
4. Notes that the shareholders agreement will be finalised once the company is established, and will come back to this Committee for endorsement, prior to going to the respective Councils for adoption
5. Notes that if the joint Water Organisation's scope of services or shareholding changes, amendments to the constitution may be required

Purpose of Report

1 This report sets out several issues for direction by the Committee to then enable it to endorse and recommended a constitution for the shareholding Councils to adopt.

2 The shareholders agreement will continue to be refined and will return to this committee for endorsement later.

3 The committee may direct on any matter within the constitution. For ease of reference however, three matters have been identified as requiring a decision.

Assessment of Significance

4 Although significant in setting up the new joint Water Organisation, these decisions are minor from a community perspective and simply implement existing Council decisions.

Background

5 Mackenzie District Council (MDC) and Timaru District Council (TDC) have committed to creating a joint Water Organisation (WO) as a company under the Companies Act 1993. The Local Government (Water Services) Act 2025 (LGWSA) requires[4] the Councils to prepare a company constitution, and a shareholders' agreement, collectively defined as "foundation documents". These documents are then statutorily required to be considered prior to completing a transfer agreement, and similar arrangements[5]; further statement of expectations and water services strategy's must be consistent with these documents.

[4] S 45

[5] For example, if the WO considering entering a contract to provide water services, or a joint water service provider arrangement.

6 The Councils have entered into a commitment agreement, which sets out the expectations for the foundation documents.

7 A first draft of the foundation documents was provided to this committee on 3 June 2026. Since then external advice has been received and has been noted in the discussion below. Further drafting of technical aspects of the constitution are being obtained, and it is anticipated that this drafting will be available prior to the meeting.

Discussion

8 A key structural matter to clarify at the outset, is the relationship between the shareholding Councils, the JSC and the board, and how this relationship is expressed in the constitution and shareholders agreement.

9 The Councils are the shareholders of the WO. The Councils have delegated all their shareholding powers to the JSC, except for the reserved matters. The delegation is in the terms of reference, which has been passed by the Councils, and which will be restated within the shareholders agreement. This enables the JSC to govern the board, as shareholders. The board operates and is responsible for the WO.

10 For ease of reference, the discussion moves sequentially through the constitution discussing material changes or issues for direction from the Committee.

Constitution

Board's Skills Matrix (cl 1.1; page 1)

11 The LGWSA at s 48 requires that directors are "appointed on the basis of their competency to perform the role" and that the "water organisation must collectively have an appropriate mix of skills, knowledge and experience". It is best practice for this to be achieved through an official skills matrix, to assess appointments. The template constitution from the DIA incorporates the skills matrix into the constitution as schedule 3.

12 On 29 April 2026 this Committee adopted a skills matrix and delegated to the two mayors' authority to make further amendments.[6]

13 Including the skills matrix in the constitution means that changes to this matrix will require a special resolution of shareholders. The shareholders would want this committee to retain oversight of the skills matrix, and therefore changes are made to the constitution that:

13.1 Affirm the s 48 obligation for directors to be appointed on competency to achieve a collective skills mix;

13.2 Requires the board to maintain and use a skills matrix

13.3 Specifies that the JSC adopts and updates the matrix.

Reserved Matters (cl 1.1; page 1)

14 Shareholders can reserve matters that otherwise the company could do. These have been identified in the commitment agreement, and include such matters as issuing shares, or major transactions. There are two options available: reserved matters can be listed in the shareholders agreement, or in the constitution. Including these in the shareholders

[6] See resolution 2026/6

agreement makes it easier to change. Only Queenstown District Council's Water Organisation included these reserved matters in their constitution.

15 It is recommended that reserved matters are covered in the shareholders agreement.

Decision: should the reserved matters be in the constitution, or the shareholders agreement?

Inclusion of stormwater (cl 1.1; page 2)

16 The Councils current WSDPs do not provide for stormwater services to be within the WO's scope of services, and the constitution has been amended to reflect this approach. This issue is addressed in an accompanying report at this meeting.

Statement of Expectations and JSC's involvement in the Water Services Strategy and Water Services Annual Budget (cl 3.2; page 4)

17 Officers received a useful question about whether the constitution could require the water services strategy, or annual budget to reflect the Statement of Expectations[7]. For the following reasons, it is recommended that care is taken to ensure the constitution does not elevate the Statement of Expectations to be directive. This is because:

17.1 A WO is legally required to give effect to the SoE.[8]

17.2 It is only when the SoE "is inconsistent with" with direction or requirements imposed by a regulator[9] that the direction of the regulator prevails over the SoE.[10]

17.3 Therefore, the legislation already imposes a hierarchy, and if the SoE is not being given effect to, then it will be because the board is complying with higher order legal obligations.

18 In a situation where the WO board is not giving effect to the SoE it is likely because the cost of meeting regulatory standards turns out to be higher than the SoE anticipated. If the Board deliberately and without legal justification set a strategy ignoring the SoE then that would be a governance failure, and removing the board would be the appropriate response.

19 Finally, the Councils intend to leave expenditure and revenue decision making to the WO, and a SoE that was directive of these matters would undermine this approach.[11] The JSC's main governance tool is the Statement of Expectations (SoE)[12]. The commitment agreement (at p 30) states:

> Councils will not approve the Water Services Strategy or Water Services Annual Budget. However, the Councils, via the JSC, will have the ability to review and comment on the draft Water Services Strategy before it is adopted by the Board of the WO.

20 The intention is that the WO will be financially independent by funding itself from its own charges and borrowing and controlling revenue and expenditure decisions. It is important to be clear on who retains control of revenue and expenditure decisions because economic regulation applies to the final decision maker for these decisions. Similarly, LGFA's lending

[7] Different to the Letter of Expectations which is for standard Council Controlled Organisations

[8] Section 226 LGWSA is clear: "A water organisation must give effect to a statement of expectations provided by the shareholders of the water organisation".

[9] Water Services Authority, the Commerce Commission, and regional councils

[10] Section 229(2) LGWSA

[11] Note that until 31 December 2026 it is possible for the JSC to issue an "interim Statement of Expectations", which can be directive, see s 225 – although this is for the discrete purpose of WO establishment, and different to expenditure and revenue setting decision making.

[12] See s 227 for content of the SoE

covenants for the WO will be focused on whether the WO controls its revenue, with dilution of this control potentially undermining the quality of this security.

21 That said, the template constitution had a relatively simply expression of the power to provide comments. Reviewing other constitutions identified a more formal sequencing process in the QLDC's WO's constitution, and this option is provided as an option for the committee to choose. In short, this formal alternative would require the WO to provide reasons for not including suggested amendments enabling a more formal dialog between the board and shareholders.

Decision: should the constitution require the WO to provide active consideration of the JSC's comments on the water services strategy and provide the JSC with an express right to request amendments before the strategy is adopted?

Shares (cl 4, page 5)

22 The commitment agreement envisages two classes of shares: voting class A shares; and non-voting class B shares carrying economic rights proportionate to the net value of water service assets transferred to the company by each shareholding council.

23 External advice and drafting will be circulated prior to the meeting to enable this.

Distributions (cl 8.1; page 7)

24 The current drafting in respect of dividends did not contemplate capital distributions, which are conceptually different to a dividend, but caught using the term "distribution"[13]. A capital distribution is the returning of money shareholders put into the company, not profit from operations. There may be circumstances where capital once thought needed, may need to be returned. If this is a possibility, then provided there are assurances of compliance with the Companies Act solvency test, the LGWSA s 18 financial principles and if applicable LGFA covenant compliance, a special resolution of shareholders could be able to return over capitalisation. Drafting to this effect has been tracked into the draft constitution.

25 Note that reviewing five other constitutions showed that only one (Southern Waters) permitted distributions and use similar thresholds to enable one. External advice and drafting is expected in respect of this clause. Given potential regulatory compliance issues, this drafting is being reviewed to ensure it does not accidentally enable dividends.

26 Officers consider that reinvestment would typically be expected to be more prudent form of dealing with any overcapitalisation.

Decision: should the constitution enable distributions?

Directors (page 9, cl 12)

27 The draft DIA template had references to appointments being made by the Board, this appointment power however is the JSC's prerogative (see commitment agreement at p 34). This clause has been deleted.

28 It may be desirable for a director to remain on the board for longer than 9 years, and therefore an amendment has been included enabling the JSC to extend this term.

29 The JSC has the prerogative of appointing the Chair, and this has been included.

[13] See s 2 Companies Act 1993 broad definition

30 Minor clarifying drafting has been identified for the clauses regarding directors and will be circulated before the meeting.

<u>Borrowing from non-LGFA lenders</u> (page 10, cl 12.8)

31 To reflect commercial realities, an amendment has been provided enabling borrowing from New Zealand registered banking institutions.

<u>Other offices with company held by Director</u> (page 12, cl .12.18)

32 For clarity: This clause allows a director to provide professional services to the Company (for example, through their law or accounting firm) and be paid for those services at arm's length rates, and/or to hold a separate paid role within the Company. Both permissions are subject to the Company's standard conflict of interest disclosure obligations, and neither extends to acting as the Company's auditor.

<u>Alternative Directors</u> (page 12, cl 12.18)

33 These have been deleted to ensure focused director involvement of the Company.

<u>Liquidation</u> (page 14, cl 15)

34 External advice is that many water entity constitutions are silent on this issue and retain the standard wording from the DIA template. The clause provides for Shareholders Agreements to provide for this, including principles governing the distribution of the Company's assets and liabilities on a liquidation.

35 Initial advice is that the shareholders agreement should provide that the assets and liabilities transferred to the Company by each shareholding council are returned to that council on liquidation, with any remaining assets and liabilities then distributed among the shareholding councils in proportion to their Class B shareholdings.

<u>Notice of meeting</u> (schedule 2, para 1.1)

36 The template was relatively unrestricted for calling meetings, and this has been tightened to ensure that only directors can convene meetings, and that two directors can convene a meeting without the authority of the Chair.

<u>Quorum</u> (sch 2, para 3.1)

37 The commitment agreement specifies 3 directors as a quorum. With the staggering of director appointments, a majority quorum will be necessary until at least 3 directors have been appointed.

<u>Further matters</u>

38 Three further matters are being addressed:

38.1 <u>Issues of community interest / price harmonisation</u>: the commitment agreement includes a presumption against price harmonisation between the districts, and subject to regulatory requirements, "the WO will maintain the existing differential pricing between the two districts, until the JSC agrees to the change."[14] until the JSC agrees to any change. Drafting to include this in the constitution is being obtained.

[14] Commitment agreement at page 29

38.2 Reporting requirements: A minor drafting addition has been proposed, excluding reporting obligations from having to include information that may otherwise be lawfully withheld under the Local Government Official Information and Meetings Act 1987.

38.3 Postal voting: it has been suggested that postal voting could be removed from the constitution. This is an option and included below.

Decision: should postal voting be permitted?

Options and Preferred Option

39 Any comments, or changes can be made to the constitution (within the scope permitted by law). The primary choices for this committee from above are:

39.1 Should the reserved matters be in the constitution, or the shareholders agreement?

39.2 Should the constitution require the WO to provide active consideration of the JSC's comments on the water services strategy and provide the JSC with an express right to request amendments before the strategy is adopted?

39.3 Should the constitution enable distributions?

39.4 Should postal votes be permitted?

Consultation

40 Internal consultation has occurred, and external specialist advice has been, and continues to be obtained as the constitution progresses.

