

## Item 1: WSCCO Statement of Expectations & Constitution

**SESSION TYPE:** Workshop

### **PURPOSE/DESIRED OUTCOME:**

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The purpose of this workshop is to provide elected members with an opportunity to have input into the draft Statement of Expectations (SoE) for the Water Services Council Controlled Organisation (WSCCO) and to review the final draft of the Constitution.

### **DATE/START TIME:**

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Tuesday, 2 June 2026 at 1.00pm

### **TIME BREAKDOWN:**

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Presentation: 30 minutes

Questions and discussion: 30 minutes

### **PRESENTERS:**

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Pennie Pearce – General Manager Strategy & Planning (Acting)

### **Prepared and Authorised by:**



**Pennie Pearce**

General Manager Strategy & Policy (Acting)

21 May 2026

### **ATTACHMENTS:**

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- A – Background Briefing Materials
- B – Local Government (Water Services) Act 2025 SoE Provisions
- C – 28 June 2026 Workshop Notes
- D – Draft SoE
- E – Draft Constitution

## 1. PURPOSE

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The purpose of this paper is to provide material to inform the discussions to be held in a workshop with QLDC councillors on 2 June 2026 in relation to the Statement of Expectations. The purpose of the workshop is to discuss the draft Statement of Expectations and to obtain further Councillor input.

## 2. STATEMENT OF EXPECTATIONS REQUIREMENTS

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Review Attachment B for the legislative provisions relating to the Statement of Expectations.

### Purpose:

A Statement of Expectations (SoE) sets the strategic direction for the WSCCO. It is QLDC's primary tool to define what success looks like, the outcomes that must be delivered, and the priorities that must guide all planning, including the legally required Water Services Strategy. The WSCCO is required to give effect to the SoE.

The SoE is designed to achieve the following:

- *Provide long-term strategic direction (10+ years):* The SoE sets the overarching expectations for outcomes, priorities, and alignment with council planning frameworks across at least 10 consecutive financial years.
- *Anchor the Water Services Strategy (WSS):* The SoE must be issued before the WSCCO prepares its WSS, because the WSS is required to demonstrate **how** the organisation will give effect to the expectations and outcomes in the SoE.
- *Strengthen shareholder oversight and accountability:* The SoE is the key lever for QLDC to:
  - articulate expectations clearly
  - ensure transparency
  - set outcomes the WSCCO must achieve
  - require alignment with broader council resource management and land-use planning
- *Support public accountability:* The SoE forms part of the strengthened planning and reporting environment for water services, ensuring that the WSCCO operates transparently and is accountable for delivering on council-set outcomes.

The SoE must not:

- direct the **how** the WSCCO performs statutory functions
- conflict with statutory duties or regulatory requirements, or

- direct the water organisation to perform (or not perform) a specific action in relation to specific individuals.
- Undermine financial independence

**SoE Content Requirements:**

Category	Content
<b>Mandatory</b>	<i>Expected outcomes:</i> The outcomes the shareholder expects the WSCCO to achieve through its water services.
<b>Mandatory</b>	<i>Alignment with council planning frameworks:</i> Requirements related to the council's resource management and land use planning.
<b>Mandatory</b>	<i>Shareholder obligations:</i> Requirement for the WSCCO to operate in accordance with the relevant statutory obligations.
<b>Mandatory</b>	<i>Reporting requirements:</i> Defines the specific information the WSCCO must include in its half yearly reports to shareholders
<b>Optional</b>	<i>Relationship Management:</i> How the WSCCO should manage its relationship with shareholders, communities, iwi/hāpu, and consumers.
<b>Optional</b>	<i>Performance Indicators:</i> Specific metrics and measures shareholders will use to monitor the performance of the WSCCO.
<b>Optional</b>	<i>Strategic Priorities:</i> Expectations relating to the strategic priorities to be included in the Water Services Strategy.
<b>Optional</b>	<i>Third Party Agreements:</i> A requirement for the WSCCO to act in accordance with, or undertake obligations from, a shareholders' agreements with third parties.
<b>Optional</b>	<i>Community Engagement:</i> Requirements for the WSCCO to undertake specific community of consumer engagement.
<b>Optional</b>	<i>Independent Audit or Review:</i> A requirement that part or all of the WSCCOs Water Services Strategy be independently reviewed or audited. Can also be specified in the Constitution.

**SoE Preparation Process Considerations:**

*QLDC may begin preparing the SoE before the WSCCO is established*

Recognising the complexity and lead-time required for preparing an SoE, the legislation explicitly allows QLDC to undertake preparatory work in advance of the WSCCO being formally established. This enables councils to align the SoE with transition planning, regulatory expectations, and early WSS scoping. Early preparation helps avoid delays after establishment and allows for a more seamless transition into the WSCCO's planning cycles.

*QLDC may issue an interim SoE*

Where timing pressures or transitional circumstances require earlier direction, QLDC may issue an interim Statement of Expectations. An interim SoE can provide preliminary operational priorities, shareholder expectations, or other direction to guide the WSCCO during the period before a full SoE is completed. This tool is particularly valuable during establishment phases or periods of regulatory change, as it ensures the organisation is not left without shareholder guidance while the full SoE is being developed.

*QLDC must provide a draft SoE to the WSCCO and allow reasonable opportunity for comment*

Before the SoE is finalised, the WSCCO must be given an opportunity to review the draft and provide feedback. This consultation requirement ensures that the SoE is practical, implementable and informed by operational expertise within the organisation. QLDC must then genuinely consider any comments received before finalising the document. This does not require QLDC to adopt all feedback, but it does require a fair and transparent consideration process. The requirement supports a constructive relationship between shareholder and organisation and reduces the risk of misalignment or implementation challenges.

*QLDC must provide the final SoE at least six months before the WSCCO must produce its Water Services Strategy (WSS)*

The SoE is intended to serve as a core input into the WSCCO's Water Services Strategy. To enable the organisation to integrate the expectations into its forecasting, investment planning and regulatory obligations, the Act requires that the SoE be finalised and provided no later than six months before the WSS is due. This ensures the WSCCO has adequate lead time to understand, interpret and reflect shareholder expectations within its primary planning document.

*QLDC must provide the SoE no later than six months after the WSCCO is established*

For newly established WSCCOs, the Act sets a time-bound requirement to ensure that the organisation receives shareholder expectations early in its establishment phase. QLDC must issue the SoE within six months of the WSCCO's legal establishment, ensuring the board and executive team have clear direction from the outset. This early clarity helps shape initial governance settings, early operational decisions, and the foundation of organisational culture and priorities.

*QLDC must publish the process used to prepare the SoE*

To support transparent and robust governance, QLDC is required to publish a description of the process undertaken to develop the SoE. This includes documenting who was consulted, what evidence or strategic frameworks informed the content, and how drafting and decision-making were conducted. Publishing the process increases confidence for both the WSCCO and the public by demonstrating that shareholder expectations are well-reasoned, procedurally fair and aligned with statutory obligations. It also provides an audit trail that can support future reviews or amendments.

*The WSCCO must give effect to the SoE*

The SoE is not an advisory or discretionary document; it has binding force under the Local Government (Water Services) Act 2025. Once adopted, the WSCCO is legally required to give effect to the SoE, meaning that its strategic planning, operational decision-making and prioritisation must actively reflect the expectations set by QLDC as shareholder. This ensures that the WSCCO's activities remain aligned with council objectives, community outcomes and regulatory requirements. The requirement to "give effect to" sets a significantly stronger accountability framework than traditional CCO oversight under the LGA 2002.

### 3. DRAFT STATEMENT OF EXPECTATIONS UPDATE

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#### **Council discussed factors for consideration in the Statement of Expectations on 28 April 2026.**

In summary, the 28 April workshop discussion emphasised that the Statement of Expectations should set clear shareholder direction for the WSCCO while respecting the organisation's statutory operational and financial independence. Councillors signalled support for an approach that is enduring in intent but phased in practice, with early expectations focused on legal compliance, continuity of service and organisational stability, and longer-term expectations addressing performance, environmental outcomes and strategic alignment.

