Council Agenda 26 November 2025

Meeting will be held at The Gate, 6 Barry Avenue, Cromwell, Otago, and live streamed at ORC YouTube Channel



Members:

Cr Hilary Calvert (Chair)

Cr Kevin Malcolm (Deputy Chair)

Cr Robbie Byars

Cr Chanel Gardner

Cr Neil Gillespie

Cr Matt Hollyer

Cr Gary Kelliher

Cr Michael Laws

Cr Andrew Noone

Cr Gretchen Robertson

Cr Alan Somerville

Cr Kate Wilson

Senior Officer: Richard Saunders, Chief Executive

Meeting Support: Kylie Darragh, Governance Support Officer

26 November 2025 10:00 AM

Agenda Topic Page

Agenda 1

1. WELCOME

Mayor Tamah Alley will be in attendance via zoom. Cr Robbie Byars will say a reflection to open the meeting.

APOLOGIES

No apologies were received at the time of printing this agenda.

3. PUBLIC FORUM

- 3.1 Pierre Marasti will speak on behalf of Extinction Rebellion.
- 3.2 Professor Alex Macmillan and Dr Simonette Mallard will speak on air quality in the region behalf of Preventive and Social Medicine, the University of Otago.
- 3.3 Peter Yarrell will speak as a local constituent.

4. CONFIRMATION OF AGENDA

The agenda to be confirmed as published.

5. DECLARATIONS OF INTEREST

Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

6. PRESENTATION

The Air Team from Kiwi Room at Clyde School will present on findings of their studies of Clyde township air quality.

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	To con:	sider and a	adopt Terms of Reference for the ORC's Council governance structure for the 2025-2028 triennium.				
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			s for developing the Annual Plan 2026-27 (LTP Year Three) unicates the process for developing the Annual Plan 2026-2027 (AP),which is year three of the Long-T LTP).	90 erm			
		10.3.1	Time Line for developing the Annual Plan 2026-27	98			
	10.4	Regional Infrastructure Fund Tranche 2					
		o seek Council approval to enter into two Regional Infrastructure Fund (RIF) funding agreements with the Ministry of usiness, Innovation and Employment (Ministry) for part-funding of six flood resilience projects.					
		10.4.1	DRAFT - RIF Grant Funding Agreement. MBI E- ORC	108			

12.	CLOS	SURE			
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Council MINUTES

Minutes of an ordinary meeting of the Otago Regional Council held in the Council Chamber, Level 2 Philip Laing House, 144 Rattray Street, Dunedin on Wednesday 5 November 2025, commencing at 10:30 am.

https://www.youtube.com/live/IA3HwOxyVCA?si=9Lpk0-Tlj-iLIB2u

PRESENT

Cr Hilary Calvert (Chair)

Cr Kevin Malcolm (Deputy Chair)

Cr Robbie Byars

Cr Chanel Gardner

Cr Neil Gillespie

Cr Matt Hollyer

Cr Gary Kelliher

Cr Michael Laws

Cr Andrew Noone

Cr Gretchen Robertson

Cr Alan Somerville

Cr Kate Wilson

1. WELCOME

Chair Calvert welcomed Councillors, members of the public and staff to the meeting at 10:30 am. Staff present included Richard Saunders (Chief Executive), Anita Dawe (GM Regional Planning and Transport), Nick Donnelly (GM Finance), Tom Dyer (GM Science and Resilience), Joanna Gilroy (GM Environmental Delivery), Tami Sargeant (GM People and Corporate), Amanda Vercoe (GM Strategy and Customer, Deputy CE), Kylie Darragh (Governance Support), Dianne Railton (Team Lead Governance), Deb Stuut (Manager Customer and Governance), Andrea Howard (Chief Advisor to the CE and Chair).

2. APOLOGIES

There were no apologies for this meeting.

3. CONFIRMATION OF AGENDA

Cr Malcolm Moved, Cr Wilson Seconded:

That the addition of the late paper ORC Consideration of 2025-2028 Decision Making Structure be accepted on the agenda.

MOTION CARRIED

4. DECLARATIONS OF INTERESTS

Councillors were reminded of the need to stand aside if a conflict of interest arises.

5. CONFIRMATION OF MINUTES

Resolution: Cr Wilson Moved, Cr Somerville Seconded

That the minutes of the Council meeting of 29 October 2025, are confirmed as a true and accurate record.

MOTION CARRIED

6. MATTERS FOR CONSIDERATION

6.1. ORC Consideration of 2025-2028 Governance Structure

[YouTube 15:12] This report sought adoption of a governance structure for the Otago Regional Council for the 2025-2028 triennium. Richard Saunders (Chief Executive), and Amanda Vercoe (GM Strategy and Customer) were available to respond to questions on the report.

At 11:48 pm Chair Calvert Moved, Cr Wilson Seconded

That Council have a 5-minute adjournment.

MOTION CARRIED

Cr Somerville moved, Cr Malcolm seconded a procedural motion:

That each recommendation is taken separately with a division on recommendation 2. **MOTION CARRIED**

Resolution 8 was also taken as a division.

Cr Malcolm left the meeting at 12:12 pm.

Cr Wilson left the meeting at 12:13 pm.

Cr Noone left the meeting at 12:13 pm.

Cr Noone returned to the meeting at 12:14 pm.

Cr Wilson returned to the meeting at 12:14 pm.

Resolution CM25-222: Cr Calvert Moved, Cr Laws Seconded

That the Council:

1) Notes this report.

MOTION CARRIED

Resolution CM25-223: Cr Calvert Moved, Cr Laws Seconded

That the Council:

2) Adopts the proposed governance model of portfolio areas to complement Council decision making, as attached.

BY DIVISION

For:	Cr Calvert, Cr Byars, Cr Gardner, Cr Gillespie, Cr Hollyer, Cr Kelliher,				
	Cr Laws, Cr Noone, Cr Wilson.				
Against:	Cr Robertson, Cr Somerville.				
Abstained:	Nil.				

MOTION CARRIED

Resolution CM25-224: Cr Calvert Moved, Cr Laws Seconded

That the Council:

3) Approves the appointment of portfolio leads, as attached.

MOTION CARRIED

Resolution CM25-225: Cr Somerville Moved, Cr Wilson Seconded

That the Council:

4) Appoints an Audit and Risk Committee, with membership with the addition of Cr Robertson as a member.

MOTION CARRIED

Resolution CM25-226: Cr Calvert Moved, Cr Laws Seconded

That the Council:

5) Agrees to appoint Mr Andrew Douglas to a further one-year term as Co-Chair of the Audit and Risk Committee, based on the recommendation of the previous Audit and Risk Committee to provide continuity with the committee's workplan (Mr Douglas's CV was circulated separately).

MOTION CARRIED

Resolution CM25-227: Cr Calvert Moved, Cr Laws Seconded

That the Council:

6) Notes that more detailed terms of reference for each portfolio area, the role of portfolio leads, and a Council calendar for 2026 will be brought to Council for consideration and adoption on 26 November 2025.

MOTION CARRIED

Resolution CM25-228: Cr Calvert Moved, Cr Laws Seconded

That the Council:

7) Notes that a further list of Council appointments to Joint Committees, external and internal working groups will be presented for consideration to Council on 26 November 2025.

MOTION CARRIED

Resolution CM25-229: Cr Wilson Moved, Cr Gardner Seconded

8) Notes that the Council will continue to consult with Mana Whenua on a mutually agreeable way to incorporate representation into the new portfolio structure.

BY DIVISION

l⊢∩r·	Cr Gardner, Cr Hollyer, Cr Calvert, Cr Gillespie, Cr Noone, Cr Robertson, Cr Somerville and Cr Wilson			
Against:	Cr Byars, Cr Kelliher and Cr Laws			
Abstained:	Nil			

MOTION CARRIED

At 12:37 pm Chair Calvert Moved, Cr Wilson Seconded

That Council have a 10-minute adjournment.

MOTION CARRIED

6.2. Councillor Remuneration Pool Allocation

[YouTube 2:30:30] This paper sought consideration of allocation of ORC councillor's remuneration pool, as provided for by the Remuneration Authority's Determination. The report also sought consideration of the updated allowances and expenses policy. Amanda Vercoe (GM Strategy and Customer), and Deb Stuut (Customer Experience Manager) were available to respond to questions on the report.

Resolution CM25-230: Cr Wilson Moved, Cr Noone Seconded

That the Council:

- 1) Notes this report.
- 2) Notes the Chair's remuneration set by Remuneration Authority is \$173,309.
- **3) Notes** the ORC's governance remuneration pool is set at \$863,476 with the minimum councillor remuneration at \$61,677.
- **4) Recommends** allocating the governance remuneration pool using the attached spreadsheet.
- **5) Requests** the Chief Executive to send the attached spreadsheet to the Remuneration Authority by 14 November 2025, to be included in the Authority's pre-Christmas amending determination.
- 6) Adopts the updated allowances and expenses policy.

MOTION CARRIED

6.3. Telecommunications Resilience

[YouTube 2:44:30] This report sought a review and approval of a letter to Hon Paul Goldsmith, Minister for Media and Communications, regarding the need to improve telecommunications resilience during natural events. Richard Saunders (Chief Executive) was available to respond to questions. An updated version of the letter was tabled with corrections to the cc line.

Resolution CM25-231: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

1) Approves the draft letter to the Minister for Media and Communications highlighting the urgent need to improve the resilience of mobile communications infrastructure subject to any minor edits.

MOTION CARRIED

7. NOTICES OF MOTION

None received for this meeting.

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There was no further business and Chair Calvert declared the meeting closed at 1:00 pm.

Chairperson Date



Meeting Date	Document	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
5-11- 2025	Meeting - 5 Novemb	GOV2604 Councillor Remuneratio n Pool Allocation	Completed	CM25-230 Requests the Chief Executive to send the attached spreadsheet to the Remuneration Authority by 14 November 2025, to be included in the Authority's pre- Christmas amending determination.	Manager Strategy and	11/11/2025 General Manager Strategy and Customer Spreadsheet, draft minutes from the meeting, and official election results sent to the Remuneration Authority on 11 November 2025.	14-11-2025

9.1. Chief Executive's Report

Prepared for: Council

Activity: Governance Report

Author: Richard Saunders, Chief Executive

Date: 26 November 2025

PURPOSE

This report provides Council with an overview of Otago Regional Council's (ORC) key projects, financial performance and progress against our levels of service.

EXECUTIVE SUMMARY

- Year 2 work programmes as outlined in the 2025/26 Annual Plan are well underway. Planning for Year 3 of the 2026/27 Annual Plan has commenced, with a workshop planned for 3 December 2025.
- [3] Customer satisfaction remains high at 91%, with the Customer Experience team handling 7,476 enquiries during the month of October.
- Staff have been kept busy supporting neighbouring councils respond to the recent October severe weather events, as well as supporting election processes and the subsequent induction of new and returning Councillors for the 2025-2028 triennium.

RECOMMENDATION

That the Council:

1) **Notes** this report.

DISCUSSION

Annual Plan 2025/26

- [5] Work is well underway to deliver on Year 2 objectives and projects as outlined in Year 2 of the 2025/2026 Annual Plan.
- [6] Q1 results against the annual plan levels of service are being reported to Council on 9 December. Future CE reports will include monthly monitoring of these measures.
- [7] Planning for Year 3 of the 2026/27 Annual Plan has commenced. A process paper is on today's agenda and a workshop is planned for 3 December 2025.

Customer Experience

- [8] The Customer Experience team handled 7,476 enquiries during the month of October, above the 12-month average of 5,593 customer contact points (see Attachment 1). Customer satisfaction decreased slightly to 91%, compared with 95% in August 2025.
- [9] As shown in Figure 1, most interactions occurred over the phone (3,451) followed by email (2,288), social media (761), reception (725), or via the afterhours service (251).

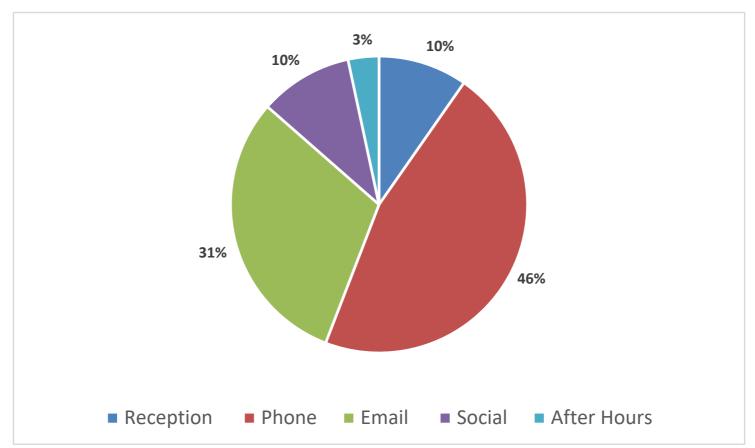


Figure 1: Customer Experience Interactions by Type – October 2025

[10] The most common customer contact points in October were balance and direct debit enquiries, mailing address changes, email rates invoices, solicitor enquiries and transport route changes.

Financial Performance

[11] Q1 financial performance is being reported to Council on the 9th of December. Monthly monitoring of financial performance will be included in future CE reports where there are no financial reports included in the Council agenda.

Elections

Supporting the election process, and new and returning Councillors has been a key focus of the past few months. Staff have been supporting induction processes and helping Council to establish its new portfolio based governance framework.

