

Commitment Agreement

PARTIES

Carterton District Council

Masterton District Council

South Wairarapa District Council

Tararua District Council



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AGREEMENT dated

2025

PARTIES

Carterton District Council
 Masterton District Council
 South Wairarapa District Council
 Tararua District Council
 together, the "**Councils**".

INTRODUCTION

- A. The Councils each voted on 20 August 2025 to adopt a Water Services Delivery Plan ("**WSDP**") for a joint operating model between the Councils in respect of the Service Areas.
- B. The Councils are required to submit a joint Water Services Delivery Plan to the Secretary for Local Government (Department of Internal Affairs) by 3 September 2025 on how water services will be delivered in the Council's district as required under the Local Governance (Water Services Preliminary Arrangements) Act 2024.
- C. This Commitment Agreement has been developed to be submitted to the Department of Internal Affairs alongside the WSDP to demonstrate the Councils' and iwi, Rangitāne and Ngāti Kahungunu, commitment to working together to:
 - (a) develop a joint operating model for the delivery of water services for each Council's community to inform the WSDP; and
 - (b) establish the WO for the joint operating model in accordance with the accepted WSDP.
- D. Each Council agrees to undertake the activities and responsibilities allocated to it in this agreement to achieve the Objectives and to work together with iwi in the planning and establishment of the WO.
- E. The Council have entered into this agreement to record the terms of their commitment to achieve the joint operating model and Objectives. This Commitment Agreement applies on and from the Commencement Date, instead of the previous Commitment Agreement entered into between the Councils dated 11 June 2025.

SIGNATURES

SIGNED for and on behalf of

CARTERTON DISTRICT COUNCIL

By:

Signature of Authorised Signatory

Geoff Hamilton

Name of Authorised Signatory

25 August 2025

Date

Signature of Authorised Signatory

Hon Mayor Ron Mark

Name of Authorised Signatory

25 August 2025

Date

MASTERTON DISTRICT COUNCIL

By:

Signature of Authorised Signatory

Kym Fell

Name of Authorised Signatory

22 August 2025

Date

Signature of Authorised Signatory

Gary Caffell

Name of Authorised Signatory

22 August 2025

Date

SOUTH WAIRARAPA DISTRICT COUNCIL

By:

Signature of Authorised Signatory

Colin Russell Olow

Name of Authorised Signatory

20 August 2025

Date

Signature of Authorised Signatory

Melissa Jane Sadler-Futler

Name of Authorised Signatory

20 August 2025

Date

TARARUA DISTRICT COUNCIL

By:

Signature of Authorised Signatory

PETER WINSETT

Name of Authorised Signatory

22 AUGUST 2025

Date

Signature of Authorised Signatory

Tracey Collis

Name of Authorised Signatory

22 August 2025

Date

SCHEDULE 1

Agreement Details

Commencement Date <i>(Clause 6.1, Schedule 2)</i>	This agreement commences on the date it is last signed by all Councils.
Expiry Date <i>(Clause 6.1, Schedule 2)</i>	This agreement expires on establishment of the WO in accordance with LG (WS) Act.
Service Areas <i>(Background A)</i>	Service Areas as defined by the four Councils' district Council boundaries.
Project Steering Group <i>(Clause 4, Schedule 2)</i>	Members: The members of the Project Steering Group are: • South Wairarapa District Council member(s): Chief Executive • Carterton District Council member(s): Chief Executive • Masterton District Council member(s): Chief Executive • Tararua District Council member(s): Chief Executive Meetings: The Project Steering Group will meet at least monthly, or more frequently as required by the Programme Director. Project Budget: The Project Steering Group will set and approve the Project Budget.
Project Team <i>(clause 4 and 5.4, Schedule 2)</i>	Members: Members of the Project Team (and/or workstream leads) are expected to include the following, working together as relevant in Programme workstreams: • Programme Director • Infrastructure Managers, or other nominated Council lead, for each Council (one per Council) • Iwi representatives • Other project staff, contractors, or consultants (e.g., workstream leads) as required. Meetings: The Project Team will meet as required.
Commercial Terms Sheet <i>(clause 4.7, Schedule 5)</i>	The Councils and iwi have finalised the attached commercial terms sheet to support the development of relevant governing documentation, in particular the Constitution and Shareholders' Agreement. These documents will be developed and brought to Councils for approval in September/October 2025.

Project Funding

(clause 5.2, Schedule 2)

Each Council will contribute an Initial Contribution of \$1.25m minus any costs incurred by the Councils during the previous phase of work preparing the WSDP (as covered by the Councils' previous Commitment Agreement). Previous costs incurred by Councils exclude use of the \$250,000 funding provided by the Department of Internal Affairs, which Councils agreed would be spent first before Councils incurred any costs. Under this agreed formulation, as at the date of this agreement, the Initial Contribution to be made by each Council is below. Costs incurred to the date of this agreement are anticipated to be covered by the Department of Internal Affairs funding.