- Purpose and framing: the SoE should define outcomes, priorities and shareholder expectations, but should not prescribe detailed operational solutions.
- Phased maturity: expectations should recognise establishment, transition and longer-term maturity, with no unrealistic uplift in levels of service in the first few years.
- Strategic alignment: the WSCCO should work in tandem with Council's infrastructure, growth and spatial planning, including responding to sequencing issues and out-of-sequence growth.
- Affordability and financial sustainability: affordability was seen as a core strategic outcome, with a need to balance revenue, investment requirements, debt, pricing paths and wider balance sheet risks.
- Governance and reporting: councillors highlighted the importance of durable governance relationships, clear escalation pathways, meaningful reporting and a no-surprises approach.
- Environmental and relationship outcomes: the discussion supported enduring environmental protections, strong transparency, and constructive relationships with mana whenua, communities and other stakeholders.

**Attachment C** summarises the points raised in the workshop held in April.

**Points raised in the April workshop have been incorporated into a draft Statement of Expectations (Attachment D).**

All points raised in the previous workshop have been incorporated into the draft Statement of Expectations, except for anything to address questions around whether the Council could or should place borrowing limits on the WSCCO to mitigate the risks associated with the Council

having to guarantee the WSCCO's debt. This has not been addressed through a proposed debt cap, as officers do not consider that approach necessary or prudent.

The better question is not how Council can impose a hard limit on the level of debt the WSCCO may hold, but how Council can be assured that debt will be managed prudently within an appropriate governance and financing framework. A hard cap in the SoE would risk cutting across the WSCCO's intended financial independence and could create operational issues if borrowing were required to respond to urgent infrastructure needs.

A stronger approach is to rely on the wider assurance framework that will apply to the WSCCO, including a robust treasury policy, LGFA covenant settings and monitoring, the accountability mechanisms through the Statement of Expectations and Water Services Strategy, and the directors' duties under the Companies Act. In this context, LGFA's framework is expected to rely on lending covenants, ongoing monitoring and credit disciplines that are tailored to the water entity.

The WSCCO is likely to require its own credit rating due to the scale of its borrowing, and LGFA has advised that in the event of any covenant breach its preference would be to negotiate security over the WSCCO's revenue, similar to the electricity sector, rather than rely on Council intervention through a guarantee. Taken together, these settings provide a more practical form of assurance than a blunt debt cap, while still supporting prudent debt management, transparency and accountability.

#### 4. DRAFT CONSTITUTION UPDATE

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**A final draft of the Constitution has been prepared based on previous feedback from Councillors (Attachment E) and direction is sought on one outstanding matter.**

The outstanding issue is how the Constitution should deal with any disagreement between Council and the WSCCO if Council seeks amendments to the Water Services Strategy that the WSCCO does not wish to adopt. The matter to be resolved is whether the Constitution should include a formal dispute resolution process, potentially involving an independent third party, or instead require the parties to work through any disagreement in good faith through an informal process.

Officers recommend the informal approach. This approach better reflects the intended collaborative relationship between Council and the WSCCO, while still recognising that the WSCCO must remain the final decision-maker on the Water Services Strategy. It would also avoid the cost, delay and practical difficulties of appointing a third party to mediate or make a recommendation on what are likely to be strategic or policy matters, where any recommendation could only be non-binding. A formal process could therefore add complexity without resolving the issue and may create unnecessary risk to timely adoption of the Water Services Strategy.

## **Part 4**

### **Planning, reporting, and financial management**

#### Subpart 1—Planning

#### Statement of expectations

#### **224 Statement of expectations**

- (1) The shareholders of a water organisation must prepare and adopt a statement of expectations and provide it to the water organisation at least 6 months (or such longer period as is agreed between the shareholders and the water organisation) before the water organisation is required to prepare a water services strategy (see section 230 or 231).
- (2) A statement of expectations must relate to a period of at least 10 consecutive financial years.
- (3) The purpose of a statement of expectations is—
  - (a) to set out the shareholders' expectations of the water organisation; and
  - (b) to inform and guide—
    - (i) the decisions and actions of the water organisation; and
    - (ii) the water organisation's preparation of its water services strategy (see section 230 or 231), including its strategic priorities (see clause 2(1)(a) of Schedule 3).

#### **225 Statement of expectations for new water organisation**

- (1) This section applies when a water organisation is established after the date on which this section comes into force.
- (2) Despite anything to the contrary in section 224, the shareholders in the water organisation must prepare a statement of expectations under section 224 and provide it to the water organisation—
  - (a) as soon as practicable after the date on which the water organisation is established; but
  - (b) no later than 6 months after the date on which the water organisation is established.
- (3) The shareholders may provide the water organisation with a document

setting out the shareholders' interim expectations of the water organisation (an **interim statement**) that applies during the period between the following:

- (a) the date on which the water organisation is established;
  - (b) the date on which the shareholders provide the statement of expectations to the water organisation under subsection (2).
- (4) In addition to the shareholders' expectations, an interim statement may also include, to the extent permitted by section 228, either or both of the following:
- (a) directions for the operation of the water organisation;
  - (b) priorities for the water organisation.
- (5) The shareholders may start preparing the statement of expectations or an interim statement before the date on which the water organisation is established.

## **226 Water organisation must give effect to statement of expectations**

A water organisation must give effect to a statement of expectations provided by the shareholders of the water organisation.

## **227 Content of statement of expectations**

- (1) A statement of expectations prepared under this subpart must include—
- (a) the outcomes that the shareholders expect the water organisation 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 water organisation's service area; and
  - (c) a requirement that the water organisation 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 water organisation must include in its water services half-yearly report (see section 248).
- (2) A statement of expectations may include any other matters the shareholders decide, including, for example,—
- (a) how the shareholders require the water organisation to conduct

its relationships with—

- (i) the shareholders:
  - (ii) the shareholders' communities or any specified stakeholders within those communities:
  - (iii) hapū, iwi, and other Māori organisations:
  - (iv) consumers in the water organisation's service area:
- (b) performance indicators and measures that the shareholders may use to monitor the water organisation:
  - (c) expectations relating to the strategic priorities to be included in the water organisation's water services strategy:
  - (d) a requirement that the water organisation act in accordance with an obligation that a shareholder that is a territorial authority may have with a third party (including with hapū, iwi, or other Māori organisations) under a contract or other agreement:
  - (e) a requirement that the water organisation undertake a specified obligation on behalf of a shareholder that is a territorial authority:
  - (f) a requirement to undertake community or consumer engagement, and the contents of that engagement:
  - (g) expectations in relation to collaborating with the shareholders and other parties when providing water services:
  - (h) a requirement that part or all of the water organisation's water services strategy be independently reviewed or audited.
- (3) A statement of expectations may contain a matter that applies—
- (a) to all or a specified part of the water services provided by the water organisation (for example, a matter that applies only to wastewater):
  - (b) to all or a specified part of the water organisation's service area (for example, a matter that applies only to a territorial authority's district).

**228 Additional requirements of statement of expectations**

- (1) A statement of expectations must be consistent with—

- (a) all legislative obligations that apply to the water organisation; and
  - (b) the water organisation's foundation documents; and
  - (c) the water organisation's responsibilities,—
    - (i) in the case of an Auckland water organisation, for providing a water supply service and wastewater services; and
    - (ii) in all other cases, as specified in a transfer agreement.
- (2) If a water organisation is financially independent of its shareholders, the statement of expectations must not include any requirements or expectations that would compromise that financial independence.
- (3) The statement of expectations must not include any requirements or expectations that—
- (a) relate to the water organisation's performance or exercise of a duty, function, or power under this Act; or
  - (b) require the water organisation to perform, or not to perform, a specified act, or to achieve a specified result, in relation to a specified person or persons.
- (4) However, subsection (3) does not apply if the water organisation's foundation documents provide otherwise.