October Weather Event

- The adverse weather event that occurred just prior to Labour Day weekend resulted in heavy rain and high lake levels inland, followed by the severe winds causing damage across the region. ORC's Emergency Coordination Centre activated to support the response required in the Clutha District following the critical damage to power infrastructure. Alongside our Civil Defence and Emergency Management Team, a number of staff assisted with the response over the weekend and beyond with 'on the ground' and back-office support.
- [14] Engineering staff have been actively undertaking helicopter surveys of the Lower Matu-Au (Clutha), Tokomairaro (Tokomairiro) River, Waihemo (Shag) River and the Lower Taieri Flood Protection & Drainage Schemes to locate trees that might require removal from rivers in more remote locations across Otago.

OPTIONS

[15] As this is a report for noting there are no options to consider.

ATTACHMENTS

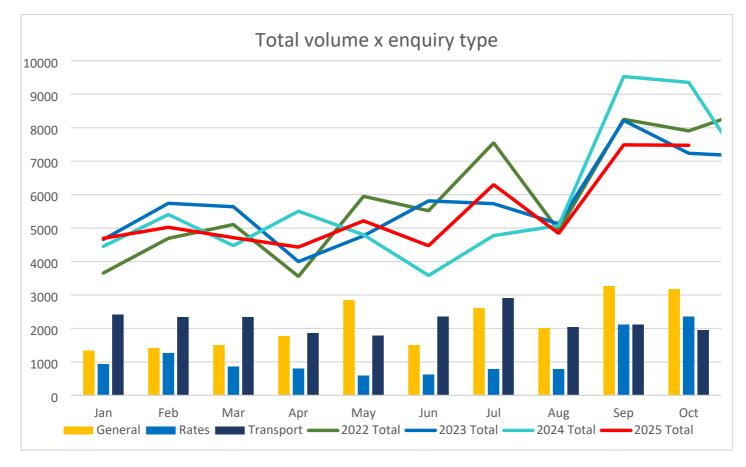
1. October 2025 Customer Report [9.1.1 - 2 pages]

October 2025 Customer Report

Rolling 12-month customer interaction volume average is 5593 per month

October customer volume total: 7476

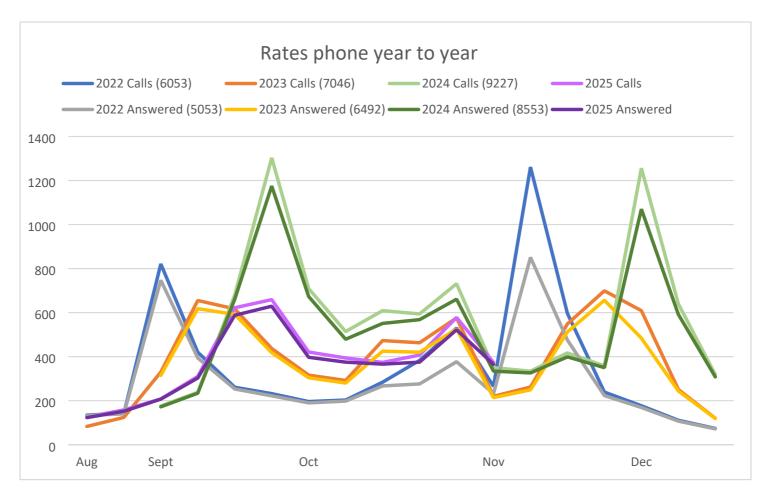
(reception = 725, phone = 3451, email = 2288, social 761, afterhours = 251)



- Total customer interactions remained high as per Sept
- Customer sentiment tracking was neutral low
- Total service level for all calls dropped to 82% (longer wait times gives higher abandoned calls)
- Total customer satisfaction rating dropped to 91%

Enquiry themes:

- Rates Routine enquiries: balance enquiry, direct debit enquiry, mailing address change, email rates invoice, solicitor enquiry
- Transport route changes



 Rates notice customer contact resulted as planned and on-par with 2023 using the same delivery spread.



9.2. Chairperson's Report

Prepared for: Council

Author: Hilary Calvert, Chairperson

Date: 26 November 2025

RECOMMENDATION

That the Council

1) Notes this report.

INTRODUCTION

- This month marks the beginning of a new triennium for the Otago Regional Council, with twelve councillors sworn in at the end of October. I am honoured to have been elected Chair and to work alongside both returning and newly elected members as we set our direction for the next three years. I would also like to acknowledge the unanimous election of Deputy Chair Kevin Malcolm, whose experience and approach will be invaluable as we navigate this term together.
- Strong governance guides every effective organisation, and it will remain central to how we operate as a Council. Our responsibility is clear: to represent the people of Otago by listening carefully, enabling participation, and delivering in a way that reflects both value for money and the expectations of those we serve. Concerns about rates have been widely expressed throughout the election period and addressing these concerns while maintaining the momentum of our environmental work is a priority for this Council.
- The strengthened representation of the Dunstan ward is an important step forward. It ensures fairer coverage for one of our fastest-growing areas and strengthens the overall voice around the Council table. This, combined with the commitment of our councillors and the deep interest from our communities, puts us in a strong position for the work ahead.
- [4] I am encouraged by the willingness of Otago people to engage with us. By working together—Council, staff and community—we can continue building a thriving, prosperous and well-managed region.
- Otago Regional Council is in good heart, and I look forward to making a positive difference for Otago over the coming term. There is nothing stopping us from becoming the best regional council in New Zealand.

COUNCIL BUSINESS

- [6] The last month has been focused on inducting new and returning Councillors and setting up governance structures for the 2025-2028 triennium.
- [7] A <u>paper</u> to the 5 November Council meeting introduced a new governance structure that provides for decision-making to sit solely with Council, complemented by the establishment of portfolio areas and the appointment of portfolio leads.
- [8] Council agreed to continue to consult with mana whenua on a mutually agreeable way to incorporate representation into the new portfolio structure.
- [9] A Governance Structure Workshop was held on 13 November to continue to develop the portfolio approach for governance at ORC this triennium. A role description, areas of responsibility for each portfolio area and a commitment to continue to engage with mana whenua on their role in decision making will be presented to Council on 26 November for consideration and endorsement.
- [10] The Chair thanked all councillors for their engagement in the process to date and their contributions to developing the portfolio approach, the commitment to work together as councillors and portfolio leads would be important to its success.

REGIONAL AND NATIONAL ENGAGEMENT

- [11] External meetings attended (with Ministers, MPs, local government forums, sector bodies):
 - 14 November attendance with the Hon Louise Upston, Minister for Tourism and Hospitality, at the official announcement of a \$2m Government investment in the Dunedin Tunnels Trail. The funding will enable Stages 2 and 3 of the project, extending the cycleway through Fairfield, Abbotsford, and Green Island, and connecting Mosgiel to central Dunedin via the historic Chain Hills and Caversham tunnels.
- [12] Collaboration with other councils or agencies:
 - 4 November 2025-2028 Triennium Introduction Meeting with Dunedin City Council and Otago Regional Council councillors.
 - 10 November attendance at a Regional Deals Joint Committee Workshop.

OTAGO MAYORAL FORUM MEETING

[13] The Otago Mayoral Forum met 19 November to share information and review the background material on the forum (attached). The first official meeting will be on 5 December 2025.

STAKEHOLDER AND COMMUNITY ENGAGEMENT AND EVENTS

- [14] 4 November Pōwhiri for Newly Elected Councillors at Ōtākou Marae.
- [15] 11 November Armistice Day, Queens Gardens Dunedin.

RECENT MEDIA ENGAGEMENT

- [16] The Chair provided comment across television, radio and print media relating to the following issues:
 - Spokesperson for Indigenous Biodiversity Strategy consultation <u>launch</u>.
 - Media coverage of the 2025–2028 Council, including ODT, ORC social media and other channels.

KEY CORRESPONDENCE TO AND FROM THE CHAIR

[17] **Letters:**

- Letter to the Honourable Paul Goldsmith (6 November) regarding Strengthening Resilience of Mobile Communication Infrastructure in the South.
- Letter from the Honourable Paul Goldsmith (10 November) regarding Strengthening Resilience of Mobile Communication Infrastructure in the South.

[18] **Submissions:**

 10 November - Council submitted on the Ministry for Primary Industries' "Review of the Vehicles, Machinery and Parts Import Health Standard" available here.

ATTACHMENTS

- 1. Mayoral Forum Briefing to Incoming Members [9.2.1 7 pages]
- 2. Otago cross-council framework Zone 6 presentation [9.2.2 16 pages]
- 3. Letter to Otago Regional Council from Hon Paul Goldsmith [9.2.3 2 pages]
- 4. 2025-11-05 Letter to Minister Goldsmith Otago Regional Council [9.2.4 2 pages]



Briefing to Incoming Members November 2025



Introduction

- 1. This briefing to incoming members of the Otago Mayoral Forum is an introduction to the Forum and its role, with a focus on the first meetings for the triennium.
- 2. The value of the Otago Mayoral Forum whether it delivers for members, councils and Otago's communities and environments depends on genuine participation, open communication and a good faith approach to working together across councils.
- 3. This briefing sets out several options for the Forum in 2025-28. There are few rules for how the Forum operates, and plenty of scope to determine arrangements that work for all involved.

The Forum's role

- 4. The Mayoral Forum enables collective leadership, communication, co-ordination and collaboration across Otago's six councils and five districts. Through the Mayoral Forum, the region's leaders can support one another, champion shared approaches and stand together for Otago.
- 5. The Local Government Act 2002 (s15) requires all local authorities within a region to enter into a regional triennial agreement setting out how councils within a region will coordinate and communicate. The Otago Mayoral Forum is a key component of Otago's cross-council framework, which encompasses various regional groups connecting elected members and council officers on a wide range of issues.
- 6. Within the Framework, the Mayoral Forum provides leadership and oversight for cross-council activity. Forum meetings are an opportunity to identify and discuss matters of shared interest and to ensure that collectively Otago's Councils are responding appropriately. The Forum's March 2026 meeting will include a process to identify a set of outcomes and focus areas for the year to come.
- 7. Communication is key. The Mayoral Forum can only fulfil its role through regular contact across members and ongoing engagement with Councillors. The Otago Chief Executive Forum has a complementary role to the Forum, overseeing and enabling various staff working groups, collaborations and projects.

Mandate and delegations

- 8. Each Mayor, through election and under the Local Government Act 2002, has a mandate to provide leadership on the things that matter to their communities and areas. The Chair of the Otago Regional Council has a mandate to lead the Council's work for Otago's environment and natural resources. The Otago Mayoral Forum connects these mandates to provide collective leadership on issues and opportunities for the Otago region.
- 9. Such collective leadership can be a powerful influence that benefits Otago and all its districts. The Otago Mayoral Forum can provide this leadership without impinging on the

- right for each of Otago's local authorities to decide policy, agree resourcing and govern its own area as appropriate.
- 10. In its iterations to date, the Otago Mayoral Forum has not been delegated to make decisions on behalf of councils, and decisions of the Forum have not been binding on councils. Nevertheless, as one component of the Otago cross-council framework, the Forum can oversee and endorse various cross-council activities. Members can refer regional initiatives and decisions to Otago's councils for consideration.
- 11. Previous iterations of the Otago Mayoral Forum have also has been authorised to formalise shared positions through letters of support, submissions and/or public statements as appropriate. Any such public positions have been in the name and capacity of the Forum membership, and not Otago's councils.

Membership and meetings

- 12. The Mayoral Forum comprises the mayors of the five territorial authorities in Otago and the Chair of the Otago Regional Council. Chief Executives attend meetings to support their Mayor/Chair and align the work programmes of the Otago Chief Executive Forum and other regional groups.
- 13. In 2026, the Forum is tentatively scheduled to meet in March, May, July, September and November. A calendar of meeting dates will be provided at the December 2025 meeting. The Otago Mayoral Forum calendar is built around members' council meetings, the Local Government New Zealand calendar, and Canterbury Mayoral Forum meetings (so Waitaki participants can attend both). Given the infrequency of meetings and to uphold their commitment, previous Mayoral Forums have been attended by the Mayors and ORC Chair and substitutions have not been accepted.
- 14. The Mayoral Forum has typically met at the Otago Regional Council offices in Dunedin. The previous Forum considered that meetings in Dunedin would increase the likelihood of guests being able to attend meetings in person. The venue is not fixed, and meetings in other parts of Otago can be arranged on a regular or ad hoc basis.
- 15. Meetings of the Mayoral Forum are not public meetings as defined by the Local Government Official Information and Meetings Act 1987, so are not publicised, nor open to the public. Recent practice has been to make decisions through consensus.
- 16. The Thursday evening before each Mayoral Forum is an opportunity for an informal dinner to strengthen relationships and provide for discussion. Chief executives and the Forum secretariat attend on occasion. Attendees or their organisations pay for their own meals at these events.
- 17. Events outside the regular schedule take place occasionally, including relationship building, political advocacy, and connecting with other Mayoral Forums.
- 18. Detailed arrangements for the Forum's meetings and operations will be agreed and recorded in the Forum's terms of reference.

Decisions for the first meeting

- 19. The Forum will hold its first formal meeting for the triennium on Friday 5 December 2025. At the first meeting, members will be invited to:
 - a. elect a Forum Chair,
 - b. consider and approve the Otago Local Authorities Triennial Agreement 2026-29,
 - c. approve meeting dates and arrangements for 2026,
 - d. consider a draft Otago Mayoral Forum terms of reference, and
 - e. consider a proposed approach to determining strategic outcomes and focus areas at the March 2026 meeting.
- 20. Following the meeting, the secretariat will record changes to the terms of reference for confirmation via email.
- 21. The triennial agreement must be approved by all Councils in the region by 1 March 2026. Forum members are encouraged to engage with their Councillors on the content of the agreement, in advance of the formal approval process.