South Wairarapa District Council	\$1.25m
Masterton District Council	\$1.25m
Carterton District Council	\$1.25m
Tararua District Council	\$1.25m

Address for notices

(clause 10, Schedule 2)

South Wairarapa District Council

19 Kitchener Street,
Martinborough 5711
PO Box 6, Martinborough
5741
New Zealand

Email: james.oconnor@swdc.govt.nz

Attention: James O'Connor

Masterton District Council

161 Queen Street, Masterton
PO Box 444, Masterton

Email: maseina.koneferenisi@mstn.govt.nz

Attention: Maseina Koneferenisi

Carterton District Council

28 Holloway Street, Carterton.
P.O. Box 9 Carterton 5743

Email: johannes@cdc.govt.nz

Attention: Johannes Ferreira

Tararua District Council

26 Gordon Street, Dannevirke
PO Box 115, Dannevirke 4942

Email: peter.wimsett@taruadc.govt.nz

Attention: Peter Wimsett

SCHEDULE 2

Agreement Terms and Conditions

1. DEFINITIONS AND INTERPRETATION

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

"Agreement Details" means Schedule 1 of this agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

"LG(WS) Act" means the legislation which at the date of this agreement is to be enacted, titled the Local Government (Water Services) Act 2024 under clause 1 of the Local Government (Water Services) Bill.

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

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

"Scope and Project Plan" has the meaning given to that term in clause 4.5(a).

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

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

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

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) reference to a party, person or entity includes:
 - (i) an individual, firm, company, trust, partnership, joint venture, association, corporation, body corporate, , estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, agent, successor, permitted assign, executor, administrator or other representative of such party, person or entity.
- (e) a reference to dollars or \$ is to New Zealand currency and excludes every tax and duty;
- (f) a reference to a clause or schedule is to a clause or schedule of this agreement;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) references to the word 'include' or 'including' are to be construed without limitation;

- (i) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (j) a reference to a document or instrument includes reference to that document or instrument as novated, altered, supplemented, or replaced from time to time;
- (k) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (l) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day; and
- (m) an obligation not to do something includes an obligation not to allow or cause that thing to be done.

1.3 **Previous Commitment Agreement:** This Commitment Agreement applies on and from the Commencement Date, instead of the previous Commitment Agreement entered into between the Councils dated 11 June 2025.

2. PROJECT OVERVIEW

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

- (a) to effectively establish the WO for the joint operating model in accordance with the accepted WSDP;
- (b) to facilitate the Councils making decisions in a timely manner to ensure the joint operating model can progress in a timely way to meet the requirements of the WSDP and other requirements under the LG(WSPA) Act and the LG(WS) Act;
- (c) to enable the Councils to consider how they would operate together in a way that facilitates an effective and efficient use of the Councils' resources, providing optimum benefit to the parties' ratepayers.

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

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

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

2.3 Establishment principles: The Councils have agreed the following principles will apply to the establishment of the WO and the operational transition:

- (a) Deliver **long-term benefits to the region** (recognising these benefits take time to accrue)
 - (i) Efficient operational delivery
 - (ii) Affordable water services
 - (iii) Adequate investment in infrastructure through time
 - (iv) Financially resilient and sustainable
 - (v) Working with iwi
- (b) **Manage shorter-term transition** impact on individual shareholding communities and Councils
 - (i) Manage any cost/price changes
 - (ii) Ensure transparency in transition pathways
 - (iii) Maintain service continuity and reliability for customers and minimise staff disruption
 - (iv) Manage financial and/or operating risks for Councils
- (c) Ensure **statutory and regulatory compliance**
 - (i) Operate within statutory planning and accountability framework
 - (ii) Meet DIA and Commerce Commission financial sustainability requirements
 - (iii) Meet regional Council and Taumata Arowai environmental standards
- (d) Where possible, **provide flexibility** in the design for the new entity and Councils to adapt to changing circumstances over time.
- (e) Recognise the **independence** of the new entity and provide it with the autonomy to make decisions necessary for success
- (f) Keep it **simple**, with straightforward arrangements easy for the community to understand.

3. KEY ACTIVITIES

3.1 **Council responsibilities:** Each Council will:

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

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

3.3 **Lead council responsibilities:**

- (a) The Councils unanimously agree that the South Wairarapa District Council will be the project lead ("**Lead Council**") with the following responsibilities:
 - (i) Employment matters in relation to the Programme Director
 - (ii) Processing of invoicing and payments

- (a) PSG;
- (b) Project Team(s) as required for project workstreams

4.2 Decisions made by the governance groups:

- (a) Each Council will be responsible for their own decision-making using the Project Team's advice and assistance, and relevant external advice as determined by the Programme Director and approved by the PSG.
- (b) The PSG and Project Team(s) will make decisions on a consensus basis.
- (c) Where consensus is not possible, decisions will be made by the majority, or in the event that any representative on the PSG or Project Team (as applicable) objects to a majority decision, escalated to the next governance level for decision.
- (d) No decision of the PSG or Project Team binds any Council to enter into a document contemplated by the Scope and Project Plan in Schedule 3 or the Commercial Terms Sheet in Schedule 5, with such decision to be made only by each Council having regard to its commitments and obligations set out in this Commitment Agreement.

