



AGENDA

Water Organisation Joint Committee meeting Monday, 29 June 2026

**I hereby give notice that a Water Organisation Joint Committee meeting
will be held on:**

Date: Monday, 29 June 2026

Time: 9:30 am

**Location: Tauranga City Council Chambers
L1, 90 Devonport Road
Tauranga**

**Marty Grenfell
Chief Executive**

Terms of Reference

Water Organisation Joint Committee

Membership:

Independent Chair	None
Chair (if no Independent Chair)	<p>TCC Chair:</p> <ul style="list-style-type: none"> • Cr Marten Rozeboom (19 June 2026 – 30 November 2027) <p><i>If no Independent Chair is appointed, then the Chair will be appointed by the Committee being a member of TCC or member of WBOPDC on a rotational basis. Frequency of the rotation to be approved by the Committee.</i></p>
Deputy Chairs	<p>WBOPDC Deputy Chair:</p> <ul style="list-style-type: none"> • Mayor James Denyer (19 June 2026 – 30 November 2027) <p><i>Where an Independent Chair is appointed, then the Deputy Chair will be appointed by the Committee being a member of TCC or member of WBOPDC on a rotational basis. Frequency of the rotation to be approved by the Committee.</i></p> <p><i>Where the Chair is a TCC or WBOPDC member, then the Deputy Chair will be a member of the other Council, with the rotation on the same cycle as the Chair.</i></p>
Members	<p>Total of 9 members:</p> <ul style="list-style-type: none"> • 3 TCC representatives (must be appointed via TCC Council resolution and must be elected members of TCC) <ul style="list-style-type: none"> ○ Cr Marten Rozeboom ○ Cr Kevin Schuler ○ Cr Glen Crowther ○ <i>Cr Rick Curach (alternate)</i> ○ <i>Cr Steve Morris (alternate)</i> ○ <i>Cr Hautapu Baker (alternate)</i> • 3 WBOPDC representatives (must be appointed via WBOPDC Council resolution and must be elected members of WBOPDC) <ul style="list-style-type: none"> ○ Mayor James Denyer ○ Deputy Mayor Margaret Murray Bengé ○ Cr Graeme Elvin ○ <i>Cr Rodney Joyce (alternate)</i> ○ <i>Cr Tracey Coxhead (alternate)</i> ○ <i>Cr Darlene Dinsdale (alternate)</i> • 3 Tangata Whenua (TW) representatives (nominated by TW and appointed by TCC by Council resolution acting as administrative agent for the partnership.) <ul style="list-style-type: none"> ○ Mr Hākopa Tapiata ○ Hon Kiritapu Allan

	<ul style="list-style-type: none"> ○ Ms Kylie Smallman ○ <i>Mr Shadrach Rolleston (alternate)</i> ○ <i>Ms Rohario Murray (alternate)</i> ○ <i>Ms Roana Bennett (alternate)</i> <p>Each appointing or nominating party has the ability to appoint or nominate up to three alternates. An alternate may attend and participate in place of an appointed member only when that appointed member is absent. At no time may the number of representatives acting for an appointing or nominating party exceed the number of appointed members</p>
Quorum	A minimum of two persons each from TCC, WBOP, and TW
Meeting frequency	Bi-monthly or as otherwise determined by the Committee or the Councils.

Role:

- The purpose of this Committee is to provide recommendations to the TCC & WBOPDC (“**Councils**”) to assist their decision-making as shareholders in [insert name of water organisation (“**WO**”)]. The Committee will provide recommendations regarding the subject matter set out below under the sub-heading “Scope” (or other matters that may be directed by the Councils from time to time).
- The TW representatives on the Committee are to represent the Iwi and Hapū whose rohe falls within the local government areas of TCC and WBOPDC.

Scope:

- Statement of Expectations (“**SOE**”). Responsibilities to include:
 - Review draft SOE prepared by staff.
 - Provide feedback and comments on draft documents to staff and require amendments to achieve a version of the SOE that the Joint Committee is content to endorse to the Councils.
 - Present SOE to both Councils for consideration and approval.
- WO’s Water Services Strategy (“**WSS**”). Responsibilities to include:
 - Review draft WSS provided by WO.
 - Prepare proposed comments on the WSS for the Councils to raise with the WO.
 - Present the proposed comments to Councils for consideration and approval.
- Any WO policies that require shareholder input (such as significance and engagement policy or director appointment policy). Responsibilities to include:
 - Review draft policies prepared by WO (or prepared by Council staff if relevant).
 - Provide feedback and comments on draft documents to WO / to staff and require amendments to achieve a version of the relevant policy that the Joint Committee is content to endorse to the Councils.
 - Present policies to Council(s) for consideration and approval.
- Service Level Agreements between the WO and the relevant Council. Responsibilities to include:

- Provide high-level oversight of the performance of obligations agreed under SLAs between the WO and either Council.
- Receive reports from the WO and Council Chief Executives as to whether the SLA's are within the approved budgets.
- Receive reports from the WO and Council Chief Executives how transition off SLA's is proposed to be managed over time.
- Significant contracts (sections 23 and 24 of the Local Government (Water Services) Act 2025 (“Act”). Responsibilities to include:
 - Review WO’s proposal for a significant contract, and WO’s assessment of options.
 - Form a recommendation for the Councils to consider, and present to Councils.
- Appointment of Board of Directors. Responsibilities to include:
 - Review candidates against Director Skills Matrix and any policies of the respective Councils.
 - Form a view on proposed Director appointment roles that the Joint Committee is content to endorse to the Councils.
 - Consideration of succession planning, rotation and future skill requirements.
 - Oversee Board performance review.
 - Present recommendations to both Councils for consideration and approval.
- Director remuneration. Responsibilities to include:
 - Review remuneration policies.
 - Review market data benchmarking information.
 - Prepare recommendations and present to both Councils for consideration and approval.
- Director Skills Matrix. Responsibilities to include:
 - Review Director Skills Matrix periodically to align term of appointment to Board.
 - As the Joint Committee sees fit, prepare amendments of the Matrix and present to both Councils for consideration and approval
- Annual review of the WO in accordance with s 250 of the Act. Responsibilities to include:
 - Prepare a written annual assessment with the Joint Committee’s perspective on the performance of the WO including the WO’s performance in giving effect to the SOE and WSS.
 - Present annual report to both Councils for consideration and approval
- WO’s Water services annual report. Responsibilities to include:
 - Review WO’s annual report
 - Prepare comments on the WO’s annual report.
 - Provide comments to Councils for consideration and approval.
- WO’s half-yearly water services report under s 248 of the Act. Responsibilities to include:
 - Review WO’s half-yearly report.
 - Prepare comments on the report
 - Provide comments to Councils for consideration and approval.
- WO’s annual budget. Responsibilities to include:

- Review WO's draft annual budget.
- Prepare comments on the WO's draft annual budget.
- Provide comments to Councils for consideration and approval.
- Any other plans or reports that the Councils require from the WO under section 249 of the Act. Responsibilities to include:
 - Review WO's plans or reports.
 - Prepare comments and provide to Councils for consideration and approval.
- Any other functions (and responsibilities related to such functions) assigned to the Joint Committee by the Councils in writing over time (whether those functions are initially raised by the Councils, or initially raised by the Joint Committee for recommendation and approved by the Councils).

Power to act:

- The Committee is not a decision-making body (and has no formal voting rights on behalf of the Councils). The Councils will make final decisions on all matters addressed by the Committee. The role of voting in the context of the Committee is to inform recommendations to the Councils.
- Recommendations to the Councils will be made on the following basis:
 - Where possible, the Committee will make recommendations to the shareholding Councils on a consensus basis. For clarity, consensus is where all parties on the Committee agree on the same recommendation. The consensus recommendation will be recorded and presented to the shareholding Councils for a decision.
 - Where a consensus is not possible, the respective positions of each party on the Committee will be recorded and presented to the shareholding Councils for a decision.
- Where reference is made to consensus, it refers to a consensus of parties on the Committee (being TCC, WBOPDC and TW), rather than a consensus of each individual member of the Committee. In other words, there can still be a consensus of the parties with a minority dissenting view within one or more parties. Nevertheless, should any individual wish to formally note their disagreement, even when the parties have reached a consensus, they retain the right to have their dissenting perspective recorded.

Procedural matters:

- Format: Meetings may be held in person or virtually, as required and will be open to the public.
- Agenda: Agendas and supporting documentation will be circulated at least two working days in advance of each meeting when possible. TCC, as administrative agent for the establishment of the WO, will distribute the agenda until such time that the WO undertakes these activities.
- Meeting outcomes and direction: Direction and Action points will be recorded and maintained.

- Standing Orders: The Committee is a public committee which operates under TCC's standing orders and pursuant to Clause 30 and 30A of Schedule 7 of the Local Government Act 2002

Power to recommend:

- To make recommendations to TCC and WBOPDC as it deems appropriate.

Power to sub-delegate:

- The Committee has no power to sub-delegate any of its functions, duties or powers.

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- 1 OPENING KARAKIA**
- 2 APOLOGIES**
- 3 PUBLIC FORUM**
- 4 ACCEPTANCE OF LATE ITEMS**
- 5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN**
- 6 CHANGE TO ORDER OF BUSINESS**
- 7 DECLARATION OF CONFLICTS OF INTEREST**

8 BUSINESS

8.1 Water Organisation - Founding Documents

File Number: A20392894

Author: Tyler Buckley, Commercial Solicitor
Charles Lane, Team Leader: Commercial Legal

Authoriser: Adele Henderson, Programme Director - Water Organisation
Christine Jones, General Manager: Strategy, Partnerships & Growth

PURPOSE OF THE REPORT

1. To present the draft Constitution and Shareholders' Agreement, and to seek the Joint Committee's recommendation that Tauranga City Council and Western Bay of Plenty District Council approve those documents.

RECOMMENDATIONS

That the Water Organisation Joint Committee:

- (a) Receives the report "Water Organisation - Founding Documents".
- (b) Constitution
 - (i) Recommends the Constitution, in the form attached at Attachment 1, to Tauranga City Council and Western Bay of Plenty District Council for final approval.

Or

 - (ii) Recommends the Constitution, in the form attached at Attachment 1, to Tauranga City Council and Western Bay of Plenty District Council for final approval, with the following amendments:
 - *[insert amendment]*
 - *[insert amendment]*
- (c) Shareholders' Agreement
 - (i) Recommends the Shareholders' Agreement, in the form attached at Attachment 2, to Tauranga City Council and Western Bay of Plenty District Council for final approval.

Or

 - (ii) Recommends the Shareholders' Agreement, in the form attached at Attachment 2, to Tauranga City Council and Western Bay of Plenty District Council for final approval, with the following amendments:
 - *[insert amendment]*
 - *[insert amendment]*
- (d) In the event the Joint Committee requests any amendments to the Constitution and/or the Shareholders' Agreement, the Joint Committee notes that Tauranga City Council and Western Bay of Plenty District Council will work together in good faith to resolve any outstanding issues before the final drafts are presented to Tauranga City Council

and WBOPDC for final approval.

EXECUTIVE SUMMARY

2. In September 2025, Tauranga City Council (**TCC**) and Western Bay of Plenty District Council (**WBOPDC**) entered into a Commitment Agreement to explore the establishment of a joint Water Organisation (**WO**) under the Local Government (Water Services) Act 2025 (**LG(WS) Act**).
3. Between late 2025 and early 2026, the Councils undertook establishment planning and due diligence, supported by a Joint Working Group (**JWG**) comprising representatives from TCC, WBOPDC and Tangata Whenua. The JWG met on 10 separate occasions, considering presentations and issues and options papers across 46 commercial terms to inform a Commercial Terms Sheet (**CTS**).
4. The JWG reached consensus on 45 of the 46 terms. The remaining issue (whether Tangata Whenua would hold Class A voting shares) was resolved by the Councils. On 24 March 2026, TCC and WBOPDC each approved the CTS, including that Tangata Whenua would not hold Class A shares.
5. On 2 April 2026, the Councils approved the due diligence and the establishment of the WO, with a go-live date of 1 July 2027.
6. Staff have since used the CTS to prepare the draft Constitution and Shareholders' Agreement (**Founding Documents**), which establish the WO as a publicly owned council-controlled organisation and sets out the framework for governance and shareholder oversight.
7. Staff now request that the Joint Committee recommends the Constitution and Shareholders' Agreement to TCC and WBOPDC for final approval.

FOUNDING DOCUMENTS

8. On 24 March 2026, TCC and WBOPDC each passed the following resolution:

Notes that staff will prepare the Water Organisation's Shareholders' Agreement and Company Constitution in a manner that is consistent with the approved Commercial Terms Sheet and any additional commercial terms subsequently agreed by TCC and WBOPDC.
9. In accordance with this resolution, staff have now prepared the Founding Documents in accordance with the CTS. A copy of the draft Constitution is attached as **Attachment 1**, and a copy of the draft Shareholders' Agreement is attached as **Attachment 2**. Staff also confirm that nothing new has arisen since the resolutions of 24 March 2026 that would materially affect the content or substance of the CTS or the Founding Documents.
10. To enable the Joint Committee to cross reference the CTS against the Founding Documents, a document titled "Schedule of CTS references within Foundation Documents" is attached as **Attachment 3**. This document identifies where in the Founding Documents each term in the CTS is addressed.

KEY FEATURES OF THE CONSTITUTION

11. The key features of the Constitution, include:
 - (a) **Establishes the WO as a Water Organisation:** Constitutes the WO as a "Water Organisation" under s 44 of the LG(WS) Act, and requires it to comply with the statutory obligations applicable to a "Water Organisation", including preparation of core planning and reporting documents (Water Services Strategy, annual budget, half-yearly and annual reports).

- (b) **Limits activities to water services:** Restricts the WO to providing (or preparing to provide) water services and services directly related to water activities, with an express objective of cost efficiency and meeting the objectives under s 17 of the LG(WS) Act.
- (c) **Ensures public ownership of assets:** Includes an express anti-privatisation clause requiring all water infrastructure to remain publicly owned, and prohibiting shareholders from approving any action inconsistent with that requirement, reinforcing the strict public ownership framework under the LG(WS) Act.
- (d) **Provides governance framework and board structure:** Provides for a fully independent, skills-based board (maximum five directors), with shareholder appointment rights and defined tenure and rotation. There is a clear separation between Board management powers and shareholder control, with the Board responsible for managing the WO's business and affairs subject to the Constitution, applicable legislation and the Shareholders' Agreement. The Board must not enter into any "Reserved Matter" without prior shareholder approval, with those matters set out in the Shareholders' Agreement.
- (e) **Establishes ringfencing requirements:** Requires the WO to implement full financial ringfencing by service area (including separate identification of costs, revenues, assets and liabilities), with pricing reflecting local cost bases. The Constitution also provides for a review of ringfencing, including consideration of a report after three years and a requirement for a report within six years of incorporation if not undertaken earlier.

KEY FEATURES OF THE SHAREHOLDERS' AGREEMENT

12. The key features of the Shareholders' Agreement, include:

- (a) **Governs relationship between shareholders:** Establishes a framework for how TCC and WBOPDC exercise their rights as shareholders, including obligations to act collaboratively, in good faith, and on a "no surprises" basis in their dealings with each other and the WO.
- (b) **Establishes Joint Committee:** Provides for the establishment of this Joint Committee (with representatives from TCC, WBOPDC and Tangata Whenua) as a recommendatory body to support shareholder decision-making.
- (c) **Defines reserved matters:** Identifies key decisions that require shareholder approval (including matters that require a special resolution or unanimous resolution threshold), ensuring shareholder control over significant matters.
- (d) **Class A shares:** Provides for the issue and holding of Class A shares, which establish the foundational governance and voting rights of the shareholders, with each shareholder holding equal voting rights. Class A shares are issued in incorporation.
- (e) **Transfer of assets and Class B shares:** Provides for the transfer of water service related assets, liabilities and agreements to the WO, and the issue and holding of Class B shares reflecting the net asset value of the assets transferred. Class B shares are issued on completion of the Transfer Agreement.
- (f) **Statement of Expectations framework:** Provides for the preparation and adoption of the Statement of Expectations. A draft SOE is expected to be presented to the Joint Committee in the coming months prior to the WO being incorporated.
- (g) **Includes a process for the future addition or exit of shareholder councils:** Establishes structured processes (including statutory consultation where required) for admitting new councils or managing shareholder exits, with defined principles for share allocation, asset transfers and transition arrangements.
- (h) **Funding arrangements:** Provides for establishment funding, debt support (including LGFA-related arrangements), and the principles on which shareholders support the WO's financing requirements.

- (i) **Dispute resolution:** Provides for a staged dispute resolution process (negotiation, mediation, arbitration and expert determination) to manage disagreements efficiently.

STATUTORY CONTEXT

- 13. The LG (WS) Act requires TCC and WBOPDC to prepare a Constitution and a Shareholders' Agreement for the WO (ss 13(4)(e) and 44(4)). In turn, the WO needs to act in accordance with the Constitution and Shareholders' Agreement.

OPTIONS ANALYSIS

- 14. As noted above, TCC and WBOPDC have already approved the CTS. Staff confirm that the CTS has directly informed the drafting of the Founding Documents, and that nothing new has arisen since that approval which would materially affect the content or substance of either the CTS or the Founding Documents. Accordingly, there is likely limited scope, or need, for further amendment.
- 15. Against that background, two options are likely available to the Joint Committee:
 - (a) **Option 1:** Resolve to recommend the Constitution and Shareholders' Agreement, in the form attached at Attachments 1 and 2, to TCC and WBOPDC for final approval.
Or,
 - (b) **Option 2:** Resolve to recommend the Constitution and Shareholders' Agreement, in the form attached at Attachments 1 and 2, to TCC and WBOPDC for final approval, subject to clearly defined amendments.
- 16. If the Joint Committee elects Option 2, staff recommend that any amendments be limited to new matters not previously considered through the CTS process. In that event, staff also recommend that the Joint Committee notes that TCC and WBOPDC will work together in good faith to resolve any outstanding issues before updated drafts are presented to both TCC and WBOPDC for final approval.

FINANCIAL CONSIDERATIONS

- 17. Approval of the documents does not in itself create new financial obligations, but puts in place the framework for:
 - (a) Establishment funding arrangements;
 - (b) Transfer of assets and liabilities; and,
 - (c) Future operational and capital funding frameworks.
- 18. These matters will be addressed in detail in further legal arrangements that will be presented to the Joint Committee in due course.

LEGAL IMPLICATIONS / RISKS

- 19. The Constitution and Shareholders' Agreement are core legal instruments required to establish the WO under the LG(WS) Act. Key risks include:
 - (a) Potential disagreement between shareholders on reserved matters.
 - (b) Need to ensure consistency with legislation and transfer arrangements.
 - (c) Ongoing governance complexity of a jointly owned council controlled organisation.
- 20. These risks are mitigated through:
 - (a) Clearly defined dispute resolution processes.
 - (b) Reserved matter thresholds.

- (c) Statutory framework under the LG (WS) Act.

TE AO MĀORI APPROACH

21. Tangata Whenua were represented on the JWG, providing input into the development of the CTS. This representation continues through the Joint Committee, enabling Tangata Whenua to contribute to recommendations to the Councils, including in relation to the Foundation Documents.
22. Accordingly, the governance framework incorporates Tangata Whenua representation, supporting the integration of Te Ao Māori perspectives into oversight and decision-making.