Role of the Chair

- 22. As noted above, Forum members are invited to elect a Chair at the Forum's first formal meeting on 5 December. The role of the Otago Mayoral Forum Chair includes:
 - a. presiding over of meetings, ensuring that they run in an orderly fashion,
 - acting as spokesperson, both in the media and through correspondence with Ministers and stakeholders,
 - c. championing and facilitating the Mayoral Forum's work programme,
 - d. liaising with the Chair of the CE Forum where appropriate,
 - e. liasing with external invitees such as Ministers, and
 - f. working closely with the Mayoral Forum secretariat.
- 23. The 2022-25 triennial agreement allows for the chair appointment to be reviewed after 18 months. In practice, the Otago Mayoral Forum Chair has been a three-year role in each of the last two trienniums: Mayor Tim Cadogan from 2019-22 and Mayor Gary Kircher from 2022-25.
- 24. Details on the role, responsibilities, term and other matters relating to the Otago Mayoral Forum Chair can be agreed and recorded in the Forum's terms of reference.

Te Ropū Taiao Otago

25. Te Rōpū Taiao Otago is a regional forum to facilitate better mutual understandings between Kāi Tahu ki Otago and Otago's local authorities. Participants are all Otago Mayoral Forum members and attendees, Ūpoko Edward Ellison, rūnaka chairs, and sometimes rūnaka deputy chairs and members.

- 26. The Rōpū co-Chairs are Ūpoko Edward Ellison and the Otago Mayoral Forum Chair. Hui are arranged to coincide with Mayoral Forum meetings, usually in the afternoon of the same day. In recent years Te Rōpū Taiao Otago has met 2-3 times per year, once jointly with Te Rōpū Taiao Southland and 1-2 times as an Otago-only rōpū.
- 27. Agenda preparation and meeting logistics for Te Rōpū Taiao Otago are managed by the Mayoral Forum secretariat, working with the co-Chairs. Recent agendas have focused on the various local government reform initiatives underway. Where possible, hui have also included a verbal report from the chief executive of Aukaha on the organisation's key activities with local government, pressures and relationships.
- 28. Te Rōpū Taiao Otago operates under a Charter, last updated in 2020 and last signed in 2017. There have been recent efforts to update the Charter. The new triennium is an opportunity to progress this.

Communications and reporting

- 29. The Otago Mayoral Forum maintains a stand-alone website to publish meeting papers, minutes, summaries and media releases. The website can be found at: www.otagomayors.org.nz
- 30. Members are invited to consider how they wish to communicate about cross-council and regional activities with their respective councils. In prior years, the Forum secretariat has prepared short overviews of matters discussed during meetings. Each Mayor/Chair then determined how best to share this information with their councillors, whether by including it on a council meeting agenda, circulating it via email, or providing a verbal update.

Secretariat

- 31. At Forum members' request, Otago's chief executives established a permanent secretariat to support both the Otago Mayoral Forum and Otago Chief Executive Forum in September 2019. Both forums had been meeting quarterly for many years, but members saw potential for them to achieve more for Otago with a dedicated secretariat.
- 32. The Otago Mayoral Forum secretariat is Marianna Brook, who is Principal Advisor Mayoral Forum and Local Government Reform at Otago Regional Council. Marianna provides policy and strategic advice, supports relationships with central government and other regional leaders, and manages meeting planning and logistics.
- 33. In addition to the forums, Marianna supports regional collaboration across Otago's local authorities, including through advice and for Te Rōpū Taiao, working groups and joint committees.
- 34. Though hosted by Otago Regional Council, the secretariat is a shared resource for Otago's six local authorities. Members are welcome and encouraged to approach Marianna directly, at Marianna.brook@orc.govt.nz or 0273323164.

Appendix A: Mayoral Forum across New Zealand

Eleven of New Zealand's sixteen regions have a Mayoral Forum as a primary vehicle for communication, collaboration, and regional leadership between councils. The remainder operate as unitary councils and are therefore not required to prepare a triennial agreement.

The following is an overview of Mayoral Forums in New Zealand and how they operated in the 2022-25 triennium:

Region	Meeting frequency	Membership	Chairing
Northland	Quarterly	Mayors & Chair.	Chair elected at inaugural meeting. May be reviewed after 18 months.
Waikato	At least quarterly	Mayors & Chair. Supported by CEs.	Chair & Deputy elected at inaugural meeting.
Bay of Plenty	Not less than six-monthly	Mayors & Chair. Supported by CEs.	Chair & Deputy elected at inaugural meeting.
Hawkes Bay	Monthly	Mayors & Chair. Supported by CEs	Chair elected at inaugural meeting.
Taranaki	At least quarterly	Mayors & Chair. Supported by CEs.	Chair appointed on rotation each triennium.
Manawatū- Whanganui	Quarterly	Mayors & Chair. Supported by CEs.	Chair elected at inaugural meeting. May be reviewed after 18 months.
Wellington	At least one every six months	Mayors & Chair. Supported by CEs	Chair elected at inaugural meeting.
West Coast	Quarterly plus called as needed	Mayors & Chair. Supported by CEs. Chair of EDA. Chairs of Rūnanga.	Chair appointed on rotation each meeting.
Canterbury	Quarterly	Mayors & Chair. Supported by CEs.	Chair & Deputy elected at inaugural meeting. May be reviewed after 18 months.
Southland	Six-weekly	Mayors, Chair and deputies. Supported by CEs.	Chair appointed on rotation each meeting.

Appendix B: Summary of Otago Mayoral Forum activity 2022-25

Key achievements

- On waters services reform, the Forum initiated a far-reaching analysis of collaboration options for Otago and Southland. The analysis was conducted by Morrison Low and underpinned recent decision-making by Councils across the two regions. Multiple joint sessions with the Southland Mayoral Forum took place throughout 2023 and 2024 to provide oversight and direction for this work.
- On <u>solid waste and recycling</u>, the Forum welcomed an appointment to the role of Otago Regional Waste Officer. The new role is a direct result of cross-council collaboration on waste initiated by the Forum.
- On <u>healthcare</u>, the Forum advocated for Otago's needs in a range of settings, including with Ministers and Te Whatu Ora, Te Aka Whai Ora and WellSouth officials. Topics over the triennium included localities, mental health services, and the new Dunedin hospital.
- On <u>regional priorities</u>, the Forum shared its 'top five' issues with all Otago-based and Otago-representative MPs following the 2023 election.
- On workforce issues, in Otago, the Forum engaged with the Regional Skills Leadership Group.
- On resource management reform, the Forum heard from sector groups working with councils to navigate the reforms, with a focus on region-wide implications.

Guests and speakers

- Hon Simeon Brown, Minister for Local Government
- Hon Mark Patterson, Minister for Rural Communities and Associate Minister for Agriculture
- Hon Penny Simmonds, Minister for the Environment and MP for Invercargill
- Hon James Meager, Minister for the South Island
- Hon Rachel Brooking, MP for Dunedin.
- Hon Kieran McAnulty MP
- Joseph Mooney, MP for Southland
- Scott Willis MP
- Steph Voight and Ginny Howden, Regional Public Service Commissioner for Otago
- Kerrie Young, Kainga Ora.
- Julie Anderson, Ministry of Education.
- Warren Ulusele, Dept. of Internal Affairs.
- Blake Lepper, Bridget Dickson, Stuart
 Barson, Nancy Todd, Endine Dixon-Harris,
 Sharlaine Chee, Teei Kaiaruna and Whaitiri
 Poutawa, Te Whatu Ora, WellSouth and Te
 Aka Whai Ora.
- Michael Brewster, Teresa Wooding, Marlon Bridge and Bex Sullivan, Department of Internal Affairs (on water reform).
- Laura Black and Andy Kilsby, Regional Skills Leadership Group.
- Phil Marsh, FENZ
- Mike Collins, Business South.
- Al Cross and Clare Wooding, Te Uru Kahika and Taituarā (on RM reform)

Correspondence

- To all incoming Otago-based and Otago-representative MPs, a letter of congratulations and invitation to meet the Forum.
- To the Ministry of Culture and Heritage, a letter in support of QLDC's application for funding from the Commemorating Waitangi Day Fund.
- To the Chief Executive of the Department of Internal Affairs, a letter relaying concerns about the disestablishment of the Local Government Branch within the department.
- To the Prime Minister, Minister for the Environment, Minister for Infrastructure and Minister of Finance, a letter seeking engagement on the Waste Minimisation Act and waste levy matters.

A Partnership Framework for Otago's Councils













Why collaborate regionally?

* Regional Approaches

Tackle shared challenges together and identify opportunities that require scale—things individual councils can't achieve alone.



Efficiency

Pool funding, staff, and expertise to maximize value for money across the region.

******* Better Coordination

Strengthen relationships with iwi, central government and each other through joint effort.

Why advocate together?

Stronger Voice

When councils speak together, we carry more weight and can better influence national decision-making.

© Consistency and Clarity

Regional advocacy avoids mixed messages and presents a clear, consistent picture of what Otago needs and what's most important to us.

* Requested by Government

Government Ministers and officials seek engagement and perspectives at a regional scale so they can advocate for us in Wellington.

Boundaries and responsibilities

Regional fora, joint committees and working groups...



...cannot make binding decisions, unless agreed to by individual councils.

...can identify and progress opportunities in councils' shared interest, within given mandates.

...**must** ensure appropriate communication with councils and refer major issues back.

Partnership framework: introduction

Legal Requirement
Under the Local
Government Act 2002,
councils in a region
must agree protocols
for working together

Triennial agreement
These protocols are
formalised each
triennium in the Otago
Local Authorities
Triennial Agreement.

Various arrangements can be co-opted for specific issues as needed.

Arrangements for each cross-council forum, joint committee and working group differ according to role, membership, mandate, statutory requirements and support needs.

Mayors and Councillors



m Otago Mayoral Forum

Provides oversight for communication, coordination and collaboration in the Otago Region.

Mandate: Otago Local Authorities Triennial Agreement

Membership: Otago's Mayors and ORC Chair, supported by their chief executives

Support: Secretariat hosted at ORC

Hui for Otago

<u>Proposed</u> as-needed configuration bringing together all of Otago's elected members on topics of shared interest.

Mandate: Otago Local Authorities Triennial Agreement (if progressed) Membership: All elected members, with wider attendance possible

Support: Otago Mayoral Forum secretariat

Statutory joint committees



- Otago Regional Transport Committee

Responsible for preparing the Otago Regional Land Transport Plan.

Mandate: Land Transport Management Act 2003

Membership: Two ORC representatives, one representative from each TA, one Waka Kōtahi representative

Support: ORC's Transport team



Otago CDEM Group Joint Committee

Approves the Otago CDEM Group Plan and provides guidance on civil defence implementation.

Mandate: Civil Defence and Emergency Management Act 2002

Membership: One elected representation from each Otago local authority, supported by their chief executives

Support: CDEM Otago

Strategic initiatives and working groups



Otago Central Lakes Regional Deal Negotiation Committee

Provides direction to inform the negotiation of a Regional Deal between partner councils and Central Government.

Mandate: Established via council decisions in June 2025 for a period of 18 months

Membership: Two elected members per member council, including CODC and QLDC Mayors and the ORC Chair

Support: QLDC Governance team, Otago Mayoral Forum secretariat



Public and Active Transport Advisory Group; Way to Go; Connecting Dunedin

Governance-level advisory groups for Queenstown and Dunedin (public) transport matters.

Mandate: Established via council decisions with own terms of reference.

Membership: Varies; includes Mayors, elected members and officials. Way to Go and Connecting Dunedin also

involve NZ Transport Agency Waka Kotahi

Support: ORC's Transport and Governance teams

Regional iwi partnerships



Te Rōpū Taiao Otago

An Otago Takiwa-wide collective forum to facilitate better mutual understandings between Kāi Tahu ki Otago and the local authorities of Otago.

Mandate: Governance Charter Te Rōpu Taiao Otago

Membership: Rūnaka leaders, Otago's Mayors and ORC Chair, supported by their chief executives

Support: Otago Mayoral Forum secretariat



🜊 Te Rōpū Taiao Murihiku

A forum to discuss and progress all aspects of the Charter of Understanding between Murihiku Councils and the four Murihiku Papatipu Rūnanga. ORC, QLDC and CDC are signatories.

Mandate: He Huarahi mō Ngā Uri Whakatupu Charter of Understanding

Membership: Elected representatives from member councils and Murihiku Papatipu Rūnanga

Support: Environment Southland

Working across regions



Zone 6

Networking and information-sharing for Otago and Southland.

Mandate: Local Government New Zealand

Membership: All elected members within the Zone

Support: Each zone elects or appoints a chair for the electoral term; LGNZ and the chair share responsibility for

meetings



🔍 Joint Otago and Southland Mayoral Forum and Te Rōpū Taiao

Annual joint meetings for lower South Island Mayoral Forums and both Te Rōpū Taiao. Can also convene for specific matters.

Mandate: See previous slides **Membership:** See previous slides

Support: Otago Mayoral Forum secretariat; Southland Mayoral Forum secretariat (Invercargill City Council)

Executive partnerships



- Otago Chief Executives Forum

An established collegial partnership and key enabler for the Otago Mayoral Forum and wider regional collaboration.

Mandate: Otago Local Authorities Triennial Agreement

Membership: Otago Council Chief Executives Support: Otago Mayoral Forum secretariat



CDEM Coordinating Executive Group

Provides advice to and implements decisions of the CDEM Joint Committee.

Mandate: Civil Defence Emergency Management Act 2002

Membership: Otago Council Chief Executives, CDEM Otago Group Controller/Manager, Senior members of NZ Police, FENZ, Te Whatu Ora Southern, MSD, NEMA, St John, Moeraki Rūnanga, Te Rūnanga ō Ōtakou, and Kati Huirapa Rūnaka ki Puketeraki.