Relevant Legislation, Council Policy and Plans

41 Local Government (Water Services) Act 2025

42 Companies Act 1993

Other Considerations

43 There are no further considerations.

Attachments

1. Draft Water Organisation Constitution ⇩
2. Draft Shareholders Agreement ⇩

Constitution of [Water Organisation] Limited

Notes for using this template:

- This template contains rules to govern a multi-council Water Organisation delivery model for water services. It includes the minimum requirements of the Companies Act 1993, the Local Government Act 2002, the Local Government (Water Services) Act 2025, and the Local Government Official Information and Meetings Act 1987 and provides further detail on requirements and matters for the Board of the [Water Organisation].

- This template also contains certain matters that the Local Government (Water Services) Act 2025 requires to be included in the foundation documents of a Water Organisation. Under section 44 of the Local Government (Water Services) Act 2025, a council must prepare foundation documents for a Water Organisation it establishes under this section. Foundation documents include the constitution or, if the organisation does not have a constitution, all rules and other documents that establish or govern the Water Organisation.

- Have a go at preparing a first draft of the Constitution by completing the details highlighted in yellow to assist you. Please note that this Constitution will create legally binding obligations for the [Water Organisation] Limited, so it is important to ensure that it will be able to comply with these obligations.

- For further guidance in preparing this template, please refer to the *Guidance Material – Constitution (Multi-council)* for more information.

CONTENTS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Constitution, unless the context otherwise requires:

"**Board**" means Directors who number not less than the required quorum, acting together as a board of Directors.

"**Board Skills Matrix**" means the skills matrix~~ ~~, maintained by the Board, and adopted and updated by the Joint Shareholders Committee~~set out in Schedule 3~~.

"**Business Day**" means a day (other than a Saturday, a Sunday or a public holiday) on which registered banks are open for business in ~~[insert region(s)]~~South Canterbury, New Zealand.

"**Chair**" means the chair of the Board appointed in accordance with clause 12.6~~12.6~~~~12.7~~.

"**Companies Act**" means the Companies Act 1993.

"**Company**" means [Water Organisation] Limited.

"**Constitution**" means this constitution of the Company (including the Schedules) and all amendments to it from time to time.

"**Director**" means a person appointed as a director of the Company in accordance with this Constitution.

"**Financial Year**" has the meaning set out in the LG(WS) Act.

"**LGA**" means the Local Government Act 2002.

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

"**LG(WS) Act**" means the Local Government (Water Services) Act 2025.

"**Local Authority**" has the meaning set out in the LGA.

"**Ordinary Resolution**" means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question.

"**Reserved Matters**" has the meaning given to it in the Shareholders' Agreement OR "means any matter of the nature listed in Schedule 4".

Commented [EH1]: OPTION: Can include in shareholders agreement or constitution.

"**Service Area**" has the meaning set out in the LG(WS) Act.

"**Shares**" means the shares in the Company on issue from time to time.

"**Shareholder**" means any person for the time being registered in the Company's share register as the holder of one or more Shares in the Company.

"**Shareholders' Agreement**" means the shareholders' agreement relating to the Company to be entered into between the Company and the Shareholders within six months of the date of this Constitution (as amended from time to time).

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"**Joint Shareholders Committee**" has the meaning set out in the Shareholders' Agreement.

"**Special Resolution**" means a resolution that is approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the question.

"**Statement of Expectations**" has the meaning given to it in section 220 of the LG(WS) Act.

"**Subsidiary**" has the meaning set out in the Companies Act.

"**Water Organisation**" has the meaning set out in section 4 of the LG(WS) Act.

"**Water Services**" has the meaning set out in section 4 of the LG(WS) Act, and for the purposes of this document shall be the ~~water supply services, wastewater services, and / or stormwater services~~drinking water supply services and wastewater services transferred by the territorial authorities that established the Water Organisation in accordance with the Transfer Agreement between each territorial authority and the Water Organisation.

Commented [EH2]: Note stormwater likely to remain Councils' responsibility, but final decision still pending

"**Water Services Annual Budget**" has the meaning set out in section 220 of the LG(WS) Act.

"**Water Services Annual Report**" has the meaning set out in section 220 of the LG(WS) Act.

"**Water Services Strategy**" has the meaning set out in section 220 of the LG(WS) Act.

1.2 **Interpretation**: In this Constitution, the following rules of interpretation apply, unless the context requires otherwise:

(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) words in this Constitution have the same meaning as in the Companies Act unless inconsistent with the context;

(e) a 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 and other representative of such party, person, entity;

(f) a reference to dollars or $ is to New Zealand currency and excludes every tax and duty;

(g) a reference to a clause or schedule is to a clause or schedule of this Constitution;

(h) 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;

(i) references to the word 'include' or 'including' are to be construed without limitation;

(j) references to any form of law is to New Zealand law, including as amended or re-enacted;

(k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

(l) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;

(m) 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

(n) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 If there is any conflict:

(a) between a provision of this Constitution and the provisions of the Shareholders' Agreement, the terms of the Shareholders' Agreement will prevail (other than to the extent prohibited by the Companies Act) and the Shareholders must pass such resolutions as may be necessary to amend the provisions of this Constitution to make it consistent with the Shareholders' Agreement;

(b) between a provision in this Constitution and a mandatory provision in the Companies Act, the LG(WS) Act, LGOIMA or the LGA, then the mandatory provision in the Companies Act, the LG(WS) Act, LGOIMA or the LGA will prevail; and

(c) between:

(i) a provision in this Constitution and a provision in the Companies Act which is expressly permitted to be altered by this Constitution; or

(ii) a word or expression defined or explained in the Companies Act and a word or expression defined or explained in this Constitution,

then the provision, word or expression in this Constitution will prevail.

2. CAPACITY AND OBJECTIVES

2.1 As at the date of its incorporation, the Company is a Water Organisation.

2.2 As specified in section 46 of the LG(WS) Act, the Company must not do anything other than provide Water Services, or provide services that are related to, or necessary for, the provision of Water Services (in the Service Area described in the Transfer Agreement).

2.3 The objectives of the Company, as a water service provider, are set out in section 17 of the LG(WS) Act.

2.4 Subject to this Constitution, the Shareholders' Agreement, the Companies Act, the LG(WS) Act, the LGA and the Statement of Expectations, the Company has full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act, or enter into any transaction.

3. WATER ORGANISATION REQUIREMENTS

3.1 The Company must comply with:

(a) all of the obligations and requirements that apply to a Water Organisation and water service provider under the LG(WS) Act and any other legislation;

(b) all applicable statutory and regulatory obligations relating to Māori and the Treaty of Waitangi, including those set out in the LGA and LG(WS) Act; and

(c) the applicable parts of the LGOIMA (Parts 1 to 7).

3.2 In relation to the Company's preparation of its Water Services Strategy, the ~~Shareholders'~~ Joint Shareholders Committee:

~~(a) [**Option 1**: will be able to, as necessary:~~

~~( ) provide comments on the draft strategy;~~

~~( ) require the Water Organisation to amend the draft strategy; and~~

~~( ) approve each of the final strategy.]~~

(a) ~~[**Option 2**:~~ will be able to provide comments on the draft strategy, but will not have the power to require changes or approve the final strategy.~~]~~

OR

(a) The Joint Shareholders Committee are entitled to comment on the Company's draft Water Services Strategy and draft Water Services Annual Budget, and the Company must consider any comments provided by the Joint Shareholders Committee.

(b) The Joint Shareholders Committee are also entitled to request that the Company make amendments to the Company's draft Water Services Strategy, prior to the Company deciding to adopt the final Water Services Strategy.

(c) If the Company does not agree to make any amendment that is requested by the Shareholders under clause 3.2(b), then the Company will notify the Joint Shareholders Committee of its reasons for not agreeing to any such amendment within five Business Days (such notice to be provided in writing to the Chief

Commented [EH3]: OPTION: Template option 2, or active consideration requirement

4

Executives of the Shareholders). The parties will then engage (through nominated representatives) in good faith, to agree whether the draft Water Services Strategy should be amended and, if so, the appropriate amendments.

~~(a)~~(d) Notwithstanding clauses 3.2(a) and 3.2(b), the Shareholders will not have the power to approve or adopt the final Water Services Strategy or final Water Services Annual Budget.

[~~*Delete Option 1 or Option 2, as appropriate. Note that an approach described in Option 1 or Option 2 must be included.*~~]

3.3 As specified in section 242 of the LG(WS) Act, this process will also apply to the Company's preparation of its Water Services Annual Budget (with any necessary modifications).

4. SHARES

4.1 **Issue of Shares**: Subject to this Constitution, the Shareholders' Agreement and the LG(WS) Act, the Board may:

(a) issue Shares at any time, to any person listed in clause 7.4(b) or any other person permitted to hold Shares in accordance with the LG(WS) Act and in such numbers as it thinks fit;

(b) issue Shares in different classes which have different rights;

(c) issue Shares which are redeemable (as defined in section 68 of the Companies Act); and

(d) divide existing Shares into different classes which have different rights,

provided that no Shares may be issued unless the issue is first approved by Special Resolution.

5. CALLS ON SHARES

5.1 **Board may make calls**: Subject to the Shareholders' Agreement, the Board may make calls on any Shareholder in respect of any money unpaid on their Shares, and not previously made payable at a fixed time, by prior written notice to the relevant Shareholder specifying the time and date for payment (such time and date to be no earlier than 10 Business Days after the notice is given to the relevant Shareholder). The relevant Shareholder must comply with the terms of any call made by the Board. A call may be payable by instalments. The Board may revoke or postpone a call.

5.2 **Interest and expenses**: A person who fails to pay a call on the due date must pay:

(a) interest on that money from the day payment was due to the day of actual payment at a rate fixed by the Board; and

(b) all expenses which the Company has incurred or may incur because of non-payment,

provided that the Board may waive payment of all or part of that interest or those expenses.

~~6.0 **Joint Shareholders**: Joint Shareholders are jointly and severally liable to pay all calls in respect of Shares registered in their names.~~

~~7.~~6. LIEN OVER SHARES

~~7.1~~6.1 **Existence and subject matter of lien**: If a Shareholder fails to pay any call on the due date, the Board may at any time by written notice to the Shareholder require payment of the unpaid amount together with any amount payable under clause 5.2. Such notice must specify a further date (not earlier than 10 Business Days from the date of the notice) by which payment is required to be made, and must state that if such payment is not made on or before the specified date, clause 6.2 will apply.

~~7.2~~6.2 **Company has first lien**:

(a) The Company has a first lien over:

(i) each Share and the proceeds of sale of the Share; and

(ii) all distributions made in respect of the Share,

for:

(iii) all unpaid calls owing in respect of the Shares and any amount payable under clause 5.2; and

(iv) sale expenses owing to the Company in respect of the Shares.

(b) The registration of any transfer of a Share will not operate as a waiver of any lien the Company may have on that Share, unless notice to the contrary is given by the Company to the transferee.

~~8.~~7. TRANSFER OF SHARES

~~8.1~~7.1 **Right to transfer**: Subject to any restrictions set out in this clause 7, the LG(WS) Act and the Shareholders' Agreement, a Share may be transferred by entry of the name of the transferee in the share register for the Company following receipt by the Company of a validly signed form of transfer.

~~8.2~~7.2 **Prior approval required**: No Shareholder may sell, assign, transfer or dispose of, directly or indirectly, the legal or beneficial ownership of any of its Shares except in accordance with the provisions of this clause 7 and unless such sale, assignment, transfer or disposal:

(a) has first been approved in writing by all Shareholders; or

(b) is a permitted transfer in accordance with clause 7.4.

~~8.3~~7.3 **No delay**: The Board may not exercise any powers conferred by this Constitution to refuse or delay the registration of any sale, assignment, transfer or disposal of Shares completed in accordance with clause 7.2.