CLIMATE IMPACT

23. Establishing a dedicated WO supports improved planning, investment and resilience of water infrastructure, contributing to climate adaptation outcomes. Having an effective (appropriately resourced) water infrastructure network will support successful planning, asset management and delivery, contributing to water services which are sustainable and responsive to climate change.

CONSULTATION / ENGAGEMENT

24. To date, both TCC and WBOPDC have provided significant input into the formation of the Foundation Documents. In particular, the two councils have resolved to approve the CTS, which has directly informed the drafting of the Foundation Documents.

SIGNIFICANCE

25. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
26. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region;
 - (b) any persons who are likely to be particularly affected by, or interested in, the matter; and,
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
27. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of medium significance. The substantive decisions have previously been made by both Councils when they approved the CTS. This report seeks recommendations of the formal documents which give effect to the previous Council decisions.

ENGAGEMENT




28. Taking into consideration the above assessment, that the matter is of medium significance, and that the Joint Committee is a recommendation body only, officers are of the opinion that no further engagement is required prior to Council making a decision.

NEXT STEPS

29. The next steps are to:

- (a) Resolve any issues identified or amendments requested by the Joint Committee, and update the draft Constitution and Shareholders' Agreement accordingly. For clarity, this is only relevant if issues are identified, or amendments are requested by the Joint Committee;
- (b) Present final drafts of the Constitution and Shareholders' Agreement to TCC and WBOPDC for final approval;
- (c) Subject to final approval from TCC and WBOPDC, take all steps required to incorporate the WO (anticipated around September 2026), including completing Companies Office registrations and preparing associated establishment documents (such as director appointment letters and directors' and officers' indemnity and insurance arrangements).
- (d) Work with the Joint Committee and the shareholders to finalise and issue the Statement of Expectations to the WO.

ATTACHMENTS

1. **FINAL DRAFT PDF Constitution TCC _ WBOPDC WSCCO - (2) - A20598750**  [↓](#)
2. **FINAL DRAFT PDF Shareholders Agreement TCC _ WBOPDC WSCCO - A20598748**  [↓](#)
3. **PDF Review of CTS Items in SHA and Constitution - A20598746**  [↓](#)

Draft: 19 June 2026

Constitution of [TBC] Limited

DRAFT

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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 has the meaning given to it in the Shareholders' Agreement.

Business Day means a day (other than a Saturday, a Sunday or a public holiday) on which registered banks are open for business in the Tauranga or Western Bay of Plenty districts.

Chair means the chair of the Board appointed in accordance with clause 12.8.

Class A Shares means Shares in the Company with the rights attaching to those Shares as set out in clause 4.3.

Class B Shares means Shares in the Company with the rights attaching to those Shares as set out in clause 4.4.

Companies Act means the Companies Act 1993.

Company means [TBC] 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.

Distribution means the payment of a dividend and any other "distribution" as that term is defined in section 2 of the Companies Act.

Financial Year has the meaning given to it in section 4 of the LG (WS) Act.

Independent Director means a Director who is neither a current elected member of any Local Authority that is a Shareholder nor a current employee of any Shareholder or the Company.

Joint Committee has the meaning given to it in the Shareholders' Agreement.

LGA means the Local Government Act 2002.

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

Local Authority has the meaning given to it in section 5 of the LGA.

Ordinary Resolution has the meaning given to it in the Companies Act.

Reserved Matter has the meaning given to it in the Shareholders' Agreement.

Service Area means:

- (a) in the context of the Company, as set out in the LG (WS) Act; and
- (b) in respect of each Shareholder, the 'district' of that Shareholder as a 'territorial authority' (as those terms are defined in the LGA).

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

Shareholders' Agreement means the current shareholders' agreement relating to the Company entered into between the Company and the Shareholders (as amended or replaced from time to time).

Shares means the shares in the Company on issue from time to time, and includes the Class A Shares and the Class B Shares.

Special Resolution means a resolution that is approved by at least 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 LG (WS) Act.

Subsidiary has the meaning given to it in the Companies Act.

Water Organisation has the meaning given to it in section 4 of the LG (WS) Act.

Water Services has the meaning given to it in section 4 of the LG (WS) Act, which will be the water services transferred by the Shareholders to the Company in accordance with the Transfer Agreement between each Shareholder and the Company.

Water Services Annual Budget has the meaning given to it in section 220 of the LG (WS) Act.

Water Services Annual Report has the meaning given to it in section 220 of the LG (WS) Act.

Water Services Half-yearly Report means the document referred to in section 248 of the LG (WS) Act.

Water Services Strategy has the meaning given to it 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 are 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 will 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 or the LGA, then the mandatory provision in the Companies Act, the LG (WS) Act 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

- 2.1 **Water Organisation:** As at the date of its incorporation, the Company is a Water Organisation in terms of section 44 of the LG (WS) Act.
- 2.2 **Business:** The Company must not carry on any business other than the provision of, or preparation for the provision of, Water Services and activities that are related to, or necessary for, the provision of, or preparation for the provision of, Water Services, in order to:

- (a) meet the objectives set out in section 17 of the LG (WS) Act for the Service Area; and
 - (b) maximise the cost efficiency of providing Water Services.
- 2.3 **Purpose:** In carrying out its business, the Company will:
- (a) deliver safe, reliable and financially sustainable Water Services across the Service Areas; and
 - (b) support the collective resilience and wellbeing of the Bay of Plenty sub-region; and
 - (c) operate in a manner that is responsive to the differing needs and contexts of its communities, and taking into account environmental and cultural stewardship.
- 2.4 **Capacity:** Subject to this Constitution, the Companies Act, the LG (WS) Act, the LGA and any current 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.
- 2.5 **Compliance:** Subject to s229(2) of the LG (WS) Act, the Company must give effect to the Statement of Expectations when conducting its business and setting its Water Services Strategy.
- 2.6 **Public Ownership:** All water services infrastructure and related assets owned by the Company shall remain in public ownership. This does not preclude the Company from accessing or benefiting from private funding or financing arrangements, provided such arrangements do not result in any transfer of ownership of those assets. No Shareholder will take any steps to approve or otherwise give effect to any action which is inconsistent with this clause.
- 2.7 **Ringfencing:** The Company will ensure that it:
- (a) operates its business in a way that enables:
 - (i) the total cost of its provision of Water Services;
 - (ii) the revenue derived; and
 - (iii) assets (including reserves) and liabilities held or incurred,to be separably identified in respect of each Shareholder's Service Area; and
 - (b) sets its charges for Water Services in respect of each Shareholder's Service Area taking into account the total costs referred to in clause 2.7(a) in that Service Area, acknowledging that this may result in differential charges for Water Services as between the Shareholders' Service Areas.
- 2.8 **Review of Ringfencing arrangements:**
- (a) No later than three years after the incorporation of the Company, the Shareholders must consider whether to require the Company to provide a full report to the Shareholders on the issue of revisiting the financial ring-fencing arrangement under clause 2.7.
 - (b) The Shareholders may decide not to require the report referred to in clause 2.8(a) at the three-year point, but in that case the requirement to obtain a full report must not be deferred beyond six years after the incorporation of the Company.

- (c) If the Shareholders have not required the Company to provide a full report before the date that is six years after the incorporation of the Company, the Company must, at that time, provide a full report to the Shareholders.

3. WATER ORGANISATION REQUIREMENTS

3.1 The Company must:

- (a) prepare, adopt and publish its Water Services Strategy, Water Services Annual Budget, Water Services Half-yearly Report and Water Services Annual Report; and
- (b) comply with:
 - (i) Parts 1 to 7 of the Local Government Official Information and Meetings Act 1987; and
 - (ii) all other laws applicable to the Company and its Business activities.

3.2 **Shareholder Input:** The Shareholders are entitled to comment on the Company's draft Water Services Strategy and draft Water Services Annual Budget, and the Company must consider those comments. However, the Shareholders will not have the power to require changes to, or to approve, the final Water Services Strategy or final Water Services Annual Budget.

3.3 **Auditor:** In accordance with the LGA, the auditor for the Company will be the Auditor-General.

4. SHARES

4.1 **Pari Passu:** Save as expressly provided in this Constitution, a board resolution specifying any specific terms attaching to Shares or as otherwise required by law, all Shares will rank pari passu in all respects.

4.2 **Classes:**

- (a) The Shares in the Company are divided into classes conferring entitlements that differ from the ordinary shareholder rights conferred by the Companies Act.
- (b) As at the date of adoption of this Constitution, the Company has two classes of Shares, Class A Shares and Class B Shares, in each case having the rights set out in this Constitution.

4.3 **Class A Shares:** Each Class A Share shall have the following rights attached to it:

- (a) the right to receive notice of and attend every meeting of Shareholders; and
- (b) the right to one vote on a poll at a meeting of the Company on any resolutions,

but does not have any right to any dividends authorised by the Board and the Shareholders or to any share in the distribution of the surplus assets of the Company.

4.4 **Class B Shares:** Each Class B Share shall have the following rights attached to it:

- (a) the right to receive notice of and attend every meeting of Shareholders.
- (b) the right to an equal share in dividends authorised by the Board and the Shareholders; and

- (c) subject to clause 8.2, the right to an equal share in the distribution of the surplus assets of the Company,

but does not have any right to vote on a poll at a meeting of the Company on any resolutions.

4.5 **Redeemable Shares:** The Company may redeem a redeemable share:

- (a) at the option of the Company; or
- (b) at the option of the holder of the share; or
- (c) on a date specified in this Constitution,

for a consideration that is:

- (d) specified;
- (e) to be calculated by reference to a formula; or
- (f) required to be fixed by a suitably qualified person who is not associated with or interested in the Company.

4.6 **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 Shareholder 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.

4.7 **Authority to Hold Own Shares:** The Company may hold its own shares uncanceled but only in accordance with section 67A, 67B and 67C of the Companies Act.

4.8 **Reissue of Shares:** Any shares reissued by the Company must be treated as the issue of new shares.

4.9 **Compliance:** The Company must comply with the Companies Act when it purchases or acquires shares issued by it.

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. LIEN OVER SHARES

- 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.

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.

7. TRANSFER OF SHARES

- 7.1 **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 7.3.

- 7.2 **No delay:** Subject to clause 7.4, 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 7.1.

- 7.3 **Permitted transfers:** Subject to the LG (WS) Act, the restrictions in this clause 7 do not apply to the transfer of Shares by a Local Authority to:

- (a) another Local Authority within the Service Area; or
- (b) any successor Local Authority to that Local Authority.

- 7.4 **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; or
 - (f) 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.

8. DISTRIBUTIONS

- 8.1 **Distributions:** Any Distribution to be made will be subject to the Company being able to:

- (a) comply with its then current business plan;
- (b) comply with its legal and regulatory obligations, including under the LG (WS) Act;
- (c) meet the solvency test under the Companies Act; and
- (d) maintain a prudent level of reserves,

in each case, as determined by the Board and subject to unanimous Shareholder approval (except for any Distribution pursuant to clause 15).

- 8.2 **Approach to Distributions:** Subject to clause 8.1, any Distributions will be made to the Shareholders taking into account where the surplus arose from, consistent with the ringfencing principles in clause 2.7.

9. COMPANY ACQUIRING ITS OWN SHARES

- 9.1 **Company may acquire its own Shares:** The Company may purchase or otherwise acquire its own Shares only if it has first been authorised to do so by Special Resolution in which case the Shares purchased or otherwise acquired will be deemed to be cancelled immediately on acquisition.

10. SHAREHOLDER MEETINGS

- 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.

- 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 a Shareholder.

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

11. REPORTING REQUIREMENTS

11.1 **Reporting:** Subject to clause 11.2:

- (a) the Board must prepare the plans or reports required by the Shareholders (including via the Joint Committee) by notice in writing to the Company (such notice must comply with the requirements in section 249(4) 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, the Board must prepare, adopt and deliver to the Shareholders (in accordance with section 248 of the LG (WS) Act) a Water Services Half-yearly Report, which must include information required to be included by any current Statement of Expectations, and publish that report in accordance with section 223 of LG (WS) Act; and
- (c) within three months of the end of each Financial Year of the Company, the Board must prepare, adopt and deliver to the Shareholders (in accordance with section 243 of the LG (WS) Act), and publish in accordance with section 223 of the LG (WS) Act, its Water Services Annual Report for that Financial Year, which must include the information required to be included by:
 - (i) the Statement of Expectations;
 - (ii) the Companies Act; and
 - (iii) section 246 of the LG (WS) Act.

11.2 **Information to be withheld:** Nothing in this clause 11 requires the inclusion in any Statement of Expectations, annual report, financial statements or quarterly report required to be produced under this Constitution of any information that may be properly withheld if a request for that information was made under the Local Government Official Information and Meetings Act 1987.

12. DIRECTORS

12.1 **Independent Directors:** All Directors must be Independent Directors.

12.2 **Number of Directors:** The maximum number of Directors is five, provided that this number may be temporarily exceeded for a period not longer than 6 months to allow for the transition between the removal of an existing Director and appointment of a new Director.

12.3 **Appointment and removal by Shareholders:**

- (a) Subject to clause 12.1 and the Shareholders' Agreement, the Shareholders must appoint up to the maximum number of Directors set out in clause 12.2, by notice in writing to the Company. Directors may be removed and replaced in the same way at any time during their term.
- (b) The Shareholders and the Company must 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 12.3 if applicable, including, in the case of the Shareholders, by exercising their voting rights in the relevant Shareholders' meeting (or by way of written resolution).

12.4 **Appointment and removal where vacancy exists:** Where there is a casual vacancy on the Board, the Board may, by majority vote, recommend an appointment to fill that vacancy to the Shareholders for approval in accordance with the Shareholders' Agreement. A Director appointed under this clause 12.4 may be removed and replaced in the same way.

12.5 **Skills of Directors:**

- (a) A person may only be appointed to be a Director if the person has, in the opinion of the Shareholders, the skills, knowledge, or experience to:
 - (i) guide the Company, given the nature and scope of its activities; and
 - (ii) contribute to the achievement of the objectives of the Company.
- (b) Without limiting clause 12.5(a), all Director appointments must be made having regard to:
 - (i) the Board Skills Matrix; and
 - (ii) each Shareholders' policy for the appointment of directors to council controlled organisations;

with the aim of ensuring that the Board as a whole has the skills required by the Board Skills Matrix.

12.6 **Term of Appointment:** Unless otherwise approved by the Shareholders:

- (a) Each Director will be appointed for a term of up to 3 consecutive years
- (b) A Director may be reappointed at the expiry of his or her term of appointment, provided that, subject to this clause 12.6, no Director may be appointed for more than 9 consecutive years except where approved by a Special Resolution.
- (c) A person who has previously served as a Director (for any period), but who subsequently to resigning or being removed as a Director has not served as a Director for a continuous period of at least 2 years, may then be appointed as a Director for up to 9 consecutive years.
- (d) Each person who is appointed as a Director upon incorporation of the Company will serve an initial term of 3 years, and then each of those Directors will be offered automatic re-appointment for a period of 1, 2 or 3 consecutive years (as recommended by the Board and approved by the Shareholders), in order to enable rotation of the Board and with the intention that at least 2 Directors will have their appointments expire in each of the following 3 years.

12.7 **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) reaches the end of their term and is not reappointed;
- (c) is removed from office in accordance with clause 12.3;

- (d) becomes disqualified from being a Director pursuant to section 151 of the Companies Act or clause 12.17; or
 - (e) dies.
- 12.8 **Appointment of Chair:**
- (a) The Shareholders will select and appoint the Chair 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 Board.
- 12.9 **Powers of the Board:**
- (a) Subject to clause 12.9(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.
- 12.10 **Prohibited matters:** Notwithstanding clause 12.9(b), except to the extent permitted by the Shareholders' Agreement, the Board must not, and must not cause the Company to:
- (a) incur indebtedness, outside the ordinary course of the Company's business, 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 as permitted by the LG (WS) Act.
- 12.11 **Shareholder Reserved Matters:** Notwithstanding clause 12.9(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.
- 12.12 **Solvency test:** Notwithstanding any approval obtained pursuant to clause 12.10, 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).
- 12.13 **Proceedings of the Board:** The provisions of the Schedule 3 to the Companies Act as modified by this Constitution, including the rules set out in Schedule 2, govern proceedings at meetings of Directors.
- 12.14 **Directors duties:** In addition to the duties set out in the Companies Act, the Directors must assist the Company to meet the requirements set out in the Statement of Expectations or the LG (WS) Act.

- 12.15 **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).
- 12.16 **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 12.16 "director" includes any former director, "employee" includes any former employee, and "Company" includes any Subsidiary of the Company.
- 12.17 **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) is not or ceases to be an Independent Director.
- 12.18 **Remuneration of Directors:**
- (a) The Shareholders will determine the total sum available to the Board each year to make remuneration payments in accordance with clause 12.18(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 in accordance with clause 12.18(a).
 - (c) The Board may authorise the reimbursement by the Company of reasonable travelling, accommodation and other expenses incurred by Directors in attending Board meetings, Joint Committee meetings, Shareholder meetings or in relation to any other affairs of the Company.
 - (d) In determining Director remuneration, the Shareholders will take into account any recommendations from the Joint Committee (which recommendations in turn can take into account relevant council policies and market data).
- 12.19 **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.

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

13. INTERESTS OF DIRECTORS

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.

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) they are a party to the transaction or may derive a material financial benefit from it;
- (b) they have a material interest in another party to the transaction;
- (c) they are a director, officer or trustee of another party to the transaction;
- (d) they are a director, officer or trustee of a person who may derive a material financial benefit from the transaction;
- (e) they are a parent, child or spouse, civil union partner, or de facto partner of a person described in clauses 13.2(a) to 13.2(d); or
- (f) they are otherwise directly or indirectly materially interested in the transaction.

13.3 **Interested Directors may not 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) vote on or 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 12.18;
 - (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 12.16; or
 - (e) transactions in which a Director is interested solely in their capacity as a director of a Subsidiary of the Company.

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

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.

14. NOTICES

14.1 **Service:** Notices may be served by the Company upon any Director or Shareholder by personal delivery, 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.

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.

15. LIQUIDATION

If the Company is liquidated, the liquidator may, with the unanimous approval of the Shareholders 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:

- 15.1 distribute to the Shareholders in kind the whole or any part of the assets of the Company; and
- 15.2 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.

16. METHODS OF CONTRACTING

16.1 **Deeds:** 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.

16.2 **In writing:** 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.

16.3 **Other:** 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****1. CHAIR**

- 1.1 If the Chair is present at the meeting, he or she must chair the meeting.
- 1.2 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.

2. NOTICE OF MEETINGS

- 2.1 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.
- 2.2 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 Reserved Matter resolution or other resolution to be put to the meeting.
- 2.3 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.
- 2.4 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.
- 2.5 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.

3. METHODS OF HOLDING MEETINGS

- 3.1 A Shareholders' meeting may be held in any of the following ways:
- (a) at the place, date, and time appointed for the meeting;
 - (b) by means of audio, or audio and visual, communication; or
 - (c) a combination of (a) and (b).