Support: Emergency Management Otago

Staff partnerships



Cross-council working groups

Staff may form cross-council working groups to discuss regional issues and, where relevant, progress joint work programmes or collaborative projects. These groups also enable staff to share knowledge and expertise across councils. Established groups include:

- Ctago Regional Economic Development Working Group
- کے Otago Waste Network
- Otago Biodiversity Forum
- S Otago Climate Officers' Group
- Otago Strategy Managers' Group

Mandate: A terms of reference for each group is to be reviewed periodically by the Otago Chief Executives Forum

Membership: As relevant

Support: Staff-led, with support from a 'CE lead' appointed by the Otago Chief Executives Forum.

Resourcing

Otago's cross-council framework depends on everyone.

There's specific support from two staff:

Otago Mayoral Forum Secretariat

Key support for the Otago Mayoral Forum, Otago Chief Executives Forum and cross-council collaboration in Otago.

Role established: 2019 Employer: ORC Funding: Regional rates

Otago Regional Waste Officer

Dedicated role to address regional waste management and minimisation challenges across Otago's councils.

Role established: 2024
Employer: DCC, with deskspace at CODC
Funding: Jointly-funded by all Councils

Summary of Otago's regional groups

Three levels of regional collaboration working together

Governance

Mayoral Forum

Joint Committees

Hui for Otago

Staff

Chief Executives Forum

CDEM Executive Group

Working Groups

Wider

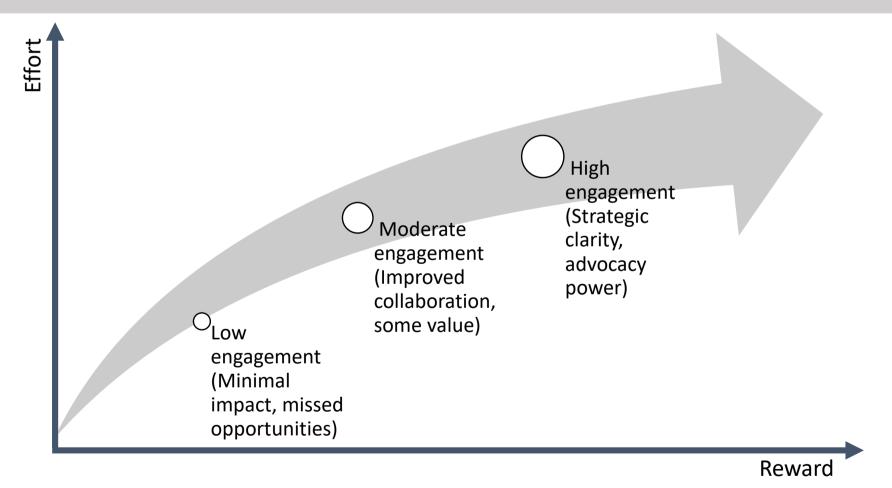
Te Rōpū Taiao (x2)

Joint meetings

Zone 6

Next steps: return on investment

The rewards from working together increase with participation and commitment.



Next steps: Determining focus areas

A new triennium is a fresh start. We can target our joint efforts where they matter most.

Proposed process:

Step 1: Secretariat, staff working groups and Otago CE Forum to develop a 'long list' of matters that could benefit from regional attention, with brief commentary.



Step 2: Mayoral Forum to confirm a set of regional outcomes and focus areas and a direction of travel for each. Note: 'focus areas' refer to broad issues, not projects or programmes.



Step 3: Mayoral Forum is responsible for monitoring focus areas, ensuring that the wider framework is doing what it can to address the issue.

Hon Paul Goldsmith

Minister for Arts, Culture and Heritage Minister of Justice Minister for Media and Communications Minister for Treaty of Waitangi Negotiations



10 November 2025

Chairperson Hilary Calver
Otago Regional Council
c/- Kim.Wainscott@orc.govt.nz

Dear Hilary

Thank you for your letter on 6 November 2025 to myself, Hon Mark Mitchell and Hon Mark Patterson. I am responding to you in my capacity as Minister for Media and Communications.

Firstly, I want to acknowledge the impact of the recent severe weather events for people in your region, I appreciate the distress it must have caused. I want to assure you that telecommunications are considered lifeline services under the Civil Defence Emergency Management framework. Therefore, telecommunications operators were linked into the National Emergency Management Agency's (NEMA) response and were working to get cell towers running on generator as quickly as possible. Many generators were deployed into the region to restore connectivity while power was being restored.

I do want to acknowledge your point that cell towers in rural and remote areas can be hard to restore in emergency situations, this can be due to access issues. That is why Minister Mitchell and I secured funding of \$6.4 million earlier this year to upgrade batteries on rural and remote cell towers from around 6-8 hours battery life to 24 hours. This will make a big difference as it will ensure connectivity is in place in the immediate aftermath of an event, and it will give more time for telecommunications operators to put generators in place.

The \$6.4 million will take the total amount of funding for battery upgrades to around \$12 million overall and means around 300-350 cell towers in rural areas will receive upgrades. Around 100 of these upgrades have been made already. National Infrastructure Funding and Financing (NIFF) has been running this battery upgrade programme on behalf of the Crown and is currently exploring areas that will receive upgrades with the additional \$6.4 million that has been allocated. Areas that have already had upgrades were those impacted by previous weather events, and so I expect NIFF will also be taking the recent Southland storm into account when identifying further areas to receive upgrades.

You mention interoperability in relation to 111 calling in your letter, I note that there are already arrangements in place between the mobile network operators to allow people to roam across all networks for 111 calls. That means, for example, that if One NZ and Spark coverage is down, their customers would still connect to 2degrees' network to make a 111 call.

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand | +64 4 817 6806 | p.goldsmith@ministers.govt.nz

I also note that in the coming years calling via satellite-to-cellphone will become available, and that some New Zealanders can already text via satellite. Once this service is more widespread, access to communications in an emergency will be significantly improved.

Regarding your request to strengthen the regulatory requirements that apply to telecommunications operators, Minister Mitchell is leading on changes to our Emergency Management legislation. These changes form part of the Government's response to the Inquiry into North Island Severe Weather Events. As you may be aware, consultation on the proposed changes was run earlier this year, and there will be a further opportunity to provide feedback once the Bill has been referred to Select Committee.

Finally, I agree that local radio is crucial for public safety and communication in emergencies. That is why the government, through NZ On Air, funds important radio platforms like RNZ and Community Access Media that provide critical lifelines for communities during crises. RNZ is New Zealand's statutory civil defence radio broadcaster, and it provides vital information and updates as they come to hand on air. Community Access Media funds 12 access radio stations from Auckland to Invercargill that are used in local and national emergencies to communicate with the public.

If you have further questions or comments to make, please do not hesitate to contact me.

Yours sincerely

Hon Paul Goldsmith

Minister for Media and Communications



From the Office of the Chairperson

6 November 2025

To: The Honourable Paul Goldsmith

Minister for Media and Communications

Email: P.Goldsmith@ministers.govt.nz

Cc: The Honourable Mark Mitchell

Minister for Emergency Management and Recovery

Email: M.Mitchell@ministers.govt.nz

The Honourable Mark Patterson Minister for Rural Communities

Email: M.Patterson@ministers.govt.nz

Dear Minister Goldsmith

Re: Strengthening Resilience of Mobile Communication Infrastructure in the South

The Otago Regional Council wishes to raise an urgent matter regarding the resilience of mobile communications infrastructure across Otago and Southland following the recent severe weather events that caused widespread and prolonged disruption to power and telecommunications.

The October storm left many communities in the lower South Island without power and mobile coverage for extended periods after cell towers lost power within hours of the outages.

We understand that telecommunications providers have made progress on improving network redundancy, but recent events show that current backup standards remain insufficient, particularly in rural and remote areas. Most cell towers rely on battery power for only a few hours, and generator deployment is logistically difficult when road access is limited.

We therefore urge the Government to consider:

- Introducing a regulatory minimum standard for cell tower power backup systems to ensure that networks remain operational for an extended period during emergencies.
- Supporting a transition plan, backed by central government funding or incentives, to upgrade existing infrastructure across rural regions.
- Exploring interoperability and switching options between networks when one provider's coverage fails, particularly for emergency calls.
- Recognising mobile communications infrastructure as a critical lifeline service within the Civil Defence Emergency Management framework.
- Working collaboratively with regional and district councils, and emergency management groups, to identify high-risk areas and prioritise investment.

 Our suggested actions strongly align with the recommendations contained in the *Telecommunications Resilience in Hawke's Bay* report (July 2024), commissioned following multiple communications failures during Cyclone Gabrielle in 2023.

We also note the importance of local radio broadcasting during such events. Many rural areas rely on community radio for updates when digital and mobile systems fail. We ask that the Government consider ways to support the viability of local radio stations, recognising their essential role in public safety and communication during emergencies.

Councillors from across Otago support this call and believe that improving telecommunications resilience is an essential part of building climate and disaster readiness in our regions. We acknowledge that some of the issues raised in this letter will be addressed through the proposed Emergency Management Bill (2025) and we intend on signalling our strong support for a much greater focus on critical infrastructure resilience through formal submission processes.

We would welcome the opportunity to meet with officials to discuss practical next steps and how local government can assist in strengthening network resilience.

Best regards

Cr Hilary Calvert **Chairperson**

10.1. Consideration of Terms of Reference for Committee Structure Adopted on 5 November 2025

Prepared for: Council

Report No. GOV2606

Activity: Governance Report

Amanda Vercoe (General Manager Strategy and Customer), Marianna Brook

(Principal Advisor Mayoral Forum and Local Government Reform).

Endorsed by: Richard Saunders (Chief Executive)

Date: 26 November 2025

PURPOSE

[1] To consider and adopt Terms of Reference for the ORC's Council governance structure for the 2025-2028 triennium.

- [2] To note a commitment from Council to ongoing engagement with mana whenua as part of decision making, and to continue discussions on a mutually agreeable way to incorporate representation into the new portfolio structure.
- [3] To confirm working groups memberships and appointments to various joint committees, and internal and external groups.
- [4] To confirm the membership of the Otago Regional Transport Committee, based on the nominations by Otago Territorial Authorities.

EXECUTIVE SUMMARY

- [5] On 5 November 2025 Council agreed to a governance structure for the 2025-2028 triennium, establishing that decision making would sit solely with Council complemented by portfolio areas and portfolio lead councillors, and an Audit and Risk Committee.
- [6] At the time, Council noted that Terms of Reference (ToR) for the governance structure would come to Council for consideration separately. Attached to this paper is the proposed ToR for the portfolio areas and portfolio leads for Council to consider.
- The ToR note that engagement with mana whenua in decision making processes remains a commitment of Council and we will continue discussions on a mutually agreeable way to incorporate representation into the new portfolio structure, as per the Council resolution from 5 November 2025.

- [8] The paper includes nominations for ORC representatives to regional committees.
 - Otago Civil Defence Emergency Management (CDEM) Group Joint Committee:
 Cr Neil Gillespie
 - Otago Central Lakes Regional Deal Negotiation Committee: Cr Matt Hollyer,
 Cr Gretchen Robertson
 - c. Otago Regional Transport Committee: Kate Wilson (Chair), Matt Hollyer (Deputy Chair)
 - d. Regional Sector Group: Cr Kevin Malcolm
- [9] A list of Council working groups and appointments to various internal and external groups is also attached for Council consideration.
- [10] The full membership of the Otago Regional Transport Committee is also included for confirmation.

RECOMMENDATION

That the Council, with or without amendments:

- 1) Notes this report.
- 2) Adopts the attached Terms of Reference for the portfolio leads and portfolio areas.
- 3) **Notes** the commitment by Council to ongoing engagement with mana whenua as part of decision making.
- 4) **Adopts** the attached Terms of Reference for the Audit and Risk Committee
- 5) **Approves** the attached list of Council working groups and membership of those groups.
- *Approves* the attached list of Council appointments.
- 7) **Approves** Cr Neil Gillespie being appointed as ORC's representative to the Otago CDEM Group Joint Committee, and agrees to Cr Gillespie having delegated authority to act for the Chair in this role.
- 8) **Approves** amending the Otago Central Lakes Regional Deal Negotiation Committee Memorandum of Agreement (MoA) to remove the requirement for mandatory Mayor/Chair membership.
- 9) **Authorises** the Chair to sign the amended MoA on behalf of ORC.
- 10) **Approves** Cr Matt Hollyer and Cr Gretchen Robertson being appointed as ORC's representatives to the Otago Central Lakes Regional Deal Negotiation Committee.
- 11) **Notes** that should QLDC and CODC not approve the amendment to the MoA, a further report would be needed.
- 12) **Approves** Cr Kate Wilson and Cr Matt Hollyer being appointed to the Otago Regional Transport Committee.
- 13) **Confirms** the membership of the Otago Regional Transport Committee as:
 - a. Cr Kate Wilson, ORC Chair
 - b. Cr Matt Hollyer, ORC Deputy Chair
 - c. Cr Stu Duncan, Central Otago District Council
 - d. Cr John McCone, Waitaki District Council
 - e. Cr Frans Schlack (Waitaki District Council Alternate)
 - f. Cr Steve Walker, Dunedin City Council
 - g. Cr Quentin Smith, Queenstown Lakes District Council
 - h. Cr Bruce Graham, Clutha District Council
 - i. New Zealand Transport Agency/Waka Kotahi, Mr Ian Duncan

- 14) **Approves** Kevin Malcolm being nominated as ORC's representative to the Local Government New Zealand Regional Sector Group.
- 15) **Resolves** to replace "Co-Chairs Environmental Delivery Committee" with "Portfolio Leads Environmental Delivery" in the ORC Delegations Manual, specifically in Part B- the delegations Council makes to ORC staff and elected members under the Resource Management Act.