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

4.4 Project Steering Group: The PSG shall be responsible for:

- (a) providing strategic directions and decisions on the project;
- (b) engaging with respective Councils' elected representatives, drawing on advice from the Programme Director, Project Team(s), iwi, and external advisers;
- (c) addressing issues that have been escalated to it by the Project Team;
- (d) reviewing and approving any proposed changes to the direction of the project;
- (e) appointing members to the Project Team;
- (f) ensuring the strategic direction of the project continues to align with the Objectives and each Council's obligations under this agreement; and
- (g) approving the Project Budget.

4.5 The responsibilities Project Steering Group may need to be reviewed over the course of the transition when other governance forums (e.g., Stakeholder Forum and WSO Board) are operational.

4.6 Programme Director: The Programme Director shall be responsible for:

- (a) preparing a detailed scope of work and project plan (including project milestones) to deliver on the Objectives ("**Scope and Project Plan**"). The Scope and Project plan may take the form set out in Schedule 3. The project plan and progress against the Scope and Project plan will be reported to the PSG on a monthly basis;

- (b) developing and maintaining a Project Budget;
- (c) engaging external expertise as required;
- (d) preparing agendas and scheduling governance meetings for the project;
- (e) preparing reporting for governance meetings for the project;
- (f) preparing stakeholder/engagement framework ensuring all appropriate parties are included on an ongoing basis;
- (g) working with the Project Team to prepare workshops with the Councils' elected members as required to achieve the project and Objectives;
- (h) working with the Project Team to deliver on the joint WSDP in accordance with legislative requirements and each Council's requirements; and
- (i) other responsibilities, if/as agreed, through project documentation approved by the Project Steering Group.

4.7 **Programme workstreams:** the Programme will be set up in workstreams that are relevant for establishment and transition. Detailed planning for these workstreams will be undertaken following submission of the WSDP and will be subject to discussion between Councils and iwi.

4.8 **Commercial Terms Sheet:** Councils and iwi have agreed the terms sheet set out at Schedule 5 that outlines the key commercial terms relating to the WO. Any material changes required to the overall terms in the Terms Sheet would be discussed between Councils and iwi.

5. COST SHARING

5.1 **Cost sharing principles:** The Councils agree to fund the costs of the project in equal parts in accordance with the amounts and frequency of cost contributions agreed by the governance group for the project under clause 5.2.

5.2 **Project funding:** By no later than 20 Business Days after the date of this agreement, the Councils will (through the Project Team) prepare a project funding budget for approval by the PSG, that covers:

- (a) the Initial Contribution for the activities under this agreement;
- (b) the ongoing contribution by the Councils for the ongoing costs of the Project for the duration of work covered by this Agreement; and
- (c) costs for the Lead Council to provide a Programme Director for the duration of the Project; and
- (d) costs for any internal and external consultants
- (e) costs for the iwi authorities, as required

(together, the "**Project Budget**").

- 5.3 **Project Budget:** The Councils agree that the Project Team will record the Project Budget in the form set out in Schedule 4, or such other form as the Project Team determines.
- 5.4 **Programme Director delegation:** The Programme Director will have delegated authority to spend up to the approved Project Budget. Costs that exceed the approved Project Budget will require approval by the PSG.
- 5.5 **Council Exit:** If a Council exits this agreement, that Council remains responsible for their share of all costs incurred up to that date, including any committed costs which cannot be mitigated by the remaining participating Councils.
- 6. TERM**
- 6.1 **Term:** This agreement commences on the Commencement Date and continues until the Expiry Date, unless terminated earlier by all Councils in accordance with clause 6.2.
- 6.2 **Termination by agreement:** This agreement may be terminated at any time with immediate effect by agreement of all current Councils to this agreement for any reason, including if there is a material change of law or policy direction that affects the Councils' obligations under the LG(WSPA) Act and LG(WS) Act.
- 6.3 **Council withdrawal:**
- (a) Subject to clauses 5.5 and 6.3(b), any Council may withdraw its participation in this agreement at any time immediately by giving written notice to the other Councils.
 - (b) Before a Council exercises its withdrawal right under subclause (a), that Council must use reasonable endeavours to:
 - (i) provide as early as possible notification to the other Councils that the Council is considering, or intending to withdraw from the project, including to provide the other Council(s) with sufficient time to respond to and agree on any public releases in accordance with clause 3.5;
 - (ii) provide the other Council(s) an explanation for the withdrawing Council's reason(s) for the withdrawal; and
 - (iii) support remaining Council(s) with any necessary engagement with the Department of Internal Affairs that may be required as a result of the withdrawal.
 - (c) Where any Council (**Breaching Council**) breaches a material obligation, or persistently does not perform its obligations, under this agreement, then the other Council(s) may request that such Breaching Council withdraws its participation from this agreement, in which case the parties will promptly discuss the next steps following such request. Failing agreement of all parties to continue this agreement, within 20 Business Days of the first discussion of the parties under this clause 6.3(c), the other Councils will continue this agreement (with such amendments as may reasonably be required to give effect to the change in parties) and the Breaching Council will be deemed to have withdrawn its participation under this agreement.