The Shareholders (or their representatives) participating must constitute a quorum and must all be able to simultaneously hear all participants throughout the meeting.

4. QUORUM

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

- 4.2 A quorum for a Shareholder meeting is present if at least two representatives from each Shareholder (or their proxy) is in attendance, whether in person or via an approved virtual platform.
- 4.3 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; or
 - (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.
- 5. ADJOURNMENTS**
- 5.1 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.
- 6. VOTING**
- 6.1 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.
- 6.2 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.
- 6.3 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.
- 7. PROXIES AND POSTAL VOTES**
- 7.1 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.

7.2 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 Schedule 1 to the Companies Act.

8. MINUTES

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

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

9. SHAREHOLDER PROPOSALS

9.1 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 Schedule 1 of the Companies Act apply to any notice given under this rule 9.1.

9.2 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.

10. OTHER PROCEEDINGS

10.1 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. FREQUENCY OF MEETINGS**

1.1 The Board will meet monthly, or as otherwise resolved by the Board.

2. NOTICE OF MEETING

2.1 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.

2.2 At least five Business Days' notice of a meeting of the Board must be given to every Director who is located in New Zealand. The notice must include the date, time and place of the meeting and the matters to be discussed.

2.3 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.

3. NO NOTICE TO DIRECTORS OUTSIDE NEW ZEALAND

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

4. METHOD OF HOLDING MEETINGS

4.1 The Board may meet in person or by any technological means that allow participating Directors to be in communication with other participating Directors in a manner that is relatively contemporaneous. Where Directors are not all in attendance in one place but are holding a meeting through such a system of communication:

- (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.

5. QUORUM

5.1 At any meeting of Directors a quorum will only be present if at least 75% of Directors are present.

5.2 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 Chair 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.

6. VOTING

- 6.1 Every Director has one vote.
- 6.2 The Chair does not have a second or casting vote.
- 6.3 Subject to clause 12.9 and 12.10, 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.
- 6.4 A Director who abstains from voting is not presumed to have voted in favour of, or dissented to, the relevant resolution of the Board.

7. RESOLUTIONS

- 7.1 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.
- 7.2 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.
- 7.3 A copy of all resolutions must be entered in the minute book of Board proceedings.

8. MINUTES

- 8.1 The Board must ensure minutes are kept of all proceedings at meetings of the Board.

9. OTHER PROCEEDINGS

- 9.1 Except as provided in this Schedule 2 and this Constitution, the Board may regulate its own procedure.

Draft: 19 June 2026

Shareholders' Agreement relating to [TBC] Limited

PARTIES

Tauranga City Council

Western Bay of Plenty District Council

DRAFT

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Board Skills Matrix34

DRAFT

AGREEMENT dated [date] 2026

PARTIES

Tauranga City Council

("TCC")

Western Bay of Plenty District Council

("WBOPDC")

BACKGROUND

TCC and WBOPDC:

- (a) have agreed to establish the Company as a jointly owned CCO for the purposes of the Company acting as the water organisation as contemplated by their Water Services Delivery Plan; and
- (b) have entered into this agreement to record how the parties will manage their shareholdings in the Company and their respective relationships with each other.

AGREEMENT

TCC and WBOPDC agree to give effect to the provisions set out in this agreement, including by exercising their rights as Shareholders in the Company.

SIGNATURES

TAURANGA CITY COUNCIL

By:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

**WESTERN BAY OF PLENTY DISTRICT
COUNCIL**

By:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

DRAFT

SCHEDULE 1

AGREEMENT DETAILS

Address for notices <i>(clause 15.1, Schedule 2)</i>	Tauranga City Council	Western Bay of Plenty District Council
	21 Devonport Road Tauranga, 3143 Private Bag 12022 Tauranga 3143 Email: christine.jones@tauranga.govt.nz Attention: Christine Jones	1484 Cameron Road Barkers Corner, Greerton Tauranga, 3112 Private Bag 12803 Tauranga Mail Centre Tauranga 3143 Email: adele.henderson@westernbay.govt.nz Attention: Adele Henderson

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SCHEDULE 2**TERMS AND CONDITIONS****AGREEMENT****1. DEFINITIONS AND INTERPRETATION**

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

Alternate means:

- (a) in relation to a Shareholder, an alternate to that Shareholder's appointed JC Representative; and
- (b) in relation to Tangata Whenua, an alternate to a TW JC Representative,

who will be entitled to attend and vote at meetings of the JC, but only where the respective Shareholder's JC Representative or the TW JC Representative (as relevant) is unable to do so.

Board means the board of Directors of the Company.

Board Skills Matrix means the board skills matrix at Schedule 10.

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 any of the Service Areas.

Class A Shares has the meaning given in the Constitution.

Class B Shares has the meaning given in the Constitution.

Companies Act means the Companies Act 1993.

Company means [TBC] Limited.

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.

Establishment Costs means the costs incurred by each Shareholder:

- (c) during the period prior to the incorporation of the Company, in relation to the scoping and planning activities and establishment documents; and
- (d) during the Establishment Period in respect of the operational and transition costs incurred by the Company.

Establishment Period means the period between the Incorporation Date and the Operational Date.

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.

Expert Determination means determination of a dispute by reference to the process set out in clause 13.5.

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 has the meaning given in the Constitution.

Joint Committee or **JC** means the joint committee formed by the Shareholders pursuant to clause 6.1.

JC Representative means a member of the JC and includes (where the context requires) a TW JC Representative.

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.

Operational Date means 1 July 2027, or any other later date as agreed by the Shareholders.

Ordinary Resolution has the meaning given to it in the Companies Act.

Reserved Matters means those matters 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 means:

- (a) in the context of the Company, as set out in the LG (WS) Act; and
- (b) in respect of each Shareholder, the 'district' of that Shareholder as a 'territorial authority' (as those terms are defined in the LGA).

Shares means shares in the Company on issue from time to time and includes all Class A Shares and Class B Shares.

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.

Special Resolution has the meaning given in the Companies Act.

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

Significance and Engagement Policy means the significance and engagement policy referred to in section 35 of the LG (WS) Act.

Tangata Whenua means iwi and hapū within the TCC and WBOPDC rohe (boundaries).

TW JC Representative means a JC Representative nominated by Tangata Whenua and appointed by the Shareholders in accordance with Schedule 4.

Terms of Reference means the terms of reference of the JC set out in Schedule 4.

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

Transfer Principles means the principles set out in Schedule 6.

Transition Agreement means the agreement to be entered into between the Shareholders and the Company on or about the date of this agreement, which relates to the establishment activities to be carried out by the Company, and the funding to be provided by the Shareholders to the Company, during the Establishment Period.

Unanimous Resolution means a resolution of the shareholders in the Company which is approved by all Shareholders in writing.

Water Services has the meaning set out in the LG (WS) Act, which will be the water services obligations to be transferred to the Company in accordance with the Transfer Agreement to be entered into between the Company and each Shareholder and as otherwise provided by the Company in the Service Areas.

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

Water Services Annual Report has the meaning set out in the LG (WS) Act.

Water Services Delivery Plan means the means the plan prepared and adopted by each Shareholder in accordance with the Local Government (Water Services Preliminary Arrangements) Act 2024, as approved by the Department of Internal Affairs on 14 November 2025.

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

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, reenactments 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, the provisions of this agreement relating to the operation of the Company 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.

1.4 **Constitution:** In the event of any inconsistency between this agreement and the Constitution, this agreement will (as between the parties) prevail over the Constitution to the extent of the inconsistency (and consistent with the Companies Act) and the Shareholders will take such steps necessary to resolve the inconsistency.

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, on the basis set out below:

- (a) each Shareholder will be issued [10] Class A Shares, at an issue price of \$1.00 per share (which amount is deemed to have been received by the Company);
- (b) the initial directors will be [names];
- (c) the registered office and address for service of the Company will be [TBC];and
- (d) the Constitution of the Company, in the form approved by the Shareholders, will be adopted on incorporation.

2.2 **Transition Agreement:** As soon as reasonably possible following the incorporation of the Company, each Shareholder will enter into the Transition Agreement with the Company, in the form approved by the Shareholders.

3. PURPOSE OF COMPANY

3.1 **Purpose:** The Shareholders agree that the Company is to carry on the Business.

3.2 **Public Ownership:** The Shareholders agree that all water services infrastructure and related assets owned by the Company shall remain in public ownership. This does not preclude the Company from accessing or benefiting from private funding or financing arrangements, provided such arrangements do not result in any transfer of ownership of those assets. No Shareholder will take any steps to approve or otherwise give effect to any action which is inconsistent with this clause.

4. BOARD AND DIRECTORS

4.1 **Board:**

- (a) Following the Incorporation Date, the Shareholders will appoint (and subsequently remove or replace) each Director in accordance with the Board Skills Matrix (and

any council policy criteria), with the aim of ensuring that the Board as a whole has the skills required by the Board Skills Matrix.

- (b) The Company will have the number of Directors that comply with the Constitution.
- (c) The Directors will be appointed and removed in accordance with the Constitution.

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 Shareholders will procure that 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 the Shareholders in accordance with the relevant approval thresholds set out in Schedule 3.

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, Local Government (Water Services Preliminary Arrangements) Act 2024, 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 act under the principle of "no surprises", both with the Company and with each other in relation to their respective interests.

6. JOINT COMMITTEE

6.1 **Establishment and Terms of Reference:** The Shareholders will establish a Joint Committee in the manner set out below:

- (a) The Shareholders will jointly establish, maintain and operate a JC in accordance with the Terms of Reference to provide oversight of the Company.
- (b) Each Shareholder confirms the Terms of Reference for the JC are the terms attached at Schedule 4 (as amended from time to time).

6.2 The Joint Committee will be established as a joint committee under clause 30(1)(b) of Schedule 7 to the LGA.

6.3 **Delegations to Joint Committee:** Each Shareholder agrees to delegate to the Joint Committee those responsibilities and powers set out in the Terms of Reference. The Joint Committee shall be a recommendatory, rather than decision-making, body.

- 6.4 **Interface with JC Representatives:** Each Shareholder is responsible for determining and managing the internal arrangements, processes, instructions, and decision-making protocols between that Shareholder and its appointed JC Representative (and any Alternate).
- 6.5 **Review of Terms of Reference:** The Shareholders will undertake a review of the Terms of Reference of the Joint Committee:
- (a) before a Proposed Shareholder is admitted to the Company;
 - (b) at the commencement of each triennium following a Proposed Shareholder's Admission to the Company, at which point the Joint Committee will prepare a report on the operation and function of the Joint Committee for consideration by the admitted Proposed Shareholder;
 - (c) before any substantive legislative change, or any other significant matter that impacts or may reasonably be expected to impact treaty settlement legislation, comes into force;
 - (d) before any other substantive legislative change that may reasonably be expected to impact the Water Services comes into force; or
 - (e) at such other date as may be determined by an Ordinary Resolution.

7. LOANS AND GUARANTEES BY SHAREHOLDERS

- 7.1 **Loans and guarantees:** Subject to clause 7.3, 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.
- 7.2 **Establishment Funding:** The Shareholders acknowledge and agree that, in advance of the Company receiving revenue from the Business (which will not occur until after the end of the Establishment Period), each Shareholder will provide working capital funding to the Company for the purpose of meeting the Establishment Costs. The terms on which such funding will be provided to the Company (which will include that this funding will be repaid by the Company upon the Company entering into its own funding arrangements) will be as agreed in writing between the Shareholders and the Company, including (in respect of funding provided during the Establishment Period) as set out in in the Transition Agreement.
- 7.3 **Debt Guarantee:** The Shareholders will provide a joint and several guarantee in favour of LGFA in respect of all of the Company's LGFA debt. Notwithstanding this, each Shareholder will only be responsible for the portion of the LGFA debt attributable to its Service Area if this guarantee is called on and indemnifies the other Shareholders in respect of such attributed amounts.

8. STATEMENT OF EXPECTATIONS

- 8.1 **Preparation:** The Shareholders will be jointly responsible for preparing and adopting the Statement of Expectations in accordance with the LG (WS) Act, within the time periods required by the LG (WS) Act. Each Shareholder will provide initial guidance to officers who will prepare the draft Statement of Expectations, which will then be presented to, and reviewed and refined by, the Joint Committee. The Joint Committee will, after consulting with

the Company on the draft Statement of Expectations and considering any comments provided, recommend a final Statement of Expectations to the Shareholders for adoption. The Shareholders acknowledge that the first Statement of Expectations needs to be adopted by a date that is not later than 6 months from incorporation of the Company.

- 8.2 **Process:** Unless the Shareholders agree otherwise, or an alternative process is provided for in the LG (WS) Act (in which case that alternative process will be followed):
- (a) the Shareholders will meet within the timeframes required for the Company to adopt 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 include the input provided by each Shareholder for the Statement of Expectations and will be consistent with the Constitution and include consulting with the Company;
 - (b) the Shareholders will ensure that one or more Shareholders publish the process agreed in accordance with clause 8.2(a) on their website in accordance with the LG (WS) Act;
 - (c) the Shareholders will prepare a draft Statement of Expectations in accordance with the process agreed under clause 8.2(a) and the requirements of this agreement and the LG (WS) Act; and
 - (d) the Shareholders must adopt (as a Reserved Matter) the draft Statement of Expectations prepared in accordance with this clause, at least six months prior to the date on which the Company is required to adopt a Water Services Strategy under the LG (WS) Act.
- 8.3 **Specific Matters:** In addition to the requirements specified in the LG (WS) Act, the draft Statement of Expectations shall also include the matters set out in Schedule 5.
- 8.4 **Provision of Statement of Expectations:** Promptly after the Statement of Expectations has been adopted in accordance with clause 8.2(d), the Statement of Expectations will be provided to the Chairperson of the Board, the Chief Executive of the Company and the Joint Committee.
- 8.5 **Amendments to the Statement of Expectations:** If any Shareholder considers that the Statement of Expectations, or any part of it, should be amended at any time, either on its own initiative or after recommendation by the JC, the JC will follow the process set out in clauses 8.2 and 8.3 (with all necessary modifications). If any amendments to the Statement of Expectations are made out of cycle with the timing anticipated by the LG (WS) Act, the Shareholders acknowledge that the amended Statement of Expectations may not inform the Water Services Strategy required to be adopted by the Company, and also acknowledge that the Company is not required to amend its Water Services Strategy as a result of the amendments made.

9. TRANSFER AGREEMENTS

- 9.1 **Process:** During the Establishment Period, the Shareholders will:
- (a) agree with the Board a template form of Transfer Agreement, which will be used as the basis for preparing a Transfer Agreement for each Shareholder with the Company, together with the template form of any ancillary agreements required to

- be entered into as part of the transfer, such as transitional services agreements and shared interest agreements;
- (b) each undertake the process of identifying which assets, obligation and liabilities (including water debt) will be transferred by that Shareholder to the Company under its Transfer Agreement, by applying the Transfer Principles;
 - (c) identify what statutory responsibilities will transfer (or not transfer) to the Company;
 - (d) each negotiate the form of the Transfer Agreement (and any ancillary agreements) with the Company, in accordance with the provisions of this clause 9.1 and as contemplated by the LG (WS) Act, which will provide that the consideration payable by the Company for the net assets to be acquired from the relevant Shareholder under the Transfer Agreement will be satisfied by the Company issuing Class B Shares to that Shareholder following execution of the respective Transfer Agreement; and
 - (e) each enter into their agreed Transfer Agreement with the Company (and any ancillary agreements), prior to the Operational Date, with a completion date of 30 June 2027.
- 9.2 **Disputes:** If any Shareholder has not agreed the form of its Transfer Agreement with the Company by 31 March 2027 then that Shareholder will refer any unresolved issues between that Shareholder and the Company to Expert Determination. For clarity, this clause is directed at the terms and conditions of the Transfer Agreement, and does not limit the Shareholders' discretion as to the subject matter of the transfer itself, including which assets, debt, contracts, liabilities or other rights and obligations are to be transferred from a Shareholder to the Company pursuant to that Transfer Agreement.
- 9.3 **Stormwater:** The parties acknowledge that:
- (a) subject to the terms of each Transfer Agreement, the Company will be responsible for all stormwater assets and for the provision of stormwater services (as defined in the LG (WS) Act, within each Service Area) subject to clause 9.4 below;
 - (b) subject to any exceptions identified during preparation of the Transfer Agreement (including land used for both stormwater and other purposes), stormwater assets will be transferred by each Shareholder to the Company;
 - (c) a Shareholder may provide operational direction to the Company in respect of the charging for stormwater services and wastewater services that are required to be provided in that Shareholder's Service Area, in accordance with clause 9.4.
- 9.4 **The setting and collection of charges:** The parties agree that:
- (a) Regarding stormwater:
 - (i) for the three years from 1 July 2027, each Shareholder will be responsible for making final decisions about the Company's level of charges and revenue recovery for stormwater, and for collecting stormwater charges, within that Shareholder's Service Area;

- (ii) on or before 1 July 2030, the Company and Shareholders will decide whether or not to extend the arrangements in clause 9.4(a)(i) for a further period;
- (b) Regarding wastewater:
 - (i) for one year from 1 July 2027, each Shareholder will be responsible for making final decisions about the Company's level of charges and revenue recovery for wastewater, and for collecting wastewater charges, within that Shareholder's Service Area;
 - (ii) on or before 1 July 2028, the Company and Shareholders will decide whether or not to extend the arrangements in clause 9.4(b)(i) for a further period;
- (c) Regarding drinking water:
 - (i) from 1 July 2027, the Company will be responsible for making final decisions about the Company's level of charges and revenue recovery for drinking water;
 - (ii) for one year from 1 July 2027, each Shareholder will be responsible for collecting drinking water charges, within that Shareholder's Service Area;
 - (iii) on or before 1 July 2028, the Company and Shareholders will decide whether or not to extend the arrangements in clause 9.4(c)(i) and (ii) for a further period;
- (d) the long-term goal will be to transfer the responsibilities set out in clause 9.4(a) to 9.4(c) to the Company;
- (e) notwithstanding the Shareholders' final decision-making responsibility under clause 9.4(a) and 9.4(b), the Shareholders must take into account the views of the Company on these matters, and meet their obligations in relation to revenue sufficiency and the other matters set out clause 6(1)(b) and 6(3) of Schedule 2 of the LG (WS) Act.

10. SHARES AND SHAREHOLDINGS

- 10.1 **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 this agreement.
- 10.2 **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 this clause 10, the Constitution and the LG (WS) Act.
- 10.3 **New Shareholders:** A Local Authority who is not an existing Shareholder may be admitted as an additional Shareholder in accordance with the process and requirements set out in Schedule 7.
- 10.4 **Shareholder Exit:** A Shareholder who wishes to exit from its shareholding in the Company may do so in accordance with the process and requirements set out in Schedule 8.

- 10.5 **No Security Interest:** A Shareholder must not grant a Security Interest over any of its Shares.
- 10.6 **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.
- 10.7 **Review of Class B Shareholdings:** The Shareholders will undertake a review of the shareholdings of Class B Shares in accordance with Schedule 9.