~~8.4~~7.4 **Permitted transfers**: Subject to the LG(WS) Act, the restrictions in this clause 7 do not apply to the following transfers:

(a) the transfer of Shares from the trustees of any consumer trust to:

(i) the new trustees of that trust;

(ii) the Local Authority/ies for the Service Area where the beneficiaries of that trust reside; or

(iii) another consumer trust established for the purpose of providing water services to the public; and

(b) the transfer of Shares by a Local Authority to:

(i) another Local Authority

(ii) any successor Local Authority to that Local Authority; or

(iii) a consumer trust established for the purpose of providing water services to the public.

~~8.5~~7.5 **Board may refuse to register**: The Board may refuse or delay the registration of any transfer of a Share to any person if:

(a) the transfer would result in a breach of law, this Constitution or the Shareholders' Agreement;

(b) any money payable on that Share is due for payment and has not been paid;

(c) the Company has an unsatisfied lien on that Share or the proceeds of sale of that Share;

(d) the transferee is a person without legal capacity to contract or the transfer has not been properly executed;

(e) the transfer is not accompanied by proof (reasonably required by the Directors) of the right of the transferor to make the transfer;

(f) the Directors acting in good faith determine that registration of the transfer would not be in the best interests of the Company; or

(g) the transfer document is not in the usual or common form or otherwise in the form prescribed by the Board from time to time (if any),

provided that the Board must at all times comply with section 84 of the Companies Act.

~~9.~~8. DISTRIBUTIONS

~~9.1~~8.1 **Distributions**: ~~The Board, if satisfied on reasonable grounds that the Company will, immediately after the Distribution, satisfy the solvency test under section 4 of the Companies Act, may, subject to:~~The Company must not ~~make any distribution or~~ pay any dividend. ~~This prohibition reflects the terms of the Commitment Agreement entered into between the Councils.~~ The Board, if satisfied on reasonable grounds that the Company will immediately after a Distribution, satisfy the solvency test under s 4 of the Companies Act, may subject to:

7

(a) the Companies Act and the LG(WS) Act; and

(b) the prior approval of Shareholders by Special Resolution,

authorise Distributions by the Company at times, and of amounts, and in such form, as it thinks fit and may do everything which is necessary or expedient to give effect to any such Distribution.

~~10.~~9. COMPANY ACQUIRING ITS OWN SHARES

~~10.1~~9.1 **Company may acquire its own Shares**: The Company may purchase or otherwise acquire its own Shares where this is consistent with the terms of the Shareholders' Agreement or, if outside the scope of what is provided for in the Shareholders' Agreement, only if it has first been authorised to do so by Special Resolution in which case the Shares purchased or otherwise acquired shall be deemed to be cancelled immediately on acquisition.

~~11.~~10. SHAREHOLDER MEETINGS

~~11.1~~10.1 **Annual meeting**: The Board must hold an annual Shareholders' meeting in accordance with section 120 of the Companies Act unless in the case of any annual meeting, everything required to be done at that meeting (whether by way of resolution or otherwise) is done by written resolution in accordance with section 122 of the Companies Act.

~~11.2~~10.2 **Special meetings**: A special Shareholders' meeting:

(a) may be called at any time by the Board; and

(b) must be called by the Board on the written request of the Joint Shareholders Committee.

~~11.3~~10.3 **Proceedings at Shareholders' meetings**: The provisions of the First Schedule to the Companies Act as modified by this Constitution, including the rules set out in Schedule 1, govern proceedings at Shareholders' meetings.

~~12.~~11. REPORTING REQUIREMENTS

~~12.1~~11.1 **Reporting**: The Board must:

(a) prepare the plans or reports required by the Shareholders by notice in writing to the Company (such notice must comply with the requirements in section 249 of the LG(WS) Act), in accordance with the requirements specified in that notice;

(b) within eight months of the start of each Financial Year of the Company, prepare, adopt and provide to its Shareholders, a water services half-yearly report in accordance with section 248 of the LG(WS) Act, which reports on the Company's operations during the first six months of the Financial Year and must include information required to be included by the Statement of Expectations; and

(c) within three months of the end of each Financial Year of the Company, adopt its Water Services Annual Report for that Financial Year, provide that Report to the

Shareholders, and publish it in accordance with the LG(WS) Act. This Report must include the information required to be included by:

(i) the Statement of Expectations;

(ii) the Companies Act; and

(iii) sections 243 and 246, and Schedule 4 of the LG(WS) Act and, where applicable, section 244 of the LG(WS) Act.

~~13.~~12. DIRECTORS

~~13.1~~12.1 **Number of Directors**: The ~~maximum number of Directors will be~~Board will ~~at any time~~from 1 July 2027 consist of no fewer than 3 and no more than ~~[ ]~~5.

~~13.2~~12.2 **Appointment and removal by Shareholders**:

(a) The Joint Shareholders Committee will appoint up to the number of Directors set out in clause 12.1, by notice in writing to the Company. Directors may be removed and replaced in the same way.

(b) The ~~Shareholders~~ Joint Shareholders Committee and the Company shall promptly take such steps as may be necessary to effect the appointment, replacement or removal of any individual (including if a Director fails to vacate office when required to do so) in accordance with this clause 12.2 if applicable, including, in the case of the Joint Shareholders Committee~~Shareholders~~, by exercising their voting rights in the relevant Joint Shareholders Committee ~~Shareholders'~~ meeting (or by way of written resolution).

~~13.3 **Appointment and removal by Board**: Where there is a vacancy on the Board, the Appointments and Accountability Committee established by the Board (or, where the Board so determines, the full Board), may, by majority vote, appoint a person to fill that vacancy.~~

~~13.4~~12.3 **Skills of Directors**: All Director appointments must be made in accordance with the Board Skills Matrix, with the aim of ensuring that the Board as a whole has an appropriate mix of skills, knowledge, and experience in relation to providing water services, as reflected in the Board Skills Matrix.

~~13.5~~12.4 **Term of Appointment**:

(a) No person may be appointed as a Director for a term of more than ~~[ ]~~3 consecutive years ("**Term**").

(b) A Director may be reappointed at the expiry of his or her Term of appointment, provided that no Director may be appointed for more than ~~[ ]~~3 consecutive Terms, unless the JSC determines it desirable to deviate from this rule, in wich case a Director may be appointed for up to one additional Term only.

~~13.6~~12.5 **Vacation of office**: A Director vacates office if that Director:

(a) resigns by written notice of resignation to the Company. The notice is to be effective when it is received at that address or at a later time specified in the notice;

(b) is removed from office in accordance with clause 1.11.112.3;

(c) becomes disqualified from being a Director in accordance with clause 12.1512.1512.16; or

(d) dies.

~~13.7~~12.6 **Appointment of Chair**:

(a) The ~~Board~~ Joint Shareholders Committee must appoint a Chair ~~by majority vote of the Board~~.

(b) The Chair will hold office until:

(i) they cease to be a Director of the Company; or

(ii) a new Chair is appointed by the Joint Shareholders Committee~~Board~~.

~~13.8~~12.7 **Powers of the Board**:

(a) Subject to clause 12.7(b)~~12.7(b)12.8(b)~~ and any restrictions in the Companies Act, the LG(WS) Act, the Shareholders' Agreement or this Constitution, the business and affairs of the Company must be managed by or under the direction or supervision of the Board.

(b) The Board has, and may exercise, all the powers necessary for managing, directing and supervising the management of the business and affairs of the Company except to the extent that this Constitution, the Shareholders' Agreement, the Companies Act or the LG(WS) Act expressly requires those powers to be exercised by the Shareholders or any other person.

~~13.9~~12.8 **Prohibited Matters**: Notwithstanding clause 12.7(b)~~12.7(b)12.8(b)~~, the Board must not, and must not cause the Company to:

(a) incur indebtedness to any person other than the New Zealand Local Government Funding Agency Limited or a New Zealand registered banking institution; or

(b) grant a security interest over any of the assets of the Company,

except to the extent permitted by the LG(WS) Act and the Shareholders' Agreement.

~~13.10~~12.9 **Shareholder Reserved Matters**: Notwithstanding clause 12.7(b)~~12.7(b)12.8(b)~~, but subject to any restrictions in the LG(WS) Act, the Board must not, and must not cause the Company to enter into any transaction or matter that is a Reserved Matter, unless first approved in writing by the Shareholders in accordance with the Shareholders' Agreement.

~~13.11~~12.10 **Solvency test**: Notwithstanding any approval attained pursuant to clause 12.8~~12.812.9~~, the Board must not cause the Company to borrow or raise any money, or enter into or incur any guarantee or other liability of any nature, if the effect of doing so would be that the Company will not satisfy the solvency test (as that term is defined in the Companies Act).

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~~13.12~~12.11 **Proceedings of the Board**: The provisions of the Third Schedule to the Companies Act as modified by this Constitution, including the rules set out in Schedule 2, govern proceedings at meetings of Directors.

~~13.13~~12.12 **Directors duties**: In addition to the duties set out in the Companies Act, the Directors must assist the Company to meet the objective set out in clause 2.2 and any other requirements set out in the Statement of Expectations or the LG(WS) Act.

~~13.14~~12.13 **Directors to act in good faith**: A Director, when exercising powers or performing duties, must act in a manner which that Director believes to be in the best interests of the Company (notwithstanding that it may not be in the best interests of any particular Shareholder) provided that Director must not exercise such powers or perform such duties in a manner which is inconsistent with section 17 of the LG(WS) Act.

~~13.15~~12.14 **Indemnity and insurance of Directors and employees**: The Company may indemnify and effect insurance in accordance with any part or all of section 162 of the Companies Act provided that:

(a) the Board must ensure that particulars of any indemnity given to, or insurance taken out for, any director, or employee of the Company are immediately entered in the interests register; and

(b) the Board may impose any conditions in relation to any indemnity or insurance if the conditions do not contravene the Companies Act.

For the purposes of this clause 12.14~~12.1412.15~~ "director" includes any former director, "employee" includes any former employee and "Company" includes any related company.

~~13.16~~12.15 **Disqualification of Directors**: A person will be disqualified from holding the office of Director if he or she:

(a) is or becomes disqualified from being a Director under any provision of the Companies Act or the LG(WS) Act; or

(b) dies; or

(c) becomes a protected person under the Protection of Personal and Property Rights Act 1988; or

(d) is an undischarged bankrupt.

~~13.17~~12.16 **Remuneration of Directors**:

(a) The Joint Shareholders Committee ~~Shareholders~~ shall determine~~, by Special Resolution,~~ the total sum available to the Board each year to make remuneration payments in accordance with clause 12.16(b)~~12.16(b)12.17(b)~~.

(b) The Board may not authorise any form of remuneration to be paid to a Director without Board approval and unless such payment is made and authorised in accordance with the provisions of the Companies Act and the Special Resolution passed in accordance with clause 12.16(a)~~12.16(a)12.17(a)~~.

(c) The Board may authorise the reimbursement by the Company of reasonable travelling, hotel and other expenses incurred by Directors in attending Board meetings, Shareholder meetings or in relation to any other affairs of the Company.

~~13.18~~12.17 **Other offices with company held by Director**:

(a) Any Director may act by himself or herself or by the Director's firm in a professional capacity for the Company, and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause authorises a Director or the Director's firm to act as auditor of the company.

(b) A Director may hold any other office or place of profit in the Company (other than the office of auditor) in conjunction with the Director's office of Director for such period and on such terms (as to remuneration and otherwise) as the Board may determine, subject to the necessary reporting disclosures and avoidance of conflicts of interest.