6.4 **Effect of termination:** In addition to any other rights, powers or remedies a Council may have under this agreement or at law:

- (a) if this agreement ends or is terminated, the following will apply:
 - (i) each Council is released from its obligations under this agreement, except clauses 3.5, 3.6, 5.5, this clause 6.4, 7, 8, 9, 10 and 12 that shall survive expiry or termination of this agreement;
 - (ii) each Council retains the rights and obligations it has accrued under this agreement as at the date of expiry or termination;
 - (iii) each Council is obligated to fund their share of commitments made up to the date of termination; and
 - (iv) each Council must return any Confidential Information of another Council in its possession to that other Council or, if requested by the other Council, destroy the Confidential Information, except to the extent that it is required to retain the Confidential Information in order to meet its legal, contractual and governance obligations.
- (b) if a Council withdraws its participation in this agreement:
 - (i) clause 6.4(a) will apply only in respect of that Council; and
 - (ii) this agreement continues in force as between the remaining Councils.

7. DISPUTE RESOLUTION

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

7.2 **Negotiation:**

- (a) On receipt of a notice delivered in accordance with clause 7.1 and before any Council may refer a dispute to mediation, the Chief Executives of the respective Councils must, in good faith and acting reasonably, do their best to resolve the dispute quickly and efficiently through negotiation.
- (b) If the dispute has not been resolved within 20 Business Days (or within such other period as agreed by the Councils) of the date of the notice referred to in clause 7.2, any Council may submit the dispute to mediation.

7.3 **Mediation:**

- (a) If the Councils do not resolve the dispute by negotiation, the Councils must, in good faith and acting reasonably, do their best to resolve the dispute by participating in mediation with an independent mediator.
- (b) If the Councils do not agree on a mediator, then the mediator will be appointed by the New Zealand Dispute Resolution Centre.

- (c) The Councils must mediate the dispute in accordance with principles agreed between them or, if no agreement can be reached, the New Zealand Dispute Resolution Centre Mediation Rules.
- (d) Unless the Councils agree otherwise, the mediator's fee and any other costs of the mediation itself (such as for venue hire or refreshments) will be shared equally between the parties, but the parties will each pay their own costs of preparing for and participating in the mediation (such as for travel and legal representation).

7.4 **Arbitration**

- (a) If the dispute has not been resolved within 40 Business Days (or within such other period as agreed by the parties) of the dispute being referred to mediation, any Council (the "**Initiating Council**") may refer such dispute to binding arbitration by issuing a written notice ("**Arbitration Notice**") to the other Council(s) (together with the Initiating Council, the "**Disputing Council(s)**") for final resolution in accordance with the provisions of this clause 7.4 and in accordance with the provisions of the Rules of Arbitration of the New Zealand Dispute Resolution Centre, as amended or modified from time to time ("**NZDRC Rules**").
- (b) The arbitral panel shall consist of one arbitrator. The arbitrator will be appointed by the agreement of the Disputing Council(s) or, failing agreement within 10 Business Days of the date of the Arbitration Notice, in accordance with the NZDRC Rules.
- (c) The seat of arbitration shall be Masterton, New Zealand and the arbitration shall be conducted in the English language.
- (d) The award of the arbitration shall be in writing and must include reasons for the decision.
- (e) The award of the arbitration shall be final and binding on the Councils. No Council may appeal to the High Court under Clause 5 of the Second Schedule of the Arbitration Act 1996 on any question of law arising out of an award.
- (f) The award shall allocate or apportion the costs of the arbitration as the arbitrator deems fair.
- (g) Neither the existence of any dispute nor the fact that any arbitration is pending hereunder shall relieve any of the Councils of their respective obligations under this agreement.