DISTRIBUTIONS

- 10.8 **Principle:** The Shareholders acknowledge and agree that:
- (a) if the Company generates any surplus, it is the Shareholders' expectation that such surplus will be either retained by the Company or reinvested in the provision of the Water Services, taking into account clause 2.7 of the Constitution;
 - (b) there is no expectation by the Shareholders of any distributions being made by the Company to the Shareholders; and
 - (c) a distribution can only be made to the Shareholders if the distribution:
 - (i) is approved by a Unanimous Resolution;
 - (ii) is approved by a majority decision of the Board; and
 - (iii) will not result in the Company being in breach of the Constitution or the Companies Act.

11. TERM AND TERMINATION

- 11.1 **Term:** This agreement commences on the date signed by all parties and continues until the first date on which:
- (a) in respect of a Shareholder, that Shareholder no longer holds any Shares;
 - (b) only one Shareholder owns all Shares;
 - (c) none of the Shareholders hold Shares; or
 - (d) the date on which the Company is liquidated.
- 11.2 **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.

11.3 **Shareholder Triggered Liquidation:**

- (a) Upon the passing of a Unanimous Resolution to liquidate the Company, the Shareholders must, without delay, take all necessary steps to appoint a liquidator to the Company. In this case, the liquidator must be agreed by the Shareholders within 10 Business Days, 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.

11.4 **Liquidation principles:** The following principles will apply to the distribution of assets and liabilities of the Company upon a liquidation:

- (a) each Shareholder will be entitled to, and will, take a transfer of all of the assets (including reserves) and associated contractual arrangements from the Company that relate to its Service Area, along with the relevant debt apportioned to those assets, in each case on the basis of an independent valuation of those assets;
- (b) where an asset and/or associated contractual arrangement relates to more than one Service Area, or where an asset has been funded by more than one Shareholder, an apportionment will be made as between the relevant Shareholders to ensure an appropriate allocation of the benefit and the burden of each asset or arrangement, which may include a contractual arrangement between those Shareholders in respect of those assets or arrangements; and
- (c) the basis on which the allocations and valuations will be made for the purposes of this clause 11.4 will be determined by the Shareholders, with any disputes referred to Expert Determination.

11.5 **Survival:** Termination of this agreement will not affect the rights and obligations of the Shareholders set out in clauses 13, 14 and 15, together with this clause 11.5, which are intended to survive the termination of this agreement.

12. SUSPENSION OF RIGHTS

12.1 **Consequences:** If an Event of Default occurs in respect of a Shareholder (the "**Defaulting Shareholder**") any other Shareholder may, while that Event of Default continues, by notice in writing to the Defaulting Shareholder and each other 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 the required level of support for a Reserved Matter or a quorum for a Shareholders' meeting; and
- (b) all voting rights of that Shareholder's members of the JC will be suspended,

provided that any suspension of rights set out in this clause will automatically cease to have effect upon that Event of Default having been cured by the Defaulting Shareholder.

12.2 **Voting During Suspension Period:** The parties agree that, where a Shareholder's rights have been suspended pursuant to clause 12.1, any vote on a Reserved Matter can only be undertaken after the next Business Day which is at least 30 days after the suspension takes effect (or the next Business Day after the date on which the suspension is lifted, if earlier).

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 a default rate of the then current Official Cash Rate plus 5% per annum;
- (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 Tauranga, 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.
- (h) Except as required by law, the arbitration and all related information shall be private and confidential in accordance with the Arbitration Act 1996 consistent with the NZDRC Rules. However, if at the time of any arbitration the Disputing Parties and the arbitral panel so agree in writing to vary the NZDRC Rules, then the proceedings (or specified parts thereof) may be conducted in public or otherwise disclosed to reflect the public-interest nature of the Company (notwithstanding the NZDRC Rules). Any such agreement between the Disputing Parties and the arbitral panel shall record the extent of transparency permitted (for example,

attendance by the public at hearings, publication of awards or reasons, etc.) and any necessary confidentiality safeguards.

13.5 **Expert Determination:** Where this agreement provides for a matter to be resolved through Expert Determination, this clause will apply. Any party may give written notice to the other parties referring the dispute for determination by a single person who is suitably qualified and experienced (**Expert**) to determine the matter in dispute (**Dispute Notice**). If the parties cannot agree on the person to be appointed as Expert within 5 Business Days after delivery of the Dispute Notice, the Expert will be nominated by the President for the time being of the New Zealand Law Society. In resolving the Dispute:

- (a) the Expert will be deemed to be acting as an expert, not as a mediator or an arbitrator;
- (b) nothing in this clause will constitute a submission to arbitration under the Arbitration Act 1996;
- (c) each party must give the Expert any information and assistance, and will ensure that its duly authorised representatives meet with the Expert, as the Expert may reasonably require in order to expedite the resolution of the Dispute;
- (d) the parties will be jointly and severally liable to the Expert for all costs incurred by the Expert, but the Expert may allocate, as between the parties, the responsibility for payment of those costs and that allocation will be binding on the parties; and
- (e) any determination of the Expert will, in the absence of obvious error or fraud on the part of the Expert, be final and binding on the parties.

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

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

13.8 **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 party 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 any of the 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; or
- (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 physical address or email address, any notice or communication is only given by that other party if it is delivered or emailed to the latest physical 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 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 **Counterparts:** This agreement is deemed to be signed by a party if that party has signed or attached that party'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 party has signed or attached that party's signatures to any such format and delivered it in any such format to the other parties, the executed formats shall together constitute a binding agreement between the parties.
- 16.4 **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.
- 16.5 **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.
- 16.6 **Further assurance:** Each party 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.
- 16.7 **Amendment:** Any amendment to this agreement will require the approval in writing of all of the Shareholders.
- 16.8 **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.
- 16.9 **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.
- 16.10 **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.
- 16.11 **Waivers:**
- (a) A waiver of any right, power or remedy under this agreement must be in writing signed by the party 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.

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

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SCHEDULE 3**Reserved Matters**

Matter or transaction	Approval requirement
<i>Special Resolution Matters</i>	
"Major transactions" as that term is defined in the Companies Act.	Special Resolution
Approving any Shareholder funding or guarantee obligations, including any amendments to the debt guarantee arrangements under clause 7.3.	Special Resolution
Any proposal to enter into a significant contract (see section 23(2)(b) of the LG (WS) Act).	Special Resolution
Any proposal to enter into a joint water service provider arrangement (see section 26(3)(b) of the LG (WS) Act).	Special Resolution
<i>Unanimous Resolution Matters</i>	
Any amendment to, revocation of, or adoption of, the Constitution.	Unanimous Resolution
Any resolution to put the Company into liquidation or to wind up to the Company.	Unanimous Resolution
Any resolution to amalgamate the Company with one or more other companies.	Unanimous Resolution
Any change to the Terms of Reference.	Unanimous Resolution
Any resolution to add further matters to this Schedule of Reserved Matters.	Unanimous Resolution
Any amendment to, or revocation of, this Shareholders' Agreement.	Unanimous Resolution
Any amendment to the provisions within the Constitution or this Shareholders' Agreement requiring the Company and the Company's infrastructure and assets to remain in public ownership.	Unanimous Resolution
Approval of Shareholder comments to the Company on the draft Water Services Strategy.	Unanimous Resolution
<i>Statement of Expectations</i>	
A decision to adopt the Statement of Expectations.	Unanimous Resolution
<i>Shareholdings/Shares</i>	
Any issue of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares.	Special Resolution

Any alteration of rights, privileges or conditions attaching to the Shares.	Unanimous Resolution
Any transfer by the Company of Shares held by the Company or any purchase or other acquisition by the Company of its own Shares.	Unanimous Resolution
Any consolidation, division, or subdivision of Shares.	Ordinary Resolution
Any cancellation, buy-back or reduction of Shares, securities that are convertible into or exchangeable for Shares, or options to acquire Shares.	Special Resolution
The giving of any financial assistance for the purpose of, or in connection with, the purchase of Shares.	Special Resolution
Making a material change in the nature of the Company's business or engaging in business activities other than the Business.	Special Resolution
Any declaration or payment of distributions by the Company, provided that any such distribution must also be approved by the Board by ordinary resolution and must satisfy all applicable solvency and statutory requirements under the Companies Act.	Unanimous Resolution
Shareholder Changes	
A decision to approve a new Shareholder, including the terms of admission.	Unanimous Resolution
A decision to approve the exit of an existing Shareholder, including the terms of exit.	Unanimous Resolution

SCHEDULE 4

Joint Committee Terms of Reference

TERMS OF REFERENCE – [TBC] JOINT COMMITTEE

Membership:

Independent Chair	[Insert name, if any (otherwise insert "None")]
Chair (if no Independent Chair)	<p>TCC Chair</p> <p>Or</p> <p>WBOPDC Chair</p> <p><i>If no Independent Chair is appointed, then the Chair will be appointed by the Joint Committee being a member of TCC or member of WBOPDC on a rotational basis. Frequency of the rotation to be approved by the Joint Committee.</i></p>
Deputy Chairs	<p>TCC Deputy Chair:</p> <ul style="list-style-type: none"> • [insert] <p>WBOPDC Deputy Chair:</p> <ul style="list-style-type: none"> • [insert] <p><i>Where an Independent Chair is appointed, then the Deputy Chair will be appointed by the Joint Committee being a member of TCC or member of WBOPDC on a rotational basis. Frequency of the rotation to be approved by the Committee.</i></p> <p><i>Where the Chair is a TCC or WBOPDC member, then the Deputy Chair will be a member of the other Council, with the rotation on the same cycle as the Chair.</i></p>
Members	<p>Total of 9 members:</p> <ul style="list-style-type: none"> • 3 JC Representatives (must be appointed by TCC Council resolution and must be elected members of TCC.) • 3 JC Representatives (must be appointed by WBOPDC Council resolution and must be elected members of WBOPDC.) • 3 TW JC Representatives (nominated by Tangata Whenua and appointed by TCC by Council resolution acting as administrative agent for the Shareholders.) <p>Each appointing or nominating party has the ability to appoint or nominate up to three alternates. An alternate may attend and participate in place of an appointed member only when that appointed member is absent. At no time may the number of representatives acting for an appointing or nominating party exceed the number of appointed members.</p>

Quorum	A minimum of two TCC JC Representatives, two WBOPDC JC Representatives, and two TW JC Representatives
Meeting frequency	Bi-monthly or as otherwise determined by the Committee or the Councils.

Role:

- The purpose of the Joint Committee is to provide recommendations to the Shareholders to assist their decision-making in the Company. The Joint Committee will provide recommendations regarding the subject matter set out below under the sub-heading “Scope” (or other matters that may be directed by the Shareholders from time to time).
- The TW JC Representatives on the Joint Committee are to represent the Iwi and Hapū whose rohe falls within the local government areas of the Shareholders.

Scope:

- a. Statement of Expectations. Responsibilities to include:
 - Review draft SOE prepared by staff.
 - Provide feedback and comments on draft documents to staff and require amendments to achieve a version of the SOE that the Joint Committee is content to endorse to the Shareholders.
 - Present SOE to the Shareholders for consideration and approval.
- b. Company’s Water Services Strategy. Responsibilities to include:
 - Review draft WSS provided by the Company.
 - Prepare proposed comments on the WSS for the Shareholders to raise with the Company.
 - Present the proposed comments to Shareholders for consideration and approval.
- c. Any Company policies that require shareholder input (such as significance and engagement policy or director appointment policy). Responsibilities to include:
 - Review draft policies prepared by the Company (or prepared by council staff if relevant).
 - Provide feedback and comments on draft documents to the Company / to staff and require amendments to achieve a version of the relevant policy that the Joint Committee is content to endorse to the Shareholders.
 - Present policies to Shareholders for consideration and approval.
- d. Service level agreements between the Company and the relevant Shareholder. Responsibilities to include:
 - Provide high-level oversight of the performance of obligations agreed under service level agreements between the Company and either Shareholder.
 - Receive reports from the Company and Shareholder chief executives as to whether the service level agreements are within the approved budgets.
 - Receive reports from the Company and Shareholders’ chief executives on how the transition away from service level agreements is proposed to be managed over time.
- e. Significant contracts (sections 23 and 24 LG (WS) Act). Responsibilities to include:
 - Review the Company’s proposal for significant contracts, and the Company’s assessment of options.
 - Form a recommendation for the Shareholders to consider, and present to the Shareholders.
- f. Appointment of Board. Responsibilities to include:
 - Review candidates against the Board Skills Matrix and any policies of the respective Shareholders.

- Form a view on proposed Director appointment roles that the Joint Committee is content to endorse to the Shareholders.
- Consideration of succession planning, rotation and future skill requirements.
- Oversee Board performance review.
- Present recommendations to Shareholders for consideration and approval.
- g. Director remuneration. Responsibilities to include:
 - Review remuneration policies.
 - Review market data benchmarking information.
 - Prepare recommendations and present to Shareholders for consideration and approval.
- h. Board Skills Matrix. Responsibilities to include:
 - Review Board Skills Matrix periodically to align term of appointment to Board.
 - As the Joint Committee sees fit, prepare amendments of the Board Skills Matrix and present to the Shareholders for consideration and approval.
- i. Annual review of the Company in accordance with section 250 of the LG (WS) Act. Responsibilities to include:
 - Prepare a written annual assessment from the Joint Committee's perspective on the performance of the Company including the Company's performance in giving effect to the SOE and WSS.
 - Present annual report to the Shareholders for consideration and approval.
- j. Company's Water Services Annual Report. Responsibilities to include:
 - Review Water Services Annual Report .
 - Prepare comments on the Water Services Annual Report.
 - Provide comments to the Shareholders for consideration and approval.
- k. Company's half-yearly water services report under section 248 of the LG (WS) Act. Responsibilities to include:
 - Review Company's half-yearly report.
 - Prepare comments on the report.
 - Provide comments to the Shareholders for consideration and approval.
- l. Company's annual budget. Responsibilities to include:
 - Review Company's draft annual budget.
 - Prepare comments on the Company's draft annual budget.
 - Provide comments to the Shareholders for consideration and approval.
- m. Any other plans or reports that the Shareholders require from the Company under section 249 of the LG (WS) Act. Responsibilities to include:
 - Review the Company's plans or reports.
 - Prepare comments and provide to the Shareholders for consideration and approval.
- n. Reviewing and considering reporting from the Company as required under the Transition Agreement.
- o. Recommending whether to appoint or remove an Independent Chair to the Joint Committee (with the ultimate decision of appointing or removing sitting with the Shareholders).
- p. Any other functions (and responsibilities related to such functions) assigned to the Joint Committee by the Shareholders in writing over time (whether those functions are initially raised by the Shareholders, or initially raised by the Joint Committee for recommendation and approved by the Shareholders).

Power to act:

- q. The Joint Committee is not a decision-making body (and has no formal voting rights on behalf of the Shareholders). The Shareholders will make final decisions on all matters addressed by the Joint Committee. The role of voting in the context of the Joint Committee is to inform recommendations to the Shareholders.
- r. Recommendations to the Shareholders will be made on the following basis:
 - o Where possible, the Joint Committee will make recommendations to the Shareholders on a consensus basis. For clarity, consensus is where all JC Representatives agree on the same recommendation. The consensus recommendation will be recorded and presented to the Shareholders for a decision.
 - o Where consensus is not possible, the respective positions of each party on the Joint Committee (being TCC, WBOPDC and Tangata Whenua) will be recorded and presented to the shareholding Councils for a decision.
 - o For clarity, the Independent Chair (if there is one) will have no voting rights to inform recommendations to the Shareholders.
- s. Where reference is made to consensus, it refers to a consensus of parties on the Joint Committee being TCC, WBOPDC and Tangata Whenua), rather than a consensus of each individual JC Representative of the Joint Committee. In other words, there can still be a consensus of the parties with a minority dissenting view within one or more parties. Nevertheless, should any JC Representative wish to formally note their disagreement, even when the parties have reached a consensus, they retain the right to have their dissenting perspective recorded.

Procedural matters:

- t. **Format:** Meetings may be held in person or virtually, as required and will be open to the public.
- u. **Agenda:** Agendas and supporting documentation will be circulated at least two working days in advance of each meeting when possible. TCC, as administrative agent for the establishment of the Company, will distribute the agenda until such time that the Company undertakes these activities.
- v. **Meeting outcomes and direction:** Direction and action points will be recorded and maintained.
- w. **Standing Orders:** The Joint Committee is a public committee which operates under TCC's standing orders and pursuant to Clause 30 and 30A of Schedule 7 of the Local Government Act 2002

Power to recommend:

- x. To make recommendations to the Shareholders as it deems appropriate.

Power to sub-delegate:

- y. The Joint Committee has no power to sub-delegate any of its functions, duties or powers.

SCHEDULE 5**Statement of Expectations****Legislatively required content**

1. As required under the LG (WS) Act, the Statement of Expectations must include:
 - a) the outcomes that the Shareholders expect the Company to achieve by providing Water Services; and
 - b) requirements relating to the territorial authority's resource management planning and land use planning that are relevant to the Company's Service Area; and
 - c) a requirement that the Company must act in accordance with any relevant statutory obligation that applies to a Shareholder that is a territorial authority; and
 - d) the information that the Company must include in its Water Services half-yearly report.

Agreed additional content

2. How the Shareholders require the Company to conduct its relationships with:
 - a) the Shareholders
 - b) the Shareholders' communities or any specified stakeholders within those communities
 - c) hapū, iwi, and other Māori organisations
 - d) consumers in the Company's Service Area
3. Performance indicators and measures.
4. Expectations relating to the strategic priorities to be included in the Company's Water Services Strategy.
5. A requirement to undertake community or consumer engagement, and the contents of that engagement.
6. Expectations in relation to collaborating with the Shareholders and other parties when providing Water Services.
7. A requirement that part or all of the Company's Water Services Strategy be independently reviewed or audited.
8. An obligation on the Company to consider and report on potential options for moving towards a price harmonisation model for charges for all Water Services across the Service Areas.
9. Where required, a matter that applies:
 - a) to all or a specified part of the Water Services provided by the Company (for example, a matter that applies only to wastewater);

- b) to all or a specified part of the Company's Service Area (for example, a matter that applies only to a specific Shareholder's Service Area).

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SCHEDULE 6**Transfer Principles****Principles relating to the identification of all relevant responsibilities, assets and liabilities (including water debt) to be included in the Transfer Agreement by each Shareholder**

1. All statutory obligations relating to the provision of Water Services will transfer from the Shareholder to the Company, except in respect of stormwater and wastewater pricing and also Water Services charge collection (including for a transitional period, also wastewater pricing, wastewater charge collection and drinking water charge collection) as set out in clause 9.4 of the Shareholders' Agreement.
2. Assets to be transferred will be at the discretion of each Shareholder respectively. Assets to be transferred must relate to, or primarily to, the Water Services (including the drinking water network, wastewater network and storm water network). Assets to be transferred may include work in progress as at the Operational Date.
3. If any assets currently used by a Shareholder to provide Water Services are not owned by the Shareholder, the Shareholder will use reasonable endeavours to transfer the rights that Shareholder has to those assets to the Company.
4. All assets will be transferred on an 'as is, where is' basis.
5. The Shareholder will provide the Company with such information as it has as to the condition of the assets, the liabilities (including water debt), any associated warranties, and the transferring obligations, and any financial and legal risks relating to these matters.
6. Subject to paragraphs 6(a) to 6(c) below, freehold land required for the provision of Water Services will generally be transferred to the Company.
 - a. If transfer of freehold land is legally prohibited, impractical, or inconsistent with other statutory obligations, the Shareholder may retain ownership.
 - b. Shareholders retain discretion to transfer or retain ownership of freehold land (for either the short term or the long term). As examples, Shareholders may exercise discretion to retain multi-use land, stormwater land, or land that is subject to the Reserves Act 1977.
 - c. Where Shareholders retain ownership of freehold land required for the provision of Water Services, the Shareholder is responsible for ensuring the Company (including any agent, representative or contractor) has secure, long-term access rights to the land for Water Services operations.
7. Lease or access arrangements will be put in place for shared land use between the Shareholder and the Company (including any agent, representative or contractor).
8. The Shareholder will ensure that the Company has the benefit of all relevant resource consents.
9. The treatment of land use consents will be determined on a case by case basis.
10. Existing abatement notices and infringement notices will transfer to the Company along with the remediation plans.