**229 Statement of expectations: process and limits**

- (1) The shareholders of a water organisation may provide only 1 statement of expectations to a water organisation at any time.
- (2) If a water organisation receives a statement of expectations that is inconsistent with a direction or requirement imposed by a regulator, the regulator's direction or requirement prevails to the extent of the inconsistency.
- (3) The shareholders of a water organisation must publish, on an internet site maintained by or on behalf of 1 or more of the shareholders, the process that the shareholders must follow to prepare a statement of expectations.
- (4) The process to prepare a statement of expectations must include the following:

- (a) the shareholders must provide a draft of the statement of expectations to the water organisation:
  - (b) the shareholders must give the water organisation a reasonable opportunity to review the draft statement and provide comments:
  - (c) the shareholders must consider any comments provided by the water organisation before finalising the statement of expectations.
- (5) In subsection (2), **regulator** means 1 or more of the following:
- (a) the Water Services Authority:
  - (b) the Commerce Commission:
  - (c) a regional council or unitary authority (as that term is defined in the LGA 2002) in whose region the water organisation provides water services.

## 1. PURPOSE

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The purpose of this paper is to provide a consolidated list of the outcomes that attendees at the 28 April 2026 workshop repeatedly signalled as important for inclusion or reflection in the Statement of Expectations.

This summary has been collated by copilot with all points drawn from the meeting transcript.

## 2. WORKSHOP SUMMARY AND ALIGNMENT WITH DRAFT SOE

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### Purpose, Scope and Framing of the SOE

- The SOE should clearly articulate Council's role as shareholder and its expectations of the Water Services CCO, without undermining the CCO's statutory financial and operational independence.
- The document should be used to set direction and priorities, not to prescribe detailed operational solutions.
- A strong preference was expressed for an SOE that is enduring in intent, but recognises different phases of maturity (establishment, transition, longer-term performance).

#### *Draft SOE:*

- ✓ Clearly positions SoE as setting expectations to guide decisions, not operational detail.
- ✓ Reinforces independence through governance and "best practice" framing

### Phased Expectations and Organisational Maturity

- Recognition that the CCO will not be a "high-performing organisation" on day one; early focus should be on a stable, legally compliant operating environment.
- Initial expectations should broadly align with current levels of service, avoiding unrealistic uplift in the first 1–3 years.
- Council expectations should explicitly allow time for the organisation to build capability and maturity, with more ambitious outcomes framed for later review periods.
- Support for a hybrid SOE structure:
  - Enduring long-term outcomes (10+ year horizon)
  - Transitional expectations aligned to establishment and early operation
  - Periodic review (e.g. aligned to Water Services Strategy and LTP cycles) 8

#### *Draft SoE:*

- ✓ Clear four-part structure: general, establishment, transitional, enduring
- ✓ Establishment phase focuses on continuity and no LOS drop
- ✓ Transitional phase emphasises maintaining current performance

### Alignment with Council Strategy and Planning

- Strong emphasis on alignment with existing Council strategies, including infrastructure strategy, growth planning, and spatial planning, without duplicating content unnecessarily.
- The SOE should reinforce the expectation that the CCO works in tandem with Council on growth and land-use planning, particularly where infrastructure sequencing affects affordability and feasibility.
- Clear expectation that the CCO's planning recognises:
  - Growth pressures and fast-track processes outside Council control
  - Downstream infrastructure impacts across the wider system

#### *Draft SoE:*

- ✓ Strong alignment expectations with Infrastructure strategy, spatial planning, District Plan
- ✓ Explicit references to growth sequencing, Fast Track responses, managing out-of-sequence growth.

### Financial Sustainability and Affordability

- Affordability was identified as a core strategic outcome, not simply a financial metric.
- Expectation that the CCO balances:
  - Revenue sufficiency
  - Infrastructure investment needs
  - Long-term affordability for households and the community
- Strong interest in the SOE signalling awareness of:
  - CCO debt and borrowing decisions
  - Council's broader group debt position and credit rating risk
  - The need for transparency around pricing paths and financial risk
- Recognition that while economic regulation sets boundaries, "can borrow" does not equal "should borrow", and governance judgement is required.

#### *Draft SoE:*

##### Includes:

- ✓ Affordability and stable pricing paths
- ✓ Financial sustainability as a core outcome
- ✓ Debt reporting in half-year reports

##### No explicit recognition of:

- ✗ Council group balance sheet / credit rating interface
- ✗ Governance judgement ("can borrow vs should borrow")

*Refer advice from Simpson Grierson.*

### Governance, Accountability and Oversight

- Emphasis on robust governance arrangements that are resilient to changes in personnel over time.
- Clear expectation that governance-to-governance relationships (Council ↔ Board) are maintained, not just management-to-management engagement.
- Strong interest in:
  - Clearly defined engagement and escalation pathways
  - Transitional governance and support arrangements during early years
- Discussion of mechanisms to ensure Council confidence in key appointments (particularly the CEO), with openness to softer influence mechanisms rather than blunt vetoes.

#### *Draft SoE:*

- ✓ Regular Board ↔ Council workshops [2026 05 24...E WORKSHOP | Word]
- ✓ CE engagement expectations
- ✓ Council input into CEO recruitment
- ✓ “No surprises” approach

### Transparency, Reporting and Information

- The SOE should drive meaningful, not burdensome, reporting, especially in the critical early years.
- Priority reporting themes discussed include:
  - Compliance status and known risks
  - Capital programme delivery and cost pressures
  - Affordability and pricing impacts
  - Financial position and debt exposure
  - Progress against transition and maturity milestones
- Strong interest in improved public transparency and customer understanding, including clearer explanations of pricing, investment drivers, and trade-offs.

#### *Draft SoE:*

- ✓ Financial / operational performance
- ✓ Debt position
- ✓ Capital delivery + deviations
- ✓ Compliance risks
- ✓ Transition progress

### Environmental Outcomes and “Do No Harm”

- Broad agreement that environmental protection should be a core enduring outcome, even where standards are framed at a high level.

- Strong support for a “no net environmental degradation” principle, particularly in relation to water quality in rivers and lakes.
- Recognition of limits set by national regulation, but appetite for the SOE to:
  - Signal long-term improvement ambitions
  - Support cost-effective, system-wide approaches to environmental performance

*Draft SoE:*

- ✓ Protect and enhance rivers and lakes
- ✓ Climate and biodiversity alignment
- ✓ Stormwater + resilience focus

**Community, Stakeholder and Iwi Relationships**

- Expectation that the CCO operates as a trusted and transparent organisation, particularly when issues arise.
- Importance of strong relationships with key stakeholders, including:
  - Mana Whenua (with further work required once formal feedback is received)
  - Community and environmental groups
  - Growth and infrastructure partners
- Recognition that engagement expectations should focus on how relationships are managed, rather than prescribing specific forums or structures at this stage.

*Draft SoE:*

- ✓ Transparency, engagement, stakeholder input
- ✓ Relationship with iwi and mana whenua
- Broad enabling clause, but not developed based on discussion with mana whenua

## Attachment D: Draft Statement of Expectations

### STATEMENT OF SHAREHOLDER EXPECTATIONS FOR QLDC 3WATERS LIMITED 2026/2027

#### Introduction

This Statement of Expectations (**SoE**) has been prepared by Queenstown-Lakes District Council (**Council**), as the shareholder of QLDC 3Waters Limited (**QLDC 3Waters**), as required by section 224 of the Local Government (Water Services) Act 2025.

QLDC 3Waters has been established to deliver safe, reliable, affordable and sustainable water supply, wastewater and stormwater services within the Queenstown-Lakes District.

This SoE sets out the Council's expectations of QLDC 3Waters. It is to be used to inform and guide the decisions made and actions taken by QLDC 3Waters, including how it is to work with the Council and other stakeholders, and how it will prepare its water services strategy (**WSS**), including particular aspects that the Council expects QLDC 3Waters to address in its WSS.

This SoE was approved by the Council on [date].

#### Application

This SoE relates to the period [day after adoption] to 30 June 2037.

It will be reviewed by the Council every three years, and no later than [9] months in advance of QLDC 3Waters being required to adopt a new Water Services Strategy.