BACKGROUND

- The Local Government Act 2002 (the LGA) gives local authorities the power to appoint committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate (Section 30, Schedule 7). Local Authorities are also able to appoint non-elected members to those committee (Section 31(3), Schedule 7, LGA).
- [12] Under the Local Government Act, Section 30 (7) unless resolved otherwise the committees are deemed to be discharged when the incoming council takes office after triennial elections.
- [13] The LGA (Section 32, Schedule 7) also gives Council the ability to delegate any of its responsibilities, powers or duties. Some decisions cannot be delegated, these include:
 - a. The power to make a rate
 - b. The power to make a bylaw (although local boards have the right to recommend these for their local areas)
 - c. The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term council community plan
 - d. The power to adopt a Long-Term Plan, Annual Plan, or Annual Report
 - e. The power to appoint a chief executive

DISCUSSION

Portfolio Terms of Reference

- [14] Following the Council meeting on 5 November, a workshop on 13 November 2025 and a scheduled discussion at Mana to Mana on 20 November (ORC Councillors and Rūnaka Chairs from Otago and Murihiku), the attached document provides a detailed role description, along with terms of reference for each portfolio area.
- The ToR note that engagement with mana whenua in decision making processes remains a commitment of Council and we will continue discussions on a mutually agreeable way to incorporate representation into the new portfolio structure, as per the Council resolution from 5 November 2025.

Otago Central Lakes Regional Deal Negotiation Committee

- In June 2025, Otago Regional Council (ORC), Central Otago District Council (CODC) and Queenstown Lakes District Council (QLDC; collectively the Partner Councils) agreed to establish a joint committee to oversee and provide guidance that will inform negotiations for the terms of a Regional Deal.
- [17] The membership, terms of reference and other matters relating to the operation of the joint committee are captured in a Memorandum of Agreement (MoA), signed by the

- Partner Councils. The current MoA requires that one of each Partner's two committee members must be the Mayor or Chair.
- ORC has discussed with the other Partners a proposal to appoint two elected members to the committee, neither being the Chair. To accommodate this approach, the MoA needs to be amended to remove the requirement for the Mayor/Chair to be a committee member. This provides flexibility for each Partner to appoint any two elected members.
- The proposed MoA is attached and includes amendments to a total of four clauses to remove the requirement for and any reference to mandatory Mayor/Chair membership. The proposed amendments maintain the requirement for two elected members per Partner and do not affect voting rights or quorum provisions.
- [20] All three Partner Councils must ratify any amendment for it to take effect. CODC and QLDC will be invited to approve the amended MoA at their 26 November and 27 November meetings respectively. Should any of the Partners not approve the amendment, a further report would be needed.

Otago CDEM Group Joint Committee

- [21] The Otago Civil Defence and Emergency Management Group Joint Committee is established under the Civil Defence and Emergency Management Act 2002, with membership and duties prescribed in legislation. Terms of Reference are included in the attachment.
- [22] It is proposed that ORC's representative to the Otago CDEM Group Committee be delegated to Cr Neil Gillespie, along with the authority to act as Chair for the purposes of this Group Joint Committee. While this has typically been undertaken by the Chair, there is no legislative impediment to ORC's representative being a Councillor under Section 13.

13 Membership of Civil Defence Emergency Management Groups

- (1) Every local authority must be a member of a Civil Defence Emergency Management Group.
- (2) No Group may have more than 1 regional council as a member unless a merger has been approved under section 21.
- (3) Despite subsection (2), unitary authorities that border one another may be members of the same Group.
- (4) Each local authority that is a member of a Group with other local authorities must be represented on the Group by 1, and only 1, person, being the mayor or chairperson of that local authority or an elected person from that local authority who has delegated authority to act for the mayor or chairperson.
 - Section 13(4): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Regional Transport Committee

- [23] The Otago Regional Transport Committee is convened under the Land Transport Act 1998 with membership and duties prescribed under the legislation. Terms of Reference are included in the attachment.
- [24] It is proposed that ORC's nominations to this committee be Cr Kate Wilson (Chair) and Cr Matt Hollyer (Deputy Chair).
- [25] Otago's Territorial Authorities have also confirmed appointments to the Otago Regional Transport Committee. These included:

- a. Central Otago District Council: Cr Stu Duncan
- b. Waitaki District Council: Cr John McCone and Cr Frans Schlack (alternate)
- c. Dunedin City Council: Cr Steve Walker
- d. Queenstown Lakes District Council: Cr Quentin Smith
- e. Clutha District Council: Cr Bruce Graham

Local Government New Zealand – Regional Sector Group

- [26] The Regional Sector Group is convened by Local Government New Zealand and involves member councils who are regional or unitary authorities. Meetings take place quarterly and provide an opportunity to meet with Ministers directly and hear updates on regional sector issues and opportunities.
- [27] It is proposed that Cr Kevin Malcolm be ORC's representative to this group.

Time-sensitive Delegations Update

- [28] As part of the governance structure change, an immediate update to the Delegations Manual needs to be made. This does not preclude further review by Council of the manual, but provides for business continuity in the meantime.
- [29] Under the previous triennium's committees structure, the Co-Chairs of the Environmental Delivery Committee had a number of specific delegations in the ORC Delegations Manual under the Resource Management Act such as appointing independent decision makers on certain matters (see Part B in this link:

 https://www.orc.govt.nz/media/ywbnbkjs/202508-delegations-manual.pdf).
- This paper seeks Council approval to replace "Co-Chairs of the Environmental Delivery Committee" with "Portfolio Leads Environmental Delivery" against the existing suite of delegations in the ORC Delegations Manual. This recognises the change in governance oversight of ORC's regulatory functions from the Environmental Delivery Co-Chairs to Portfolio Leads Environmental delivery.
- [31] The Portfolio Leads Environmental Delivery will be provided advice and guidance on the process for exercising the delegations from the General Manager Environmental Delivery.

OPTIONS

[32] To consider the portfolio ToR, committee appointments, working groups, appointments and delegations and confirm them with or without amendments.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[33] The ORC's current strategic directions are reflected in the proposed governance structure, along with clear business accountability.

Previous governance structures have included committees with mana whenua representation. A commitment has been made to continue to engage with mana whenua on their role within the proposed portfolio structure to ensure that our strategic direction of partnership is reflected in governance arrangements.

Financial Considerations

[35] The cost of supporting the operation of the governance structure is budgeted for.

Significance and Engagement Considerations

- [36] He Mahi Rau Rika speaks to ORC's commitment to partner with mana whenua and make mātauranga Kāi Tahu an integral part of our decision making. Consideration will need to be given to achieving this commitment within the proposed portfolio structure.
- [37] The 2024 Te Tiriti Audit also recommended Council engage with mana whenua on committee structure, terms of reference and delegations.

Legislative and Risk Considerations

[38] A small change to the ORC Delegations Manual is proposed to ensure that we can operate within accurate delegations.

Climate Change Considerations

[39] This is an administrative report, though the Terms of Reference for the Science and Resilience portfolio include reference to climate change activities.

Communications Considerations

[40] Once adopted, this governance structure will be made available online, and Councillor biographies will be updated to note their council portfolio roles.

NEXT STEPS

[41] To implement the decisions made above.

ATTACHMENTS

- 1. 2025 2028 Governance Structure Portfolio ToR and Council appointments [**10.1.1** 24 pages]
- 2. RD Negotiation Joint Committee Memorandum of Agreement AMENDED NEW SIGNATURE [10.1.2 10 pages]



Governance Structure, Portfolio Terms of Reference and Council appointments

2025 - 2028 Triennium

Adopted:

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Otago Regional Council Governance Structure

1. Introduction

ORC's governance structure provides for decision making to sit solely with Council, complemented by **portfolio areas and the appointment of portfolio leads**.

An **Audit and Risk Committee** will continue to provide governance, risk and audit reporting oversight. Three regional committees including the **Regional Transport Committee**, **Regional Civil Defence and Emergency Management Joint Committee**, and **Joint Committee Regional Deals** continue to operate. Terms of reference for these committees are below.

Portfolios are designed to enable councillors to:

- Champion key strategic issues,
- Enhance and deepen governance engagement across council,
- Build connections with communities and bring these perspectives to the decision-making table, and
- Ensure alignment between Council's strategic priorities (outlined in the Strategic Directions) and Council's activities.

Portfolios and portfolio leads do not have decision making delegations. Their terms of reference are outlined below to support clarity of role and expectations.

The portfolio model and approach will be reviewed as needed, to ensure it remains fit for purpose.

2. Portfolio areas and leads

Council Chair	Hilary Calvert
Council Deputy Chair	Kevin Malcolm
Portfolio Leads Environmental	Andrew Noone
Delivery	Robbie Byars
Portfolio Leads Science and Resilience	Gary Kelliher
	Gretchen Robertson
Portfolio Leads Policy and Planning	Kate Wilson
	Neil Gillespie
Portfolio Leads Finance	Kevin Malcolm
	Chanel Gardner
Portfolio Leads Transport	Matt Hollyer
	Alan Somerville
Portfolio Leads Strategy and Customer	Michael Laws
	Hilary Calvert

3. Engagement with mana whenua

Engagement with mana whenua in decision making processes remains a commitment of Council and we continue to work together to find a mutually agreeable way to embed representation into our governance structure this triennium.

4. Role of portfolio leads

Portfolio leads are expected to:

- Provide strategic leadership on portfolio matters and ensure progress is made towards Council's strategic priorities
- Maintain a strong understanding of the portfolio area
- Foster and enhance relationships with key stakeholders and the community in the portfolio area.
- Contribute to community engagement and communications activity in the portfolio area, including acting as spokespeople, as required
- Focus on governance, strategy and outcomes, rather than operational or management matters, ensuring all operational activity remains the responsibility of the Chief Executive.

Working with councillors: Portfolio leads must

- Share portfolio area updates with councillors to support well-informed decisions at Council meetings.
- Act as a point of contact for portfolio-related queries from other councillors.
- Receive and present governance -level reporting from liaison or working group chairs.
- Seek expertise from fellow councillors as required.
- Keep the Chair and Deputy Chair informed of emerging issues according to the no surprises principle.

Working with staff: Portfolio Leads will

- Work constructively with senior staff responsible for portfolio areas, who will be the primary points of contact for governance information.
- Regularly review the portfolio area's Council work programme and discuss upcoming papers. Share ideas on potential agenda items for Council from the portfolio area for discussion with the senior officer.
- Support discussions at Council meetings on papers or decisions relevant to portfolio. This
 could include making introductory comments alongside the relevant staff member.
- Share feedback in a timely way with the senior officer or Chief Executive to support effective and efficient delivery of ORC activities within the portfolio area.

5. Delegations

Portfolio leads do not have governance, operational or financial delegations.

Otago Regional Council Committees

Audit and Risk Committee

Co-Chairs: Kevin Malcolm,
Andrew Douglas (independent

member)

Members:
Hilary Calvert
Gary Kelliher
Chanel Gardner
Neil Gillespie
Gretchen Robertson

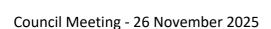
Regional Transport	Civil Defence and	Regional Deal Negotiation
Committee (established by the	Emergency Management	Joint Committee (established
Land Transport Management	Joint Committee (established	June 2025 by QLDC, CODC
Act)	under CDEM Act)	and ORC)
Cr Kate Wilson (Chair)	Cr Neil Gillespie	Cr Matt Hollyer
Cr Matt Hollyer (Deputy Chair)		Cr Gretchen Robertson
DCC	Otago Mayors	
CDC		CODC Mayor
CODC		CODC councillor
QLDC		
WDC		QLDC Mayor
NZTA		QLDC councillor

Strategy and Customer Portfolio

Portfolio Leads	Hilary Calvert, Michael Laws
Senior Officer General Manager Strategy and Customer	

Areas of Responsibility

- Council's Strategic Directions over the next three years
- Liaison with Central and Local Government (in collaboration with portfolio leads)
- Major issues of regional importance (e.g. fast track advocacy)
- Council's relationship with Kāi Tahu and engagement with Māori in the work of Council
- Community engagement activities, including how to reach new/all communities
- ORC's Communications and Marketing activity
- ORC's community survey and follow-up action plan
- Governance matters including council meeting schedules, remuneration



Finance Portfolio

Portfolio Leads Kevin Malcolm, Chanel Gardner	
Senior Officer General Manager Finance	

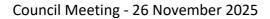
Areas of Responsibility

1. Corporate Planning

- Long-term Plan
- Annual Plan
- Quarterly activity reporting against the agreed levels of service and target measures outlined in the Long-term and Annual Plans

2. Finance and Performance Reporting

- Financial policies including the Financial Strategy and Revenue and Financing Policy
- Rates, fees, charges, royalties and rentals policies and strategies
- Quarterly and annual financial statements including the statement of comprehensive income, balance sheet and treasury report
- Commercial activities, trading activities or investments held by the Council
- Council's assets, leases, and financial reserves



Policy and Planning Portfolio

Portfolio Leads Kate Wilson, Neil Gillespie	
Senior Officer General Manager Regional Planning and Transport	

Areas of Responsibility

1. Strategy:

- Strategy related to the environment (water, air, land, coast, biodiversity and biosecurity)
- Environmental strategies' implementation and effectiveness

2. Policy/Planning:

- Land and Water Regional Plan, including policy, science, economics inputs
- Coast plan review, including the policy and science inputs
- Air Plan review, including the policy and science inputs
- Regional Policy Statement appeals, reviews, amendments and implementation
- Regional Pest Management Plan, including the policy and science inputs
- Biodiversity plans, including the policy and science inputs
- Plan effectiveness
- Joint urban development policy alongside Territorial Authorities, and other obligations set out by the National Policy Statement Urban Development
- Regional approaches to urban growth and development

3. Submissions

 Council submissions, and advocacy on behalf of the Otago region on national and regional plans, policies and legislation, including reform (in collaboration with Submissions Working Group and Strategy and Customer Portfolio Leads)

^{*}Note with Resource Management Act reform the above plans may have a different title or be a different form in order to manage the issues.