~~13.19~~12.18 **~~Alternate Directors~~**:

~~(a) Each Director will have the power from time to time by written notice to the Company to appoint any person who is already a Director to act as an alternate Director in his or her place. An alternate Director cannot be appointed for more than one Director at any given time or if they are disqualified from being a director pursuant to clause 12.16. The following provisions will apply to an alternate Director:~~

~~(b) the alternate Director will not be entitled to any remuneration in his or her capacity as alternate Director in addition to that of the Director in whose place he or she acts, but will have the same rights as a Director to be reimbursed under clause 12.17(c);~~

~~(c) unless otherwise provided by the terms of the appointment, the alternate Director:~~

~~(d) has the same rights, powers and privileges (including the power to sign resolutions of Directors and the power to sign documents on behalf of the Company, but excluding the power to appoint an alternate Director under this clause 12.19); and~~

~~(e) must discharge all of the duties and obligations of the Director in whose place he or she acts.~~

~~(f) An alternate Director will cease to be an alternate Director:~~

~~(g) if the Director who appointed the alternate Director ceases to be a Director or revokes the appointment;~~

~~(h) on the occurrence of any event relating to the alternate Director which, if the alternate Director were a Director, would disqualify the alternate Director from being a Director; or~~

~~(i)~~(a) ~~if a majority of the other Directors resolve to revoke the alternate Director's appointment.~~

~~14.~~13. INTERESTS OF DIRECTORS

~~14.1~~13.1 **Disclosure of interests**: A Director must disclose particulars of any interest in a transaction or proposed transaction of the Company in accordance with section 140 of the Companies Act.

~~14.2~~13.2 **Interested Directors**: As set out in section 139 of the Companies Act, a Director is "interested" in a transaction to which the Company is a party if:

(a) the transaction relates to a dispute between the Company and the Shareholders ~~that appointed the Director ("**Director's Shareholder**")~~, or the enforcement of remedies available to the Company against the ~~Director's~~ Shareholders~~, including under any agreement or arrangement between the Company (whether by itself or with one or more other parties) and the Director's Shareholder~~;

(b) they are a party to the transaction or may derive a material financial benefit from it;

(c) they have a material interest in another party to the transaction;

(d) they are a director, officer or trustee of another party to the transaction;

(e) they are a director, officer or trustee of a person who may derive a material financial benefit from the transaction;

(f) they are a parent, child or spouse, civil union partner, or de facto partner of a person described in clause 13.2(a); or

(g) they are otherwise directly or indirectly materially interested in the transaction.

~~14.3~~13.3 **Interested Directors may act**: A Director who is interested in a transaction entered into, or to be entered into, by the Company must not do any of the following:

(a) sign a document relating to that transaction on behalf of the Company; or

(b) do any other thing in their capacity as a Director in relation to that transaction,

provided that a Director may vote, sign documents and otherwise do any other thing in their capacity as a Director with regard to any matter relating to the following:

(c) any payment or other benefit of the kind referred to in section 161 of the Companies Act in respect of that Director in accordance with clause 12.16~~12.16~~~~12.17~~;

(d) the entry into an indemnity or insurance arrangement in respect of that Director in their capacity as a director of the Company in accordance with clause 12.14~~12.14~~~~12.15~~; or

(e) transactions in which a Director is interested solely in their capacity as a director of a Subsidiary of the Company.

~~14.4~~13.4 **Interests register review**: The Board shall review the interests register at the beginning of every Board meeting.

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~~14.5~~13.5 **No prohibition re quorum**: No prohibition under this clause 13 will prevent the attendance of a Director at a Board meeting from counting for quorum purposes.

~~15.~~14. NOTICES

~~15.1~~14.1 **Service**: Notices may be served by the Company upon any Director or Shareholder, either by personal delivery, by electronic means or by posting it in a prepaid envelope or package addressed to the recipient at his or her last known address (or, in the case of a company, its registered office). A notice may be given by the Company to joint Shareholders by giving the notice to the joint Shareholder named first in the Share Register in respect of the Share, or to such other person as or the joint Shareholders may in writing direct.

~~15.2~~14.2 **Time of service**: Notices are deemed served at the following times:

(a) when given personally, on delivery;

(b) when sent by post or document exchange, five Business Days after (but exclusive of) posting; and

(c) when sent by email, at the time of transmission, if (in the event receipt is disputed) the sender produces a printed copy of the email which evidences that the email was sent to the email address of the recipient.

Any notice which has been served on a Saturday, Sunday or public holiday is deemed to be served on the first Business Day after that day.

~~16.~~15. LIQUIDATION

~~16.1~~15.1 If the Company is liquidated, the liquidator may, with the approval of the Shareholders by Special Resolution and any other approval required by the Companies Act or the LG(WS) Act, but subject to the requirements of the Shareholders' Agreement (as notified by any Shareholder to the liquidator) and, if applicable, the rights or restrictions attached to the different classes of shares issued by the Company:

(a) enter into a transfer agreement with the Shareholders to distribute to the Shareholders in kind the whole or any part of the assets of the Company; and

(b) vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the persons so entitled as the liquidator thinks fit, but so that the Shareholders are not compelled to accept any Shares or other securities on which there is any liability.

~~17.~~16. METHODS OF CONTRACTING

~~17.1~~16.1 A deed which is to be entered into by the Company may be signed on behalf of the Company by:

(a) two or more Directors;

(b) a Director, and any person authorised by the Board, whose signatures must be witnessed; or

(c) one or more attorneys appointed by the Company.

~~17.2~~16.2 Subject to clause 16.1, an obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by two people acting under the express or implied authority of the Company.

~~17.3~~16.3 Subject to clause 16.1, any other obligation or contract may be entered into on behalf of the Company in writing or orally by two people acting under the express or implied authority of the Company.

SCHEDULE 1

Rules for Shareholder Meetings

2. CHAIR

2.1 If the Chair is present at the meeting, he or she must chair the meeting.

2.2 If there is no Chair or if the Chair is not present at the meeting within 15 minutes of the start time, the Directors present may elect a chair for that meeting, failing which, the Shareholders (or their representatives) present may elect a chair for that meeting.

3. NOTICE OF MEETINGS

3.1 Each Shareholder and every Director of the Company must be sent written notice of the time and place of the meeting at least 10 Business Days before the meeting.

3.2 The notice must state:

(a) the nature of the business to be discussed at the meeting in sufficient detail to enable the Shareholders to form a reasoned judgment in relation to it; and

(b) the text of any Special Resolution to be put to the meeting.

3.3 An irregularity in a notice of a meeting is waived if:

(a) the Shareholders attend the meeting without protest as to the irregularity; or

(b) if each Shareholder agrees to the waiver.

3.4 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. It is not otherwise necessary to give any new notice for an adjourned meeting.

3.5 The accidental omission to give a notice of a meeting to, or the non-receipt of a notice of a meeting by, any person entitled to receive notice does not invalidate the proceedings at that meeting.

4. METHODS OF HOLDING MEETINGS

4.1 A Shareholders' meeting may be held either:

(a) at the place, date, and time appointed for the meeting; or

(b) by means of audio, or audio and visual, communication. The Shareholders (or their representatives) participating must constitute a quorum and must all be able to simultaneously hear all participants throughout the meeting.

5. QUORUM

5.1 No business may be transacted at a Shareholder meeting if a quorum is not present.

5.2 ~~A quorum for a Shareholder meeting is present if a majority of Shareholders (based on the number of Shares held) or their proxies:~~A quorum for a Shareholder meeting requires at least one representative from each Shareholder to be present (including online) or to have completed postal votes (where permitted).

~~( ) is present; or~~

~~( ) has completed postal votes (where permitted).~~

~~5.5~~5.3 If a quorum is not present within the 30 minutes after the start time for the meeting:

(a) if the meeting is called under section 121(b) of the Companies Act, the meeting is dissolved;

(b) for any other meeting, the meeting is adjourned to:

(i) the same day in the following week at the same time and place, or

(ii) to another date, time and place to be fixed by the Directors.

6. ADJOURNMENTS

6.1 The chair:

(a) may adjourn the meeting from time to time and from place to place, but no business can be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place; and

(b) must adjourn the meeting as above if directed to do so by the meeting.

7. VOTING

7.1 If a Shareholder meeting is held under rule 3.1(b), unless a poll is demanded, voting at the meeting will be by:

(a) voting by voice; or

(b) voting by show of hands,

and the chair of the meeting will decide which method is used.

7.2 A declaration by the chair of the meeting that a resolution is carried by the necessary majority is conclusive evidence of that fact unless a poll is demanded.

7.3 Subject to the Shareholders' Agreement and to any rights or restrictions attached to any Share:

(a) where voting is by voice or a show of hands, every Shareholder present in person or by representative has one vote; and

(b) on a poll every Shareholder present in person or by representative has one vote in respect of every Share held by that Shareholder which entitles a Shareholder to vote; and

(c) in the case of an equality of votes, the chair of the meeting does not have a casting vote.

8. PROXIES AND POSTAL VOTES

Commented [EH4]: OPTION: can remove postal votes

8.1 Each Shareholder has the right to appoint a representative as its proxy to attend and vote at Shareholder meetings on its behalf. Any such representative so appointed is entitled to attend and be heard at Shareholder meetings and to demand or join in demanding a poll, as if that representative was the relevant Shareholder.

8.2 A Shareholder may not cast a postal vote at a Shareholders' meeting unless the Board has previously authorised postal votes for that meeting in which case:

(a) the notice of that meeting must state whether postal votes are authorised; and

(b) postal voting must be carried out in accordance with clause 7 of the First Schedule to the Companies Act.

9. MINUTES

9.1 The Board must ensure that minutes are kept of all proceedings at Shareholder meetings.

9.2 Minutes which have been signed correct by the Chair of the meeting are prima facie evidence of the proceedings.

10. SHAREHOLDER PROPOSALS

10.1 The Shareholders may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next Shareholder meeting. The provisions of clause 9 of the First Schedule of the Companies Act apply to any notice given under this rule 9.1.

10.2 The Chair of a Shareholder meeting will allow a reasonable opportunity for the Shareholders to question, discuss or comment on the management of the Company.

11. OTHER PROCEEDINGS

11.1 Except as provided in this Schedule 1, and subject to this Constitution, a Shareholder meeting may regulate its own procedure.

SCHEDULE 2

Rules for Board Proceedings

1. NOTICE OF MEETING

1.1 A Director other than the Chair may convene a meeting only with the agreement of the Chair, or where the Chair is unavailable or unwilling, with the agreement of at least one other Director.~~A Director or, if requested by a Director to do so, an employee of the Company, may convene a meeting of the Board by giving notice in accordance with this clause~~.

1.2 At least five Business Days' notice of a meeting of the Board must be given to every Director who is in New Zealand, and public notification must also be given in accordance with the requirements set out in Part 7 of LGOIMA. The notice must include the date, time and place of the meeting and the matters to be discussed.

~~1.3 The Board must meet no fewer than 10 times per annum. Meeting frequency may be increased by majority Board resolution.~~

~~1.4~~1.3 An irregularity in the notice of the meeting is waived if all Directors attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.

~~1.5~~1.4 Notice of a meeting may be given by any means permitted by LGOIMA and the Companies Act.

~~1.6~~1.5 The Company will ensure that it complies with all other applicable LGOIMA requirements in relation to providing public notification of the Board.

2. METHOD OF HOLDING MEETINGS

2.1 The Board may meet in person or by any technological means that:

(a) allow participating Directors to be in communication with other participating Directors in a manner that is relatively contemporaneous; and

(b) ensure the meeting is compliant with the requirements set out in Part 7 of LGOIMA.

2.2 Where Directors are not all in attendance in one place but are holding a meeting through such a system of communication that complies with paragraph 2.1 of this Schedule 2:

(a) the participating Directors will be taken to be assembled together at a meeting and present at that meeting (including for the purposes of quorum requirements);

(b) the meeting will be taken to be held at the place agreed to by the participating Directors so long as at least one participating Director is physically present at that place; and

(c) all proceedings at meetings conducted in such a manner will be valid and effective as if conducted at a meeting at which all of them were physically present.