This SoE may also be reviewed, amended or replaced by the Council at any other time it considers appropriate.

The Council will publish the process it will use to prepare or review its SoE online.

#### Structure

There are four categories of expectations set out in this SoE:

- General expectations – which relate to the entire period of the SoE.
- Establishment expectations – which relate to the establishment phase from 1 July 2026 to 30 June 2027.
- Transitional expectations – which relate to the transition phase from 1 July 2027 to 30 June 2030.
- Enduring expectations – which relate to the longer term.

These different categories recognise that QLDC 3Waters is a newly established organisation that will take time to mature and achieve the ultimate goals of the Council in relation to the delivery of water services.

## GENERAL EXPECTATIONS

### Outcomes to be achieved through QLDC 3Waters' delivery of water services

QLDC 3Waters' purpose is to deliver high quality drinking water, wastewater and stormwater services in a manner that is efficient, safe, reliable, and financially sustainable. It is to do so in accordance with the objectives in section 17 of the Local Government (Water Services) Act 2025.

1. The Council expects the following key **outcomes** to be achieved by QLDC 3Waters, and that they be reflected in all key planning documents:
  - (a) Compliance with all relevant environmental, public health and economic regulatory requirements.
  - (b) Delivery of water services in a financially sustainable manner, with specific consideration given to affordability and equity for QLDC 3Waters consumers, the development of stable and predictable pricing paths when setting water charges, and ensuring the costs of growth are recovered from developers to the maximum extent possible.
  - (c) Water services that support Queenstown-Lakes District's expected population growth, as well as peak demands caused by visitors to the district, and which are aligned with the Council's own strategic growth objectives for the District.
  - (d) That new and existing activities are undertaken in a way that actively seeks to protect and enhance the health of the rivers and lakes across the Queenstown-Lakes District, and other natural ecosystems that are relied on for water services activities, to the extent enabled by the legislative and regulatory environment.
  - (e) Water services arrangements that strengthen the district's resilience to natural hazards, climate change and emergency events, and that support the continued provision, rapid restoration and effective recovery of essential services following disruption.
2. In delivering these key outcomes, QLDC 3Waters is expected to:
  - (a) Generally conduct its business in a manner that:
    - (i) is open, transparent and accountable, including by consulting (by default) on its strategic plans and major proposals, and by publicly disclosing any issues that may impact service delivery, water charges or environmental or public health early, so that both the Council and the public understand any potential impacts on them, or the environment;

- (ii) is in accordance with sound business practice, including by ensuring that comprehensive business case development occurs for key or strategic projects;
  - (iii) is in the best interests of current and future consumers within the Queenstown-Lakes District; and
  - (iv) satisfies the requirement to be a good employer.
- (b) Manage its operations in accordance with its constitution, and all relevant legislation.
  - (c) Maintain a strong relationship with iwi and mana whenua, alongside the Council.
  - (d) Regularly review its compliance with the expectations set by this SoE, and clearly identify for the Council how its Water Service Strategy (draft and final) gives effect to the SoE.
  - (e) Work with the Council to ensure both QLDC 3Waters and the Council comply with the obligations under the Local Government Official Information and Meetings Act 1987 (noting that information held by QLDC 3Waters will be official information).
  - (f) Maintain its intended independence and implement best practice approaches to the governance and operation of its business including through a robust governance model and best practice community engagement.
  - (g) Ensure health, safety, and staff wellbeing are a top priority and that appropriate policies and structures are in place to support this.
  - (h) Reflect the intent of all Council plans, policies and strategies that may be relevant to water services activities, including the Climate and Biodiversity Plan, Blue Green Network Plan, and Open Spaces Strategy, with a view to remaining aligned with Council's strategic priorities.
  - (i) Act in accordance with all applicable statutory and regulatory obligations that apply to the Council in relation to Māori and the Treaty of Waitangi.
  - (j) Act in accordance with any other relevant statutory obligations that apply to the Council.
  - (k) Maintain appropriate emergency preparedness, response and recovery arrangements, including business continuity and incident management capabilities, that reflect the essential lifeline utility roles of water services, and provide resourcing support to Council's Emergency Operations Centre in accordance with shared services agreement.

### **Relationship expectations**

3. The relationship between the Council and QLDC 3Waters will be based on good faith, mutual respect, openness, transparency and a 'no surprises' approach. While each organisation has distinct roles and responsibilities, both will work collaboratively and constructively to support effective decision-making and the delivery of high-quality water services for the Queenstown-Lakes District.
4. QLDC 3Waters will engage early with the Council on matters of strategic, financial, operational or reputational significance, and to share relevant information in a timely and accessible way. The Council agrees to do the same.
5. Both parties will aim to resolve differences of view early and at the lowest appropriate level. Where issues cannot be resolved at that level, they will be escalated promptly through respective chief executives or governance channels. Where a matter remains unresolved, it will be addressed in accordance with an appropriate process that will be agreed between the parties.

### **Working with the Council**

6. The following expectations set out the practical arrangements through which the working relationship between Council and QLDC 3Waters is to be built and maintained.
7. This is to involve:
  - (a) QLDC 3Waters being established and structured so that regular contact with the Council is possible.
  - (b) No less than two meetings or workshops per year attended by the Board of QLDC 3Waters and the full Council, timed to align with key strategic decision-making processes or significant proposals.
  - (c) No less than one meeting or workshop per year attended by the Board of QLDC 3Waters and the Wānaka and Upper Clutha Community Board.
  - (d) Regular meetings between the Chief Executives of the Council and QLDC 3Waters, to be arranged by the Chief Executives as they see fit.
  - (e) Regular meetings between other Council officers and QLDC 3Waters staff, to be arranged by Council officers and QLDC 3Waters staff as they see fit.
  - (f) Working with the Council to ensure that any water services related bylaws are appropriate and workable, with regular reporting on administration and enforcement.
  - (g) Providing prompt notification to the Council of any material or significant events, transactions, actual or potential compliance issues, emerging risks

and significant service failures, along with proposed solutions for addressing any issues.

- (h) Providing advance notice (of at least 6 weeks) to the Council before QLDC 3Waters considers making any decision that involves a significant departure from the expectations set out in this SOE or its WSS, or reprioritises the delivery of activities, including advice about how the decision will be consulted on or otherwise regularised (e.g. through an amendment to the WSS).
- (i) Considering the potential market impacts, and consequential impacts on Council, when developing water services work programmes.

### **Working with the Queenstown-Lakes community, mana whenua, and stakeholders**

- 8. The Council expects QLDC 3 Waters to operate transparently and accountably, proactively share information, enable appropriate input from consumers, the community and stakeholders, and meaningfully engage with public feedback.
- 9. QLDC 3Waters is expected to provide opportunities for key stakeholders to provide input and expertise where relevant. Key stakeholders include:
  - (a) consumers and community organisations;
  - (b) developers and infrastructure investors;
  - (c) neighbouring local authorities;
  - (d) Otago Regional Council;
  - (e) central government agencies and regulators;
  - (f) utility and infrastructure providers;
  - (g) major institutional and commercial water users;
  - (h) and any other stakeholders whose decisions or interests materially affect the planning, delivery or performance of water services in the Queenstown-Lakes District.
- 10. QLDC 3Waters is expected to build and maintain respectful, informed and enduring relationships with mana whenua, recognising that mana whenua are not stakeholders but Treaty partners. QLDC 3Waters is expected to work in a manner that recognises mana whenua interests in wai and enables mana whenua perspectives to inform governance, planning, investment and operational decision-making. QLDC 3Waters is expected to engage early on matters of significance to mana whenua, provide timely and accessible information, and work constructively with mana whenua on priorities relating to source protection, environmental outcomes, infrastructure planning and major projects.