11. At the discretion of the Shareholder, capital works projects in flight will generally transfer to the Company, taking into account costs incurred to date, the debt associated with those projects, and the remaining approved budgets. The Shareholder will ensure that all documentation related to the planning and execution of the project is transferred to the Company.
12. Any retentions relating to a capital works project held by the Shareholder will transfer to the Company (where that project is transferred to the Company).
13. All contracts which have an end date post 1 July 2027 will be assigned or novated to the Company.
14. All existing access rights that have been formalised will be assigned to the Company.
15. Development contributions, financial contributions, and levies collected for Water Services will transfer to the Company along with all supporting records. During a transitional period, Shareholders will continue to collect contributions on behalf of the Company until the Company assumes direct collection responsibility.
16. The agreed amount of water debt for each Shareholder will be determined using a consistent methodology agreed across the Shareholders and will be transferred to the Company.
17. The transfer of employees and contractors will be determined in accordance with applicable employment legislation and a framework agreed by the Shareholders and the Company during the Establishment Period.
18. The net asset value being transferred by the Shareholder will be determined by an independent valuation using a consistent methodology agreed across the Shareholders, with asset condition assessment, verified by an external auditor.
19. The Purchase Price (being the net asset value) will be satisfied by the issue of fully paid Class B Shares in the Company, subject to the Company taking over any existing debt.
20. Certain specified assets will not transfer but will be provided to the Company on a transitional basis.
21. Each Shareholder will delegate responsibility for monitoring and enforcing the Shareholder's bylaws related to Water Services on and from the Operational Date.

SCHEDULE 7**Shareholder Entry Principles****1. Process for admission of a new Shareholder**

A Territorial Authority (as defined in the LG (WS) Act) who is not an existing Shareholder (**Proposed Shareholder**) may be admitted as an additional Shareholder (**Admission**) in accordance with the following process:

- (a) a Proposed Shareholder must submit a proposal to the Board setting out the Proposed Shareholders' credentials and the rationale for its proposed shareholding (a **Proposal**);
- (b) following receipt of a Proposal, the Board will undertake due diligence, assess the merits of the Proposal, consider the implications and risks of it for the Company, its then current Water Services Strategy under the LG (WS) Act, Tangata Whenua's view on the Proposal, the Statement of Expectations, and any other matters considered relevant by the Board, and make a recommendation to the JC as to whether or not the Shareholders should approve the Admission (a **Recommendation**), which should include:
 - (i) any suggested terms and conditions of Admission;
 - (ii) any proposed changes to this agreement and/or the Constitution to give effect to the Proposed Shareholder becoming a shareholder in the Company;
- (c) following receipt of a Recommendation:
 - (i) the JC will consider the Proposal and the Shareholders will determine if the Recommendation should proceed to be consulted on as a change proposal in accordance with the requirements of the LG (WS) Act;
 - (ii) the Shareholders must comply with any required consultation in respect of the change proposal under the LG (WS) Act;
 - (iii) following completion of the change proposal requirements under the LG(WS)Act, the Shareholders may, at their discretion, approve the Admission as a Reserved Matter; and
- (d) in carrying out the process set out above, the parties must comply with all applicable legislative requirements.

2. Terms of admission of new Shareholder

Unless otherwise agreed by all Shareholders in writing, if the Shareholders approve the Admission of a new Shareholder under paragraph 1 of this Schedule:

- (a) the Proposed Shareholder (and any existing Shareholder, as relevant) will be issued such number of Class A Shares in the Company as is required to achieve the proportionate voting rights of each Shareholder (including the Proposed Shareholder) as set out in the Approved Recommendation;

- (b) on or shortly after Admission, the Proposed Shareholder will transfer to the Company those assets it has agreed to transfer under a Transfer Agreement, with the terms of such transfer to be no more favourable to the Proposed Shareholder than the terms of transfer applying to the initial Shareholders under their respective Transfer Agreements and otherwise on terms that the Board is satisfied are fair and reasonable in the circumstances;
- (c) the Proposed Shareholder's Transfer Agreement will provide that the consideration payable by the Company for the net assets to be acquired from the Proposed Shareholder under the Transfer Agreement will be satisfied by the Company issuing Class B Shares to that Shareholder following execution of the respective Transfer Agreement;
- (d) prior to (but conditional on) Admission, the parties will negotiate, agree and implement any changes to this agreement and the Constitution that may be necessary or desirable as a result of Admission, including to maintain the intended balance of rights, powers and obligations of Shareholders and JC Representatives, with each party to bear its own costs and expenses of negotiating, agreeing and implementing any changes, including legal costs and expenses;
- (e) prior to (and with effect on and from) Admission, the Proposed Shareholder must accede to this agreement (as amended in accordance with paragraph 2(c) of this schedule);
- (f) the parties will negotiate and agree the financial contribution to be made by the Proposed Shareholder to each Shareholder in respect of the establishment and other costs incurred by that Shareholders in establishing the Company, taking into account any recovery of such costs from the Company, with such financial contribution to be paid by the Proposed Shareholder on Admission.
- (g) the Admission will be given effect by the issue of new Class A Shares to the Proposed Shareholder, with the Company and the existing Shareholders to take all steps necessary to issue those Shares, with one year's lead time (or such other timeframe as agreed) between the approval of Admission under paragraph 1(c)(iii), and the giving effect to of the Admission under this paragraph 2(g) (or such other period as the Parties may agree with the Proposed Shareholder); and
- (h) promptly after the approval of Admission under paragraph 1(c)(iii), the Board and the JC will develop and agree a transition plan which sets out the process and timeframes for giving effect to Admission, including the steps set out above.

SCHEDULE 8**Shareholder Exit Principles****1. Process for Exit**

A Shareholder who wishes to exit from its shareholding in the Company (**Exit**) (**Exiting Shareholder**) may do so in accordance with the following process:

- (a) the Exiting Shareholder must give at least 12 months' prior written notice to the Board and the JC stating its intention to Exit (**Exit Notice**);
- (b) following receipt of an Exit Notice:
 - (i) the JC will consider the proposal set out in the Exit Notice and the Shareholders will determine if the Exit should proceed to be consulted on as a change proposal in accordance with the requirements of the LG(WS)Act;
 - (ii) the Shareholders must comply with any required consultation in respect of the change proposal under the LG(WS)Act; and
 - (iii) following completion of the change proposal requirements under the LG(WS)Act, the Board and the JC will work collaboratively to develop a detailed exit plan (**Exit Plan**) setting out a proposed process and timeline for Exit, including to address the treatment of assets and joint assets, consideration, stranded assets and liabilities and transactions costs, and reflecting the terms of exit set out in paragraph 2 of this schedule;
- (c) a finalised Exit Plan will be presented to the JC who will consider the Exit Plan and the Shareholders may, at their discretion, approve the Exit as a Reserved Matter; and
- (d) the parties must comply with all applicable legislative requirements, including in respect of consultation, in respect of considering, approving, and giving effect to any proposed Exit.

2. Terms of Exit

Unless otherwise agreed by all Shareholders in writing, if the Shareholders approve the Exit under paragraph 1(c) of this schedule:

- (a) the Exiting Shareholder will take a transfer of the relevant assets (excluding any assets which have been funded by other Shareholders), contracts, debts and related arrangements from the Company in respect of that Exiting Shareholder's Service Area (as agreed between the Company and that Exiting Shareholder) at a value determined by an independent valuer, provided that any dispute as to such assets or valuation will be determined by Expert Determination;
- (b) all of the Exiting Shareholder's Class B Shares will be transferred to the Company by the Exiting Shareholder at Exit as consideration for the transfer, and will be cancelled by the Company upon such transfer completing;
- (c) all of the Existing Shareholder's Class A Shares will be transferred to the Company by the Exiting Shareholder at Exit for no consideration, and will be cancelled by the Company upon such transfer completing;

- (d) prior to (but conditional on) Exit, the parties will negotiate, agree and implement any changes to this agreement and the Constitution that may be necessary or desirable as a result of the Exit, including to maintain the intended balance of rights powers and liabilities of Shareholders and JC Representatives, with each party to bear its own costs and expenses of negotiating, agreeing and implementing any changes, including legal costs and expenses;
- (e) on and from the date the Exit takes effect, the Exiting Shareholder will be released from its obligations under this agreement (except in respect of any breaches up to the date of Exit); and
- (f) the Exit will be given effect by the transfer of the Exiting Shareholder's Shares to the remaining Shareholders or by the Company acquiring and cancelling the Exiting Shareholder's Shares, with the remaining Shareholders to take all steps necessary to give effect to this step, with at least two years lead time between the giving of an Exit Notice under paragraph 1(a) and the giving effect to of the Exit under this paragraph 2(f).

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SCHEDULE 9**Triggers to reassess Class B shareholdings**

1. As from the Operational Date, each Shareholder will hold Class B Shares issued to it pursuant to the Transfer Agreement.
2. The Shareholders have agreed that they will reassess the relative Class B shareholdings of each Shareholder to take into account one or more of the following matters:
 - (a) The Admission of a Proposed Shareholder.
 - (b) The exit of an Exiting Shareholder.
 - (c) Any reorganisation of local government structures (such as amalgamation or otherwise) that directly impacts any Shareholder.
 - (d) A change to the ring-fencing arrangement as set out in clause 2.7 of the Constitution.
 - (e) Any periodic revaluation of the water-related assets transferred to the Company by all of the Shareholders.
 - (f) A material change to the value of the water-related assets transferred to the Company by any one of the Shareholders that would result in a change of more than 5% in the shareholding allocation.
 - (g) In the absence of any of the above, once every six years.
3. Any decision as to the issue or cancellation of Class B Shares as a result of such assessment will require approval (not to be unreasonably withheld) by the Shareholders as a Reserved Matter as outlined in Schedule 3.

SCHEDULE 10**Board Skills Matrix**

The following sets out the recommended skills and expertise for the appointment of Directors to the Board of the Company.

AREA OF EXPERTISE / SKILL	REQUIREMENT
Asset and infrastructure management and planning, and delivery	<p>Understanding of good governance of assets and infrastructure, and experience with managing civil infrastructure assets.</p> <p>At least one director should have experience in governing asset management planning and engineering in an infrastructure or utility environment or consulting to the water sector:</p> <ul style="list-style-type: none"> • Wide-ranging experience across the operations of an asset management / utility / infrastructure organisation with a strong focus on governance and strategic oversight • Experience and understanding of regulations and laws applicable to regulated utility organisations, including economic regulation, and engaging with regulators.
Commercial strategic business expertise	<p>Experience working in commercial business environment and overseeing commercial negotiations.</p> <p>Experience with digital systems and IoT for operations and awareness of associated cybersecurity risks.</p> <p>Experience with innovation capability or digital transformation experience, which is critical for modern water service delivery.</p>
Customer outcomes focused relationships, partnerships and strategies, Stakeholder / community engagement and consultation	<p>Experience in a commercial or utilities environment that demonstrates integrating a strategic customer-experience focused outcome into guiding strategies, together with inspiring a customer-focused culture across an organisation from the Operational Date.</p> <p>Experience in building and maintaining constructive relationships with partners, stakeholders, and diverse communities (including Central Government), which are underpinned by a strong, authentic, communication style. This includes the ability to understand the different drivers, expectations, and priorities of each group.</p> <p>At least one director should have proven experience in delivering a customer experience, including:</p> <ul style="list-style-type: none"> • Developing long-term strategies that position customers and partners as central drivers of high-performing service delivery. • The ability to champion and elevate the end-to-end customer journey, ensuring colleagues, partners, and stakeholders align their decisions and behaviours with desired customer outcomes. <p>Prior involvement in extensive public engagement and consultation processes, including experience building and maintaining a social licence to</p>

AREA OF EXPERTISE / SKILL	REQUIREMENT
	operate, and working collaboratively with partners and communities to achieve shared outcomes.
Diversity / Inclusion	Collectively, the directors should reflect diversity background, and experience. They should bring a range of cognitive styles, cultural perspectives, and professional expertise to ensure inclusivity, representation, and the ability to respond effectively to the needs and expectations of stakeholders and the Tauranga/Western Bay region.
Experience operating within a regulated environment	<p>Experience and understanding of the regulatory environment and compliance requirements specific to the utility / infrastructure sector. This includes familiarity with laws, regulations, and policies that govern that infrastructure industry and legal expertise in interpreting complex legislation, advising on compliance frameworks, and ensuring organisational adherence to statutory and regulatory obligations.</p> <p>Resource and environmental management experience, and a practical understanding of the Resource Management Act 1991.</p>
Finance and risk	<p>Experience in establishing complex commercial arrangements, including capital structure, debt financing and pricing and charging mechanisms; experience within networked regulated industries; and an ability to bring appropriate pragmatic advice to the Board table.</p> <p>At least one director (ideally two) should have experience in finance, accounting and risk within an establishment context:</p> <ul style="list-style-type: none"> • Experience managing or overseeing large high stakes investment programmes. • Experience evaluating financial plans ensuring the organisation's long term financial sustainability. • Expertise in identifying, assessing, and mitigating financial, accounting operational, and regulatory risks associated with utility operations. • Ability to assess financial strategies to support sustainable and compliant performance.
Governance and leadership experience	<p>Significant governance and leadership experience, in either a utility, commercial sector organisation, or in a public body.</p> <p>Direct experience or a close understanding of local government type decision-making processes, and political understanding.</p> <p>Preferably leadership experience in water service delivery, or a similar service delivery industry.</p> <p>At least one director should have the ability and willingness to chair the Board.</p> <p>The ability and willingness to participate fully in the life of the Board and on subcommittees as required.</p>

AREA OF EXPERTISE / SKILL	REQUIREMENT
	A commitment to ensuring continuity of governance and maintaining the capability and expertise required for effective long-term oversight after establishment.
Health and Safety	Detailed understanding of health & safety compliance and regulatory requirements.
Knowledge of Tauranga and Western Bay / Public Accountability	<p>A deep understanding of the Tauranga/Western Bay region and the local government context within the region, and experience and knowledge of communities and appreciation of public accountability.</p> <p>At least one director should be Tauranga/Western Bay based.</p>
Te Ao Māori me Te Tiriti o Waitangi	<p>Deep understanding of Treaty of Waitangi (Te Tiriti o Waitangi) and an ability implement Treaty of Waitangi (Te Tiriti o Waitangi) principles in governance, decision-making and engagement.</p> <p>Knowledge of the iwi and hapu in the Tauranga and Western Bay of Plenty and the impact of the water infrastructure on the iwi and hapu.</p> <p>A strong understanding of iwi and hapu governance arrangements and existing relationships, commitments and obligations including Treaty settlement arrangements and obligations.</p> <p>Ability to integrate Māori values and mātauranga Māori into strategic planning, monitoring and operational frameworks.</p> <p>Strong cultural competency and extensive experience in relationship management with iwi and hapu.</p>
Sustainable outcomes and environmental wellbeing	<p>At least one director should have experience in social and environmental sustainability, climate adaptation and climate resilience planning, including an understanding of sustainability frameworks, risk-mitigation strategies, and long-term infrastructure resilience requirements.</p> <p>Deep understanding of kaitiakitanga as a guiding principle for environmental care and intergenerational responsibility.</p> <p>Proven ability to integrate Te Mana o Te Wai and environmental wellbeing objectives into strategies to ensure water services enhance ecosystems and community health.</p> <p>Experience in environmental governance, sustainability frameworks, and climate resilience planning.</p>
Transitional change and/or new organisation establishment	<p>Significant senior level experience and success in large-scale sector and/or organisation reform, change and establishment, preferably at a governance level.</p> <p>Prior proven experience in large scale transitions, organisation reform or the establishment of a new entity.</p> <p>Proven experience in contributing to and building a new entity's organisational structures.</p>

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Schedule of CTS references within Foundation Documents

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
1	Name of Water Organisation	Handled separately (naming to be decided in another workstream).	No (addressed outside these documents)
2	TCC stormwater responsibility	WO to assume responsibility for TCC's stormwater services (TCC to transfer stormwater assets and operations to WO).	Yes (SHA clause 9.3)
3	TCC stormwater delivery if TCC retains stormwater	<i>Not applicable – TCC decided to transfer stormwater, so no consensus on this scenario.</i>	No (not applicable, since scenario did not eventuate)
4	Stormwater charging – shareholder operational input	Shareholders may give some operational direction on stormwater charging (only) in their area.	Yes (SHA clause 9.4)
5	Number of directors on WO Board	Up to 5 directors (Board may temporarily exceed 5 for succession planning; fewer than 5 possible at commencement).	Yes (Const. cl 12.2)
6	Director appointment method	All directors jointly appointed by Shareholders (directly or via the Joint Committee); Joint Committee initially can only recommend; all Directors must be independent and meet Board Skills Matrix and council policy criteria.	Yes (SHA cl 4 and Const. cl 12.3)
7	Director term of appointment	3-year term per appointment; Directors may serve up to 3 terms (max. ~9 years) unless extended by special shareholder approval.	Yes (Const. cl 12.6)
8	Director remuneration – who approves	Joint Committee to recommend director fee levels (considering council policy & market data); final decision by full councils (shareholders).	Yes (Const. cl 12.18 and SHA Schedule 4, cl (g) JC reviews director pay and makes recommendations)

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
9	Interested directors voting on certain matters	Interested Directors not to vote, except for specified circumstances (payments under Companies Act s 161 and director indemnity/insurance arrangements).	Yes (Const., cl 13.3)
10	Whether dividends are permitted	No dividends unless unanimously approved by all Shareholders and approved by the Board (ordinary resolution), subject to Companies Act solvency tests.	Yes (Const., cl 8.1 and SHA, cl 10.8 and SHA, Schedule 3)
11	Additional reporting by WO to Councils	Do not hard-code extra reporting requirements in foundation docs; rely on s 249 LG(W) Act flexibility (shareholders can request additional reports if needed).	Yes (SHA, Sch 4 cl (m) enables JC to recommend further reports and Const. Does not include additional reporting requirements – Const., cl 11)
12	Shareholder involvement in Water Services Strategy (WSS)	Shareholders may comment on draft WSS but cannot require changes or approve the final WSS (other than statutory rights to comment).	Yes (Const., cl 3.2)
13	Shareholding allocation methodology (initial share split)	Two classes of shares: Class A (voting rights only) divided equally among councils; Class B (ownership shares) allocated in proportion to each council's net water asset value transferred (valuations by one independent valuer as at 1 July 2027).	Yes (Const. cl 4 and SHA, cl 9.1(d) SHA, Sch 6 cl 18-19)
14	Ongoing review/adjustment of shareholdings	Shareholdings to be reviewed and adjusted regularly, per defined triggers (see Item 46 below).	Yes (SHA, cl 10.7 and SHA, Schedule 9)
15	Voting rights attaching to shares	Each shareholder to have equal voting power regardless of ownership percentage (i.e. one council, one vote).	Yes (Const., cl 4.3 and SHA, cl 2.1(a))
16	Size of Joint Committee	3 representatives per party initially (3 TCC, 3 WBOPDC, 3 Tangata Whenua); flexibility to alter numbers (e.g. reduce to 2 each as more councils join).	Yes (SHA, Schedule 4)