Environmental Delivery Portfolio

Co-Chairs	Andrew Noone, Robbie Byars	
Senior Officer General Manager Environmental Delivery		

Areas of Responsibility

1. Environmental implementation

- Activities related to (but not limited to):
 - o ORC work with catchment groups and Otago Catchment Community
 - o Biodiversity project delivery
 - Biosecurity plan delivery
 - Air project delivery
- ORC delivered environmental projects, for example Wai Whakaata, Tomahawk Lagoon
- Wilding Conifer and Wallaby national funded programmes
- Integrated Catchment Management programme
- Annual Biosecurity Operational Plan.
- Community engagement on environmental initiatives
- ECO fund
- Large scale environmental fund

2. Regulatory

- Regulatory activity
 - o Consents
 - Compliance
 - Biosecurity
 - Harbourmaster

Science and Resilience Portfolio

Portfolio Leads Gary Kelliher, Gretchen Robertson	
Senior Officer General Manager Science and Resilience	

Areas of Responsibility

1. Resilience

- ORC's programme of work on climate change adaptation
- Otago Climate Change Risk Assessment
- ORC's Climate Change Strategy, implementation and effectiveness
- Natural hazards risks and programmes to manage those risks
- Waterway management, flood control and land drainage
- River management, flood control and land drainage schemes and service delivery risks
- Natural hazards monitoring and warning systems and processes

2. Science

- Science reporting, monitoring design and analysis covering
 - o coastal and estuaries
 - wetlands
 - water quality
 - groundwater
 - hydrology
 - land and soil
 - lakes
- State of the Environment monitoring, analysis and reporting
- Science communication activities

Transport Portfolio

Portfolio Leads Matt Hollyer, Alan Somerville	
Senior Officer General Manager Regional Planning and Transport	

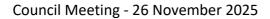
Areas of Responsibility

1. Transport planning

- Otago Regional Public Transport Plan
- Public transport advocacy with NZTA, territorial authorities, and Central Government
- Public transport components of the Regional Land Transport Plan (RLTP) (in conjunction with Regional Transport Committee)

2. Transport operations

- Public Transport Dunedin provision of service, routes, data, contracts, complaints, and communications
- Public Transport Queenstown provision of service, routes, data, contracts, complaints, and communications
- Regional Total Mobility Service
- Regional community transport services scoping
- National Ticketing system transition



Audit and Risk Committee

Co-Chairs	Cr Kevin Malcolm, Andrew Douglas (independent member)	
Members	Hilary Calvert	
	Gary Kelliher	
	Chanel Gardner	
	Neil Gillespie Gretchen Robertson	
	Gletchen Robertson	
	Other councillors are encouraged to attend meetings of the Committee, but do not have voting rights.	
Quorum	Four (4)	
Meeting frequency	Quarterly	
Senior Officer	General Manager Finance, General Manager People and Corporate, General Manager Strategy and Customer	

Purpose

To provide advice about governance, risk management, and internal control matters, external reporting and audit matters. The Committee can make recommendations to the Council and/or the chief executive, and request information and advice through the chief executive when necessary.

Areas of Responsibility

- Council's risk framework and management of strategic risk
- Insurance renewals and notifications
- Annual Report including audit plan, management letter, and management response, and reviewing the draft annual report before it goes to Council
- Internal audit and control process
- People and Safety reporting
- Investment management, including managed fund, performance of Council's investment manager including compliance of the managed fund with the Statement of Investment Policies and Objectives (SIPO), and appointment of fund manager.
- Legal compliance

Delegations

The Subcommittee has no general decision-making or financial delegations. It can:

- 1. Receive information for noting.
- 2. Receive the external audit engagement letters and letters of undertaking for audit functions and additional services provided by the external auditor.
- 3. Review matters within its areas of responsibility and make recommendations to Council on those matters.
- 4. Seek information it requires from the Chief Executive. The Chief Executive is required to cooperate with any requests unless excused by the Chair of the Otago Regional Council.
- 5. Request access to outside legal or independent professional advice should it consider this necessary.
- 6. The Co-Chairs will report to Council annually on the activities of the Subcommittee.

Otago Civil Defence Emergency Management Group (Joint Committee)

Chairperson	Elected by the Joint Committee	
Members	 Central Otago District Council Clutha District Council Dunedin City Council Otago Regional Council Queenstown Lakes District Council Waitaki District Council Each member is represented on the joint committee by the Mayor/ Chairperson, or by an elected person from that authority who has delegated authority to act for the member.	
Quorum	Three (3)	
Meeting frequency	Quarterly	
Senior Officer	Chief Executive	

Constitution

Pursuant to section 12 of the Civil Defence Emergency Management Act 2002, the Otago Civil Defence Emergency Management Group is constituted as a joint standing committee under section 114S of the Local Government Act 1974 (a joint committee under section 30 of Schedule 7 of the Local Government Act 2002) by resolutions adopted by:

- Central Otago District Council
- Clutha District Council
- Dunedin City Council
- Otago Regional Council
- Queenstown Lakes District Council
- Waitaki District Council

Chairperson

The Otago Civil Defence Emergency Management Group shall appoint one of the representatives of its members as chairperson, and one of its members as deputy chairperson. Each will hold office for such period as agreed by the Group, but only so long as those persons remain a representative of a member of the Group.

Purpose

The Otago Civil Defence Emergency Management Group has the purpose and all of the functions, powers and obligations of a civil defence emergency management group as defined by the Civil Defence Emergency Management Act 2002 and subsequent amendments. Section 17 of the Civil Defence Emergency Management Act 2002 defines the function of a group and each of its members that, in summary, require it to:

- Identify, assess and manage relevant hazards and risks.
- Ensure provision of trained and competent personnel, an appropriate organisational structure and the necessary services and resources for effective civil defence emergency management in its area.
- Respond to and manage the adverse effects of emergencies.
- Carry out recovery activities.
- Assist other civil defence emergency management groups when requested.
- Promote public awareness of and compliance with the Civil Defence Emergency Management Act and legislative provisions relevant to the purpose of the Act.
- Develop, approve, implement, monitor and review a civil defence emergency management group plan.
- Participate in the development of the national civil defence emergency management strategy and the national civil defence emergency management plan.
- Promote civil defence emergency management in its area that is consistent with the purpose of the Civil Defence Emergency Management Act 2002.

Delegations

The Otago Civil Defence Emergency Management Group shall have all the delegated authorities that may be given by each member Council, including authority to fulfil the powers, obligations and functions of the Group as specified in the Civil Defence Emergency Management Act 2002, authority to appoint subcommittees, and authority to sub-delegate any authority able by law to be delegated.

Subcommittee

A subcommittee of all members of the Otago Civil Defence Emergency Management Group may be formed and given full delegated authority to carry out the functions, obligations and powers of the Group under the Civil Defence Emergency Management Act 2002 pursuant to section 114P(2) of the Local Government Act 1974 and section 30(2) schedule 7 of the Local Government Act 2002. Any meeting will transact routine business and not commit members to any major financial expenditure.

Standing Orders

The current Standing Orders of the Otago Regional Council shall govern the conduct of the meetings, except that order papers and agenda papers shall be sent to every member no less than five working days before the meeting. Notwithstanding anything in the Civil Defence Emergency Management Act or Standing Orders, adequate notice shall be given of all matters to be discussed at a meeting of the Group. Where a matter of significance is to be considered, where practicable, prior written notice of the background to that matter must be given in sufficient time to allow for consultation with each member.

Administering Authority

The Otago Regional Council as the administering authority shall provide administrative and leadership of the Group.

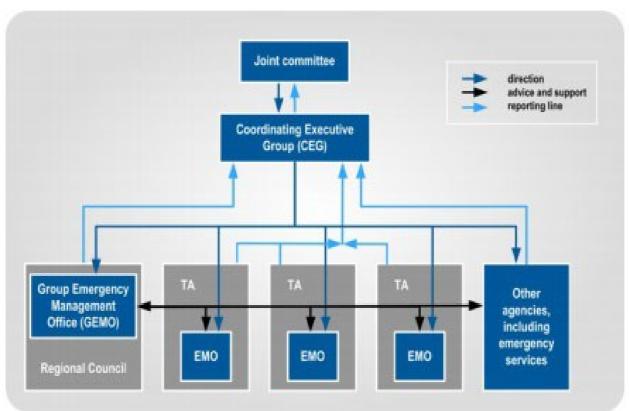
Reporting

The Group will report to each member.

Continuance of Joint Standing Committee

The Otago Civil Defence Emergency Management Group shall not be discharged by a triennial election but appointments of representatives of members shall be confirmed, or new appointments made by each council following each election.

Otago CDEM Group Governance Structure



The **Otago CDEM Group Joint Committee** has overall governance responsibility for CDEM in the Otago area. Operational management is supported by the **Coordinating Executive Group (CEG)**, made up of the Chief Executives of the six councils (or persons acting on their behalf), plus senior representatives from the NZ Police, Fire and Emergency NZ, St John, Southern District Health Board, Ngāi Tahu and the Ministry of Social Development. The CEG provides advice to the JC and ensures its decisions are implemented.

Otago CDEM Group Management Office is a shared service across all six local authorities of Otago. Otago Regional Council is the Administering Authority for the CDEM Group. It:

- Employs all staff of Otago CDEM Group and is responsible for all employment-related matters including health and safety, wellbeing, welfare, operational policies, and conduct.
- Provides administrative and related services to the Group, such as preparing agendas, arranging meetings, and taking and disseminating minutes from meetings.
- Provides financial management for the CDEM Group, including budgeting and reporting.
- In addition to the funding collected by the Regional Council through the targeted rate to resource the Otago CDEM Group and its activities.

Each **local authority member** of the Group is operationally and financially responsible for its **own local arrangements**. Each council also contributes skills, expertise and mutual support to the Group on an 'as available' basis.

For more information please see: https://www.otagocdem.govt.nz/media/1417/otago-cdem-group-plan-2018-28-print-version.pdf

Otago Regional Transport Committee

Chairperson	Cr Kate Wilson, Otago Regional Council
Deputy Chairperson	Cr Matt Hollyer, Otago Regional Council
Members Total membership of the Otago committee equals eight. This is dictated by Section 105 of the Land Transport Management Act 2003 (LTMA).	Two regional council representatives (Chair and Deputy Chair): One representative from the Waka Kotahi NZ Transport Agency
Representatives are appointed by the Regional Council on the nomination of NZ Transport Agency and each of the territorial local authorities.	One district council representative from each of the:
Quorum / Voting	An Otago RTC meeting cannot proceed unless five committee members are present, at least one of whom must be representative of the regional council and no more than one to be an alternate representative. No voting will occur unless there is a quorum of committee members from those organisations allowed to vote on these matters. The Chairperson has a deliberative vote and in the case of an equality of votes does not have a casting vote. Clause 24 of the 7th Schedule of the Local Government Act otherwise applies to voting. The purpose of encouraging each organisation to have alternates is to ensure that each of the organisations involved in the RTC (the TAs, Waka Kotahi NZ Transport Agency and the regional council) is able to bring their organisation's view to the table and

	Each organisation (i.e., the regional council, Waka Kotahi NZ Transport Agency and each district/city council) is therefore encouraged to have alternative representatives to act as a replacement should the appointed representative be absent from a meeting. Alternates will count towards a quorum but do not have voting rights.
Meeting frequency	The RTC normally meets at least three times a year but may meet more regularly depending on the work to be undertaken or the issues to be addressed. Where possible, members will be advised, in advance, of the meeting schedule for the year. Typically, the Otago RTC meets alongside the Southland RTC.
Senior Officer	General Manager Regional Planning and Transport

Purpose

To undertake the functions as prescribed by the *Land Transport Management Act 2003 and subsequent amendments*.

Role and Functions

The role and functions of the Otago Regional Transport Committee are as follows:

- 1. To undertake the statutory requirements of the Land Transport Management Act 2003.
- 2. To prepare the Regional Land Transport Plan (RTLP) in co-operation with the Southland Regional Transport Committee, to prepare any applications to vary the RLTP and to process any applications to vary the RLTP (*LTMA Section 106(1)(a)*).
- 3. To prepare and adopt a policy that determines significance in respect of:
 - a) any variations made to the RLTP.
 - b) activities included in the RLTP (LTMA Section 106(2)).
- 4. To provide any advice and assistance the regional council may request on its transport responsibilities generally (LTMA Section 106(1)(b)).
- 5. To undertake monitoring to assess implementation of the Regional Land Transport Plan including monitoring of the performance of activities (*LTMA Section 16(3)(f) and 16(6)(e)*), in cooperation with the Southland Regional Transport Committee.
- 6. To consult on a draft RLTP for the region in accordance with the consultation principles specified in Section 18 and 18A of the *Land Transport Management Act 2003*, in co-operation with the Otago Regional Transport Committee.