11. QLDC 3Waters is expected to approach the Council for approval in accordance with its constitution before entering any discussions with other local authorities that relate to any potential opportunities for the delivery of any services by the QLDC 3Waters outside of the Queenstown-Lakes District, or amalgamation with any other WSCCO.
12. [Hamilton clause: Work with Council to ensure that Council provides the front door for developers and will not work with developers or enter into development agreements in isolation from Council. The Council also undertake that they will not enter into development agreement in isolation from QLDC 3Waters.] QLDC 3Waters is expected to work with the Council on all matters relating to developer agreements, infrastructure agreements, vesting arrangements and other growth-related arrangements that have implications for water services. QLDC 3Waters must not negotiate or enter into such arrangements in isolation from the Council where they could affect land use outcomes, growth sequencing, development contributions, infrastructure funding, levels of service, or long-term asset ownership and operational responsibilities. QLDC 3Waters is expected to support a coordinated Council-led approach to development interface matters and to provide timely advice on servicing feasibility, network capacity, funding implications, delivery timing and associated risks.

**QLDC 3Waters is to deliver water services in a way that aligns with Council’s land use, urban growth-related policies, urban growth strategies and other infrastructure planning**

13. The Council expects QLDC 3Waters to deliver water services in a way that aligns with expected population growth across the Queenstown-Lakes District, as set out in demand projections provided by QLDC, while maintaining Levels of Service to existing customers. QLDC 3Waters must ensure that its strategic planning and decision-making is aligned with the Council’s own strategic growth and infrastructure plans, including the Council’s intended sequencing of new development.
14. To achieve this QLDC 3Waters is expected to:
  - (a) Contribute as a partner to the development and implementation of the Spatial Plan and Council Infrastructure Strategy / Growth Strategy.
  - (b) Develop a capital investment programme that is stable and aligns with the Council’s growth programme, as set out in the Council’s Spatial Plan or Infrastructure Strategy (whichever is most recent), while also being able to accommodate some unanticipated or out-of-sequence growth to address unexpected demand, but in locations agreed with Council. This does not require QLDC 3Waters to immediately support areas zoned for growth, either currently or in the future.
  - (c) Work collaboratively with the Council on responses to Fast Track referrals and applications to ensure submissions reflect Council’s strategic land use

and growth planning strategies and so that a common view of the impacts and opportunities are presented in submissions.

- (d) Where practicable, align the delivery of new infrastructure and maintenance of existing infrastructure (e.g. roading) with the Council and other infrastructure providers to reduce overall costs to ratepayers and consumers. If it is not practicable or possible to achieve alignment, QLDC 3Waters is to provide explanations to the Council in advance of any formal decision-making by either party on relevant decisions.
- (e) Support any review or update to any existing Council policy and planning documents, by providing complete, accurate and timely technical and strategic advice to assist council decision-making, and contributing to a single council position. If this is not possible, QLDC 3Waters is to clearly identify any potential issues with Council policy proposals and seek to resolve those at appropriate levels, in advance of making any submission (or similar).
- (f) [Support the Council by providing water services expertise and knowledge in a timely manner to enable the Council to meet its statutory requirements in relation to any relevant resource management or land use process including Spatial and District Plan development or updates, consent applications, plan changes and designations.]
- (g) Support the Council in relation to any advocacy on Central Government reform relevant to land use in the Queenstown-Lakes District.
- (h) Use, the same growth assumptions, evidence base and strategic sequencing framework as the Council when planning for future infrastructure, and clearly identify and discuss with the Council any material departure from those assumptions before decisions are made.

**QLDC 3Waters is to deliver stormwater services in an integrated and collaborative manner**

Effective stormwater management will require integration and collaboration between QLDC 3Waters, the Council, other infrastructure providers and other key stakeholders.

- 15. To ensure an integrated and collaborative approach to stormwater management, QLDC 3Waters is expected to:
  - (a) take a catchment wide approach to stormwater management, including in its Water Services Strategy; and
  - (b) consider any relevant plans, strategies or policies of the Council, other infrastructure providers and other key stakeholders when preparing its own plans and policies relating to its stormwater network, and to the extent possible, achieve alignment with the Council;

- (c) prioritise work that focusses on improving the resilience and capacity of the stormwater network in relation to severe weather and flooding events, including immediate post-event reviews and actioning (where practicable) any urgent recommendations; and
- (d) collaborate with the Council when preparing the Stormwater Network Risk Management Plan required under section 201 of the Local Government (Water Services) Act 2025.

#### **Information required in half-yearly report**

16. QLDC 3Water's half-yearly report is to include reporting on:
- (a) Financial and operational performance.
  - (b) QLDC 3Waters' debt position and debt-financing arrangements.
  - (c) Delivery of capital projects against those specified in the Water Services Strategy for the financial year to which the half-yearly report relates, and any departures from planned capital programmes.
  - (d) Compliance and enforcement status of resource consents and other regulatory requirements including actual or potential compliance issues, along with proposed solutions for addressing any compliance issues.
  - (e) Critical risks and proposed mitigations.
  - (f) Key stakeholder relationships, including meetings or other engagements.
  - (g) Progress against the expectations in this SoE, including any areas of non-compliance or material variance, and the actions proposed to address them.
  - (h) Key establishment and transition activities.
  - (i) Resilience and emergency management readiness, including any material incidents, lessons learned from hazard events or exercises, and progress on actions to improve continuity and recovery of essential services.
  - (j) Any other matters that QLDC 3Waters considers appropriate to include.

#### **Preparation of accountability documents and policies**

##### *Significance and Engagement Policy*

17. QLDC 3Waters will work closely with the Council when developing its Significance and Engagement Policy in accordance with section 37 of the Local Government (Water Services) Act 2025, to ensure that it draws on the Council's experience with community engagement in the Queenstown-Lakes district, and it is workable for the district's communities.

18. QLDC 3Waters' Significance and Engagement Policy must include requirements for Council approval before QLDC 3Waters can enter into significant contracts, or make other specified significant decisions. The Council and QLDC 3Waters will work together to develop and include relevant criteria or descriptions for identifying such contracts of decisions in QLDC 3Waters' Significance and Engagement Policy.

*Water services planning documents*

19. When adopting a Water Services Strategy or Water Services Annual Budget, QLDC 3Waters is expected to provide a draft of that strategy to the Council by no later than [insert date] of the year in which the Water Services Strategy is to be adopted, to provide the Council with a chance to comment, or request or require amendments, in accordance with QLDC 3Waters' constitution, and to allow the Council to align its infrastructure strategy with QLDC 3Waters draft WSS, as necessary.
20. When providing the Council with a draft Water Services Strategy or Water Services Annual Budget, QLDC 3Waters is expected to identify to the Council where each of the expectations and requirements within this SoE have been addressed (to the extent they are relevant to those documents).

*Other key documents and policies*

21. When developing any plan or policy, including the Water Services Strategy and Water Services Annual Budget, QLDC 3Waters is expected to reflect the intent of all relevant Council policies, plans and strategies including:
  - (a) Climate and Biodiversity Plan.
  - (b) Blue Green Network Plan.
  - (c) Open Spaces Strategy.
  - (d) Infrastructure Strategy
  - (e) Spatial Plan, District Plan, Long Term Plan and any other Council strategy, policy or plan that is materially relevant to the delivery of water services.
22. The Council may require QLDC 3Waters to prepare additional plans, reports or other accountability documents where permitted by the Local Government (Water Services) Act 2025, including documents relating to transition readiness, customer service, stormwater management, infrastructure resilience, growth servicing, or progress against this SoE. Where such a requirement is made, QLDC 3Waters is expected to work with the Council on the scope, timing and content of the document and to ensure that it is practical, evidence-based and aligned with other statutory and accountability requirements.

## ESTABLISHMENT EXPECTATIONS (1 July 2026 – 30 June 2027)

In the establishment period the Council expects the QLDC 3Waters' focus to be on ensuring that the necessary components are in place for QLDC 3Waters to take over the delivery of water services from 1 July 2027, with minimal disruption to consumers and no negative changes to the levels of service provided.