3. QUORUM

3.1 At any meeting of Directors:

(a) a quorum will only be present if at least a majority of Directors are present; and

(b) any resolution, unless otherwise specified in this Constitution or the Shareholders' Agreement, will be passed if a majority of the votes cast on it are in favour of it.

3.2 If a quorum is not present within 30 minutes of the time appointed for the commencement of the Board meeting, the Board meeting must be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the chairperson may appoint, and if at the adjourned meeting a quorum is not present within one hour after the time appointed for the commencement of the meeting, the Directors present (regardless of the person who appointed them) will constitute a quorum. No business may be transacted at a meeting of Directors if a quorum is not present.

4. VOTING

4.1 Every Director has one vote.

4.2 The Chair does not have a casting vote.

4.3 Subject to clause 12.8~~12.8~~~~12.9~~, a resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it.

4.4 A Director who abstains from voting is not presumed to have voted in favour of the relevant resolution of the Board.

5. MINUTES

5.1 The Board must ensure minutes are kept of all proceedings at meetings of the Board. Such minutes will be made available to the public in accordance with, and to the extent required by, section 51 of LGOIMA.

6. RESOLUTIONS

6.1 A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

6.2 A resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors.

6.3 A copy of all resolutions must be entered in the minute book of Board proceedings.

7. NO NOTICE TO DIRECTORS OUTSIDE NEW ZEALAND

7.1 It is not necessary to give notice of a meeting of the Board to any Director temporarily absent from New Zealand.

8. OTHER PROCEEDINGS

8.1 Except as provided in this Schedule 1 and this Constitution, the Board may regulate its own procedure.

SCHEDULE 3

Board Skills Matrix

Adopted by JSC on 29 April 2026.

Schedule 4

Shareholder Reserved Matters

(a) Issue of shares to the Shareholder or any other party

(b) Provision of services outside the Service Area

(c) Liquidation or winding up of the Company

(d) Amalgamation

(e) Changes to, or buy-backs of, shares

(f) Major transactions (as defined in the Companies Act)

(g) Adoption, revocation, or amendment to the Constitution

(h) Material changes to the nature of the Company's business

(i) Giving financial assistance for the purposes of purchasing shares

(j) Incurring any indebtedness to any person other than the New Zealand Local Government Funding Agency Limited or a New Zealand registered banking institution

(k) Determining the Company's Coard Appointment Policy

Commented [EH5]: OPTION: reserved matters in constitution or shareholders agreement

Shareholders' Agreement relating to [Water Organisation] Limited

PARTIES

Mackenzie District Council
[Council]

Timaru District Council
[Council]

[insert Water Organisation name]
Company

Notes for using this template:

- This template is a contract between multiple shareholders of a water organisation ("**Water Organisation**"), setting out each shareholding councils' rights and obligation in respect of that Water Organisation.
- Have a go at preparing a first draft of the Agreement by completing Schedule 1 (Agreement Details), using the drafting notes highlighted in yellow to assist you. Please note that this Agreement will create legally binding obligations between the parties, so it is important to ensure that all parties can comply with any obligations included in the Agreement.
- For further guidance in preparing this template, please refer to the *Guidance Material – Shareholders' Agreement* for more information.

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CONTENTS

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AGREEMENT dated 2026

PARTIES

Mackenzie District Council

("[**Council**]")

Timaru District Council

("[**Council**]")

[insert Water Organisation name]

("**Company**")

BACKGROUND

A. Mackenzie and Timaru District Councils are Shareholders in the Company and have entered into this agreement to record how the parties will manage their shareholdings in the Company and their respective relationships with each other.

B. The Company is party to this agreement to record certain obligations to it by, and owed by it to, the Shareholders.

C. The terms and conditions of this agreement are set out in Schedule 1 (Agreement Details) and Schedule 2 (Terms and Conditions).

SIGNATURES

MACKENZIE DISTRICT COUNCIL
By:

Signature of Authorised Signatory	Signature of Authorised Signatory
Name of Authorised Signatory	Name of Authorised Signatory

TIMARU DISTRICT COUNCIL
By:

Signature of Authorised Signatory	Signature of Authorised Signatory
Name of Authorised Signatory	Name of Authorised Signatory

[INSERT WATER ORGANISATION NAME]
By:

Signature of Authorised Signatory	Signature of Authorised Signatory
Name of Authorised Signatory	Name of Authorised Signatory

SCHEDULE 1

AGREEMENT DETAILS

Commented [A1]: Things to still consider:
LGFA guarantee obligation
Staggered initial director appointments
Reserved matters

Service Area(s) for determination of "Business Day" (*Clause 1.1, Schedule 2*)	South Canterbury
Service Area(s) for provision of "Water Services" (*Clause 1.1, Schedule 2, and Schedule 6*)	Mackenzie and Timaru Districts
Initial share issue and shareholding (*Clause 2.2, Schedule 2*)	Total Shares to be issued on incorporation: [X] Initial Shareholders: **Shareholder** / **Number of Shares** Mackenize District Council / [X] Timaru District Council / [X]
Price payable for each share issued (*Clause 2.3, Schedule 2*)	$[0.01]
Name of Company (*Clause 2.4, Schedule 2*)	[insert]
Registered office and address for service of Company (*Clause 2.4, Schedule 2*)	[insert].
Initial business set up activities (*Clause 3.2, Schedule 2*)	[Insert the initial business set up, operational steps and transactions to be undertaken. This will be specific to the relevant Councils, but could include: entering into the Transfer Agreement; novation of existing services agreements; financing planning arrangements etc.].
Initial Directors	Initial Directors: **Director(s)**

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(*Clause 4.2, Schedule 2*)	[X] [X] [X] [X]
Establishment of Joint Shareholders Committee (*Clause 6.1, Schedule 2*)	Yes The Shareholders confirm the terms of the Joint Shareholders Committee's Terms of Reference are at Schedule 5
Failure to attend Joint Shareholders Committee meeting (*Clause 6.6, Schedule 2*)	[Insert the number of consecutive meetings of the Joint Shareholders Committee which, if missed, require a new representative to be appointed to the Joint Shareholders Committee by that Shareholder.]
Other matters to be included in the Statement of Expectations (*Clause 8.1(b), Schedule 2*)	[insert any matters that should be specified in the Statement of Expectations, in addition to the matters included in the LG(WS) Act.]
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 Joint Shareholders Committee ~~Shareholders Council~~ (*Clause 8.1(c), Schedule 2*)	[insert – this timeframe should not exceed one month, as once the Statement of Expectations is adopted, it must be published within one month in accordance with section 223 of the LG(WS) Act]
Principles for share issue (*Clause 9.3, Schedule 2*)	[insert any principles which must be complied with when the Water Organisation issues shares]
Interest rate payable on payment default (*Clause 12.3(a), Schedule 2*)	[eg Bill Rate plus 3% per annum]

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Place of arbitration *(Clause 13.4(c), Schedule 2)*	Christchurch	
Address for notices *(clause 15.1, Schedule 2)*	**Mackenzie District Council**	**Timaru District Council**
	53 Main Street Fairlie 7925 PO Box 52 Main Street Fairlie 7949 Email: angela.oosthuizen@mackenzie.govt.nz Attention: Angela Oosthuizen, Chief Executive	2 King George Place Timaru Central Timaru 7910 PO Box 522 Timaru 7940 Email: Nigel.Trainor@timdc.govt.nz Attention: Nigel Trainor, Chief Executive
	[Company]	
	[insert physical and postal address details of Company] Email: [Insert details] Attention: [Insert details]	
Joint Shareholder Committee membership *(Schedule 4)*	Total number of members of the Joint Shareholders Committee: 6 Initial members of the Joint Shareholders Committee: *Timaru District Council appointments:* • Mayor Nigel Bowen • Clr Graeme Wilson • Clr Michelle Pye • Clr Stacey Scott (alternative) *Mackenzie District Council appointments:* • Mayor Scott Aronsen • Clr Rit Fisher • Clr Mark Adams	

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	• Clr Sue Allen (alternative) Quorum for meetings of the ~~Shareholders Council~~Joint Shareholders Committee: A total of four elected members or appointed alternates, with a least two members being from each Council.

SCHEDULE 2

TERMS AND CONDITIONS

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions**: In this agreement the following definitions apply:

"**Alternate**" means in relation to a Shareholder, an alternate to that Shareholder's appointed Joint Shareholders CommitteeRepresentative to attend and vote at meetings of the Joint Shareholders Committeebut only where the relevant Shareholder's appointed Joint Shareholders Committee Representative is unable to do so.

"**Board**" means the board of Directors of the Company.

"**Business**" means the business and activities set out in clause 2.2 of the Constitution.

"**Business Day**" means any day other than a Saturday, Sunday or statutory public holiday in the Service Area(s) set out in Schedule 1.

"**Companies Act**" means the Companies Act 1993.

"**Confidential Information**" means the provisions of this agreement and all other information of a confidential nature (which, where the confidentiality of the information is not expressly stated, shall be determined by the recipient, acting reasonably) obtained by one party from the other party under or in connection with this agreement, including, in relation to the Company, trade secrets, proprietary information and confidential information belonging to the Company that are not generally known to the public, including information concerning business plans, financial statements and other information provided pursuant to this agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists or other business documents which the Company treats as confidential, and any other information in respect of which the Company is bound by an obligation of confidence owed to a third party.

"**Constitution**" means the constitution of the Company as filed with the New Zealand Companies Office on the incorporation of the Company, as amended from time to time.

"**Director**" means a director of the Company.

"**Event of Default**" in respect of a Shareholder means where a Shareholder breaches or fails to observe any of the obligations under this agreement and:

(a) if that breach or failure is capable of remedy, does not remedy that breach or failure within 20 Business Days of notice from any other Shareholder specifying the breach or failure and requiring remedy;

(b) if that breach or failure is not capable of remedy; or

(c) that breach or failure is material in the context of the obligations of that Shareholder under this agreement.

"**Financial Year**" means:

(d) the period from the Incorporation Date to 30 June immediately following the Incorporation Date;

(e) each subsequent period commencing on 1 July and ending on the next 30 June during the Term; and

(f) the period from 1 July immediately preceding the end of the Term, to the end of the Term.

"**Incorporation Date**" means the date on which the Company is incorporated as determined by the date recorded by the New Zealand Companies Office.

"**Independent Director**" means a Director who is neither a current elected member nor a current employee of any Local Authority.

"**Joint Shareholders Committee**" means the joint committee formed by the Shareholders pursuant to clause 6.1

"**LGA**" means the Local Government Act 2002.

"**LGFA**" means the New Zealand Local Government Funding Agency Limited.

"**LG(WS) Act**" means the Local Government (Water Services) Act 2025.

"**Local Authority**" has the meaning given to it in the LGA.

"**Material**" means material in the context of the Business and assets of the Company as a whole.

"**Ordinary Resolution**" has the meaning given to it in the Constitution.

"**Reserved Matters**" means matters of the nature listed in Schedule 3.

"**Security Interest**" includes a mortgage, debenture, charge, lien, pledge, assignment or deposit by way of security, bill of sale, lease, hypothecation, hire purchase, credit sale, agreement for sale on deferred terms, option, right of pre-emption, caveat, claim, covenant, interest or power in or over an interest in an asset and any agreement or commitment to give or create any such security interest or preferential ranking to a creditor including set off.

"**Service Area**" has the meaning set out in the LG(WS) Act.

"**Shares**" means shares in the Company on issue from time to time.

"**Shareholder**" means a shareholder in the Company and includes any person who subsequently becomes a shareholder. Where Shares are held by persons jointly, those persons are considered one Shareholder for the purpose of this agreement.