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
17	Joint Committee membership – elected members from councils	TCC: all JC reps must be elected members of TCC. WBOPDC: at least one elected member (others may be senior officials or independent experts).	Yes (SHA, Schedule 4)
18	Joint Committee – Tangata Whenua role (voting rights)	JC to be advisory-only (no binding votes for any members). Tangata Whenua will have seats on the JC (like councils), making recommendations by consensus (see Item 32) rather than exercising any binding vote.	Yes (SHA, Schedule 4 and SHA cl 6.3)
19	Joint Committee – number of Tangata Whenua reps	Tangata Whenua to have the <i>same number</i> of JC representatives as each council.	Yes (SHA, Schedule 4)
20	Joint Committee independent chair – whether to have one	Joint Committee may recommend appointing an independent chair, but ultimate decision (appointment or removal) lies with the Shareholder councils.	Yes (SHA, Schedule 4, para o)
21	Joint Committee independent chair – voting rights	If an independent chair is appointed, that chair is to have no voting rights (e.g. no casting vote).	Yes (SHA, Schedule 4, Para r)
22	JC nominations – Tangata Whenua reps	Tangata Whenua representatives on the JC to be appointed by the councils following nomination by Tangata Whenua.	Yes (SHA, Schedule 4 – to be appointed by TCC as administrative agent for the Shareholders)
23	JC nominations – all JC members	Each council appoints its own JC members; all Shareholders jointly appoint Tangata Whenua members (if any) and any independent chair.	Yes (SHA, Schedule 4)
24	LGFA debt guarantee – extent of council guarantees	Each council’s guarantee to LGFA is joint and several for 100% of the WO’s debt, paired with a side agreement that each council will indemnify the other for any exposure beyond its own “ring-fenced” debt share.	Yes (SHA, cl 7.3)
25	Threshold for changing LGFA guarantee approach	Threshold to alter the above approach: >75% of shareholders (i.e. a special resolution), rather than unanimity.	Yes (SHA, Sch 3) and Const. def of Special Resolution

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
26	Shareholder influence on WO debt or WSS (carve-outs)	Do not create any special “carve-out” rights in the documents for shareholders to dictate debt levels or require WSS changes; rely solely on ordinary statutory tools (SOE comments, etc.).	Yes (Const. cl 3.2)
27	Frequency of WO Board meetings	“Hybrid” approach – Board to meet monthly or as otherwise determined by the Board.	Yes (Const., Sched 2 cl 1.1)
28	Board chair casting vote	No – the chair of the Board will not have a casting vote.	Yes (Const., Sched 2 cl 6.2)
29	Frequency of Joint Committee (Shareholders’ Representatives Forum) meetings	“Hybrid” approach – JC to meet bi-monthly or as otherwise determined by the JC or the Shareholders.	Yes (SHA, Sch 4)
30	Frequency of formal Shareholder meetings (company shareholders’ meetings)	Annual meeting, with the right for any Shareholder to call a meeting at any time if needed (no less frequent than annually).	Yes (Const. cl 10.1 and 10.2)
31	Quorum for shareholders’ meetings	Two representatives from each shareholding council.	Yes (Const., Sch 1, Cl 4)
32	Joint Committee decision-making method	Joint Committee to operate by consensus where possible (i.e. recommendations require all council and TW groups in agreement). If consensus cannot be reached, record each party’s position for councils to consider; no formal voting power on the JC.	Yes (SHA, Sch 4 cl r)
33	Joint Committee responsibilities (subject matter)	Include a specific list of JC’s remit (as per Schedule A in the CTS, possibly amended) in the foundation documents.	Yes (SHA, Sch 4)
34	Form of arrangement – Joint Committee vs other	Establish a formal joint committee under the LGA (not an informal body or SDMB or purely contractual arrangement).	Yes (SHA, cl 6.2)

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
35	Need for unanimous shareholder approval on certain decisions	Yes – identify certain fundamental decisions that will <i>require</i> unanimous approval of all Shareholders.	Yes (SHA, Sch 3)
36	Matters requiring unanimous shareholder approval (list)	Unanimous approval required for: adding new shareholders; winding up/liquidation; amending the Constitution or SHA; amalgamation/merger/major restructure; adding any further unanimous matters; (added later) removing any anti-privatisation clause; and dividend payments (per Item 10).	Yes (SHA, Sch 3)
37	Adding special resolution topics (beyond statutory)	Yes – allow additional matters to be specified as needing a 75% shareholder vote (special resolution) beyond those already in the Act.	Yes (SHA, Sch 3)
38	Matters requiring special ($\geq 75\%$) shareholder approval (list)	In addition to statutory special resolutions, require special (75%+) approval for: issuing or altering shares or rights (or buybacks); any material change in WO's business; approving shareholder funding or guarantees; giving financial assistance for share purchases; and adding any further special-resolution matters in future.	Yes (SHA, Sch 3)
39	Increasing the special resolution threshold above 75%	No – leave the special resolution threshold at the default 75% (no higher super-majority).	Yes (Const. definition of Special Resolution)
40	Additional anti-privatisation protections	Include extra anti-privatisation clause(s) in the constitution (beyond the Act's provisions) and require unanimous shareholder approval to amend them. (<i>WBOPDC also "noted a binding poll is an option under consideration". This "option" has not been incorporated into the foundation documents.</i>)	Yes (Const. cl 2.6 and SHA, Cl 3.2 and SHA, Sch 3)
41	Dispute resolution regime for Shareholders	Escalation process agreed: Negotiation → Mediation → Arbitration (with ability to go to court for urgent interim relief).	Yes (SHA, Cl 13)

CTS Item	Term	Summary of Commercial Term resolved by TCC & WB	Incorporated into SHA / Constitution (key reference)?
42	Frequency of reviewing the Joint Committee's role/functions	Consensus to periodically revisit the JC's function: at triggers such as a new shareholder joining, and toward end of each local government term (triennium), or as decided by shareholders (plus any significant legislative changes, etc.).	Yes (SHA, Cl 6.5)
43	Timeline for revisiting "ring-fencing" of debt/assets	Require review of the financial ring-fencing arrangement no later than 3 years after incorporation (and absolutely by year 6 if deferred at 3-year point).	Yes (Const. 2.8)
44	Selection of Board Chair	Chair of the Board to be selected by the Shareholders (not appointed by Board).	Yes (Const. 12.8)
45	Tangata Whenua holding Class A (voting) shares	<i>TCC/WB preferred councils-only holding Class A; TW preferred to hold Class A if legally possible. Ultimately unresolved at JWG; both positions were forwarded to councils.</i>	Yes – Tangata Whenua do not have Class A shares
46	Triggers to re-assess Class B shareholdings	Agree on a defined list of events that would trigger a re-assessment (and potential rebalancing) of ownership percentages (Class B shares).	Yes (SHA, Sch 9)

8.2 Development of Tangata Whenua Relationships Work Plan

File Number: A20518959

Author: Ariell King, Workstream Lead, Strategy, Policy and Bylaws

Authoriser: Christine Jones, General Manager: Strategy, Partnerships & Growth

PURPOSE OF THE REPORT

1. To provide an overview of the proposed approach to the development of a Tangata Whenua workplan.

RECOMMENDATIONS

That the Water Organisation Joint Committee:

- (a) Receives the report "Development of Tangata Whenua Relationships Work Plan".

EXECUTIVE SUMMARY

2. This report outlines the proposed scope and approach to developing a Tangata Whenua Relationships Work Plan for the Water Organisation.
3. The workplan will build on the existing stocktake, partnership principles paper and matters identified for further consideration by the Joint Committee.
4. Additionally, the workplan will confirm agreed outputs, responsibilities, timeframes and engagement with Iwi and Hapū, including partnership principles, representation, any impacts on resource consents and operational policies, and tools and training.
5. Feedback is sought from the Joint Committee on the proposed scope and approach.

BACKGROUND

6. During the due diligence process and development of the commercial terms for the Water Organisation a stocktake of existing arrangements, policies and procedures in respect of relationships and interactions between Tangata Whenua and Councils was prepared (Attachment 1). The stocktake of these arrangements was received by the Joint Working Group (JWG) on 23 February 2026.
7. Tangata Whenua representatives on the JWG also presented a paper to the JWG (Attachment 2) that set out the principles supporting a Tangata Whenua partnership approach.
8. There were several Tangata Whenua related items that were added to the "Park and Return" list that the JWG agreed could be progressed at a later date. The following are considered relevant to the development of a workplan:
 - (a) Clarification of the Water Organisations commitment to Treaty of Waitangi/Te Tiriti o Waitangi principles and settlement obligations and clarification on the commitment and approach to partnership with Tangata Whenua.
 - (b) Review of the Tangata Whenua stocktake to determine how each item will be addressed in the Water Organisation environment.
 - (c) Clarification on how the establishment of the Water Organisation will impact existing resource consents (including water-take consents) relating to Treaty of Waitangi/Te

Tiriti o Waitangi settlements. For example, Tangata Whenua are particularly concerned to ensure that local Marae will have ongoing access to the Waiari water supply

(d) Discussion on the Water Organisations approach to environmental performance.

9. TCC and WBOPDC at their respective meetings on 24 March both passed the following resolution:

“Adopts the principle of maintaining Tangata Whenua participation, engagement and arrangements, with existing commitments and practices either retained or bettered during, and following, the transition to a Water Organisation.”

Development of Tangata Whenua workplan

10. The proposed approach is to capture what has been provided to date (outlined above) and then develop the draft workplan. This would include confirming the agreed outputs, timeframes and engagement with Iwi and Hapu on various components.
11. This approach recognises feedback that a co-design approach is taken on matters related to Tangata Whenua.
12. It is intended that the draft workplan is developed with Tangata Whenua representatives' input and guidance on further engagement will be sought during the development process.
13. The table below outlines the proposed components of the workplan and who would be involved to progress each component. Comments are welcome on this approach.
14. TCC is currently working with Tangata Whenua on a Relationship Review. Those discussions will likely provide direction on 'who' from Tangata Whenua is involved in various processes and how that occurs. This will likely have flow on impacts for these Water Organisation related discussions.

Component	Scope Outline	Who to progress
Partnership principles	<ul style="list-style-type: none"> Development of partnership principles between Tangata Whenua and the Water Organisation and how these principles will be implemented. Where and how the Water Organisation will commit to Treaty of Waitangi/Te Tiriti o Waitangi principles and settlement obligations. How will the Water Organisation connect at a partnership level with Tangata Whenua? 	<ul style="list-style-type: none"> Board of Directors WO CEO Tangata Whenua
Partnership representation	<ul style="list-style-type: none"> Review existing waters related Council Committees that Tangata Whenua have representation on, and establish what the arrangements will be in the Water Organisation environment (<i>Note – the stocktake in Attachment 1 provides a starting point for this discussion</i>). 	<ul style="list-style-type: none"> Board of Directors WO CEO Tangata Whenua
Engagement approach with	<ul style="list-style-type: none"> Discussion on engagement approaches with Iwi and Hapu. 	<ul style="list-style-type: none"> WO CEO Tangata Whenua

Component	Scope Outline	Who to progress
Iwi and Hapu	<ul style="list-style-type: none"> How should the Water Organisation engage on operational matters specific to individual Iwi or Hapu. (<i>Note – the stocktake in Attachment 1 provides a starting point for this discussion</i>). 	<p>Relationships Lead</p> <ul style="list-style-type: none"> Te Rangapu, WB TW forums
Water Services Strategy	<ul style="list-style-type: none"> Develop agreed process for engagement with Tangata Whenua on the Water Services Strategy (WSS) content (e.g., is that via the Tangata Whenua representatives on the Joint Committee or a different process?). Identify areas of interest for early conversations in the development of the WSS including Te Mana of Te Wai, levels of service, and investment priorities. 	<ul style="list-style-type: none"> Board of Directors WO CEO WO Joint Committee Te Rangapu, WB TW forums
Resource Consents	<ul style="list-style-type: none"> How will arrangements with Tangata Whenua relating to existing resource consents (particularly where those consents provide for Tangata Whenua involvement, engagement or considerations) be transferred into the WO environment. 	<ul style="list-style-type: none"> Councils (via the Transfer Agreement) WO CEO Tangata Whenua Relationships Lead Iwi and hapu (as per specific consents)
Operational Policies	<ul style="list-style-type: none"> Which policies transfer from current Council policies and apply (potentially for an interim period) (<i>Note – the stocktake in Attachment 1 provides a starting point for this discussion</i>). Which policies need to be reviewed creating a combined updated policy that applies for the Water Organisation. Identify any gaps in existing policy and how these could be addressed. 	<ul style="list-style-type: none"> WO CEO Tangata Whenua Relationships Lead Te Rangapu, WB TW forums
Organisational templates, tools and training	<ul style="list-style-type: none"> Which templates, tools and training currently utilised by the Councils transfer to the Water Organisation and apply (potentially for an interim period), which ones need to be reviewed and are there 	<ul style="list-style-type: none"> WO CEO Tangata Whenua Relationships

Component	Scope Outline	Who to progress
	any gaps in existing templates, tools and training which need to be addressed. (<i>Note – the stocktake in Attachment 1 provides a starting point for this discussion</i>).	Lead

STATUTORY CONTEXT

15. The matters that this report addresses are considered to be consistent with the requirements of the Local Government Act and Local Government (Water Services) Act.
16. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
 - (a) In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (b) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (c) any persons who are likely to be particularly affected by, or interested in, the decision
 - (d) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
17. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance. The decision is seeking agreement to continue the development of the Tangata Whenua workplan as part of the wider Establishment Plan for the Water Organisation.

OPTIONS ANALYSIS

18. No options have been considered in preparing this report. This report is providing information on the proposed approach to the development of the Tangata Whenua workplan.

FINANCIAL CONSIDERATIONS

19. The staff resources to undertake and complete this work is included in the overall budget to establish the Water Organisation.

CLIMATE IMPACT

20. Establishing a dedicated WO supports improved planning, investment and resilience of water infrastructure, contributing to climate adaptation outcomes. Having an effective (appropriately resourced) waters infrastructure network will support successful planning, asset management and delivery, contributing to water services which are sustainable and responsive to climate change.

SIGNIFICANCE

21. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.

22. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of medium significance. The report brings together discussions and directions from the work to date, and incorporates into a high-level scope and approach. The Water Organisations' relationship and arrangements with Tangata Whenua are important to address prior to the commencement of the entity on 1 July 2027.



ENGAGEMENT

24. Taking into consideration the above assessment, and that views of the Tangata Whenua representatives on the Joint Working Group are reflected in this report, and that the matter is of medium significance, officers are of the opinion that no further engagement prior to the Joint Committee considering this report.

NEXT STEPS

25. Development of the draft Tangata Whenua workplan will proceed working with Tangata Whenua representatives.
26. The Water Organisation CEO approves and begins implementation of the final workplan.

ATTACHMENTS

1. **Attachment 1 - Stocktake of Tangata Whenua Relationships with TCC and WBOPDC - A20583312** [↓](#) 
2. **Attachment 2 - Tangata Whenua Principles Supporting Partnership Approach - A20583146** [↓](#) 

**Water
Services**

Memorandum – Stocktake of existing Tangata Whenua arrangements and next steps

To: Joint Working Group, Water Organisation Establishment

CC: Matire Duncan, Spencer Webster

From: Ariell King, Programme Manager: Water Organisation Establishment, Western Bay of Plenty
Fiona Nalder, Principal Strategic Advisor, Tauranga City Council

Date: 23 February 2026

Purpose

1. This memo and its attachments provide stocktakes completed by each Council regarding existing Tangata Whenua arrangements (Attachments 1 & 2) and suggests next steps for the proposed Water Organisation (WO) during the establishment phase (post 2 April 2026). It also references previous papers presented to the Joint Working Group.
2. Note: the governance role of Tangata Whenua in relation to the proposed Water Organisation (for example, options for representation on a Stakeholder Representatives Forum) are being considered via separate issues and options papers and will be decided on by each Council at the 2 April Council meetings. This memo focuses on potential next steps from a policy, procedures and processes level (including non-governance forums and groups).

Attachments

- Attachment 1: Tangata Whenua relationship points with Tauranga City Council's waters' business
 - Attachment 2: Western Bay of Plenty District Council, Tangata Whenua Relationship Arrangements
3. Previous papers provided to the Joint Governance Group (JWG) regarding Tangata Whenua matters:
 - Fact Sheet: Legislative framework for Councils in respect to Tangata Whenua and the proposed Water Organisation (JWG Agenda 29 January 2026)
 - Principles Supporting a Tangata Whenua Partnership Approach (JWG Agenda 2 February 2026)

Existing arrangements

4. Attachments 1 and 2 provide a stocktake of the Councils' current arrangements with Tangata Whenua. These include:

- Council, formal Committees, Advisory Groups and council-controlled organisations
- Sub-regional groups and governance arrangements, including SmartGrowth, Te Maru o Kaituna River Authority, the Tauranga Moana Advisory Group and the Waiari Kaitiaki Advisory Group.
- Tangata Whenua forums (TCC - Te Rangapu Mana Whenua o Tauranga Moana Partnership and the Kaumatua Forum, WBOPDC - Te Kāhui Mana Whenua o Tauranga Moana and Te Ihu o te Waka o Te Arawa)
- Policies and procedures, including both generalised and water specific policies and procedures.
- Iwi and Hapū Relationship Protocols
- Water specific agreements and groups
- Strategic documents, Iwi and Hapū Management Plans, and tools, templates and training

Legislative considerations

- Local Government Act 2002
 - Local Government (Water Services) Act (2025)
5. These are the two key pieces of legislation relevant to partnering with Tangata Whenua within the context of a WO, and both are underpinned by the Treaty of Waitangi. The obligations/requirements regarding how local government works with Tangata Whenua/Māori are passed on via legislation to local government (noting that local authorities are not direct Treaty partners). For more information refer to the Fact Sheet: Legislative framework for Councils in respect to Tangata Whenua and the proposed Water Organisation (JWG Agenda 29 January 2026).

The Commitment Agreement and progress to-date

6. Both Councils entered into a Commitment Agreement to guide establishment work for proposed WO. This included agreed upon Establishment Principles (Attachment 1 to the Commitment Agreement), which contains the following key strategic principle.
- Iwi/Hapū: The WO will uphold Treaty of Waitangi obligations and commitments, existing formal relationships, and maintain open engagement through the support of established Iwi and Hapū collectives.
7. To date, the Joint Working Group has reached consensus on recommending to the Councils that Tangata Whenua are included as members on the proposed Stakeholder Representative Forum (as agreed upon at the 13 February Joint Working Group).

