



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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ORDINARY MEETING OF COUNCIL

Open Minutes Attachments

Meeting Date: Thursday 31 July 2025

Time: 9.30am

Venue: Large Exhibition Hall
War Memorial Centre
Marine Parade
Napier

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REGIONAL WSCCO HEADS OF AGREEMENT

CENTRAL HAWKES BAY DISTRICT COUNCIL

HASTINGS DISTRICT COUNCIL

NAPIER CITY COUNCIL

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AGREEMENT DATED**2025****PARTIES**

- 1. CENTRAL HAWKES BAY DISTRICT COUNCIL**
- 2. HASTINGS DISTRICT COUNCIL**
- 3. NAPIER CITY COUNCIL**

(together, the **Councils**).

BACKGROUND

- A.** The Councils wish to proceed with the planning for a joint operating model that will be responsible for the delivery of water services in their respective districts.
- B.** As part of progressing the joint operating model, the Councils are required to submit a joint Water Services Delivery Plan (**WSDP**) to the Secretary for Local Government (Department of Internal Affairs) by 3 September 2025 which describes how water services will be delivered, as required under the Local Governance (Water Services Preliminary Arrangements) Act 2024.
- C.** The Councils commit to working together to:
 - (a)** develop a joint operating model for the delivery of water services for each Council's district/city, to inform the development of the joint WSDP;
 - (b)** agree the shareholding and governance arrangements for the WSCCO; and
 - (c)** establish a regional WSCCO for the joint operating model in accordance with the accepted WSDP.
- D.** Each Council agrees to undertake the activities and responsibilities allocated to it in this agreement to achieve the Objectives.
- E.** The Councils have entered into this agreement to record the terms of their commitment to developing the joint operating model, achieving the Objectives and establishing the regional WSCCO.

SIGNATURES

SIGNED for and on behalf of
CENTRAL HAWKES BAY DISTRICT COUNCIL
by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

SIGNED for and on behalf of
HASTINGS DISTRICT COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

SIGNED for and on behalf of
NAPIER CITY COUNCIL by:

Signature of Authorised Signatory

Signature of Authorised Signatory

Name of Authorised Signatory

Name of Authorised Signatory

Date

Date

SCHEDULE 1

AGREEMENT DETAILS

Commencement Date <i>(Clause 6.1, Schedule 2)</i>	The date on which this agreement has been signed by all parties.
Expiry Date <i>(Clause 6.1, Schedule 2)</i>	This agreement expires on the earlier of: (a) The date on which the parties agree to terminate this agreement under clause 6.2; and (b) The date on which the WSCCO has been established, as provided for by the LG(WS) Bill when it comes into force.
Transitional Governance Group ("TGG") <i>(Clause 4, Schedule 2)</i>	<p>Members: The members of the Transitional Governance Group will be:</p> <ul style="list-style-type: none"> • The Mayor of Central Hawkes Bay District Council, and one other member (either elected member or appointee); • The Mayor of Hastings District Council, and one other member (either elected member or appointee); • The Mayor of Napier City Council, and one other member (either elected member or appointee); • An independent chair, who will be appointed (and removed or replaced) by the other members of the TGG by unanimous agreement. <p>Meetings: The Transitional Governance Group will meet monthly, or at such other times or frequency as they determine.</p> <p>Decision-making: see clause 4.2 of Schedule 2.</p>
Project Steering Group ("PSG") <i>(Clause 4, Schedule 2)</i>	<p>Members: The members of the Project Steering Group will be:</p> <ul style="list-style-type: none"> • The Chief Executive of Central Hawkes Bay District Council (or nominee) • The Chief Executive of Hastings District Council (or nominee) • The Chief Executive of Napier City Council (or nominee) <p>Meetings: The Project Steering Group will meet [fortnightly/monthly] or at such other times or frequency as they determine. The PSG will remain in place until the TGG and Interim Establishment Board, once appointed, decide that it is no longer required, at which time it shall be</p>