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

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

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

8. CONFIDENTIALITY AND INFORMATION DISCLOSURE

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

- (a) to the extent that use or disclosure is necessary for the purposes of giving effect to or exercising the rights and benefits of this agreement (which for the purpose of each Council, may involve disclosure to that council's elected members and staff);
- (b) if the discloser of the information has obtained the prior written approval of the providing Council to the use or disclosure;
- (c) if the use or disclosure is required by law including under the Local Government Official Information and Meetings Act 1987 ("**LGOIMA**"), or the Local Government Act 2002, provided that prior to that Council making a disclosure, that Council will use reasonable endeavours to promptly consult in good faith with the other Councils:
 - (i) regarding the requirement under which that Council is required to disclose the Confidential Information; and
 - (ii) so that the other Councils are informed to arrive at a view on whether those Councils would also be required to make such disclosure if a request is made of them; or
- (d) in relation to disclosure, if the information has already become public, other than through a breach of the obligation of confidentiality by one of the Councils.

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

9. INTELLECTUAL PROPERTY RIGHTS

9.1 **Existing Intellectual Property Rights:** Notwithstanding any of the provisions of this agreement, each Council or its licensors retain ownership of all Intellectual Property Rights, including in Existing Material belonging to that Council or its licensors at the Commencement Date ("**Existing Intellectual Property Rights**").

9.2 **New Intellectual Property Rights:** Any new Intellectual Property Rights which are created as a result of, or in connection with, the provision of the Services or Deliverables, or otherwise in connection with this agreement, shall be jointly owned by the Councils, unless otherwise agreed by the parties.

9.3 **Licence:** If any Council's Existing Intellectual Property Rights is included in any new Intellectual Property Rights, then that Council grants to the other Council(s) and the other Councils accept, a worldwide, perpetual, non-exclusive, transferable, sub-licensable licence during the term of this agreement to use the Council's Existing Material for the purposes relating to giving effect to and performing its obligations under this agreement. That licence will expire immediately on expiry or termination of this agreement.

10. LIMITATION OF LIABILITY

- 10.1 Each party shall be liable for its own acts or omissions under this agreement. Under no circumstances whatsoever shall any party be liable to any other party under this agreement for any indirect or consequential loss and/or expense whether arising in contract, tort (including negligence), or otherwise.
- 10.2 The limitations set out in this clause shall not apply to:
- (a) liability arising from a party's fraud, gross negligence, or wilful misconduct; or
 - (b) liability for breach of confidentiality (clause 8) or Intellectual Property Rights (clause 9).

11. NOTICES

- 11.1 **Giving notices:** Any notice or communication given to a Council under this agreement is only given if it is in writing and sent in one of the following ways:
- (a) Delivered or posted to that Council at its address and marked for the attention of the relevant department or officer (if any) set out in Schedule 1.
 - (b) Emailed to that Council at its email address and marked for the attention of the representative set out in Schedule 1.
- 11.2 **Change of details:** If a Council gives the other Council three Business Days' notice of a change of its postal address or email address, any notice or communication is only given by that other Council if it is delivered, posted or emailed to the latest postal address or email address.
- 11.3 **Time notice is given:** Any notice or communication is to be treated as given at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, five Business Days after it is posted.
 - (c) If it is sent by email, when it is received in readable form addressed in the manner specified above.

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

12. GENERAL

- 12.1 **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 Councils, and a Council may not make, or allow to be made, any representation that any such relationship exists between any of the Councils. A Council shall not have authority to act for, or to incur any obligation on behalf of, any other Shareholder, except as expressly provided for in this agreement.

12.2 **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.

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

- (a) an original;
- (b) a photocopy; or
- (c) an electronic copy,

and if every Council has signed or attached that Council's signature to any such format and delivered it to the other Council(s), the executed formats shall together constitute a single binding agreement between the Councils.

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

12.5 **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.

12.6 **Further assurance:** Each Council shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

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

12.8 **Assignments and transfer:** A Council must not assign or transfer any of its rights or obligations under this agreement without the prior written consent of the other Council(s).

12.9 **Costs:** Except as otherwise set out in this agreement, each Council must pay its own costs and expenses, including legal costs and expenses, in relation to preparing, negotiating, executing and completing this agreement and any document related to this agreement.

12.10 **Waivers:**

- (a) A waiver of any right, power or remedy under this agreement must be in writing signed by the Council granting it. A waiver only affects the particular right, obligation or breach for which it is given. It is not an implied waiver of any other right, obligation or breach or an implied waiver of that right, obligation or breach on any other occasion.
- (b) The fact that a Council fails to do, or delays in doing, something the Council is entitled to do under this agreement does not amount to a waiver.

- 12.11 **Governing law:** This agreement is governed by the laws of New Zealand and the Councils submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement.