Next Steps

8. Existing policies and commitments will transition through to the proposed WO. In the short-medium term this will look like the WO utilising approved policies for each local government area (e.g. Western Bay of Plenty District's policies will continue to be applicable for that local government area).
9. It is anticipated that the WO will engage with existing groups, such as Tauranga City Council's Te Rangapu Mana Whenua o Tauranga Moana Partnership, rather than create new forums. This will necessitate working closely with the strategic Māori advisors/teams at each Council.

10. Over time, the WO will consider each local government's policies and procedures and, where appropriate, develop new policies that apply to the sub-region covered by the WO. For avoidance of doubt, the WO and any new policies and/or procedures will:
- Take into account Iwi and Hapū management plans
 - Take a 'no worse off' approach, which will ensure existing commitments and practices are either retained or bettered via the transition process.
11. It is recommended that the first priority is to develop policy which will outline how the WO proposes to engage with Tangata Whenua, and how Tangata Whenua will be remunerated to support their participation. The WO may choose to develop this policy (or policies) prior to the 'go-live' date of 1 July 2027.
12. Additionally, it is recommended that the elements of each Council's stocktake are worked through individually, with reference to the principles bullet-pointed above under paragraph 10 above. For example, existing consents and consent conditions will directly transfer to the new WO, and existing Iwi and Hapū management plans and protocol agreements will also directly transfer. However the WO may choose to develop its own policies and procedures in other areas (for example, acquisition and disposal of property) and the principle of 'no worse off' will apply in these circumstances.

Recommendations

13. That the Joint Working Group recommends to the Councils that they:
- a. Adopt the principle of "no worse off" with respect to Tangata Whenua participation, engagement and arrangements, with existing commitments and practices either retained or bettered during, and following, the transition to a Water Organisation.
 - b. Agree that developing a Tangata Whenua Engagement Policy and a Tangata Whenua Remuneration Policy will be a priority for the Water Organisation, and note that this will be considered for inclusion in the Statement of Expectations.
 - c. Agree that the Water Organisation is to consider each existing arrangement (as identified in each Council's Tangata Whenua stocktake) and assess and identify how they will be transferred across to Water Organisation, and note that this will be considered for inclusion in the Statement of Expectations.

TANGATA WHENUA RELATIONSHIP POINTS WITH TCC WATERS BUSINESS

Stocktake of existing arrangements, policies and agreements with and impacting Tangata Whenua

This document provides an overview of the relationship points between Tangata Whenua and the Tauranga City Council Waters Business, focusing on the existing arrangements, policies, and agreements that impact Tangata Whenua. This includes governance entities and protocols in place, highlighting both general and water-specific interactions, as well as formal agreements and procedures that underpin these relationships.

Council, Formal Committees, Advisory Groups and CCO's

Name of Arrangement	Tangata Whenua Party	Purpose	Notes
Council - Terms of Reference	Maori Ward Councillor	Various Governance Matters	Bylaws and other legislatively prescribed matters may continue to require council resolutions
Audit and Risk Committee - Terms of Reference	Tangata Whenua Representative as per Terms of Reference	Various as per Terms of Reference	
City Future Committee - Terms of Reference	Tangata Whenua Representative as per Terms of Reference	Various as per Terms of Reference	
City Delivery Committee - Terms of Reference	Tangata Whenua Representative as per Terms of Reference	Various as per Terms of Reference	
Tangata Whenua and Council Committee	Tangata Whenua Representatives as per Terms of Reference	Various as per Terms of Reference	
Nga Poutiriao o Mauao Advisory Group	4 Tangata Whenua Representatives appointed by Mauao Trust	Mauao Related	significant water supply assets on the land managed by this group (water reservoir and pipeline)
Te Maru o Kaituna River Authority	Representatives of Tapuika Iwi Authority Trust, Te Kapu o Waitaha, Te Tahuu o Tawakeheimoa Trust, Te Pumautanga o Te Arawa Trust	Kaituna catchment matters led by	co-governance partnership mandated to restore, protect and enhance the environmental, cultural and spiritual health and well-being of the Kaituna River partnership under the group statement of purpose to build strong working relationships to support and enhance the health of our harbour and catchments.
Tauranga Moana Advisory Group	Representatives of Ngāi Te Rangi, Ngāti Ranginui and Ngāti Pūkenga	Tauranga Harbour and catchment matters led by BOPRC	Previously the Dive Crescent Governance Group
Taumata Kahawai Governance Group	Otamataha Trust	joint management of a portion of land alongside Dive Crescent	

- Council CCO's (includes TMoTP)
- SmartGrowth Leadership Group
- Combined Tangata Whenua Forum (SmartGrowth)

Refer attachment 1 for diagram of these arrangements



Tangata Whenua Forums

Te Rangapu Mana Whenua o Tauranga Moana Partnership

An autonomous body made up of 17 representatives from each of the hapū and iwi in the Tauranga City Council area. The purpose of the Te Rangapu is to:

- provide a forum for tangata whenua within the Tauranga City Council area to discuss and debate local authority concerns and allow the Te Rangapū Mana Whenua o Tauranga Moana Partnership to implement initiatives to advance and protect the interests of tangata whenua
- provide an opportunity for Council and the Te Rangapū Mana Whenua o Tauranga Moana Partnership to discuss and develop Council concepts, procedures, policies and projects that will impact on Tauranga Moana Tangata Whenua.

Kaumatua Forum

Open membership to any person of Kaumatua status in and around Tauranga Moana

Purpose is to:

- Provide an opportunity for Kuia and Koroua of Tauranga Moana to raise issues and concerns with the Mayor, Chief Executive and staff (Rangatira ki te Rangatira)
- Offer an opportunity for Kuia and Koroua of Tauranga Moana to be updated on Council projects that have been identified as significant to them
- Provide reference forum to Council's Te Pou Takawaenga and to the Cultural Heritage Manager on the Tauranga Heritage Collection on tikanga and kawa relating to Ngā iwi me Ngā hapu o Tauranga Moana.

Water Specific Arrangements

Name of Arrangement	Parties include	Purpose	Notes
Wastewater Management Review	Representatives from Ngā Pōtiki, Ngāti Ranginui, Ngāi Te Rangī	To ensure Wastewater operations are in accordance with the Wastewater Management Review Committee Management Plan	condition of WW consent RC62878. TCC to establish and retain Committee, and facilitate role/function. Operates in accordance with a plan which is to describe membership – currently elected members/tangata whenua.
Waiari Kaitiaki Advisory Group	Tapuika Iwi Authority, Te Kapu o Waitaha, Mokopuna o Tia me Hei and Ngati Whakaue ki Maketu (Te Hononga) Representatives	Waiari catchment matters	condition of Waiari Water Take consent RC65637. Consent stipulates function and membership of group (incl. TCC/WBOPDC staff + iwi/hapu)
Matapihi Southern Pipeline Advise	Ngāti Tapu and Ngāi Tūkairangi Representatives	Matapihi matters (expanded from original pipeline purpose)	TOR relates to Southern Pipeline, now broadened to incl. tangata whenua aspirations for area e.g. maori land development

Note : Te Maru o Kaituna River Authority needs to move from the first table to the 2nd table.



General TCC Policies/Procedures

Policy/Procedure Name	Notes
Tangata Whenua Remuneration Policy 2021	This policy establishes the remuneration for tangata whenua providing expert advice to council decision-making processes
Engaging with Tangata Whenua on Resource Consents Application Policy 2025	This policy provides guidance on best practice engagement between tangata whenua and resource consent applicants which exceeds the minimum enabled by the City Plan to help build and strengthen relationships. It outlines the roles and responsibilities of tangata whenua, applicants, and the council to support the recommended engagement
Property Acquisitions and Disposals Policy 2023	This policy sets out council's approach to buying, selling or transferring property, and road stopping. It includes a right of first refusal for mana whenua to buy land classified as surplus at its assessed market value.
Koha policy and Koha procedure	The policy is to provide guidance and clarity in the practice of giving koha by TCC. The procedure will provide guidelines to staff to ensure the correct implementation of the Koha Policy.
Cultural monitoring earthworks protocol, policy and procedure	To provide a consistent approach to undertaking cultural monitoring of earthworks by Tangata Whenua
Cultural impact / Māori values assessment – procedures	To provide a consistent approach to engaging Tangata Whenua to complete a Cultural Impact Assessment (CIA) and/or a Maori Values Assessment (MVA)

- Naming Policy (encourages the use of Māori names to contribute to the visibility of Tauranga Māori identity and heritage)
- TCC and Kaumatua / Tangata Whenua guidance on involvement in significant activities and events

Water Specific Policies/Procedures

Policy/Procedure Name	Column1	Column2
Wastewater Overflow Notification Procedure	Notification to Tangata Whenua RMA Reps	
Response Process to Pollution Events into our Stormwater Network	Notification to Tangata Whenua RMA Reps	If the pollution goes into the receiving environment that will also trigger notification and dealings with BOPRC

Iwi / Hapu Relationship Protocols

These agreements outline the commitment to the relationship between Council and Iwi/Hapū. (Refer attachment 2 for diagram of the relationships)

Name of Agreement
Ngāti Ruahine Hapū/ TCC relationship protocol
Ngāi Te Ahi Hapū/TCC relationship protocol
Ngāti He Hapū/TCC relationship protocol
Ngāti Ranginui Iwi/TCC relationship protocol
Ngāi Te Rangī Iwi/TCC relationship protocol
Ngāti Kahu Hapū/TCC relationship protocol
Ngāti Hangarau Hapū/TCC relationship protocol
Ngāti Kuku Hapū/TCC relationship protocol
Ngāi Tukairangi Hapū/TCC relationship protocol
Ngāti Tapu Hapū/TCC relationship protocol



Ngāti Kaahu Ki Mangatawa Hapū/TCC relationship protocol
Ngāi Tamarawaho Hapū/TCC relationship protocol
Waitaha Iwi/TCC relationship protocol
Tapuika Iwi/TCC relationship protocol
Ngāti Whakaue ki Maketu/TCC relationship protocol
Ngāti Pukenga Hapū/TCC relationship protocol
Ngā Potiki/TCC relationship protocol

Water Specific Agreements

Agreement Title	Parties	Date/Notes
Memorandum of Understanding establishing Southern Pipeline Advisory Group	Ngāti Tapu, Ngāi Tūkairangi and TCC	Aug-22
Te Maunga Stormwater and Recreation Lease	Mangatawa-Papamoa Block Inc	1/04/2017
Te Maunga Reservoir Lease	Mangatawa-Papamoa Block Inc	1/07/2006
194 Gloucester Road Easement	Mangatawa-Papamoa Block Inc	
210 Maranui Street Easement	Mangatawa-Papamoa Block Inc	
242 Grenada Street Easement	Mangatawa Pacific Lakes Limited	
Agreement for Iwi/Hapu Engagement	Various	Multiple of these agreements are current as various waters projects are underway
Short Form Agreement for Consultant Engagement	Various	Multiple of these agreements are current as various waters projects are underway

Other Key Resources

- Our Directions Framework (including Te Kupenga) [Our Direction - Tauranga City Council](#)
- Te Ao Maori approach [Te Ao Māori approach - Tauranga City Council](#)
- Iwi / Hapu Management Plans
- Iwi / Hapu Contacts (sources mainly from the Iwi / Hapu signed protocols)
- Tauranga City Plan – Heritage Provisions (Chapter 7). Includes significant Māori area and register of significant archaeological areas.

TCC Templates, Tools and Training

- Agreements for services templates:
 - Iwi / Hapu engagement
 - Cultural monitoring of earthworks
 - Cultural report
 - Mahi Toi Cultural Artworks
- Papakainga – Māori Housing Toolkit
- TCC In-house Cultural Training suite including:



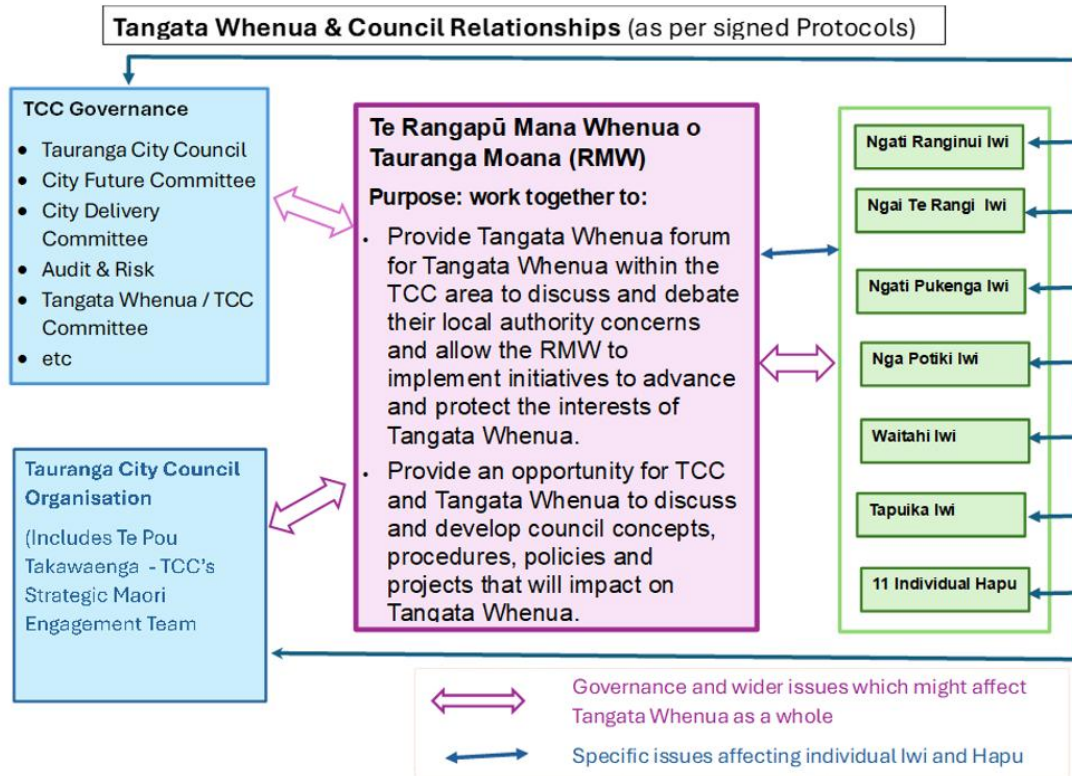
- Te Kete Whakatau: Induction welcome
- Te Ara Whanui app – an educational tool with information on history, language, customs and significant Māori sites.
- Te Kete a Rohe – Cultural Connections
- Te Kete Korero – Pronunciation
- Te Kete Mahi Pai: Maori Engagement Toolkit
- Te Kete Ipurangi: Online Learning
- Te Kete Wananga: Marae Workshop
- Te Kete Awhina Cultural Protocol Booklet



Attachment 1; Diagram: Key Existing Touchpoints – Tangata Whenua & Council



Attachment 2: Diagram Tangata Whenua & Council Relationships



WESTERN BAY OF PLENTY DISTRICT COUNCIL**TANGATA WHENUA RELATIONSHIP ARRANGEMENTS**

This stocktake provides a breakdown of the arrangements in place that reflect Tangata Whenua contributions to Council's decision-making processes. The stocktake is broken down into governance and operational arrangements as well as a specific section relating to governance arrangements relating specifically to water management matters.

GOVERNANCE**Western Bay of Plenty District Council governance committees**

Committee	Membership	Purpose
Council	Waka Kai Uru Māori Ward Councillor	To exercise all non-delegable functions and powers of Council in ensuring the effective and efficient governance and leadership of the District.
Audit Risk and Finance Committee	Waka Kai Uru Māori Ward Councillor	To assist Council in providing oversight of matters relating to the quality and integrity of financial reporting, independence and performance of external auditors, effectiveness and objectivity of the internal audit programme, and oversight of business risks and compliance activities.
District Plan & Regulatory Hearings Committee	Waka Kai Uru Māori Ward Councillor	A new committee combining the functions of the District Plan and the Regulatory Hearings Committee.

District wide Co-governance committees

Committee	Membership	Purpose
Te Maru o Kaituna River Authority	<p>Tapuika Iwi Authority Te Kapu o Waitaha Te Pumautanga o Te Arawa Trust Te Tāhuhu o Tawakeheimoa Trust Te Kōmiti Nui o Ngati Whakaue Bay of Plenty Regional Council Rotorua Lakes Council Western Bay of Plenty District Council Tauranga City Council</p>	<p>Te Maru o Kaituna River Authority is a co-governance partnership mandated to restore, protect and enhance the environmental, cultural and spiritual health and well-being of the Kaituna River.</p> <p>The purpose of Te Maru o Kaituna is given effect to by the Kaituna River Document whose Vision, Objectives and Desired Outcomes must be recognised and provided for when the member Councils change resource management policy and plans and must be given regard to when considering resource consents within the catchment.</p>
Tauranga Moana Advisory Group	<p>Ngāti Ranginui Ngāi te Rangī Ngāti Pūkenga Bay of Plenty Regional Council Western Bay of Plenty District Council Tauranga City Council</p>	<p>The Tauranga Moana Iwi Collective Deed of Settlement, once passed into law, will require a Tauranga Moana Governance Group to be established. To prepare for the Governance Group, the Tauranga Moana Advisory Group was established.</p>
SmartGrowth Leadership Group	<p>Bay of Plenty Regional Council Western Bay of Plenty District Council Tauranga City Council Tangata Whenua (appointed through the Tangata Whenua forums of Western Bay of Plenty District Council and Tauranga City Council)</p>	<p>The SmartGrowth Leadership Group is a governance group responsible for prioritising, reviewing and monitoring the implementation of the SmartGrowth Strategy 2051</p>

Western Bay of Plenty District Council Tangata Whenua forums

Committee	Membership	Purpose
Te Kāhui Mana Whenua o Tauranga Moana	Ngāti Ranginui Ngāi Tamawhariua (Te Rangihouhiri) Ngāi Tamawhariua (Te Rereatukahia) Ngāi Tūwhiwhia Ngāti Taka Ngāi Tamarāwaho Ngāti te Wai Pirirākau Ngāti Ruahine Ngāti Pukenga Ngā Pōtiki The Mayor Waka Kai Uru Māori Ward Councillor Kaimai Ward Councillors Waihi Beach/Katikati Ward Councillors	<p>Each of the iwi and hapū of Te Kāhui Mana Whenua o Tauranga Moana have progressed the settlement of their Te Tiriti o Waitangi claims with the Crown and have worked hard to establish meaningful relationships at the Central and Local Government level. To reflect this Te Kāhui Mana Whenua through its work programme Toka Tū Moana will enhance and increase the opportunity for Te Kāhui Mana Whenua o Tauranga Moana to contribute to Local Government decision making leading to better outcomes for Māori, a sustainable environment and healthy empowered communities.</p> <p>Te Kāhui Mana Whenua o Tauranga Moana is an advisory committee, with no decision making powers, however many of the aspirations pursued by the forum are formalised by Council – for example the establishment of a Māori Ward was an aspiration of the forum, that was formally moved and adopted by Council.</p>
Te Ihu o te Waka o Te Arawa	Ngāti Tuheke Ngāti Pīkiao Ngāti Whakaue Ngāti Moko Tapuika Iwi Authority Te Kapu o Waitaha Tuhorurangi	<p>To enhance and increase the opportunity for Te Ihu o te Waka o Te Arawa to contribute to Local Government decision making processes leading to better outcomes for Māori.</p> <p>Te Ihu o te Waka o Te Arawa is an advisory committee, with no decision making powers, however many of the</p>

	Ngāti Whakahemo The Mayor Waka Kai Uru Māori Ward Councillor Te Puke/Maketu Ward Councillors	aspirations pursued by the forum are formalised by Council – for example the establishment of a Māori Ward was an aspiration of the forum, that was formally moved and adopted by Council.
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District wide Tangata Whenua forums

Committee	Membership	Purpose
SmartGrowth Combined Tangata Whenua Forum	Open to Tangata Whenua members of the forums of both Western Bay of Plenty District Council and Tauranga City Council.	Input into the development of the SmartGrowth Strategy and support the implementation of it.