	dissolved.	
Establishment Board and Establishment Chief Executive (clause 4)	<p>An Establishment Board will be appointed by the TGG and will be responsible for appointing an Establishment Chief Executive.</p> <p>The Establishment Chief Executive shall work closely with the Project Team and PSG, as required.</p>	
Project Team (clause 4 and 5.3, Schedule 2)	<p>Convenor: The Councils will appoint an individual to act as the convenor of the Project Team, who will be responsible for organising and facilitating the Project Team meetings.</p> <p>Members: The members of the Project Team will be one named officer or external appointee from each of the shareholding Councils.</p> <p>The Project Team will appoint one of their members as the Project Team Lead, who will be responsible for leading all engagement with the TGG, PSG and Establishment Board and Establishment Chief Executive (as required, and unless otherwise agreed).</p> <p>Meetings: The Project Team will meet at such times or frequency as they determine.</p> <p>Establishment Chief Executive involvement: Once appointed by the Establishment Board, the Establishment Chief Executive will work closely with the Project Team to ensure alignment of workstreams by the Project Team and WSCCO.</p>	
Address for notices (clause 10, Schedule 2)	Central Hawkes Bay District Council	Hastings District Council
	28/32 Ruataniwha Street Waipawa 4210	207 Lyndon Road East Hastings 4122
	Email: [Insert details]	Email: [Insert details]
	Attention: [Insert details]	Attention: [Insert details]
	Napier City Council	
	215 Hastings Street Napier South Napier 4110	
	Email: [Insert details]	

	Attention: [Insert details]	
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SCHEDULE 2

AGREEMENT TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this agreement the following definitions apply:

Agreement Details means Schedule 1 of this agreement;

Business Day means any day other than a Saturday, Sunday or a statutory public holiday in Hawkes Bay, New Zealand;

Commencement Date has the meaning given to that term in Schedule 1: Agreement Details;

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

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

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

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

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

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

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

- (a) patents, trade marks, service marks, copyright, registered designs, trade names, symbols and logos;
- (b) patent applications and applications to register trade marks, service marks and designs; and

- (c) formulae, methods, plans, data, drawings, specifications, characteristics, equipment, designs, inventions, discoveries, improvements, know-how, experience, software products, trade secrets, price lists, costings, brochures and other information used by that person;

LGOIMA means the Local Government Official Information and Meetings Act 1987;

LG(WS) Bill means the Local Government (Water Services) Bill;

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

Objectives has the meaning given to that term in clause 2.1;

Project means giving effect to the Objectives in the manner contemplated by this agreement;

Project Plan has the meaning given to that term in clause 4.7(a);

Project Budget has the meaning given to that term in clause 5.2;

WSCCO means the Water Services Council Controlled Organisation that is proposed to be owned jointly by the Councils, that will be a water organisation once established under the Local Government (Water Services Bill), once it is in force; and

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

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

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

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

2. PROJECT OVERVIEW

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

- (a) for the Councils to continue to work closely, collaboratively and successfully to:
 - (i) progress a proposed joint operating model for the future delivery of water services in the Hawke's Bay region; and
 - (ii) develop, adopt and submit a joint WSDP that meets each Council's needs and objectives for their respective communities, and which satisfies the requirements of the LG(WSPA) Act;
- (b) to agree the process (including key terms, governance and administrative support, allocation of responsibilities, timing and budget) for the establishment of the proposed joint operating model in accordance with the accepted WSDP;
- (c) to facilitate decision-making by each Council in a timely manner to ensure that all relevant statutory requirements can be satisfied, and the proposed joint operating model can be established in a manner that reflects the accepted WSDP implementation plan; and

- (d) to enable the Councils to consider and reach agreement as to how they will operate together in a way that facilitates an effective and efficient use of the Councils' resources, and provide optimum benefit to the parties' ratepayers, as part of transitioning to the proposed joint operating model.

2.2 Key Documents and Outcomes: The key documents to be developed under or in alignment with this agreement are as follows:

- (a) the Project Plan, which will be prepared by the Project Team and approved by the PSG;
- (b) the Project Budget, which will be developed and maintained by the Project Team for each phase of the Project (as set out in the Project Plan) and approved by the PSG;
- (c) the joint WSDP, which will be developed jointly by the Project Team, and approved by each Council individually; and
- (d) the structure, governance and transfer arrangements, in relation to the joint WSCCO, which will be developed by the Project Team based on the key terms set out in Schedule 4 and the strategic priorities and intentions set out in Schedule 5, and approved by the PSG, with a final approval step of the TGG.