- 7. To complete a review of the RLTP during the six-month period immediately before the expiry of the third year of the Plan (*LTMA Section 18CA*) in co-operation with the Otago Regional Transport Committee.
- 8. To advise the Council on any significant legislative changes, programmes, plans or reports relating to the region's transport system.
- 9. To prepare and implement regional transportation planning studies or pan-regional studies with the Otago Regional Transport Committee, when necessary.
- 10. To represent and advocate for transport interests of regional and/or pan-regional Otago Southland concern.
- 11. To consider and submit on transport-related policies, plans and consultation documents issued by the Ministry of Transport, Waka Kotahi NZ Transport Agency, regional/district councils, and other relevant organisations as considered appropriate, including submitting jointly with the Otago Regional Transport Committee, when appropriate.
- 12. To liaise with the Ministry of Transport, Waka Kotahi NZ Transport Agency, Commissioner of Police, regional/district councils, KiwiRail, the Department of Conservation and other interested parties on transport matters, and advise the Council on any appropriate new initiatives as considered appropriate.
- 13. To operate in a collaborate manner in the combined meetings of the Otago and Southland regional transport committees and to engage with other regional transport committees and working parties, which from time-to-time may be established.
- 14. To consider advice and recommendations from the Otago Southland Regional Technical Advisory Group.

Members' responsibilities for reporting back to the organisation they represent

Each member of the Regional Transport Committee is expected to report back to their own organisations following each Regional Transport Committee meeting or workshop on matters discussed at those Committee meetings, and with particular reference to the *RLTP*. A briefing paper will be produced by the Regional Council for distribution to stakeholders and to assist members with their report back responsibilities.

Terms of Membership

Should a vacancy occur in the membership of the RTC, the Committee Secretary shall report this to the next meeting of the Council, which shall then invite the nominating organisation to nominate a replacement.

Delegated Authority - Power to Act

The Regional Transport Committee:

- 1. Does have the ability to appoint a panel to hear RLTP, submissions, working parties, advisory groups and, where there is urgency or special circumstances, a sub-committee to deal with any matters of responsibility within the Committee's Terms of Reference and areas of responsibility, and to make recommendations to the Committee on such matters, provided that a sub-committee does not have power to act other than by a resolution of the committee with specific limitations.
- 2. Does have the ability to make decisions in accordance with the Terms of Reference and the *Land Transport Management Act 2003*.

Power to Act (for the information of Council)

The Regional Transport Committee has the power to:

- 1. Monitor any transport activities of the regional council, territorial authorities and New Zealand Transport Agency in order to report on progress on the Regional Land Transport Plan.
- 2. Prepare and recommend variations to the Regional Land Transport Plan that trigger the RTC's significance policy.
- 3. Consider and recommend transportation planning studies and associated outcomes.
- 4. Provide recommendations to relevant government agencies on transport priorities for the region and the allocation of national or regional transport funds.



Joint Committee Regional Deals

Terms of reference to be added once updated Memorandum of Agreement has been considered.



Council Established Working Groups

Meetings to be as required

ORC Chairperson is Ex Officio member of all working groups

Port Liaison Group Established by Council, 2016 Purpose: ORC shareholder requirements, including returns and ORC dividends Statement of Corporate Intent Port Otago Six month and annual reports Relationship management with Port Otago Board Port Otago director appointments and recruitment processes when Board vacancies arise Reports to Council	Members: Kevin Malcolm (Chair) Hilary Calvert Chanel Gardner Andrew Noone
ECO Fund Panel Assessment Panel Established by Council in 2019 Purpose: To convene the Eco Fund assessment panel and review applications for funding and make recommendations to Council.	Members: Chanel Gardner Matt Hollyer
Whare Rūnaka Internal Steering Group Established by Council, October 2021 Reports to Council	Members: Kevin Malcolm Gretchen Robertson Andrew Noone
Otago Integrated Catchment Management (ICM) Working Group Established by Council, September 2022 Purpose To provide support and co-ordination to the ICM programme Reports to Council	Chair - Andrew Noone Catlins – Robbie Byars Upper Lakes – Matt Hollyer Taiari – Kate Wilson
Submissions Working Group Established by Council, December 2022 Purpose:	Members: Kate Wilson Neil Gillespie Gretchen Robertson Chanel Gardner

To receive draft submissions and provide input and review feedback, ahead of submissions going to Council for approval, to help with timeliness and direction.	
To seek support from councillors for submission positions ahead of them going to council for approval.	
Reports to Council.	
Chief Executive Performance Review Working Group	Marahara
Established June 2023	Members: Hilary Calvert (Chair)
Purpose:	Kevin Malcolm
To undertake quarterly performance reviews with the	Chanel Gardner
Chief Executive and report back to Council annually.	Andrew Noone
Reports to Council.	
Dunedin Transport Working Group	Marahara
Established November 2022	Members: Hilary Calvert
Purpose:	Alan Somerville
To build connections on public transport matters between ORC and DCC governors.	
Has involved meetings as required, generally prior to Council to brief DCC on transport related papers going to ORC Council, and any other matters relevant to the Dunedin transport portfolio. Reports to Council.	
Queenstown Transport Working Group	
 Established November 2022 Purpose: To build connections on public transport matters between ORC and QLDC governors 	Members: Hilary Calvert Matt Hollyer
Has involved meetings as required, generally prior to Council in Queenstown to brief QLDC on transport related papers going to ORC Council, and any other matters relevant to the Dunedin transport portfolio.	
Reports to Council.	
Deep Lakes Working Group	Moreleane
Established January 2023, with Ministry for the Environment, Don Roberston, Edward Ellison	Members: Gretchen Robertson Michael Laws
Purpose	
-	

Draft as at 18.11.2025 – 6pm

progress.

 To develop relationships and shared understandings across science and research, local and central government and community groups with respect to Otago's inland deep lakes. Receive report backs from the Deep Lakes Technical Advisory Group. Reports to Council.	
Fast Track Consenting Working Group Established February 2025 Purpose: To provide a Governance input into comments on any Fast Track consent applications. Reports to Council.	Members: Neil Gillespie Kate Wilson
Regional Pest Management Plan Review Councillor Reference Group: Established 2025 (no meetings held yet) Purpose: To provide guidance on materials before being taken to Council and to provide councillor oversight of	Members: Kate Wilson Neil Gillespie Kevin Malcolm Andrew Noone

Draft as at 18.11.2025 – 6pm

Appointments as Representatives of Council

Mana to Mana	All councillors
Te Rōpū Taiao Southland	Chair / Deputy Chair
LGNZ Zone 6	Attendance shared between Councillors
Regional Sector Group (RSG)	Deputy Chair / CE
Mayoral Forum	Chair / CE
Dunedin Tracks Network Trust (DnTNT)	Alan Sommerville (as required)
Lower Waitaki River Scheme Liaison	Kevin Malcolm
Otago Catchment Community (OCC) Governance	Robbie Byars
Group	Alternate: Andrew Noone
Manuherekia Exemplar Catchment Programme Governance Group (MfE)	Kevin Malcolm
Regional Co-ordination Group for Wilding Conifer	Gary Kelliher
Management	Alternate: Matt Hollyer
Regional Co-ordination Group for Wallaby	Kevin Malcolm
Management	Alternate: Gary Kelliher
Otago South River Care Group Governance Group	Robbie Byars
Grow Well Whaiora Partnership Governance Group (Queenstown Future Development Strategy Group)	Neil Gillespie, Matt Hollyer
Lower Taieri Flood and Drainage Liaison Group	Kate Wilson







Memorandum of Agreement

Otago Central Lakes Regional Deal Negotiation Joint Committee

This Memorandum of Agreement is consistent with the requirements for joint committees as outlined in the Local Government Act (Clause 30A of Schedule 7).

Execution:

This Memorandum of Agreement was:

- endorsed by the Central Otago District Council on 25 June 2025,
- endorsed by the Otago Regional Council on 25 June 2025, and

Signed on behalf of Queenstown Lakes District Council

• endorsed by the Queenstown Lakes District Council on 26 June 2025.

Executed by:

Al	01/07/2025
Mayor Tamah Alley	Date
Signed on behalf of Central Otago District Council	
When War	01/07/2025
Chair Gretchen Robertson	Date
Signed on behalf of Otago Regional Council	
CALL	30/06/2025
Mayor Glyn Lewers	Date

An amend	lment to	this	Memorano	dum of	f Agreem	nent was:
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Signed on behalf of Queenstown Lakes District Council

- endorsed by the Central Otago District Council on 26 November 2025,
- endorsed by the Otago Regional Council on 26 November 2025, and
- endorsed by the Queenstown Lakes District Council on 27 November 2025.

Executed by:

Mayor Tamah Alley	Date
Signed on behalf of Central Otago District Council	
Chair Hilary Calvert	Date
Signed on behalf of Otago Regional Council	
Mayor John Glover	Date

Note to the amended Memorandum of Agreement

The following amendments are reflected in this document.

Clause 2.1 - Main Amendment

Original wording:

Each Partner may appoint two of its elected members as members of the Committee, one of which must be the Mayor or Chair of the Partner.

Amended wording:

Each Partner may appoint two of its elected members as members of the Committee.

Clause 2.2 - Consequential Amendment

Original wording:

Each Partner may discharge a member of the Committee appointed by it and appoint another member their stead. This does not apply to the Mayor or Chair of each Partner, who are to remain members of the Committee.

Amended wording:

Each Partner may discharge a member of the Committee appointed by it and appoint another member in their stead.

Clause 2.5 - Consequential Amendment

Original wording:

If following an election there has been a change of Mayor or Chair, the new Mayor or Chair will become a member of the Committee in place of the former Mayor or Chair. Any other vacancies resulting from the elections will be immediately filled by new members appointed by the relevant Partner.

Amended wording:

Any vacancies resulting from triennial elections will be immediately filled by new members appointed by the relevant Partner.

Clause 4.2 - Consequential Amendment

Original wording:

The Mayors and Chair are members of the Committee by design and not simply because Mayors are automatically members of all committees. As such, those members count for the purposes of determining whether a quorum exists (refer clause 30A(6A) Schedule 7 LGA 2002).

Amended wording:

Delete this clause entirely (as it relates specifically to mandatory Mayor/Chair membership).

1. PURPOSE OF THE AGREEMENT

- 1.1 This agreement is made pursuant to Clause 30A of Schedule 7 of the Local Government Act 2002 (LGA 2002).
- 1.2 The purpose of this agreement is to establish a joint committee between Central Otago District Council, Otago Regional Council and Queenstown Lakes District Council ("Partners") to oversee and provide guidance that will inform negotiations for the terms of a Regional Deal for the combined districts of Central Otago and Queenstown Lakes (referred to as "Otago Central Lakes'). The joint committee will be known as the Otago Central Lakes Regional Deal Negotiation Committee (the Committee).
- 1.3 The Committee is a formal joint committee pursuant to the LGA 2002 (clauses 30 and 30A, Schedule 7). The committee will not be discharged at the point of the next election (in line with Clause 30(7) of Schedule 7, LGA 2002). The committee will be automatically discharged on approval by the Partners of a negotiated regional deal agreement between the Partners and central government or after 18 months, whichever comes first.

2. COMMITTEE MEMBERSHIP

- 2.1 Each Partner may appoint two of its elected members as members of the Committee.
- 2.2 Each Partner may discharge a member of the Committee appointed by it and appoint another member their stead.
- 2.3 There is no provision for alternates.
- 2.4 All members are voting members of the Committee.
- 2.5 The Committee will not be discharged following a triennial election (refer Clause 30(7) of Schedule 7 of the LGA 2002). Any vacancies resulting from the elections will be immediately filled by new members appointed by the relevant Partner.
- 2.6 Members of this committee will remain members of this committee after the triennial election under the following circumstances:
 - If a Partner appointed a specified elected member and that elected member is reelected to the Partner's Council, they will remain a member of this Committee.
 - If a Partner appointed an elected member based on position and that elected member is re-elected to the Partner's Council and remains in the named position they will remain a member of this Committee.

3. CHAIRPERSON AND DEPUTY CHAIRPERSON

- 3.1 A Chairperson and Deputy Chairperson will be appointed by the Committee at the commencement of the Committee and will continue in the role unless resolved by the Committee or upon a resignation being received.
- 3.2 The Chairperson and Deputy Chairperson will be appointed by unanimous vote.
- 3.3 There will be no remuneration for the Chairperson or Deputy Chairperson.

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4. QUORUM AND CONDUCT OF MEETINGS

- 4.1 The quorum for each meeting shall be three members (half the committee) and must include one member from each Partner Council.
- 4.2 The standing orders of the administering council, Queenstown Lakes District Council, shall apply, unless there is something in this Memorandum of Agreement that is inconsistent with those standing orders, in which case this Agreement applies.
- 4.3 Decisions of the Committee are made by consensus vote of the members voting and present. The person presiding at the meeting has a deliberative vote but not a casting vote. In the case of a lack of consensus the motion is defeated, and the status quo is preserved.

5. MEETING FREQUENCY

- 5.1 The Committee shall meet fortnightly, or at such other times (in addition to the fortnightly meetings) as necessary and determined by the Chair in liaison with the Committee. Meetings shall be held in public unless matters meet the requirement to enter public excluded.
- 5.2 Notification of meetings and the publication of agendas and reports shall be conducted in accordance with the requirements of Part 7 of the Local Government Official Information and Meetings Act 1987.

6. TERMS OF REFERENCE

The role of the Committee is to provide direction that informs the negotiation of a Regional Deal between the Partners and Central Government. The direction provided by the Committee is to reflect the joint priorities agreed by the Committee, as per the process in clause Error! Reference source not found. Error! Reference source not found. below, with reference to the agreed activity areas specified in clause Error! Reference source not found. below. The overall aim is to ensure that a mutually beneficial deal, generally aligned with the OCL Regional Deal Proposal dated 28 February 2025, is struck.

6.2 The functions of the Committee are to:

- a. Support a collaborative and timely approach to negotiations between the Partners and central government.
- b. Consider the priorities of each Partner and develop and agree the joint prioritisation within the activity areas set out in clause **Error! Reference source not found.** that will inform the negotiations to be fronted by the Partner's negotiating authority.
- c. Direct the negotiating authority that will be interfacing directly with central government through negotiations, to ensure that negotiations are informed by the joint prioritisation, and will remain in line with the agreed activity areas (clause Error! Reference source not found.) and negotiating principles (clause Error! Reference source not found.).