23. As part of a smooth establishment process, the Council expects QLDC 3Waters to:
- (a) Ensure that QLDC 3Waters is fully operational and delivering water services on 1 July 2027.
  - (b) Act consistently with the Transition Governance and Support Agreement between the Council and QLDC 3Waters, including the principles contained within that agreement.
  - (c) Operate within the establishment budget.
  - (d) Establish a robust governance model to enable the long-term success of QLDC 3Waters.
  - (e) Provide opportunities for the Council to have input in the recruitment process for QLDC 3Waters' Chief Executive.
  - (f) Adopt a Water Services Strategy by 30 June 2027 that:
    - (i) is based on the Council's Water Services Delivery Plan as approved by the Secretary for Local Government;
    - (ii) is consistent with existing commitments and planning decisions made by the Council;
    - (iii) includes an assessment of the affordability of proposed charges for consumers; and
    - (iv) sets out a clear and prioritised programme for asset management, renewals, resilience, growth infrastructure, stormwater risk management, and customer outcomes, and clearly identifies how the strategy gives effect to this SoE.
  - (g) Develop and publish, as early as practicable, a customer charter or equivalent customer-facing service commitment document that clearly explains levels of service, complaints and enquiry pathways, planned and unplanned outage communications, and how customers can access information and provide feedback.
  - (h) Work with the Council and the Local Government Funding Agency to prepare to accede as a participating borrower, and to the extent possible, ensuring access to the same financing terms available to the Council.

- (i) Communicate openly and clearly with residents of Queenstown Lakes-District to ensure the transition and future role of QLDC 3Waters is well understood.
- (j) Put in place the systems, controls, risk management arrangements, staffing, contractor oversight and operational readiness needed to ensure continuity of service, safe transition of responsibilities, and effective customer response from 1 July 2027.

#### **TRANSITIONAL EXPECTATIONS (1 July 2027 – 30 June 2030)**

- 24. In the transition phase, the Council expects the focus of QLDC 3Waters to be on continuity of service for customers and maintaining existing levels of service and performance as are currently achieved by the Council, in relation to all aspects of the delivery of water services, with a view to enabling future improvements.
- 25. To enable a smooth transition, the Council expects the QLDC 3Waters to:
  - (a) Work closely with the Council and utilise existing knowledge, strategies, and plans where possible.
  - (b) Develop, with Council, appropriate shared service and service level support arrangements, which work to achieve seamless delivery of services across the District.
  - (c) Ensure that the Council receives regular updates from the Board [or Establishment Team] on progress with transition, including through workshops scheduled for that purpose.

#### **ENDURING EXPECTATIONS**

- 26. Over the longer term the Council expects QLDC 3Waters to enhance the delivery of water services in the Queenstown-Lakes District. The Council recognises that improvements in levels of service, performance, financial management and other areas will take time, and need to be viewed against the existing operating environment, condition of assets being transferred, affordability and growth.
- 27. While some of these enduring expectations are aspirational, over the longer term the Council expects QLDC 3Waters to achieve and maintain:
  - (a) Water services infrastructure, systems and response arrangements that are as resilient as practicable to natural hazard events, including earthquakes, and that support continued or timely restored access to essential services and effective recovery thereafter. Systems and processes that allow consumers to understand clearly what they are paying for, and where there are any changes proposed from year to year, including appropriate digital tools to enable consumers to view what they will be charged and why.

- (b) Best practice contract management procedures, processes and systems that enable accountability between the QLDC 3Waters and its contractors.
  - (c) Appropriate risk identification and management structures.
  - (d) Approaches and processes that enable QLDC 3Waters to recover costs that are associated with visitors to the District from those visitors (either directly or indirectly).
  - (e) Processes to measure, report and progressively reduce QLDC 3Waters' greenhouse gas emissions, using recognised emissions accounting and reporting protocols, consistent with Council's approach and the objectives of the Climate and Biodiversity Plan.
  - (f) A strong environmental reputation supported by demonstrable improvements in environmental compliance, water quality outcomes, stormwater management, source water protection, catchment health, and transparent reporting, balanced against the need to ensure cost effectiveness of investments.
  - (g) Mature planning, asset management and investment disciplines that support timely renewals, prudent growth servicing, transparent trade-offs, and improved long-term service and environmental outcomes for the Queenstown-Lakes District.
  - (h) Works as an integral part of the Grow Well Whaiora partnership (or any successor).
28. Although these expectations relate to the longer term, the Council expects QLDC 3Waters to produce a report for Council outlining how they will progress towards these expectations by 30 June 2027 and begin to regularly report on progress towards these expectations as soon as possible, and no later than 1 July 2028.

# CONSTITUTION OF QLDC 3WATERS LIMITED

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Draft

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### SCHEDULES

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SCHEDULE 2 SHAREHOLDER RESERVED MATTERS

**QLDC 3WATERS LIMITED**  
**(Company)**

**CONSTITUTION**

**1. DEFINITIONS AND INTERPRETATION**

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**1.1** In this Constitution, unless the context otherwise requires:

**Appointment and Remuneration of Directors Policy** means the Shareholder's policy for the appointment and removal of directors, as amended by resolution of the Shareholder from time to time.

**Board** means the Directors, provided they meet the required quorum, acting together as a board of Directors.

**Board Skills Matrix** means a matrix setting out the skills which are required to be represented on the Board, by being held by one or more Directors in office, as adopted and amended from time to time by the Shareholder or its delegate.

**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 Otago region, New Zealand.

**Chairperson** means the chairperson of the Board appointed in accordance with clause 11.7.

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

**Company** means QLDC 3Waters Limited, a company incorporated in New Zealand under company number [●].

**Constitution** means this constitution of the Company (including the Schedules) as amended 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.

**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.

**Major Transaction** has the meaning given to that term in the Companies Act.

**Related Company** has the meaning given to that term in the Companies Act.

**Service Area** has the meaning set out in the LG(WS) Act and as at the date of adoption of this Constitution is the Queenstown-Lakes district (within the meaning of 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 in the Company and, as at the date of adoption of this Constitution, means Queenstown-Lakes District Council.

**Shareholder Reserved Matter** means any matter of the nature listed in SCHEDULE 2;

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

**Special Resolution** means a resolution that is approved by 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 Shareholder to the Company in accordance with the Transfer Agreement between the 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 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

- (b) 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

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- 2.1 Water Organisation:** As at the date of its incorporation, the Company is a Water Organisation in terms of sections 4 and 44 of the LG(WS) Act.
- 2.2 Business of the Company:** 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 Expansion of Scope of Business:** Subject to obtaining prior approval from the Shareholder, the Board may investigate opportunities to provide water services outside the Service Area, on the basis that:
- (a) the Board may be authorised to investigate opportunities and provide a recommendation to the Shareholder on those opportunities;
  - (b) any recommendation made by the Board will be non-binding on the Shareholder; and
  - (c) any decision to expand the scope of the Company's business so that it is allowed to provide water services outside of the Service Area will be subject to the approval of the Shareholder (and prior compliance with any applicable legal requirements, including potential consultation required under either the LG(WS) Act or the LGA).
- 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.

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### **3. WATER ORGANISATION REQUIREMENTS**

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#### **3.1 Obligations:** The Company must comply with:

- (a) its obligations under the LG(WS) Act, which include preparing, adopting and publishing its Water Services Strategy, Water Services Annual Budget, Water Services Half-yearly Report and Water Services Annual Report;
- (b) all applicable statutory and regulatory obligations relating to Māori and the Treaty of Waitangi, including those set out in the LGA and LG(WS) Act;
- (c) Parts 1 – 7 of the Local Government Official Information and Meetings Act 1987; and
- (d) all other laws applicable to the Company and its Business activities.

#### **3.2 Shareholder Role in Relation to Certain Accountability Documents:**

- (a) The Shareholder is entitled to comment on the Company's draft Water Services Strategy and draft Water Services Annual Budget, and the Company must consider any comments provided by the Shareholder.
- (b) The Shareholder is also entitled to request that the Company make amendments, or require amendments, to the Company's draft Water Services Strategy, prior to the Company deciding to adopt the final Water Services Strategy.
- (c) If the Company does not agree to make any amendment that is requested or required by the Shareholder under clause 3.2(b), then the Company will notify the Shareholder of its reasons for not agreeing to any such amendment within five Business Days (such notice to be provided in writing to the Chief Executive of the Shareholder). The parties will then engage (through nominated representatives) in good faith, to agree whether the draft Water Services Strategy should be amended and, if so, the appropriate amendments.
- (d) Notwithstanding clauses 3.2(a) and 3.2(c), the Shareholder will not have the power to approve or adopt the final Water Services Strategy or final Water Services Annual Budget.