~~"**Shareholders Council**" means the joint committee formed by the Shareholders pursuant to clause 6.1.~~

"**Special Resolution**" means a resolution that is approved by a majority of 75% of the votes of those Shareholders entitled to vote and voting on the question.

"**Statement of Expectations**" has the meaning given to it in LG(WS) Act.

"**Terms of Reference**" means the terms of reference of the Joint Shareholders Committee in the form set out in Schedule 4 as amended from time to time by agreement of the Shareholders.

"**Transfer Agreement**" has the meaning set out in the LG(WS) Act.

"**Water Services Annual Budget**" has the meaning set out in the LG(WS) Act.

"**Water Services Strategy**" has the meaning set out in the LG(WS) Act.

"**Water Services**" has the meaning set out in the LG(WS) Act, which shall be the water services transferred to the Water Organisation in accordance with the Transfer Agreement between the Water Organisation and each Shareholder.

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) words in this agreement have the same meaning as in the Companies Act unless inconsistent with the context;

(e) a 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 and other representative of such party, person, entity;

(f) a reference to dollars or $ is to New Zealand currency and excludes every tax and duty;

(g) a reference to a clause or schedule is to a clause or schedule of this agreement;

(h) 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;

(i) references to the word 'include' or 'including' are to be construed without limitation;

(j) references to any form of law is to New Zealand law, including as amended or re-enacted;

(k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

(l) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;

(m) 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

(n) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 **Subsidiaries of the Company**: If, at any time, the Company has a subsidiary (as defined in the Companies Act) or subsidiaries, clauses 3.1, 5.1 and 6.1 shall be read so as to relate to the group of companies consisting of the Company and its subsidiaries, rather than to the Company alone.

2. ESTABLISHMENT OF COMPANY

2.1 **Incorporation**: The Shareholders shall, immediately after signing this agreement, take all steps necessary (including signing documents) to incorporate the Company as a New Zealand registered company.

Commented [A2]: Drafting Note: Delete if the Shareholders' Agreement will be signed after incorporation.

2.2 **Shares**: The Company shall immediately upon incorporation have the number of shares set out in Schedule 1 which, on issue, will be held by the Shareholders set out in Schedule 1.

2.3 **Payment for Shares**: The sum set out in Schedule 1 shall be payable by each Shareholder in respect of each Share held by that Shareholder, receipt of which is hereby acknowledged.

2.4 **Name and registered office**: The name of the Company shall be as set out in Schedule 1 and the initial registered office and address for service of the Company shall be as set out in Schedule 1.

3. PURPOSE OF COMPANY

3.1 **Purpose**: It is the intention of the Shareholders that the Company is to carry on the Business.

3.2 **Initial business set up**: The Shareholders will work together to procure the initial business set up, operational steps and transactions described and summarised in Schedule 1.

4. BOARD AND DIRECTORS

4.1 **Board**:

(a) The Company will have the number of Directors that comply with in the Constitution.

(b) The Directors will be appointed and removed in accordance with the Constitution.

4.2 **Existing Directors**: As at the date of this agreement, the Directors named in Schedule 1 are deemed to have been nominated by the Shareholders to be the Directors.

4.3 **Performance evaluation**: The Board will undertake a self-evaluation of its performance on an annual basis, in line with accepted good governance principles and practices, and the results will be reported directly to the Joint Shareholders Committee and to the Chief Executives (or equivalent) of each of the Shareholders.

4.4 **Performance monitoring:** As required by section 250 of the LG(WS) Act, the Shareholders must regularly monitor the performance of the Company, and such monitoring must include an annual review of the Company's performance in giving effect to:

(a) the Statement of Expectations; and

(b) the strategic priorities, objectives, and outcomes specified in the Water Services Strategy.

5. SHAREHOLDERS' OBLIGATIONS

5.1 **Voting and Shareholder reserved matters**:

(a) Subject to clause 5.1(b) and any resolution that is required by the Companies Act or the Constitution to be passed as a Special Resolution, all resolutions of meetings of the Shareholders may be passed by Ordinary Resolution.

(b) The Company will not enter into any transaction or matter which is a Reserved Matter unless the entry into of that transaction or matter is approved in writing by:

(i) the Shareholders who together hold more than the required percentage of all Shares held by the Shareholders, as listed in Schedule 3; or

Commented [A3]: Check with schedule 3 language

(ii) if such a percentage is not listed in Schedule 3, by Special Resolution.

5.2 **Duty to comply with Constitution**: Each Shareholder shall comply with the Company's Constitution.

5.3 **Compliance with laws**: The Shareholders will each ensure they comply with their, and the Company complies with its, obligations under the LGA, the LG(WS) Act and the Companies Act.

5.4 **Spirit of collaborative working**: The Shareholders must at all times act in a spirit of co-operation and collaborative working, endeavouring to act together to allow for the effective communication of the Shareholders' intentions or requirements to the Company.

5.5 **No surprises**: The Shareholders shall use best endeavours to act under the principle of "no surprises", both with the Company and with each other in relation to their respective interests.

6. JOINT SHAREHOLDERS COMMITTEE

6.1 **Establishment and Terms of Reference**: On 24 March (Makenzie District Council) and on 31 March (Timaru District Council) passed resolutions establishing the joint committee with terms of reference and membership as set out in Schedule 4.

6.2 **Replacing a Joint Shareholders Committee Representative**: Each Shareholder's appointed Joint Shareholders Committee Representative and/or Alternate may be replaced from time to time by that Shareholder providing written notice to the Joint Shareholders Committee and the other Shareholders.

6.3 **Delegations to a Joint Shareholders Committee Representative**: Each Shareholder agrees to delegate to its appointed Joint Shareholders Committee Representative, and their Alternate, those responsibilities and powers set out in the Appendix to the Terms of Reference.

6.4 **Authority of Joint Shareholders Committee Representatives**: Subject to the delegations under clause 6.3 above, the Shareholders agree that any matter for a Shareholder under this agreement may be exercised by a duly authorised Joint Shareholders Committee Representative.

6.5 **Attendance of Joint Shareholders Committee Representatives at meetings**: Each Shareholder shall ensure that its appointed Joint Shareholders Committee Representative or their Alternate attends each meeting of the ~~Shareholders Council~~Joint Shareholders Committee.

6.6 **Failure to attend**: If a Shareholder's appointed Joint Shareholders Committee Representative or their Alternate is not present at the number of consecutive meetings of the Joint Shareholders Committee set out in Schedule 1, then that Shareholder will be required, on notice by any other Shareholder, to replace that Shareholder's appointed Joint Shareholders Committee Representative and Alternate.

7. LOANS AND GUARANTEES BY SHAREHOLDERS

7.1 **Loans and guarantees**: No Shareholder will be required to make any loans to the Company or guarantee the obligations of the Company, to any creditor or other party except with the express prior agreement of such Shareholder.

Commented [A4]: How does this work given LGFA's joint and several liability requirements?

8. STATEMENT OF EXPECTATIONS

8.1 **Preparation**: The Shareholders will be responsible for jointly preparing the Statement of Expectations in accordance with the LG(WS) Act, within the time periods required by the LG(WS) Act:

(a) Unless the Shareholders otherwise agree, or an alternative process is provided for in the LG(WS) Act (in which case that alternative process will be followed), the Shareholders will meet eight months before the date on which the Company is required to prepare a Water Services Strategy under the LG(WS) Act, to discuss and agree to the process for preparing the next Statement of Expectations, which will be consistent with the Constitution and the process required by section 229(4) of the LG(WS) Act, and will publish that process on the website of one or more of the Shareholders in accordance with the LG(WS) Act.

(b) In addition to the requirements specified in the LG(WS) Act, the Statement of Expectations shall also include the matters set out in Schedule 1.

(c) No later than period set out in Schedule 1 before the publication date, or an alternative date agreed by the Shareholders, the agreed Statement of Expectations will be circulated to the Chairperson of the Board, the Chief Executive of the Company and the ~~Shareholders Council~~Joint Shareholders Committee.

8.2 **Compliance**: The Shareholders will ensure that the business of the Company is conducted in accordance with its Statement of Expectations.

9. SHARE SALE, ISSUE, AMALGAMATION AND VALUATION

9.1 **No sale**: No Shareholder shall directly or indirectly sell, transfer, or dispose of the legal or beneficial ownership of, or the control of, any of its Shares otherwise than in compliance with the Constitution and LG(WS) Act.

9.2 **No Security Interest**: A Shareholder must not grant a Security Interest over any of its Shares.

9.3 **Share issue**: Subject to approval of the Shareholders in accordance with clause 5.1, the Board may issue Shares in accordance with the Constitution and the principles set out in Schedule 1.

9.4 **Amalgamation of Local Authorities**: In the event of an amalgamation or any other change in the governance structure of a Shareholder, the Shareholders will meet and discuss the effect of the amalgamation on the shareholding structure of the Company and will exercise their voting rights to ensure that the shareholding percentages for the Shares remain reasonable as agreed by all Shareholders.

10. TERM AND TERMINATION

10.1 **Term**: This agreement commences on the date signed by all parties and continues until the first date on which:

(a) only one Shareholder owns all Shares;

(b) none of the Shareholders hold Shares; or

(c) the date on which the Company is liquidated.

11. CONSEQUENCES OF TERMINATION

11.1 **Effect of termination**: Any termination of this agreement with respect to a Shareholder does not affect any accrued rights that Shareholder may have against the other parties to this agreement or which the other parties to this agreement may have against it.

11.2 **Liquidation**:

(a) Where this agreement terminates under clause 10.1(a), 10.1(b) or 12.1, the Shareholders must, without delay, take all necessary steps to appoint a liquidator to the Company.

(b) Any liquidator must be agreed by the Shareholders within 10 Business Days of the terminating event under clause 10.1(a), 10.1(b) or 12.1, or failing agreement, shall be chosen on the application of any Shareholder by the President for the time being of the New Zealand Law Society or his or her nominee.

11.3 **Survival**: Termination of this agreement will not affect the rights and obligations of the Shareholders set out in clauses [1, 11, 13, 14, 15 and 16] which are intended to survive the termination of this agreement.

Commented [A5]: Drafting note: To be confirmed once final.

12. SUSPENSION OF RIGHTS

12.1 **Consequences**: If an Event of Default occurs in respect of a Shareholder (the "**Defaulting Shareholder**") the Non-Defaulting Shareholders may, while that Event of Default continues, by notice in writing to the Defaulting Shareholder require that the Defaulting Shareholder is suspended as follows:

(a) all rights of the Defaulting Shareholder under this agreement (including the right to vote on a Reserved Matter) and all rights attaching to the Defaulting Shareholder's Shares ("**Default Shares**") (including voting) are suspended and the Default Shares are not to be counted for the purpose of determining a quorum for a Shareholders' meeting; and

(b) the defaulting council's Joint Shareholder Committee's representatives lose their vote on director appointments.~~all Director appointment rights of the Defaulting Shareholder are suspended~~.

12.2 **Non-Defaulting Shareholder**: For the purposes of clause 12.1:

(a) "Non-Defaulting Shareholders" means all Shareholders which are not the Defaulting Shareholder, other than any such Shareholder which is a Related Party of the Defaulting Shareholder; and

(b) any notice which may be given by the Non-Defaulting Shareholders may be given by a Shareholder or Shareholders which holds or hold more than half of the Shares held by all Non-Defaulting Shareholders.

12.3 **Default interest**: If either party does not pay any amount payable under this agreement on the due date for payment ("**Due Date**") that party shall pay to the other party interest (both before and after judgment) on that amount. That interest:

(a) shall be paid at the rate set out in Schedule 1;

(b) shall be paid by instalments at intervals of ten Business Days from the Due Date; and

(c) shall be calculated on a daily basis from and including the Due Date until the unpaid amount is paid in full.