2.3 Relationship principles: The Councils will:

- (a) work together collaboratively and in good faith;
- (b) ensure communication between them is open, proactive, transparent and inclusive, to avoid any surprises;
- (c) make every effort to understand the other Councils needs and objectives for the joint operating model, and make all reasonable endeavours to ensure the joint operating model meets such needs and objectives;
- (d) raise any issues that arise in connection with this agreement at the earliest opportunity, for joint resolution;
- (e) resolve disagreements between them promptly and amicably; and
- (f) as a courtesy and in the interest of clear and consistent communication, consult with the other Councils before commenting publicly on the joint operating model or this agreement.

3. KEY ACTIVITIES

3.1 Council responsibilities: Each Council will:

- (a) work with the other Councils to:
 - (i) develop and document the Council's technical, operational, legal and other requirements for the joint operating model

("Requirements") and to agree reasonable and realistic timeframes for delivery of the joint operating model; and

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

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

3.3 Project administration:

- (a) The Councils agree that Hastings District Council will have responsibility for the following:
 - (i) managing Project expenditure and tracking against the Project Budget (once agreed), including managing the recovery of contributions from shareholder Councils;

- (ii) preparing, with the Establishment Board and Establishment Chief Executive, all necessary budgets for the Establishment phase;
 - (iii) preparing agendas and scheduling governance meetings for the Project; and
 - (iv) preparing reporting for governance meetings for the Project, including reporting on expenditure and forecasting for future costs.
- (b) The Councils may agree that one of the other Councils will take the role set out in clause 3.3(a), after which time that replacement Council will assume those responsibilities under this agreement.

3.4 Development expectations and timelines:

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

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

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

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

4. PROJECT GOVERNANCE

4.1 Governance structure: The governance model for the Project comprises the following:

- (a) Transitional Governance Group ("TGG");
- (b) Project Steering Group ("PSG");
- (c) Establishment Board and Establishment Chief Executive; and
- (d) Project Team.

4.2 Decisions made by the governance groups: The parties record their intention that:

- (a) Other than the substantive decisions on the proposed joint operating model, and adoption of the joint WSDP (which will remain decisions for the Councils separately), all other decisions relating to the Project Plan will be made by the TGG.
- (b) The TGG will provide direction to the PSG and (as required) the Establishment Board / Establishment Chief Executive, which will then direct the Project Team as relevant.
- (c) The TGG, PSG, and Project Team will make decisions on a consensus basis. Where consensus is not possible, decisions will be made by majority, or alternatively escalated to the next governance level, with final decisions to be made by the members of the TGG (which decisions must be unanimous in order to bind each Council in respect of the Project).

4.3 Meeting administration: Each of the governance meetings will be scheduled by the Council appointed under clause 3.3, who will circulate agenda items and decisions to be discussed ahead of the meeting date, and will circulate minutes for approval following each such meeting.

4.4 Transitional Governance Group: The TGG shall be responsible for:

- (a) overseeing the direction of the Project, and providing directions to the PSG in relation to the Project Plan;
- (b) addressing issues that have been escalated to it by the PSG;
- (c) keeping informed on the Project by information provided from the PSG (which includes reporting provided to the PSG by the Project Team); and
- (d) Appointing an Establishment Board for the WSCCO, and then advising on the appointment of an Establishment Chief Executive (who is to be appointed by the Establishment Board).

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

- (a) giving effect to any directions and decisions on the Project provided by the TGG in relation to the requirements of the shareholder Councils;
- (b) appointing members to the Project Team;
- (c) addressing any issues that have been escalated to it by the Project Team;
- (d) approving the Project Plan;
- (e) reviewing and approving any proposed changes to the direction of the Project or Project Plan, unless any change is considered material or to prejudice one of the shareholder Council, in which case such direction will need to be provided by the TGG;
- (f) ensuring the strategic direction of the Project continues to align with the Objectives and each Council's obligations under this agreement; and
- (g) approving the Project Budget and any changes to the Project Budget.

4.6 Establishment Board and Establishment Chief Executive: The Establishment Board shall be responsible for appointing the Establishment Chief Executive, who will work in tandem with the Project Team and report to the Establishment Board at regular intervals. When required, the Establishment Chief Executive will attend meetings of the PSG, to ensure alignment between the Project Team and WSCCO establishment activities.