Western Bay of Plenty District Council – Water specific governance arrangements

Committee	Membership	Purpose
Te Ohu Parawai o te Waiari	Tapuika Iwi Authority Te Kapu o Waitaha Ngāti Whakaue ki Maketu Ngāti Marukukere Ngāti Kurī Ngāti Moko Ngāti Tuheke Te Maru o Kaituna Chairperson Two elected members of Western Bay of Plenty District Council.	To meet with WBOPDC for the following purposes in relation to the activities authorized by the consent to discharge wastewater from the Te Puke Wastewater Treatment Plant to the Waiari river – <ul style="list-style-type: none"> To embody the values of Te Arawatanga through kaitiakitanga, rangatiratanga, kotahitanga, kawa me tikanga as represented by nga mangai o Tapuika, Waitaha me Ngati Whakaue ki Maketu. To promote the health and wellness of Tangata Whenua as a priority for nga tangata katoa.

Te Ohu Waiora	<p>Te Whānau o Tauwhao ki Rangiwaea Te Whānau o Tauwhao ki Ōtāwhiwhi Ngāti Tauaiti Te Ngare Ngāi Tūwhiwhia Ngāi Tamawhariua ki Te Rereatukahia Ngāi Tamawhariua Ngāti te Wai</p> <p>Western Bay of Plenty District Council Elected Members as determined by Council.</p> <p>Katikati Community members.</p>	<p>To provide advice and recommendations to Western Bay of Plenty District Council, as the consent holder, in relation to matters covered under its Resource Consent which authorises the discharge of treated wastewater to the coastal marine area from the Katikati Wastewater Treatment Plant.</p>
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District wide – water specific governance arrangements

Committee	Membership	Purpose
Waiari Kaitiaki Advisory Group	<p>Mokopuna o Tia me Hei Ngāti Whakaue ki Maketu Te Kapu o Waitaha Tapuika Iwi Authority</p> <p>Western Bay of Plenty District Council – 2 Elected Members..</p> <p>Tauranga City Council – 2 Elected Members.</p>	<p>To exercise kaitiakitanga in relation to the Waiāri Stream to restore, protect and enhance the awa.</p> <p>To provide advice and recommendations to Tauranga City Council and Western Bay of Plenty District Council, as the joint consent holders, in relation to matters covered under Resource Consent #65637 which authorises the taking of water from the Waiari for municipal supply.</p>

OPERATIONAL

Document name	Parties	Purpose
Pirirākau Hapū Management Plan	Western Bay of Plenty District Council and Pirirākau.	<p>The Pirirākau Hapū Management Plan contains information to give direction to Pirirākau leadership and management and for any party who needs to consult or engage with matters relevant to Pirirākau hapū and its rohe tribal area. They wish to promote an ongoing and active partnership with Council, Territorial Authorities and government agencies. They anticipate that this Hapū Management Plan will be used for reference within Western Bay of Plenty District Council, Tauranga City Council, Bay of Plenty Regional Council and the Department of Conservation. We trust this document will be helpful to staff when considering matters relating to our land interests, water environs, natural and cultural taonga within our tribal area rohe and to further assist with the development of Pirirākau.</p> <p>The plan has a whole section on the importance of water for Pirirākau.</p>
Tapuika Iwi Management Plan	Western Bay of Plenty District Council and Tapuika.	Under review.
Matakana & Rangiwaea Islands Hapū Management Plan	Western Bay of Plenty District Council Ngāi Tamawhariua Ngāi Tūwhiwhia Tauaiti Te Ngare	The Plan provides practical direction for anyone who needs to consult or engage with the hapū of Matakana and Rangiwaea Islands. The Plan emphasises the values, reasoning and special relationship Matakana and

	Tauwhao	Rangiwaia hapū have with their whenua, ngahere, awa, moana and other taonga in and around their rohe.
Te Mana Taiao o Ngai Tamarāwaho	Western Bay of Plenty District Council and Ngai Tamarāwaho.	<p>The purpose of this Hapū Management Plan is to set out how Ngai Tamarāwaho will deal with development, environmental and resource management issues within its rohe or where input into regional and/or national environmental issues is appropriate. It will also address how it will work with local government in respect of development and associated issues which fall within the hapū rohe.</p> <p>This plan includes an entire section on the aspirations of Ngai Tamarāwaho as they relate to water.</p>
Tauranga Moana Iwi Management Plan	<p>Ngāti Ranginui Ngāi te Rangī Ngāti Pūkenga</p> <p>Bay of Plenty Regional Council Western Bay of Plenty District Council Tauranga City Council</p>	<p>The purpose of this Plan is to articulate the collective vision and aspirations of Ngāti Ranginui, Ngāi Te Rangī and Ngāti Pūkenga, in relation to Tauranga Moana.</p> <p>This plan includes an entire section on healthy waters.</p>
Ngāti Whakaue ki Maketu Hapū Management Plan	Western Bay of Plenty District Council and Ngāti Whakaue ki Maketu.	<p>This Plan has been developed to voice the collective aspirations for the environment and the people of Ngāti Whakaue ki Maketu.</p> <p>This plan includes aspirations to –</p>

		<ul style="list-style-type: none"> • Manage the effects of discharges on freshwater and coastal water quality. • Improve and share knowledge about water quality with the rohe of Ngāti Whakaeue ki Maketu. • Ensure there is sufficient water for the Taiao (first) and for use (second) and that water use is efficient. • Improve and share knowledge about water quantity and allocation with the rohe of Ngāti Whakaeue ki Maketu.
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Western Bay of Plenty District Council – Tangata Whenua engagement guidelines and protocols

Western Bay of Plenty District Council’s Tangata Whenua engagement guidelines and protocols outline the approach that staff must take when determining whether to engage with Tangata Whenua in the work that they do. Where it is determined that engagement is required, the protocols help staff to determine the nature of that engagement. This approach should be determined by the relevant project owner and a member of Te Haumi – Council’s Kaupapa Māori team.

The forms of possible engagement and what they involve are –

<p>Korekau <i>No engagement</i></p>	<p>We will not engage with Tangata Whenua. Not engaging Tangata Whenua means that the project/policy/business is solely for Council to do without input from external partners.</p> <p>Things to think about: Doing nothing means that you have thought about the project/policy/business against all the key engagement considerations and have decided that there is no benefit from engaging with Tangata Whenua. The decision not to engage needs to be discussed with the Kaupapa Māori team.</p>
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<p>Whakamōhio <i>Inform</i></p>	<p>We will provide Tangata Whenua with information about what we do. Providing information is the simplest form of engagement you can undertake. It asks of nothing further from Tangata Whenua once you have provided them with information.</p> <p>Things to think about: When we inform Tangata Whenua about our work it should be things that we are informing the whole community about. It should also be things where we are not asking for feedback or input.</p>
<p>Mahi ngātahi <i>Work together</i></p>	<p>We will work with Tangata Whenua. At its heart - mahi ngātahi or collaboration, means that we will work together with Tangata Whenua on our projects/policy/business. We're moving away from language like consultation, towards language that reflects working together. It might be that some final decisions are ultimately made by Council, however those decisions will have the benefit of being informed by the work we've done together with Tangata Whenua.</p> <p>Things to think about: If, after thinking about a project/policy/business against all the key engagement considerations, it is decided that we do more than merely informing Tangata Whenua about it, mahi ngātahi provides the greatest opportunity to decide how you will work with Tangata Whenua. It could be seeking input on a policy at one end of the spectrum, to co-management of an asset at the other.</p>
<p>Whakamanahia <i>Empower</i></p>	<p>We will support Tangata Whenua to achieve their aspirations. Tangata Whenua might have a kaupapa that they are leading that needs our support, alternatively there might be a kaupapa that Council would like to hand over to Tangata Whenua to undertake again with our support.</p>

Principles Supporting a Tangata Whenua Partnership Approach

Purpose and Context

These principles articulate why it is appropriate, lawful, and necessary for Council, as owner of water services, to embed tangata whenua partnership roles into:

- the establishment of the Water Organisation (WO)
- Council's ongoing ownership and oversight
- corporate governance arrangements
- operational decision-making and service delivery

They reflect the direction of travel in local government legislation and governance practice, particularly in relation to water services, and provide a well-grounded and credible basis for Council action.

Principle 1: Treaty-Consistent Exercise of Council's Water Services Responsibilities

Council must exercise its ownership and oversight of water services in a manner consistent with Treaty settlement obligations aligned to the principles of Te Tiriti o Waitangi.

Rationale and Evidence

- The Local Government (Water Services) Act 2025 expressly requires all persons exercising powers under the Act to act consistently with Treaty settlement obligations .
- This obligation applies not only to operational decisions, but to structural design, governance arrangements, transfer agreements, and oversight mechanisms.
- Treaty settlements in Tauranga Moana and Te Arawa consistently include commitments to:
 - recognition of mana whenua relationships with natural resources
 - participation in freshwater management
 - enduring partnership arrangements with local authorities.
- As a consequence, Treaty-consistency is not optional or symbolic; it is a statutory constraint on how Council designs and governs water service arrangements.

Implication for Council

A tangata whenua partnership approach is a lawful expression of Council's statutory responsibilities, not an additional or discretionary layer.

Principle 2: Recognition of Tangata Whenua as Enduring Partners in Water Governance

Council recognises tangata whenua as enduring Treaty partners with specific interests, responsibilities, and knowledge in relation to water resources and water services.

Rationale and Evidence

- The Treaty of Waitangi Act 1975 establishes the Treaty as a living constitutional instrument and affirms the Crown's obligation to observe Treaty principles in public decision-making .

- Water is consistently identified in Treaty settlements and Waitangi Tribunal jurisprudence as a taonga of special significance, carrying cultural, spiritual, and intergenerational responsibilities.
- Existing Council governance and terms-of-reference documents already recognise tangata whenua participation in strategic planning, environmental governance, and infrastructure oversight.
- The Water Services legislative framework anticipates ongoing relationships, not transactional consultation, particularly where infrastructure and service provision intersect with Māori land, waterways, and communities.

Implication for Council

Embedding tangata whenua partnership roles within the WO reflects continuity with existing Council governance practice, rather than a departure from it.

Principle 3: Partnership at the Point of Establishment and Structural Design

Tangata whenua partnership must be embedded at the establishment phase of the WO, not retrofitted after key decisions are made.

Rationale and Evidence

- Council retains responsibility for:
 - deciding whether and how responsibilities are transferred
 - approving transfer agreements
 - setting expectations through foundational documents and statements of expectations.
- Structural decisions made at establishment have long-term implications for governance culture, decision-rights, and accountability pathways.
- The governance and terms-of-reference documents demonstrate Council's ability to design bespoke arrangements that reflect local context and relationships.
- Early partnership alignment reduces downstream risk, improves legitimacy, and supports durable governance.

Implication for Council

Partnership at establishment is a risk-management and good-governance measure, not a concession.

Principle 4: Active Participation in Governance and Oversight, Not Consultation Alone

Tangata whenua involvement must enable meaningful participation in governance and oversight, rather than being limited to advisory or consultative roles.

Rationale and Evidence

- The Water Services Act differentiates clearly between:
 - governance and accountability (Council and WO boards)
 - engagement and consultation (policies and operational processes).
- Existing Council governance frameworks already provide for:
 - co-governance and joint committees

- standing advisory groups with defined influence
- shared oversight arrangements.
- Treaty settlement commitments and local precedent demonstrate that effective partnership requires influence at decision-making tables, particularly where strategic direction, investment priorities, and performance expectations are set.

Implication for Council

A tangata whenua partnership approach strengthens governance quality by broadening perspectives and improving decision legitimacy, consistent with Council's fiduciary duties.

Principle 5: Integration of Mātauranga Māori and Kaitiakitanga into Operational Practice

The WO's operational activities should reflect kaitiakitanga and mātauranga Māori alongside technical and regulatory requirements.

Rationale and Evidence

- Water services operations directly affect:
 - source water protection
 - stormwater and wastewater discharges
 - impacts on waterways, whenua, and coastal environments.
- Council policy and governance documents already acknowledge the value of mātauranga Māori in environmental management and infrastructure planning.
- Legislative frameworks increasingly require integrated, outcomes-focused approaches rather than narrow compliance.
- Tangata whenua bring place-based knowledge that complements engineering, scientific, and asset-management expertise.

Implication for Council

Operational partnership supports better environmental outcomes, regulatory resilience, and community trust, aligning with Council's stewardship role.

Principle 6: Clear Accountability and Role Clarity within a Partnership Model

Partnership arrangements must be clearly defined, transparent, and aligned with Council's accountability obligations.

Rationale and Evidence

- The Water Services Act preserves Council's ownership role and ultimate accountability for outcomes, even where service delivery is transferred.
- Governance and terms-of-reference documents emphasise:
 - role clarity
 - decision-rights
 - transparency of responsibilities.
- Effective partnership does not dilute accountability; it clarifies who is responsible for what, and how decisions are informed.

Implication for Council

A well-designed tangata whenua partnership approach enhances governance assurance rather than undermining it.

Principle 7: Alignment with Existing Council Policy and Governance Practice

The adoption of a tangata whenua partnership approach is consistent with existing Council policy, governance structures, and statutory planning practice.

Rationale and Evidence

- Council already operates within frameworks that:
 - recognise tangata whenua interests
 - provide for participation in strategic decision-making
 - reflect Treaty principles in policy development.
- The WO represents a continuation of Council's service responsibilities, not a separation from them.
- Consistency across governance arrangements improves coherence and reduces fragmentation.

Implication for Council

Embedding partnership within the WO ensures policy alignment and institutional integrity.

Concluding Observation for Elected Members

Adopting and embedding a tangata whenua partnership approach in the WO is:

- legally grounded
- consistent with Council's ownership and oversight responsibilities
- aligned with Treaty settlement obligations
- supported by existing governance practice
- prudent from a risk, legitimacy, and performance perspective

Appendix 1 - Partnership Spectrum (Adapted IAP2)

1. Inform

Nature: One-way communication

Purpose: Keep others aware of decisions already made

Power: Retained entirely by the lead authority

Characteristics

- Briefings, updates, public notices
- No expectation of feedback influencing outcomes
- Often compliance-driven

Treaty lens: Generally insufficient on its own to meet active protection or partnership obligations.

2. Consult

Nature: Feedback is sought, but not binding

Purpose: Improve decision quality or legitimacy

Power: Decision-making remains unilateral

Characteristics

- Submissions, hui, surveys
- Feedback may inform outcomes, but can be set aside
- Often time-limited or issue-specific

Treaty lens: Meets minimum procedural expectations but does not equate to partnership.

3. Involve

Nature: Ongoing engagement during development

Purpose: Shape options and proposals

Power: Still asymmetric, but influence is real

Characteristics

- Working groups, reference panels
- Early engagement rather than post-hoc
- Greater transparency and trust-building

Treaty lens: Improved alignment with good faith engagement, but authority still sits with one party.

4. Collaborate

Nature: Shared problem-solving

Purpose: Jointly develop solutions

Power: More balanced, though often informal

Characteristics

- Co-design processes
- Shared analysis and option development
- Influence over scope, not just detail

Treaty lens: Consistent with partnership principles where collaboration is genuine and well-resourced.

5. Partner

Nature: Shared decision-making

Purpose: Joint responsibility for outcomes

Power: Explicitly shared

Characteristics

- Agreed principles, roles, and decision rights
- Enduring governance or operational arrangements
- Mutual accountability and resourcing

Treaty lens:

Strong alignment with Te Tiriti partnership, particularly where tangata whenua exercise rangatiratanga alongside kāwanatanga.

6. Co-Govern / Co-Own

Nature: Structural power-sharing

Purpose: Joint stewardship over assets, systems, or resources

Power: Embedded in legal and governance arrangements

Characteristics

- Shared boards, joint ownership, or statutory bodies
- Clear delegation of authority
- Long-term, intergenerational focus

Treaty lens:

Represents the highest expression of partnership, often reflecting Treaty settlement redress or bespoke statutory arrangements.

Partnership / Engagement Spectrum with Council Fora Examples

Mode	Purpose	Decision-making authority	Influence of tangata whenua / mana whenua	Typical mechanisms	Current Council fora examples (indicative)	Partnership signal
Inform	Share information	Retained entirely by Council	None	Updates, briefings, reports	• Project-level advisory briefings (e.g. Matapihi Southern Pipeline Group)• CCO boards with single mana whenua member (e.g. Bay Venues Ltd, Tauranga Art Gallery)	Recognition and awareness
Consult	Seek feedback	Retained by Council	Advisory only	Submissions, hearings, hui	• Tauranga Moana Advisory Group (harbour advice)	Procedural partnership
Involve	Shape options	Council decides	Material influence on development	Working groups, advisory forums	• Wastewater Management Review Committee (TCC) • Te Ohu Waiora / Te Ohu Parawai o te Waiari (WBOPDC) • Waiāri Kaitiaki Advisory Group (TCC/WBOPDC)	Practical engagement
Collaborate	Joint problem-solving	Largely shared in practice	Strong influence on scope and solutions	Co-design, joint analysis	• Te Rangapū Mana Whenua o Tauranga Moana (TCC)• Te Kāhui Mana Whenua o Tauranga Moana / Te Ihu o te Waka o Te Arawa (WBOPDC)	Strong partnership intent
Partner	Shared outcomes	Explicitly shared	Determinative influence	Joint committees, partnership agreements	• SmartGrowth Partnership (regional growth)• Tangata Whenua / Tauranga City Council Committee• City Regional Deal Joint Governance Group • Ngā Poutiriao ō Mauao (place-based management)	Enduring partnership
Co-govern	Joint stewardship	Structurally shared	Equal authority	Statutory bodies, joint ownership	• Te Maru o Kaituna River Authority (Treaty settlement co-governance)• Taumata Kahawai Governance Group (commercial ownership)• Te Manawataki o Te Papa Charitable Trust	Full Te Tiriti partnership

9 DISCUSSION OF LATE ITEMS

10 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

RECOMMENDATIONS

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter 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 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	Ground(s) under section 48 for the passing of this resolution
10.1 - Presentation - Digital Programme: Phase 2	s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

11 CLOSING KARAKIA