The right of a party to require payment of interest under this clause does not limit any other right or remedy of that party.

12.4 **Other remedies**: Clauses 12.1 and 12.3 are without prejudice to any other right, power or remedy under this agreement, at law, or otherwise, that any Shareholder has in respect of a default by any other Shareholder.

13. DISPUTE RESOLUTION

13.1 **Notice in writing**: If a party claims that a dispute has arisen, that party must give written notice to the other parties. The written notice must specify the nature of the dispute.

13.2 **Negotiation**:

(a) On receipt of a notice delivered in accordance with clause 13.1 and before any party may refer a dispute to mediation, the Representatives must, in good faith and acting reasonably, do their best to resolve the dispute quickly and efficiently through negotiation.

(b) If any Representative considers that the dispute is not being resolved in a timely manner, such Representative may serve written notice on the other parties' Representatives to escalate the dispute to the Chief Executives or equivalent (where the Representatives are not the Chief Executive or equivalent) of the applicable Shareholders for resolution.

(c) If the dispute has not been resolved within 20 Business Days (or within such other period as agreed by the parties) of the date of the notice referred to in clause 13.2, any party may submit the dispute to mediation.

13.3 **Mediation**:

(a) If the parties do not resolve the dispute by negotiation, the parties 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 parties do not agree on a mediator, then the mediator will be appointed by the New Zealand Dispute Resolution Centre.

(c) The parties 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 parties 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).

13.4 **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 party (the "**Initiating Party**") may refer such dispute to binding arbitration by issuing a written notice ("**Arbitration Notice**") to the other Party or Parties (together with the Initiating Party, the "**Disputing Parties**") for final resolution in accordance with the provisions of this clause 13.4 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 Parties 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 as set out in Schedule 1 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 parties. No party 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 Parties of their respective obligations under this agreement.

13.5 **Implementation of agreement**: The parties 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.

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

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

14. CONFIDENTIAL INFORMATION AND PUBLIC ANNOUNCEMENTS

14.1 **Confidentiality**: Each party must keep confidential the Confidential Information, and must not disclose or permit the disclosure of such Confidential Information to any other person. If a party becomes aware of a breach of this obligation, that party will immediately notify the other parties.

14.2 **Further permitted use and disclosure**: This agreement does not prohibit the disclosure of Confidential Information by a party in the following circumstances:

(a) the other parties have consented to the disclosure of the relevant Confidential Information;

(b) the disclosure is specifically contemplated and permitted by this agreement;

(c) the disclosure of Confidential Information is to an employee, subcontractor, agent or representative who needs it for the purposes of this agreement;

(d) the disclosure is to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this agreement;

(e) the disclosure is required by a court or governmental or administrative authority; or

(f) the disclosure is required by applicable law or regulation, including under the Local Government Official Information and Meetings Act 1987.

14.3 **Public announcements and media releases**: Each Shareholder agrees that it will not make any public announcements or issue media releases in connection with, or on behalf of, the other Shareholders or the Company in relation to the Company or Water Services, except with the written consent of the other Shareholders. Nothing in this provision shall prohibit or restrict a Shareholder from making a public announcements or media releases in connection with the Shareholder's own involvement with, or policies in relation to, the Company.

15. NOTICES

15.1 **Giving notices**: Any notice or communication given to a party 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 party 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 party at its email address and marked for the attention of the representative set out in Schedule 1.

15.2 **Change of details**: If a party gives the other party three Business Days' notice of a change of its postal address or email address, any notice or communication is only given by that other party if it is delivered, posted or emailed to the latest postal address or email address.

15.3 **Time notice is given**: Any notice or communication is to be treated as given at the following time:

(a) If it is 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, when it is received in readable form addressed in the manner specified above.

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 party to whom it is sent it is to be treated as having been given at the beginning of the next Business Day.

16. GENERAL

16.1 **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 Shareholders, and a Shareholder may not make, or allow to be made, any representation that any such relationship exists between any of the Shareholders. A Shareholder 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.

16.2 **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.

16.3 **Board action**: Wherever this agreement requires the Board to do anything, each Shareholder shall take all steps available to it to ensure that the ~~Director~~ Board ~~or Directors appointed by that Shareholder~~ takes all necessary steps to do that thing.

Commented [A6]: To reflect skills based appointments

16.4 **Counterparts**: This agreement is deemed to be signed by a Shareholder if that Shareholder has signed or attached that Shareholder's signatures to any of the following formats of this agreement:

(a) an original; or

(b) a photocopy; or

(c) an electronic copy;

and if every Shareholder has signed or attached that Shareholder's signatures to any such format and delivered it in any such format to the other Shareholders, the executed formats shall together constitute a binding agreement between the Shareholders.

16.5 **Entire agreement**: This agreement contains everything the parties have agreed in relation to the subject matter it deals with. No party can rely on an earlier written agreement or anything said or done by or on behalf of another party before this agreement was executed.

16.6 **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.

16.7 **Further assurance**: Each Shareholder 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.

16.8 **Variation**: No variation of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.

16.9 **Assignments and transfer**: A party must not assign or transfer any of its rights or obligations under this agreement without the prior written consent of each of the other parties.

16.10 **Costs**: Except as otherwise set out in this agreement, each party 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.

16.11 **Inconsistency with Constitution**: If there is any inconsistency between this agreement and the Constitution then the parties agree to abide by this agreement and to do everything required to change the Constitution so that it is consistent with this agreement.

16.12 **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 party fails to do, or delays in doing, something the party is entitled to do under this agreement does not amount to a waiver.

16.13 **Governing law**: This agreement is governed by the laws of New Zealand.

SCHEDULE 3

Matters requiring Shareholder approval

Decision	**Decision making mechanism**	**Decision making threshold** ***Note for all decisions in effect unanimous given nature of shareholding***
Issues relating to governance and governing documents		
Appointment of Directors (including Chair)	• Decision by the JSC • One Council, one vote	Simple majority (i.e., >50% of votes cast)
Removal of directors	• Decision by the JSC • One Council, one vote	Special majority (i.e., 75% votes cast)
Approving and issuing of Statement of Expectations	• Decision by the JSC • One Council, one vote	Simple majority (i.e., >50% of votes cast)
Monitoring and assessing performance and approving KPIs	• Decision by the JSC • One Council, one vote • Note Councils still receive board reports as a shareholding right	Simple majority (i.e., >50% of votes cast)
Changes to the Constitution (all matters)	• Recommendation by the Board • Decision by Councils • One Council, one vote	Special majority (i.e., 75% votes cast)
Major transaction (s129 Companies Act)	• Recommendation by Board and JSC • Decision by Councils	Special majority (i.e., 75% votes cast)
Material change to the nature of the WO's business	• Recommendation by Board and JSC • Decision by Councils	Special majority (i.e., 75% votes cast)
Issues of community interest		
Review of pricing, tariffs and harmonisation	• There will be no presumption as to price harmonisation between the respective Councils' districts. • Subject to regulatory obligations, the WO will maintain the existing differential pricing between the two districts, until the JSC agrees to the change. • This does not prevent the Board making pricing and tariff changes within individual Council's respective districts, subject to engagement with relevant customers and the JSC. • The board is responsible for reviewing the approach to pricing and tariff setting for both Councils' districts. • The Board will no later than 30 June 2030 provide a review of the prohibition on	Special majority (i.e., 75% votes cast)

	harmonisation across the two districts to the JSC. • The JSC approves any change to price harmonisation between the two districts. It is noted that regulatory requirements will result in the Councils publishing initial Information Disclosure on charging policies by 30 June 2026, which may require reconsideration of the approach to pricing and tariff in this agreement.	
Issues relating to shareholding		
Shareholder entry	• Recommendation by Board and JSC based on a proposal for entry • Shareholder entry principles would apply • Decision by Councils	Unanimous approval of the Councils
New share issue to existing shareholders (i.e., company request for new funding)	• Board decision to request funding from Councils • Decision by Councils to decide to grant funding • Details need to be assessed on implications of Council decisions at the time of any request	Special majority (i.e., 75% votes cast)
Liquidation or winding up of the WO	• Decision by the Councils	Unanimous approval
Amalgamation of the WO	• Decision by the Councils	Unanimous approval

SCHEDULE 4

Form of Joint Shareholders Committee Terms of Reference

Joint Shareholders Committee	
Type of Committee	Joint Committee of the Shareholders (Joint Councils)
Legislative basis	The Joint Shareholders Committee ("the JSC") is a joint committee of the Timaru and Mackenzie District Councils (collectively referred to as "the Councils") established pursuant to the provisions of the Local Government Act 2002.
Membership	**Timaru District Council:** Mayor Nigel Bowen, Clr Graeme Wilson, Clr Michelle Pye and Clr Stacey Scott (Alternate) **Mackenzie District Council:** Mayor Scott Aronsen, Clr Rit Fisher, Clr Mark Adams and Clr Sue Allen (Alternate)
Chairperson	Timaru District Council Mayor Nigel Bowen
Deputy Chairperson	Mackenzie District Council Clr Mark Adams
Quorum	A total of four elected members or appointed alternates, with a least two members being from each Council. Where the JSC is providing a forum for the Shareholders to meet and exercise their powers in relation to the Company, the requirements of the Company's constitution and shareholders' agreement will prevail.
Alternate Appointees	Each Council to the JSC must have an alternate appointed by the relevant Shareholder. The alternate may attend and vote at meetings of the JSC, but only if a primary member from their Council is unable to do so.
Liaison Attendees	The shareholders are supportive of attendance by neighbouring Councils from within the Canterbury region attending the JSC's meetings, receiving agendas, being engaged on significant proceedings, and encouraged to participate in the JSC's proceedings. The following Councils will be invited to nominate a liaison attendee (and when required nominee) to attend non Public Excluded meetings of the JSC, and engage as appropriate in the business of the JSC: • Waimate District Council • Ashburton District Council • Waitaki District Council The liaison attendee is not a member of the JSC, and has no additional rights as a result of this invitation.
Meeting Frequency	As scheduled by the Committee
Terms of Reference	
Primary Purpose	Govern as shareholders their Company which provides Water Services for the combined districts of Timaru District Council and Mackenzie District Council, and the relevant aspects of the Downlands water scheme. • Specifically the JSC is established to: • coordinate shareholder activity, and to exercise the rights and responsibilities delegated to the JSC by the Councils; and • Review and comment on the Water Organisation's Water Services Strategy; and • hold the board to account for strategy and performance by seeking board explanation of, and responsibility for, WO Strategy,

	performance, and how they have meet the JSC's Statement of Expectations; and • safeguard the WO's purpose, outcomes and values as reflected in the Shareholders Agreement, Constitution and Statement of Expectations; and • perform the functions and make the decisions necessary to fulfil the JSC's responsibilities listed below.
Secondary Purpose	Coordinate between the Councils and neighbouring territorial authorities in the Canterbury Region, and advise shareholders on opportunities and options to progress possibilities around: • shared services, and professional collegiality in water service delivery • the Downlands Water Scheme • spatial planning and co-ordination of infrastructure planning and delivery • opportunities arising from the Simplifying Local Government reforms
Project Purpose	Provide governance oversight of the project to establish the WO, specifically: • To establish and then enable a working group called the "Council Establishment Group (CEG)" to provide elected member oversight of the project. • To resolve Project matters brought to it for decision making in accordance with the Commitment Agreement, and any subsequent Council direction.
General Purpose	Provide a forum for shareholder representatives to meet, discuss and coordinate on relevant issues and, through their representatives, exercise their powers in respect of the Company.
Governance oversight responsibilities	Governance oversight of the Company, including by: 1 Receiving and considering the half-yearly and annual reports of the Company; 2 Receiving and considering other information from the Company the JSC may request on behalf of the Shareholders and/or receive from time to time; 3 Undertaking performance and other monitoring of the Company; 4 Considering and providing recommendations to the Shareholders on proposals from the Company; 5 Providing co-ordinated feedback, and recommendations as needed, on any matters requested by the Company or any Shareholder; 6 Prepare draft Statement of Expectations (including an interim Statement of Expectations) for review and comment by the WO, consider comments, and adopt and provide the final Statement of Expectations to the WO in accordance with the process published under s 229 of the Local Government (Water Services) Act 2025;