#### **3.3 Audit or Independent Review of Draft Water Services Strategy:** The Shareholder may do one or more of the following:

- (a) subject to the Statement of Expectations, require the Company to obtain an audit of its Water Services Strategy at the Company's cost;
- (b) require the Company to request that its Water Services Strategy be audited in accordance with section 239 of the LG(WS) Act, at the Company's cost; or
- (c) subject to the Statement of Expectations, require the Company to obtain an independent review of its Water Services Strategy, either in full or in part,

with the scope of the independent review and identity of the person(s) who will conduct the review to be discussed and agreed between the Shareholder and Company in advance of any engagement;

and the Company must reasonably cooperate with the Shareholder, auditor or third-party expert (as applicable) to give effect to the above, including by providing access to all relevant documents, records, and personnel as reasonably required for the purposes of conducting such audit or review.

**3.4 Use and Ownership of Assets:** The Company must not:

- (a) use any of the assets of its Water Services networks as security for any purpose; or
- (b) transfer the ownership of its Water Services infrastructure or of any other interest in a Water Service to any third party,

except to the extent permitted by the LG(WS) Act and as authorised by the Shareholder.

**3.5 Statement of Expectations:** The Board must ensure that the Company gives effect to and carries out its objectives in a manner which is consistent with the Statement of Expectations provided to it by the Shareholder.

**3.6 Auditor:** The auditor for the Company will be the Auditor-General.

**4. SHARES**

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**4.1 Initial Shares on Issue:** All shares at the time of incorporation of the Company will be fully paid, ordinary shares which are equal ranking in all respects.

**4.2 Pre-emptive Rights:** Section 45 of the Companies Act does not apply to the Company.

**4.3 Issue of Shares:** The Board may issue Shares only with the prior approval of the Shareholder and in accordance with this Constitution and the LG(WS) Act.

**4.4 Transfer of Shares:** No Shares may be transferred to any person without the prior approval of the Shareholder.

**4.5 Shareholder Meetings:** The Shareholder has the right to receive notice of and attend every meeting of the Shareholder.

**4.6 Rights Attaching to Shares:** Subject to the rights of any class of Shares which confer special rights, each Share confers on the holder the right to:

- (a) one vote on a poll at a meeting of the Shareholder on any resolution, including any resolution to:
  - (i) appoint or remove a Director or auditor;
  - (ii) adopt a constitution;

- (iii) alter the Company's constitution;
  - (iv) approve a Major Transaction;
  - (v) approve an amalgamation of the Company under section 221 of the Companies Act; or
  - (vi) put the Company into liquidation; and
- (b) an equal share in the distribution of the surplus assets of the Company.

**4.7 Types of Shares:** Subject to this Constitution and the written approval of the Shareholder (other than in the case of the initial issue under clause 4.1), the Board may:

- (a) issue Shares at any time to the Shareholder and in any number;
- (b) issue Shares in different classes which have different rights; and
- (c) divide existing Shares into different classes which have different rights.

## 5. CALLS ON SHARES

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**5.1 Company May Make Calls:** The Company may from time to time make such calls as it thinks fit on the Shareholder in respect of any amount unpaid on its Shares and not, by the conditions of issue, made payable at a fixed time or times. The Shareholder must, subject to receiving at least 14 days' written notice specifying the time or times of payment, pay to the Company at the time or times so specified any amount so called. A call may be revoked or postponed as the Company may determine. The Shareholder will be liable to pay, in accordance with the relevant notice, every call and will remain liable to do so notwithstanding the subsequent transfer of the relevant Shares.

**5.2 Terms of Issue:** Money payable in accordance with the terms of issue of a Share will be deemed to be a call made and payable in accordance with the terms of issue.

**5.3 Interest:** If an amount called in respect of a Share is not paid before or at the time appointed for payment, the person from whom the amount is due must pay:

- (a) interest on that amount from the time appointed for payment to the time of actual payment at such rate as the Company, acting reasonably, may determine; and
- (b) all expenses which the Company has incurred or may incur because of non-payment.

The Company may waive payment of any such interest wholly or in part.

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## 6. RIGHT TO LIEN AND FORFEITURE

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**6.1 Liability Not Extinguished:** The Shareholder's liability for all money owing under a call made under clause 5 is not extinguished by a transfer of the Share in respect of which the money is owed.

**6.2 Lien:** The Company has a first lien on the proceeds of sale in respect of every Share registered in the name of a Shareholder, for:

- (a) all money payable to the Company by the Shareholder in respect of that Share;
- (b) all other money payable by the Shareholder to the Company; and
- (c) any money the Company may be required to pay under any statute or regulation in respect that Share or the Shareholder,

whether or not the time for the payment has arrived.

**6.3 Company May Sell Shares:** The Company may sell any Share on which the Company has a lien. The Company may not make such a sale:

- (a) unless money in respect of which the lien exists is due for payment; and
- (b) until it has given notice to the registered Shareholder requiring payment of the money in respect of which the lien exists within 20 Business Days of the notice.

**6.4 Director's Certificate:** A certificate signed by a Director stating that the power of sale in clause 6.3 has arisen and is exercisable by the Company is conclusive evidence of the facts stated in the certificate.

**6.5 Authority to Complete Transfer:** The Board may authorise any person to complete a transfer of Shares to a purchaser to give effect to any sale under clause 6.3.

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## 7. DISTRIBUTIONS

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**7.1 Distributions:** The Company must not pay any Distribution in any way, directly or indirectly, to the Shareholder, except pursuant to clause 14.

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## 8. COMPANY ACQUIRING ITS OWN SHARES

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**8.1 Company may acquire its own Shares:** With the prior written approval of the Shareholder, the Company may acquire its own Shares and any Shares so acquired will be deemed to be cancelled immediately on acquisition.

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## 9. SHAREHOLDER MEETINGS

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**9.1 Annual meeting:** The Board must hold an annual Shareholder 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. Nothing in this Constitution prevents the Shareholder from agreeing to hold meetings more frequently than annually, whether by resolution or separate agreement.

**9.2 Special meetings:** A special Shareholder meeting:

- (a) may be called at any time by the Board; and
- (b) must be called by the Board on the written request of the Shareholder.

**9.3 Proceedings at Shareholder meetings:** The provisions of Schedule 1 to the Companies Act as modified by this Constitution, govern proceedings at Shareholder meetings.

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**10. REPORTING REQUIREMENTS**

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**10.1 Reporting:** Subject to clause 10.2:

- (a) the Board must prepare the reports required by the Shareholder 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 Shareholder (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 Shareholder (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.

**10.2 Information to be withheld:** Nothing in this clause 10 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.

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## 11. DIRECTORS

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

**11.2 Number of Directors:** The minimum number of Directors is three and the maximum number of Directors is five.

**11.3 Appointment and removal of Directors:**

(a) **By Shareholder:** The Shareholder may appoint, remove or replace any Director at any time by resolution in accordance with the Appointment and Remuneration of Directors Policy and by notice in writing to the Company. The Shareholder will ensure that each Director is appointed on the basis of their competency to perform the role, and so that the Board collectively has an appropriate mix of skills, knowledge, and experience in relation to providing Water Services.

(b) **By Board:** The Board may appoint any person to be a Director to fill a temporary vacancy in (and only in) circumstances where the number of Directors falls below the minimum number set out in clause 11.2. This can be at any time during a three-month period prior to the next annual general meeting (but not otherwise). Subject to their earlier resignation, retirement, disqualification or removal in accordance with this Constitution, any Director appointed under this clause 11.3(b) will cease to hold office at the commencement of the next annual meeting of the Company or at the next special meeting of the Company, whichever is earlier.