4.7 Project Team: The Project Team shall be responsible for:

- (a) preparing a detailed scope of work and project plan (including timeline and project milestones) to deliver on the Objectives ("**Project Plan**"), based on the initial outline set out in Schedule 3. The Project Plan and progress against the Project Plan will be reported to the PSG and TGG on a monthly basis;
- (b) developing and maintaining the Project Budget (including any recommendations to the PSG to increase the Project Budget), and reporting monthly to the PSG (and, as required, the Establishment Chief Executive) on expenditure against the Project Budget;
- (c) developing such term sheets, guidance notes and documents as are required in order to formalise the way in which the joint operating model is proposed to be established, governed and operated, consistent with the Commercial Terms Sheet set out in Schedule 4 and the initial strategic priorities set out in Schedule 5, for review and approval by the PSG (and with oversight from the Establishment Board and Establishment Chief Executive);
- (d) engaging external expertise as required;
- (e) preparing a stakeholder/engagement framework that ensures that all appropriate parties are included on an ongoing basis;
- (f) preparing and attending workshops with the Councils' elected members as required to achieve the project and Objectives;

- (g) preparing consultation packs in collaboration with individual Councils to support any consultation that may be required by the Council's;
- (h) running and/or supporting consultation processes as required;
- (i) developing a joint WSDP in accordance with the applicable requirements of the LG(WSPA) Act;
- (j) approving payments from the Project Budget up to a level set by the PSG (and, as required, the Establishment Chief Executive); and
- (k) any of the matters required under a terms of reference agreed for the Project Team.

5. COST SHARING

5.1 Cost sharing principles: The Councils agree to fund the costs of the Project as contemplated by the Project Budget (as updated and approved from time to time as set out in this agreement) in the following proportions:

- (a) Central Hawkes Bay District Council: 10%
- (b) Hastings District Council: 45%
- (c) Napier City Council: 45%

5.2 Project funding: The Project Team will prepare a project funding budget for approval by the PSG (and, as required, the Establishment Chief Executive), that covers:

- (a) the contribution by the Councils for the costs of the Project, including the project management and administration costs that will be incurred by the Council carrying out the responsibilities set out in clause 3.3(a); and
- (b) costs for any internal and external consultants (preapproved by the PSG (and, where necessary, the Establishment Chief Executive) in each instance),

(together, the “**Project Budget**”). The Project Budget will be prepared and updated for each stage of the Project Plan.

5.3 Project Team delegation: The Project Team will have delegated authority to spend up to the approved Project Budget, subject to any limits set (as contemplated by clause 4.7(j)). Costs that exceed the approved Project Budget will require approval by the PSG.

5.4 Council Exit: If a Council exits this agreement, that Council remains responsible for their share of all costs incurred up to that date, including any committed costs which cannot be mitigated by the remaining participating Councils.

6. TERM

6.1 Term: This agreement commences on the Commencement Date and continues until the Expiry Date, unless terminated earlier by all Councils in accordance with clause 6.2.

6.2 Termination by agreement: This agreement may be terminated at any time with immediate effect by agreement of all current Councils to this agreement for any reason, including if there is a material change of law or policy direction that affects the Councils' obligations under the LG(WSPA) Act and LG(WS) Bill (once enacted).

6.3 Council withdrawal:

(a) Subject to clauses 5 and 6.3(b), any Council may withdraw its participation in this agreement at any time immediately by giving written notice to the other Councils.

(b) Before a Council exercises its withdrawal right under subclause (a), that Council must use reasonable endeavours to:

(i) provide as early as possible notification to the other Councils that the Council is considering, or intending to withdraw from the Project, including to provide the other Councils with sufficient time to respond to and agree on any public releases in accordance with clause 3.5; and

(ii) provide the other Councils an explanation for the withdrawing Council's reason(s) for the withdrawal.

(c) Where any Council breaches a material obligation, or persistently does not perform its obligations, under this agreement, then the other Councils may request that such Council withdraws its participation from this agreement, in which case the parties will promptly discuss the next steps following such request.

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

(a) if this agreement ends or is terminated, the following will apply:

(i) each Council is released from its obligations under this agreement, except clauses 5, 6, 7, 8 and 9 that shall survive expiry or termination of this agreement;

(ii) each Council retains the rights and obligations it has accrued under this agreement as at the date of expiry or termination; and

(iii) each Council must return any Confidential Information of another Council in its possession to that other Council or, if requested by the other Council, destroy the Confidential Information, except to the extent that it is required to retain the Confidential Information in order to meet its legal, contractual and governance obligations.