SCHEDULE 3

Scope and Project Plan

Programme stage and milestones	Indicative timeframe
Stage 1: Legal establishment	
Complete and approve Shareholders' Agreement, Constitution, Stakeholders' Forum Terms of Reference	September 2025
Achieve acceptance of WSDP by Secretary for Internal Affairs and publish WSDP	December 2025
Programme planning for transition	December 2025
Appoint members to Stakeholders' Forum	November/December 2025
Complete recruitment for two (minimum) initial Directors	March 2026
Complete legal incorporation and required registrations	March 2026
Stage 2: Operational transition	
Prepare Statement of Expectations	June 2026
Transition SWDC operations from Wellington Water Limited to new transitional arrangements	June 2026
Complete governing documents (i.e., Transfer Agreements)	September 2026
WSSCO Board to prepare Water Services Strategy	December 2026
Chief Executive and Tier 2 role recruitment	December 2026
Undertake staff change process to confirm roles and staff that will transition to the new entity	December 2026
Development of future systems requirements, and insurance, treasury and financing arrangements	December 2026
Transfer assets, contracts, responsibilities, remaining staff following Board confirmation of readiness for go live.	June 2027

SCHEDULE 4

Funding Commitment Plan

Funding commitment	Payment date	Payment share for each Council
\$250,000 from Department of Internal Affairs provided to Council groups pursuing a regional entity	Upon signing a Funding Agreement prior to 30 June 2025	N/A
\$1.25m per Council to be used after funding from DIA is exhausted.	On delivery of invoices from SWDC to individual Councils, for agreed work by PSG. Funding from DIA will be used first before any costs are incurred by individual Councils.	\$1.25m

SCHEDULE 5

Wairarapa Tararua WSO Commercial Terms Sheet

This terms sheet is subject to further legal advice, including in relation to the Select Committee report back on the Local Government (Water Services) Bill and in relation to the operation of the Stakeholder Forum under existing LGA provisions.

Issue	Agreement between Councils
General	
Principles to guide establishment and transition decision making	These principles will be included in the Commitment Agreement to guide the establishment of the Water Services Organisation: • Deliver long-term benefits to the region (recognising these benefits take time to accrue) ○ Efficient operational delivery ○ Affordable water services ○ Adequate investment in infrastructure through time ○ Financially resilient and sustainable ○ Working with iwi • Manage shorter-term transition impact on individual shareholding communities and Councils ○ Manage any cost/price changes ○ Ensure transparency in transition pathways ○ Maintain service continuity and reliability for customers and minimise staff disruption ○ Manage financial and/or operating risk for Councils • Ensure statutory and regulatory compliance ○ Operate within statutory planning and accountability framework ○ Meet DIA and Commerce Commission financial sustainability requirements ○ Meet regional Council and Taumata Arowai environmental standards • Where possible, provide flexibility in the design for the new entity and Councils to adapt to changing circumstances over time. • Recognise the independence of the new entity and provide it with the autonomy to make decisions necessary for success • Keep it simple, with straightforward arrangements easy for the community to understand.
Governance and oversight	
Stakeholders' Forum	• Councils agree to establish a Stakeholders' Forum as the basis for coordinating the shareholder activity and for the four Councils to exercise certain of their shareholding rights and responsibilities.
Iwi participation	• Councils agreed that iwi will be members of the Stakeholders' Forum (while not shareholders) to give effect to Councils' commitment to partner with iwi in oversight of the water organisation.
Size and composition of Stakeholder Forum	• Total membership will be 6 members – 1 member from each Shareholding Council and 1 each of from Rangitāne and Ngāti Kahungunu.
Size and composition of Water Services Organisation Board	• Water Services Organisation will have a flexible Board size of five to seven members, with all members appointed according to the skills matrix.