	7 Receiving and considering recommendations from the Company to the Shareholders regarding the draft Statement of Expectations; 8 Agreeing when Shareholder meetings, or resolutions in lieu of Shareholder meetings, are required, without prejudice to Shareholder and board rights to call meetings under the Company's constitution; 9 Seeking and interviewing candidates for the Company's board as needed and approving director appointments and/or removals in accordance with the shareholders agreement, its skills matrix, and any other relevant policy; 10 Approving the remuneration of directors of the Company; 11 Monitoring the performance of the board of the Company; and 12 Providing recommendations to the Shareholders regarding changes to these terms of reference, the Shareholders' Agreement and the constitution of the Company.
Shareholders' Responsibilities	To the extent that each Shareholder delegates its relevant powers to the JSC member it appoints, the JSC will provide a forum for the Shareholders to meet and exercise their powers in relation to the Company.
Decision Making	The JSC will strive to make all decisions by consensus. In the event that a consensus on a particular matter before the JSC is not able to be reached, each member of the JSC has a deliberative vote. In the situation where there is an equality of votes cast on a matter, the Chairperson does not have a casting vote and therefore the matter subject to the vote is defeated and the status quo is preserved. Other than for those matters for which the JSC has effective decision-making capacity through these terms of reference, each Shareholder retains its full powers to make its own decisions on matters referred to it by the JSC.
Remuneration	Each Shareholder will be responsible for remunerating its representative on the JSC for any costs associated with that person's membership of the JSC.
Administration	Reports to be considered by the JSC may be submitted by any of the Shareholders or the Company
Code of conduct and standing orders	The following will apply to the members of the JSC: • the Timaru District Council's Standing Orders, and • the Timaru District Council's Code of Conduct with the addition of cl 2 "Te Tiriti o Waitangi" provisions from the Mackenzie District Council.
Audio Visual Link	For clarity members have the right to attend by audio visual link, subject to the standing orders, and will be counted for the purposes of a quorum.
Variation	These Terms of Reference may be amended by agreement of the Shareholders.

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Delegations	Governance oversight responsibilities • Each Shareholder will delegate to the JSC the responsibilities and powers necessary to participate in and carry out the JSC governance oversight responsibilities. Shareholders' responsibilities • Each Shareholder will delegate to its appointed JSC Representative and, in accordance with these terms of reference, that person's alternate, all responsibilities and powers in relation to the agreement of: • when Shareholder meetings, or resolutions in lieu of Shareholder meetings, are required (without prejudice to Shareholder and Board rights to call meetings under the Company's constitution); and • the appointment, removal and remuneration of directors.

7.5 Downlands Water Scheme – Structural Decision Update

Author: Elliot Higbee, Legal Services Manager
Andrew Lester, General Manager Drainage and Water

Authoriser: Nigel Trainor, Chief Executive

Recommendation

That the Joint Shareholders Committee receive and note the Downlands Water Scheme – Structural Decision Required report.

Purpose of Report

1 To update and receive feedback on the proposed approach for progressing any structural decisions required to address the Downlands Water Supply Scheme's operation under the new regulatory system for water services.

Assessment of Significance

2 This report is assessed as low significance when assessed against Council's Significance and Engagement Policy. While the Structural Decision for the Downlands Scheme is of significance no substantive decisions are required.

Discussion

3 The Committee received a report on 3 June 2026, which discussed the Downlands Water Scheme (the Scheme) and how the Local Government (Water Services) Act 2025 will impact this Scheme. The report identified that on 1 July 2027 when Mackenzie and Timaru District Councils' interests in the Scheme transferer to the joint Water Organisation (WO), the joint committee governing this Scheme would no longer be legally viable, and a new governance approach would be required. Further the scheme's water services provision within Waimate District would require new arrangements to ensure legal compliance, specifically clarity on responsibilities between the two water service providers: Waimate District Council (WDC), and the joint WO. A specific resolution was passed noting this, and further analysis on the options was directed.

4 The report also identified that a decision must be substantially settled before 31 October 2026 on the direction of travel for the scheme, when the joint WO is constituted legally to ensure any issues are reflected in the WO's foundation documents.

5 The decision identified two long-term options: option 1 – full integration; or option 2 – bulk supply with local asset ownership. The current arrangement was specifically identified as not being compliant at 1 July 2027.

6 Further legal analysis is indicating, given amalgamation possibilities, it is worth investigating the merits of regularising the current arrangement as an interim arrangement. It is fair to assume that amalgamation between the three Councils involved in the Scheme would substantially alter the analysis of the two options, and therefore a third option – a holding position – may be reasonably practicable.

7 This third option would be a joint water services provider arrangement and could be designed to mirror the current arrangement – with governance being contractually arranged between WDC, and the WO.

8 Officers view this third option as having some unknowns and complexity in ensuring regulatory compliance and is therefore unlikely to be a long-term solution. It is possible that only a bulk supply arrangement will manage compliance in a practicable way[15], in which case the issue will need to return to the three Councils, and specifically Waimate, with the two options of either transferring their interest in the scheme to the WO, or entering a long term bulk supply arrangement.

9 It should be noted that a bulk supply arrangement will result in additional capital expenditure at each point of bulk supply that would need to be recovered. This capital expenditure would include items such as metering and online water quality instruments.

10 For clarity, the full integration “option 1” can only realistically be a transfer arrangement, which could be undertaken by Waimate District Council solely in respect of the Scheme.[16] Any integration of Waimate’s interest with the WO that is less than a transfer, even if legally compliant, will be commercially complex for no apparent benefit.

11 Officers continue to work on collating the necessary legal, engineering and financial advice to inform the three Councils.

Attachments

Nil

[15]This is because, emerging legal advice is that without a transfer, Waimate District Council’s responsibility for the water services arises at the territorial boarder, and therefore only a bulk supply arrangement at that location is a practicable basis for the scheme to continue between the two WSPs. In other words, the WO cannot become responsible for the water service delivery within Waimate as a WSP, without a transfer. Section 9 of the LGWSA makes a council responsible for water service provision in accordance with the Act “in its district”, and only a transfer agreement can change this.

[16] The Saint Andrews aspect of the Scheme could be vested entirely back to Waimate District Council given it is not connected to the rest of the Scheme.

7.6 Deliberations over name of Water Organisation

Author: **Stephen Doran, General Manager Corporate**

Authoriser: **Nigel Trainor, Chief Executive**

Recommendation

That the Joint Shareholders Committee decide:

1. If the company adopts a transitional name prior to launch in 2027; or
2. If the company adopts a final name prior to launch in 2027; and
3. Agrees a name to progress to brand and design development.

Purpose of Report

1 This report is to discuss the naming and branding of the new Water Organisation that will cover the Timaru and Mackenzie Districts.

Assessment of Significance

2 While this is a decision of interest, it is not considered significant in relation to the councils' significance and engagement policies.

Background

3 From 1 July 2027, water services will be developed by a separate organisation in the Timaru and Mackenzie district. As a joint body for both districts that will have its own customers, staff and contracts it needs a separate identity from its parent shareholders.

4 Names being adopted across the motu range from the direct, such as Central Districts Water in Palmerston North, Rangitikei and Horowhenua, Selwyn Water in Selwyn, Water Hawkes Bay, Coast Waters in the West Coast and Southern Water southwards from Waitaki. There are also a number of Te Reo names such as IAWAI in Hamilton and Waikato, Waiti Waters in Wairarapa and Tararua, and Tiaki Wai in Greater Wellington.

5 There are also water organisations with transitional names, such as QLCDC 3Waters Ltd, in Queenstown.

Discussion

6 The Joint Shareholders Committee needs to discuss whether it wishes to adopt a transitional name, for which we would suggest **TM-TWO** (Timaru Mackenzie Transitional Water Organisation) until the organisation is staffed with a chair and CE, or whether it wants to select a final name for the organisation now so work on branding can begin.

7 Some names have been considered by the team such as:

7.1 **Alpine Water:** Fits the origin of much of the water supplied. May be challenging from an originality Point of View as it may be copyrighted elsewhere as there are water companies such as Alpine Fresh and Alpine Water Coolers already in existence.

7.2 **Aoraki Water:** Geographical and source indicator, already in common secular use locally (Aoraki Foundation, Trust Aoraki, formerly Aoraki Polytechnic). However, Aoraki holds status as tupuna for Ngāi Tahu, so adoption of this name for a commercial/billing entity would need to be referred to mana whenua (Te Rūnanga o Arowhenua and Te Rūnanga o Ngāi Tahu) for consultation rather than adopted as a finished brand

7.3 **A_2O:** Is a clever take on Alps to Ocean and H_2O the chemical symbol for water. However, this is extremely close to the Alps to Ocean cycle trail in name and logo, so is unlikely to be available.

7.4 **CSIW:** Central South Island Water is an easy to understand option. Is close to Central Plains Water, a major irrigation scheme.

7.5 **Braid:** More symbolic name nodding at the braided rivers and bringing together of different things. Is more of a consumer brand than a strictly functional one.

7.6 **WMT/MTW/TMW:** Water Mackenzie Timaru (and variations thereof) is a straightforward acronym name. However, is already used by a machine tools company, so may not be available.

8 Adopting a transitional name now would enable the communications workstream to start on items such as the website and information leaflets, then swap out the final name and brand once completed.

9 It would also enable input from the new chair and CEO once they are in position.

10 However, choosing a final name now would enable development of full branding and required materials and more time to embed the name with the public prior to launch.

Options and Preferred Option

11 **Option 1:** The company adopts a transitional name prior to launch in 2027; or

12 **Option 2:** The company adopts a final name prior to launch in 2027; and

13 Agrees a name to progress to brand and design development.

Consultation

14 As noted above, consultation with mana whenua may be required.

Relevant Legislation, Council Policy and Plans

15 None

Financial and Funding Implications

16 While the brand design will require budget, this would be borne as part of the project no matter what option is selected, so the decisions in this paper carry no further funding implications.

Other Considerations

17 None

Attachments

Nil

8 Consideration of Urgent Business Items

9 Consideration of Minor Nature Matters

10 Exclusion of the Public

Recommendation

That the public be excluded from—

- *(a)the whole of the proceedings of this meeting; or
- *(b)the following parts of the proceedings of this meeting, namely,—

11.1 Public Excluded Minutes of the Joint Shareholders Committee Meeting held on 3 June 2026

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Plain English Reason
11.1 - Public Excluded Minutes of the Joint Shareholders Committee Meeting held on 3 June 2026 **Matters dealt with in these minutes:** 11.1 - Water Organisation Establishment Programme Update	Section 48(1) of the Local Government Official Information and Meetings Act 1987.	The public excluded minutes of the meeting held on 3 June 2026 are considered confidential pursuant to the provisions of the LGOIMA Act of 1987. The specific provisions of the Act that relate to these minutes can be found in the open minutes of the meeting held on 3 June 2026.

*I also move that [name of person or persons] be permitted to remain at this meeting, after the public has been excluded, because of their knowledge of [specify]. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because [specify].

*Delete if inapplicable.

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

- "(4)Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof)—
    - (a)shall be available to any member of the public who is present; and
    - (b)shall form part of the minutes of the local authority."

11 Public Excluded Reports

12 Readmittance of the Public