(c) **Removal:** Every Director will hold office subject to the provisions of this Constitution and may at any time be removed by the Shareholder under clause 11.3(a). Section 156 of the Companies Act will not apply to the Company.

**11.4 Skills of Directors:**

(a) A person may only be appointed to be a Director if the person has, in the opinion of the Shareholder, 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) All Director appointments must be made in accordance with the Board Skills Matrix, with the aim of ensuring that the Board as a whole has the skills required by the Board Skills Matrix.

**11.5 Term of Appointment:** Unless otherwise approved by the Shareholder:

(a) No person may be appointed as a Director for a term of more than three consecutive years (**Term**).

- (b) A Director may be reappointed at the expiry of his or her Term of appointment for a term of no more than three years, provided that no Director may be appointed for more than six consecutive years.

**11.6 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 11.4;
- (d) becomes disqualified from being a Director pursuant to section 151 of the Companies Act or clause 11.16; or
- (e) dies.

**11.7 Appointment of Chairperson:** The Chairperson of the Board will be appointed in accordance with the Appointment and Remuneration of Directors Policy.

**11.8 Powers of the Board:**

- (a) Subject to clause 11.8(b) and any restrictions in the Companies Act, the LG(WS) Act, 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 Companies Act or the LG(WS) Act expressly requires those powers to be exercised by the Shareholder or any other person.

**11.9 Prohibited matters:** Notwithstanding clause 11.8(b), the Board must not, and must not cause the Company to:

- (a) incur indebtedness to any person other than the New Zealand Local Government Funding Agency Limited or a New Zealand registered banking institution; or
- (b) grant a security interest over any of the assets of the Company,

except to the extent permitted by the LG(WS) Act and approved by the Shareholder in accordance with SCHEDULE 2.

**11.10 Shareholder Reserved Matters:** Notwithstanding clause 11.8(b), but subject to any restrictions in the LG(WS) Act, the Board must not, and must not cause the Company to, enter into any transaction or matter that is a Reserved Matter, unless first approved in writing by the Shareholder.

- 11.11 Solvency test:** Notwithstanding any approval obtained pursuant to clause 11.9, the Board must not cause the Company to borrow or raise any money, or enter into or incur any guarantee or other liability of any nature, if the effect of doing so would be that the Company will not satisfy the solvency test (as that term is defined in the Companies Act).
- 11.12 Proceedings of the Board:** The provisions of the Schedule 3 to the Companies Act as modified by this Constitution govern proceedings at meetings of Directors.
- 11.13 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.
- 11.14 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 the Shareholder).
- 11.15 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 11.15 "director" includes any former director, "employee" includes any former employee and "Company" includes any Related Company.
- 11.16 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.
- 11.17 Remuneration of Directors:**
- (a) The total sum available to the Board each year to make remuneration payments in accordance with clause 11.17(b) will be determined in accordance with the Appointment and Remuneration of Directors Policy.
  - (b) The Board may not authorise any form of remuneration to be paid to a Director without Board approval and unless such payment is made and authorised in accordance with the provisions of the Companies Act and the Shareholder resolution passed in accordance with clause 11.17(a).

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

**11.18 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. INTERESTS OF DIRECTORS**

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**12.1 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.

**12.2 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 12.2(a) to 12.2(d); or
- (f) they are otherwise directly or indirectly materially interested in the transaction.

**12.3 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 11.17;
- (d) the entry into an indemnity or insurance arrangement in respect of that Director in their capacity as a director of the Company in accordance with clause 11.15; or
- (e) transactions in which a Director is interested solely in their capacity as a director of a Subsidiary of the Company,

in accordance with the Company's conflict of interest policy and significance and engagement policy (as relevant, and as amended from time to time).

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

**12.5 No prohibition regarding quorum:** No prohibition under this clause 12 will prevent the attendance of a Director at a Board meeting from counting for quorum purposes.

## 13. NOTICES

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**13.1 Service:** Notices may be served by the Company on any Director or on the Shareholder, either by personal delivery, by posting it in a prepaid envelope addressed to the recipient at their last known address (or, in the case of a company, its registered office) or by email to the email address of such Director or the Shareholder.

**13.2 Service by Post:** A notice served by post will be deemed served five Business Days after (but exclusive of) posting.

**13.3 Service by Email:** A notice served by email will be deemed to have been served on the day following completion of its transmission or, if such day is not a Business Day in the place of intended receipt, then on the next Business Day at that place. In proving service by email, it will be sufficient to prove confirmation of delivery to the recipient's email address from the transmitting system.

## 14. LIQUIDATION

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**14.1 Distribution of Surplus Assets:** Subject to clause 14.2 of this Constitution, on the liquidation of the Company, the assets, if any, remaining after payment of the debts and liabilities of the Company and the costs of winding up will be distributed to the Shareholder.

**14.2 Distribution in Specie:** On a liquidation of the Company, the liquidator, with the approval of the Shareholder and subject to any other sanction required by law, may distribute some or all of the assets of the Company in specie to the Shareholder.

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**15. METHODS OF CONTRACTING**

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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.

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**16. INFORMATION**

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**16.1** Parts 1 to 7 of the Local Government Official Information and Meetings Act 1987 apply to the Company while it is a Water Organisation.

**16.2** The Ombudsman Act 1975 applies to the Company while it is a Water Organisation.

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**17. AMENDMENT**

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This constitution may only be amended by Special Resolution of the Shareholder.

## SCHEDULE 1

### BOARD PROCEEDINGS

#### 1. FREQUENCY OF MEETINGS

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The Board will meet no less than quarterly per annum, and the Board may resolve to meet more frequently.

#### 2. NOTICE OF MEETING

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- 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 ten Business Days' notice of a meeting of the Board must be given to every Director who is in New Zealand or, if not in New Zealand is readily contactable by the Company. 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.
- 2.4** The notice of meeting must be a written notice delivered to the Director, or sent to the postal or email address which the Director provides to the Company for that purpose, or if a postal or email address is not provided, then a written notice to their last place of residence known to the Company.

#### 3. METHOD OF HOLDING MEETINGS

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A meeting of the Board may be held in any of the following ways:

- 3.1 Physical Meeting:** by a number of the Directors who constitute a quorum being assembled together at the place, date and time appointed for the meeting;
- 3.2 Other Means:** by means of audio, or audio and visual, communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
- 3.3 Combination:** a combination of 3.1 and 0.

#### 4. QUORUM

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**4.1** At any meeting of Directors:

- (a) a quorum will only be present if at least 75% of Directors are present; and
- (b) any resolution, unless otherwise specified in this Constitution, will be passed if a majority of the votes cast on it are in favour of it.

- 4.2** If a quorum is not present within 30 minutes of the scheduled start time of the Board meeting, the Chair can decide to adjourn the meeting to another date, time, and place. No business can be conducted if a quorum is not present.

**5. VOTING**

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- 5.1** Every Director has one vote.
- 5.2** The Chairperson does not have a casting vote.
- 5.3** 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.
- 5.4** A Director who abstains from voting is not presumed to have voted in favour of, or dissented to, the relevant resolution of the Board.

**6. MINUTES**

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

**7. RESOLUTIONS**

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- 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 copy of every Directors' resolution must be entered in the minute book of Board proceedings.

**8. OTHER PROCEEDINGS**

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Subject to any contrary provision in this Constitution and to any contrary rule of law, the Board may regulate its own proceedings.

## SCHEDULE 2

### SHAREHOLDER RESERVED MATTERS

- (a) Issue of shares to the Shareholder or any other party
- (b) Provision of services outside the Service Area
- (c) Liquidation or winding up of the Company
- (d) Amalgamation
- (e) Changes to, or buy-backs of, shares
- (f) Major transactions (as defined in the Companies Act)
- (g) Adoption, revocation, or amendment to the Constitution
- (h) Material changes to the nature of the Company's business
- (i) Giving financial assistance for the purposes of purchasing shares
- (j) Incurring any indebtedness to any person other than the New Zealand Local Government Funding Agency Limited or a New Zealand registered banking institution]

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