- (b) if a Council withdraws its participation in this agreement or otherwise exits this agreement:
 - (i) clause 6.4(a) will apply only in respect of that Council;
 - (ii) that Council will not have any rights to any new Intellectual property Rights as contemplated by clause 9.2; and
 - (iii) this agreement continues in force as between the remaining Councils.

7. DISPUTE RESOLUTION

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

7.2 Negotiation:

- (a) On receipt of a notice delivered in accordance with clause 7.1 and before any Council may refer a dispute to mediation, the Representatives must, in good faith and acting reasonably, do their best to resolve the dispute quickly and efficiently through negotiation.
- (b) If any Representative considers that the dispute is not being resolved in a timely manner, such Representative may serve written notice on the other parties Representatives to escalate the dispute to the Chief Executives or equivalent (where the Representatives are not the Chief Executive or equivalent) of the applicable Councils for resolution.
- (c) If the dispute has not been resolved within 20 Business Days (or within such other period as agreed by the Councils) of the date of the notice referred to in clause 7.2, any Council may submit the dispute to mediation.

7.3 Mediation:

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

7.4 Arbitration:

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

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

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

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

8. CONFIDENTIALITY AND INFORMATION DISCLOSURE

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

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

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

9. INTELLECTUAL PROPERTY RIGHTS

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

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

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

10. NOTICES

10.1 Giving notices: Any notice or communication given to a Council under this agreement is only given if it is in writing and sent in one of the following ways:

- (a) delivered to that Council at its address and marked for the attention of the relevant department or officer (if any) set out in Schedule 1;
- (b) emailed to that Council at its email address and marked for the attention of the representative set out in Schedule 1.

10.2 Change of details: If a Council gives the other Councils three Business Days' notice of a change of its physical address or email address, any notice or communication is only given by the other Councils if it is delivered or emailed to the latest physical address or email address.

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

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by email, when it is received in readable form addressed in the manner specified above.

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

11. GENERAL

11.1 No partnership, joint venture: Nothing in this agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between any of the Councils, and a Council may not make, or allow to be made, any representation that any such relationship exists between any of the Councils. A Council shall not have authority to act for, or to incur any obligation on behalf of, any other Shareholder, except as expressly provided for in this agreement.

11.2 No privity: Other than as expressly provided for in this agreement, this agreement is not intended to confer a benefit on any person or class of persons who is not a party to it.

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

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

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

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

SCHEDULE 3**PROJECT PLAN**

Activities and Decisions	Timeframes
Design phase	
(1) Agree project approach and enter into Commitment Agreement	By mid-July 2025
(2) Each Council undertakes public consultation including Hearings, and shares analysis of submissions to inform each others Deliberations reports	Ongoing to mid-July 2025
(3) Consideration of submissions, deliberations and determination of whether to proceed with joint WSCCO	Mid-July 2025
<p>(4) Prepare and adopt joint WSDP including:</p> <ul style="list-style-type: none"> Finalising approach to financial arrangements, debt transfer etc – which must demonstrate that financial sustainability (which involves revenue sufficiency, investment sufficiency and financing sufficiency) will be achieved. In doing so, a key consideration for the Councils will be ensuring affordability of water charges for consumers. Identifying all relevant water related assets either owned by the Councils, or by third parties or other local authorities, that will require consideration for potential transfer to ensure that the WSCCO is responsible for all required infrastructure Develop Implementation Plan Stormwater arrangements <p>CE certification /assurance process before submitting joint WSDP to Secretary for Local Government.</p>	Refer (6)
<p>(5) Plan arrangements for the WSCCO, including:</p> <ul style="list-style-type: none"> develop and document each Council's technical, operational, legal and other requirements for the joint operating model and agree reasonable and realistic timeframes for delivery of the joint operating model via the establishment and operationalisation of the WSCCO (to be set out in the Implementation Plan); and draft and agree the form of the foundational agreements including Constitution, Shareholders' Agreement, Transfer Agreement(s) and other agreements required. 	Ongoing
(6) Adoption of joint WSDP	By no later than 1 September, due to due date of 3 September 2025