Board member appointment term and reappointment	- Initial Directors appointments terms will be varied to enable staggering of replacements and to enable appointment of initial Directors with entity start-up experience. - After the initial directors, general appointments will be for three-year terms, with up to two possible reappointment terms. Reappointment is subject to a formal process. - Reappointment beyond three terms will be at the Stakeholders’ Forum’s discretion but expected to be on an exceptional basis e.g., to retain an essential specialist skill set.															
Board skills requirements	The Constitution will include the following skills requirements for the Water Services Organisation Board: - Governance and senior leadership experience - Experience in utilities and infrastructure industries, preferably water - Commercial and financial expertise, including Director(s) with relevant qualifications to chair an Audit and Risk Committee - Understanding of the relevant public accountability, legislative and regulatory context - Asset management experience - Commitment to partnership and upholding the Treaty of Waitangi, tikanga and te ao Māori - Knowledge and experience in te ao Maori and te taiao Maori and Treaty of Waitangi principles and implementation - Understanding and commitment to the four communities the organisation serves - Commitment to strong stakeholder management with the four Shareholding Councils															
Decision making framework for key decisions involving shareholding councils	The decision table below sets out the decision-making mechanisms for key decisions, including whether those decisions are taken by Shareholding Councils only or by Councils plus iwi. By way of summary iwi vote on appointment of Directors and performance monitoring only, and they are involved in the preparation of the Statement of Expectations but do not vote on its adoption. All other votes are for Shareholding Councils only. <table><tr><th>Decision</th><th>Decision making mechanism</th><th>Decision making threshold</th></tr><tr><td colspan="3">Issues relating to governance and governing documents</td></tr><tr><td>Appointment of Directors (including Chair)</td><td> - Decision by Stakeholders’ Forum (Councils plus iwi) - One Council, one vote - One vote per iwi representative </td><td>Simple majority (i.e., >50% of votes cast)</td></tr><tr><td>Approving Statement of Expectations</td><td> - Statement developed by Stakeholders’ Forum (Councils plus iwi) - Decision to issue the SOE to the Water Services Organisation will be made by Shareholder members of the Stakeholders’ Forum - One Council, one vote </td><td>Special majority (i.e., 75% votes cast)</td></tr><tr><td>Monitoring performance</td><td> - Decision by Stakeholders’ Forum (Councils plus iwi) - One Council, one vote </td><td>Simple majority (i.e., >50% votes cast)</td></tr></table>	Decision	Decision making mechanism	Decision making threshold	Issues relating to governance and governing documents			Appointment of Directors (including Chair)	- Decision by Stakeholders’ Forum (Councils plus iwi) - One Council, one vote - One vote per iwi representative	Simple majority (i.e., >50% of votes cast)	Approving Statement of Expectations	- Statement developed by Stakeholders’ Forum (Councils plus iwi) - Decision to issue the SOE to the Water Services Organisation will be made by Shareholder members of the Stakeholders’ Forum - One Council, one vote	Special majority (i.e., 75% votes cast)	Monitoring performance	- Decision by Stakeholders’ Forum (Councils plus iwi) - One Council, one vote	Simple majority (i.e., >50% votes cast)
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Approving Statement of Expectations	- Statement developed by Stakeholders’ Forum (Councils plus iwi) - Decision to issue the SOE to the Water Services Organisation will be made by Shareholder members of the Stakeholders’ Forum - One Council, one vote	Special majority (i.e., 75% votes cast)														
Monitoring performance	- Decision by Stakeholders’ Forum (Councils plus iwi) - One Council, one vote	Simple majority (i.e., >50% votes cast)														

		- One vote per iwi representative - Note Shareholders still receive reports as a shareholding right	
Changes to the Constitution (all matters except harmonisation review)	- Recommendation by the Board - Decision by Shareholders with voting based on a shareholding basis at either Stakeholders' Forum or Councils	Special majority (i.e., 75% votes cast)	
Issues of community interest			
Review of cost-to-serve/price harmonisation	For nine years: - Recommendation by Board - Decision by Councils After nine years: - Include review point after nine years to reconsider the issue and whether the cost to serve principle should be removed from the pricing principles in Constitution - Decision at this review point made by Councils on a shareholding basis, with advice to be provided by the Board - If cost to serve principle removed, any future decision on the issue would be a Board decision from year 10 onwards	Unanimous agreement (for nine years) Special majority (i.e., 75% votes cast) for review point	
Issues relating to shareholding			
Shareholder entry	- Recommendation by Board and Stakeholders' Forum based on a proposal for entry - Shareholder entry principles would apply - Decision by Councils	Unanimous agreement	
Shareholder exit	- Recommendation by Board and Stakeholders' Forum based on a proposal for exit - Shareholder exit principles would apply - Decision by Councils	Unanimous agreement by non-exiting Shareholders (exiting Shareholder does not vote)	
New share issue to existing shareholders (i.e., company request for new funding)	- Board decision to request funding from shareholders - Decision by Councils to decide to grant funding - Details need to be worked through on implications of	Each Council makes its own decision	

		Council decisions at the time of any request	
	Other issues		
	Selected major transactions	- Major transactions (e.g., by value of \$100m or greater) will be subject to consideration by shareholders - Decision by Stakeholders' Forum on shareholding basis	Special majority (i.e., 75% votes cast)
	Ceasing operations of the company	- Recommendation by Board and Stakeholders' Forum - Decision by each Council - One Council, one vote	Special majority (i.e., 75% votes cast)
Shareholder role in Water Services Strategy and Annual Budget	Shareholders will not approve the Water Services Strategy or Budget. Their role will focus on the development and approval of the Statement of Expectations		
Ownership			
Share allocation	Shareholding will be allocated based on network connections. Consideration will be given to if/when adjustments are needed and how this would be aligned with relevant decisions (e.g., development of the Water Services Strategy).		
Shareholder entry	The Shareholders' Agreement will include the following principles in relation to future new Council joining as a shareholder (which will apply unless the shareholders agree otherwise at the time): - Shareholders are open to considering admission of new council shareholders - Proposal from a potential new council shareholder would be considered by the Board of Directors and recommendation made to the Stakeholders' Forum who could approve/not approve the admission or recommend to the four Councils to approve/not approve - New council shareholders' shareholding will be determined using the same method as used by the original shareholders - The terms of transfer of assets for a new council shareholder shall not be more favourable to the new council shareholder than to the original shareholders - As part of the decision to admit a new council shareholder, the existing shareholders will consider the position to ensure appropriate iwi participation for the larger service area - As part of the decision to admit a new council shareholder, the existing shareholders will need to review and agree changes to the company Constitution and Shareholders' Agreement - The addition of a new council shareholder must not materially worsen the Water Organisation's financial position or forecast financial position, or result in the Water Organisation failing to meet its regulatory obligations to be financially sustainable - Each party will bear its own costs of considering and redocumenting the arrangements for a new council shareholder joining - An appropriate timeline and transition plan will be developed (with at least one year's lead time) and agreed by the Board and Stakeholders' Forum - Any legislative consultation requirements will be complied with		