Activities and Decisions	Timeframes
Implementation	
<p><u>Establishment phase</u></p> <p>Led by Councils initially, and then led by WSCCO Establishment Board and Establishment Chief Executive</p> <p>Actions and timing as per the Implementation Plan in the adopted WSDP, but expected to include:</p> <ul style="list-style-type: none"> • Agree and execute the documents required to establish the WSCCO • Establish the WSCCO • Appoint WSCCO Establishment Board, which will be responsible for transition and establishment of WSCCO, including in particular: <ul style="list-style-type: none"> • Setting up operational arrangements for the WSCCO • Establishing financial arrangements for the WSCCO • WSCCO Establishment Board to appoint Establishment Chief Executive, who will be responsible for advising the Establishment Board and Councils on all establishment actions, and will work with Project Team. • Developing Transfer Agreement(s), Service Agreements and Shared Services Agreements, with involvement from both Councils and WSCCO Establishment Board 	<p>[Formal establishment can only proceed after acceptance of the WSDP]</p>
<p><u>Transition Phase – led by WSCCO Establishment Board / supported by Shareholders Representative Forum</u></p> <p>Led by WSCCO; High level actions and timing as per the Implementation Plan in the adopted WSDP, but detail to be developed by TGG and WSCCO Establishment Board.</p> <p>Individual Councils to establish internal project teams and resourcing to ensure they are able to be ready to complete their individual water service business transfers as per the Implementation Plan.</p> <p>The target commencement date for the WSCCO to commence operations as a water organisation will be 1 July 2026</p>	<p>Intention to aim for establishment by 1 July 2026 (subject to officer confidence and further developed Project Plan)</p>

Napier's First
**Citizens'
Assembly**

OPINION.

be part of it

Basics of Citizens' Assembly

- 40 randomly selected Napier residents
- Deliberate together over four Saturdays
- Hear evidence, debate, and recommend
- Diverse, informed community voice

Napier's First
**Citizens'
Assembly**

Why we are holding a Citizens' Assembly

- Build trust through inclusive engagement
- Hear from people who don't usually participate
- Test new ways of doing democracy
- Inform the next Long-Term Plan early

everyone

has

one

Two 'guardrails'

1. The Question: Clear, specific, topical **remit** – something complex but accessible, with high community interest
2. The Promise: **Commitment** to respond to recommendations – made publicly, robust and achievable

Napier's First
**Citizens'
Assembly**

Remit: The Question

Recommended to be endorsed
on 31 July Council meeting

kia whai

wāhi mai

What type of aquatic facility - and at which of two locations - would best meet the needs, values, and priorities of the Napier community?

The Assembly should deliberate on what kind of new aquatic facility Napier needs, where it should be located and why. How to fund, design, deliver or operate any new aquatic facility remains with Napier City Council and subject-matter experts.

Rationale

- High-use community facility with over 400,000 visits per year.
- Over 50 years old in parts.
- Requires long-term strategic decisions.
- Site subject to extensive public debate.
- Council committed to keeping facility operational for another 8-10 years (through to ~2034-2035).
- Replacement facility to be included in 2027–2037 Long Term Plan.
- Remit is specific, within Council's control, and well-suited to deliberative processes that engage values, trade-offs, and long-term impacts.

Public commitment

To be developed and committed to
at 31 July Council meeting

"Promise to the People"
**a public statement articulating Council's
level of commitment to actioning
recommendations made by the Assembly**

kia whai

wāhi mai

Importance of the Public Promise

- **Signals** Council's intent to honour the work of the Assembly.
- **Endorses** the Assembly as an effective and viable mechanism for community input.
- **Increases** trust.
- **Provides** transparency.
- **Enhances** legitimacy.

kia whai

wāhi mai

A good promise includes:

1. **Actions** Council will take in response to recommendations from the Assembly.
2. **Timeframe** in which those actions will take place.
3. **Mechanism** through which any actions will be implemented.
4. **Actions and processes** through which to deliver them.

"We commit to..."

DIRECT ACTION

1. **Publishing** an unedited version of the Assembly's recommendations on the Council website within one day of their handover.
2. **Inviting** representatives of the Assembly to present to Council at the meeting where recommendations are formally considered.

PROCESS-DRIVEN FOLLOW-THROUGH

3. **Acknowledging** in writing each recommendation, explaining next steps and rationale.
4. **Incorporating** the Assembly's preferred sites into planning, subject to confirmation of feasibility.
5. **Keeping** the development of a new aquatic facility within the Long Term Plan (LTP).
6. **Using** the Assembly's advice on features and purpose to inform the design brief and community outcomes sought.

Napier's First
**Citizens'
Assembly**

OPINION.

be part of it