Shareholder exit	The Shareholders' Agreement will include the following principles in relation to shareholder exit (which will apply unless the continuing shareholders agree otherwise at the time): • It will be possible for a shareholding Council to exit from the water services organisation and implement a new operating model • A detailed exit plan will be developed and agreed between the Board and Stakeholders' Forum (with a three-year time period between notification and exit) • As part of the decision for a Shareholder's exit, the existing shareholders will undertake a review to agree any changes to the company Constitution and Shareholders' Agreement • The exit of a shareholder must not materially worsen the Water Organisation's financial position or forecast financial position, or result in the Water Organisation failing to meet its regulatory obligations to be financially sustainable • Other principles to be developed for: treatment of assets, joint assets, consideration, stranded assets or liabilities, transactions costs • Any legislative consultation requirements will be complied with
Pricing and financial sustainability	
Pricing principles	The Constitution will include the following principles in relation to pricing: • Transparency between pricing and investment requirements • Engagement with communities in setting or changing pricing • Managing/smoothing the transition impact of any changes to pricing • Balancing affordability for customers with investment and financial sustainability requirements • Consideration of distributional impacts of pricing decisions • Adoption of cost-to-serve approach, with review point after nine years
Price harmonisation	• Councils agree to ringfence pricing for nine years to respond to Council and community concerns (i.e., each jurisdiction will operate on a cost-to-serve basis) • Every three years (i.e., in line with the LTP cycle), the Board could provide a case to Shareholders to consider amending the pricing, should it choose to do so (with the decision sitting with Shareholders as requiring unanimous agreement) • The Board's case to shareholders should include consideration of the factors: ○ Demonstrate there is sufficient reliable information available about future investment requirements to provide reliable and transparent estimates of costs to ratepayers ○ Consider the impact of any proposed changes on each shareholder's ratepaying population (including distributional impacts within and between Council districts) ○ Consider other benefits and costs of the new proposed approach relative to current approach (e.g., impact on operating costs/efficiencies for the entity) ○ Consider whether other compensatory measures could be put in place to manage any significant impact (if any) on subsets of ratepayers. • After nine years, the issue will be reconsidered. If the cost-to-serve principle is removed from the Constitution at this point, the issue becomes the responsibility of the Board and no longer a matter for Council decision.
Debt transfer	Councils agree to the following principles in relation of transfer of debt to the Water Services Organisation (which will apply unless the shareholders agree otherwise at the time):

	• Debt that can be identified by Councils as water-related debt will transfer to the new entity • Debt incurred by the shareholding Councils in relation to the establishment and transition to the new entity from the date of submission of the WSDP to DIA will be transferred to the Water Services Organisation • Cost effective transfer of debt from each Council to the Water Services Organisation will take place over a few years as tranches of debt mature and hedging is unwound • Interest costs incurred by Councils on waters debt after the Water Services Organisation is established (and the revenue is flowing into the Water Services Organisation) will be reimbursed to the Councils by the Water Services Organisation. (Note debt that remains with Councils over the transition period is looked through by LGFA for covenant purposes and assumed to be held by the Water Services Organisation for financial sustainability purposes) • For the nine-year period of no price harmonisation, each Council's guarantee/support of the Water Services Organisation is based on the actual debt outstanding for their jurisdiction • At nine years (or at the point when the Board proposes harmonization), the Board is required to provide advice to the shareholders on proposed allocation of guarantee/support based on the Water Services Organisation's financial position • Assumption would be that any reallocation of the guarantee would default to shareholding, unless Board proposed an alternative approach. • (Note that in the situation of a majority shareholder, the LGFA or lenders would typically treat the majority shareholder as the guarantor)
Dividends	• The Water Services Organisation would not pay dividends to Shareholding Councils for at least the first 9-12 years. The future possibility should be retained/not ruled out to encourage commercial discipline by the Board and management. • Initial priority is for surpluses, if any, generated, to be used by the Board to either reduce costs to consumers or bring forward necessary investment.