- d. Direct the negotiating authority as to whether any aspect raised through negotiations is consistent with the joint prioritisation, agreed activity areas and negotiating principles.
- e. Report back to Partner Councils at each Council Meeting on progress made during negotiations, and to seek any recommendations / direction required to allows negotiations to progress. There will be a standing agenda item relating to the Regional Deal negotiations at each meeting of the governing body of each Partner during the negotiation phase to ensure that timely decisions can be made as required.
- f. If considered necessary, seek direction or advice, from Partners to inform the Committee's ability to provide direction to the negotiating authority.
- g. Identify and manage risks associated with the negotiation process.
- 6.3 The agreed activity areas that the Committee is responsible for overseeing and providing direction on are those contained in the Otago Central Lakes Regional Proposal dated 28 February 2025. For the avoidance of doubt, the activity areas are:
 - a. Transform Transport
 - Refresh transport strategy around offline MRT and sub-regional visitor, commuter and freight links
 - Establish bespoke settings to enable offline MRT
 - Establish alternative funding / financing / ownership / delivery mechanisms for critical public transport, roading and bridge infrastructure.
 - b. Capturing Value
 - Bespoke settings to ensure growth pays for growth
 - Local visitor levy
 - Bespoke settings to enable a pipeline of affordable housing
 - Mining royalties
 - c. Electrify Otago Central Lakes
 - Provide streamlined planning and land acquisition pathway for a transmission corridor.
 - Establish bespoke settings to allow Queenstown to be treated as part of the Grid
 - Require Transpower to undertake additional options analysis for the new Queenstown line
 - Launch the Ratepayer Assisted Scheme for rooftop solar and batteries.
 - Establish bespoke settings to enable innovation in alternative energy generation
 - Establish bespoke settings to enable increased uptake of solar
 - d. Private Investment, Public Health
 - Use OCL resident and visitor numbers in funding model
 - Accelerate the delivery of a comprehensive health needs assessment for the region
 - Develop integrated private / public healthcare models
 - Deliver partnered health services based on high priority needs and private opportunities
 - e. Visitors and Investors
 - Grow highly productive sectors
 - Increase total value of the visitor economy

6

- Position OCL as NZ's investment and business shopfront
- Power sustainable tourism through data driven insights
- 6.4 In carrying out its functions, including when overseeing and directing the negotiating authority, the Committee will apply the following negotiating principles:
 - a. Streamlined planning / consenting / permitting / land acquisition pathways must relate only to projects specified under the Regional Deal.
 - b. Streamlined planning / consenting / permitting / land acquisition pathways must be consistent with the partner Council's climate and biodiversity, spatial and destination management plans.
 - c. Delivery staging for the health and transport activity areas will be consistent with the dependencies that have been identified by the Partners. The dependencies are shown by the order in which the activity area components are listed in section **Error!**Reference source not found. above.
 - d. An agreed deal will uphold Te Tiriti o Waitangi and its principles and will be delivered in partnership with Ngāi Tāhu.

7. DELEGATIONS OF COMMITTEE

- 7.1 Making decisions on any matter coming within its Terms of Reference.
- 7.2 Commissioning through the Partners and the Working Group (refer clause **Error! Reference source not found.**) additional advice or evidence (including from external sources), or further definition of requirements, to support negotiations with central government.
- 7.3 Agreeing joint prioritisation of agreed activity areas for OCL, to guide negotiations with government.
- 7.4 Agreeing, in principle, to components of a deal that are consistent with the agreed negotiating principles and within the agreed activity areas.
- 7.5 Appointing a negotiating authority as the direct interface with central government for negotiations.
- 7.6 Appointing a Chairperson and Deputy Chairperson in accordance with any process agreed by the Committee and the requirements of the LGA 2002.
- 7.7 The Committee may delegate any or all its responsibilities, duties or powers to a subcommittee that is made up of all the members of the Committee and the Partner's Chief Executives.

8. LIMITATION OF POWERS

8.1 The Committee does not have the authority to commit any Partner to any course of action or expenditure and its recommendations do not compromise the Partners' freedom to deliberate and make decisions.

- 8.2 For the avoidance of doubt, while the Partners will endeavour to support the work of the Committee, they are under no obligation to accept the recommendations of the Committee.
- 8.3 In accordance with legislative requirements, Partners will retain decision-making and other statutory responsibilities in relation to their functions and responsibilities under the LGA 2002 and RMA 1991, and other legislation as relevant.
- 8.4 The Committee's powers exclude:
 - a. ability to determine how new revenue sources made available through the regional deal will be allocated across the partner Councils (e.g. local visitor levy, mining royalties and value capture for affordable housing).
 - b. ability to agree in principle components of a deal that are not consistent with the agreed negotiating principles or are outside the agreed activity areas.
 - c. ability to approve the final form of the regional deal agreement (which remains with the partner Councils),
 - d. powers that Councils are unable to delegate to committees under the Local Government Act 2002 (e.g. setting of rates).

9. OPERATING PRINCIPLES

- 9.1 The Committee will operate and make its decisions in a way that achieves consensus so that alignment and integration across all Partners can be achieved.
- 9.2 The Chairperson and Deputy Chairperson do not have any additional voting powers.
- 9.3 The Committee will work in a collaborative and cooperative manner and consider the interests of all sectors of the community.
- 9.4 The Committee will operate in accordance with the requirements of the Local Government Official Information and Meetings Act 1987.

10. COMMITTEE SUPPORT

- 10.1 Queenstown Lakes District Council will act as the administering authority to the Committee.
- 10.2 A secretariat will be provided to support effective functioning of the Committee.
- 10.3 The Committee will also be supported through the provision of advice by a Subject Matter Expert Working Group made up of staff from across the Partners.
- 10.4 The Chief Executives of the Partners will each appoint officials to the Working Group.

11. VARIATIONS

11.1 The Committee may, at any time, make a recommendation to the Partners to vary this Agreement.

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- 11.2 In order to be effective a recommendation to vary this Agreement must be ratified at the governance meetings of all Partners.
- 11.3 Any variation to this Agreement will be attached to a copy of this document.

10.2. Navigation Safety Bylaw

Prepared for: Council

Report No. GOV2622

Activity: Governance Report

Author: Steve Rushbrook, Harbourmaster

Endorsed by: Joanna Gilroy, General Manager Environmental Delivery

Date: 26 November 2025

PURPOSE

To seek approval to commence the process for reviewing the Otago Navigation Safety Bylaw 2020 (Bylaw) under the Local Government Act 2002 and Maritime Transport Act 1994.

EXECUTIVE SUMMARY

- Council has a responsibility to manage navigational safety in Otago under the Maritime Transport Act 1994 (MTA). The MTA empowers Regional Councils to make navigation safety bylaws to ensure maritime safety. The Otago Navigation Safety Bylaw 2020 assists with the regulation of ports, harbours, waters and maritime-related activities in the Otago region.
- The Local Government Act 2002 (LGA) sets out that a Bylaw made under the MTA 1994 must be reviewed within five years of the date it is first made. The Bylaw was first made on 3 April 2019 and amended in 2020. Council needs to start the process under the LGA 2002 to review and then put in place a new Bylaw to ensure navigational safety in Otago is managed.

RECOMMENDATION

That the Council:

- 1) **Notes** the report.
- 2) **Determines** pursuant to section 155(1) of the Local Government Act 2002 that a Bylaw is the most appropriate way of addressing navigational safety in Otago.
- 3) **Approves** the commencement of the process for reviewing the Otago Navigation Safety Bylaw 2020 under the Local Government Act 2002 (option one).

BACKGROUND

[4] The Otago Navigational Safety Bylaw first came into force on 3 April 2019. The Bylaw covers all inland and coastal waters out to the limit of the territorial sea, but not the waters in the Queenstown Lakes District. It was amended in September 2020 to transfer maritime responsibilities for Lake Dunstan from Central Otago to Council.

- The Bylaw enables maritime safety in the Otago Region by regulating and controlling the use of vessels and waterways in the region. The primary focus is recreational boating. The bylaw covers the wearing of lifejackets, notification of incidents, seaworthy vessels, vessels to be identified and a range of other matters.
- [6] Section 33 of the MTA 1994 gives Regional Councils the power to make navigation bylaws for the purpose of ensuing maritime safety in their region. These bylaws are then made under the LGA 2002. In making a bylaw under the LGA, there is a requirement for any new Bylaw to be reviewed within five years and then every ten years after that.
- The Bylaw was first made on 3 April 2019 and amended in 2020. Whilst the Bylaw was amended in 2020, this does not meet the requirements for a review under the LGA. Based on the date the Bylaw came into effect, the Bylaw was due for review by 3 April 2024. As the Bylaw has not been reviewed within the five-year window from when it was first made it will automatically be revoked on 3 April 2026. This date applies as it is the end of the two-year grace period under Section 160A of the LGA.

DISCUSSION

Bylaw review process

- [8] Section 158 of the LGA 2002 requires local authorities to review a Bylaw made by it under the MTA 1994 no later than 5 years after the date on which the Bylaw was made, otherwise they will be revoked. Even with the Bylaw being automatically revoked in April 2026, Council may still start a review now. This would ensure that there is minimal, to no time when there is not a navigation safety bylaw in place for Otago. The process and nature of the review is set out by Section 160 of the LGA. The review required includes a need for Council to decide if:
 - a. the Bylaw is the most appropriate way of addressing the perceived problem;
 - b. the appropriateness of the Bylaw; and
 - c. any implications under the New Zealand Bil of Rights Act 1990.
- [9] If after the review, Council considers that the Bylaw should be put in place, it must then consult on the proposal in accordance with the requirements of the LGA, including any special consultative process. If Council does decide to review the Bylaw, then any proposed Bylaw will be brought to Council to decide to notify or not and then brought back again for a decision to adopt or not post a hearing on submissions.

The perceived problem

- [10] Under the Local Government Act, council must demonstrate that a bylaw is the most appropriate way to address a perceived problem. In the context of navigation safety on Otago's waterways, several issues have been identified that support the need for a regional bylaw i.e the perceived problem. These include:
 - a. Safety While national and regional education initiatives aim to reduce risks such as drowning and injury, education alone is not sufficient to ensure safe and enjoyable use of waterways for all users. As part of undertaking its functions under the MTA 1994 Council is empowered to have bylaws and for these to address matters such as navigational safety.

- b. Conflict of users Relying solely on national maritime rules would limit the ability to manage local conditions, such as reserving areas for specific activities (e.g. swimming or rowing), setting regional standards for moorings, or accommodating jet-boating on certain rivers and safe entry into the port.
- c. Community input Previous consultation has shown that communities value having a say in how maritime safety is managed. The bylaw process provides a formal mechanism for this input, reinforcing local ownership and relevance. This is an approach mirrored throughout New Zealand with other regional bylaws. This leads to a public expectation that there will be a bylaw and that this will provide for safe places to swim or use non-powered craft, and a way to modify unsafe behaviour.

Is the Bylaw the most appropriate method?

- [11] A bylaw is considered to be the most appropriate way of ensuring maritime safety in Otago for the following reasons:
 - a. Otago has an extensive range of waterways and a diverse user group. The Council has previously considered the restrictions of the national maritime rules on Otago waterways and the potential conflict between different water-based activities. The Bylaw provides regional variations or geographically specific rules for the purpose of maritime safety. These supplement the national rules, providing for the desires and requirements of local users.
 - b. The continuation of the having a Bylaw balances the finite resources of the Council with the need and public desire to have a clear, practical and efficient approach to maritime safety enforcement. The use of a bylaw is consistent with the approach taken by other regional councils throughout New Zealand, thus providing nationwide consistency.
 - c. The Bylaw is only one aspect of achieving maritime safety in the region. Public education initiatives are in place and look to address some of the key risk factors which compromise maritime safety. However, education alone is not considered sufficient as a method to ensure safety on our waterways; legislative requirements are considered to be a complementary method to education to control unsafe behaviour.
 - d. It is considered the community involvement, practicality and proven performance of previous bylaws to manage issues means a bylaw remains the most effective and reasonable method to manage current water safety matters.

Implications under the Bill of Rights Act 1990

- When making a Bylaw, under s 155(2) of the LGA, Council is required to consider if the Bylaw is the most appropriate form of bylaw and if it gives rise to any implications under the New Zealand Bill of Rights Act 1990. The Act establishes certain fundamental human rights as well as rights in relation to offences and other matters. If the decision is made to review the Bylaw then this requirement will be considered by Council as part of making a decision on the notification as it will have the full proposed bylaw in front of it.
- The current Bylaw is not inconsistent with the Act and does not give rise to any implications under this Act. The current Bylaw contributes to the safety of navigation and does not place any limitations on the rights and freedoms affirmed in the Act.

Proposed timeline

- [14] If a decision is made that the process will start to review the Bylaw, then the below timeline is proposed:
 - a. Submit to Maritime New Zealand for comments November 2025
 - b. Submit to the Harbourmaster national Bylaw working group November 2025
 - c. Present the draft navigational bylaw for consideration by Council December 2025
 - d. Start the consultation process and issue statement of intent as required under the LGA December 2025 to end of February 2026 (TBC)
 - e. Hearing commences March 2026 (TBC)
 - f. recommendations from hearing committee March 2026 (TBC)
 - g. Paper making a recommendation to Council on adoption of the bylaw April 2026 (TBC)
- [15] The above timeline will provide sufficient time for genuine consultation with the users of Otago's waterways and to ensure that a full review is undertaken of the Bylaw itself.

OPTIONS

Option one – review the bylaw (Recommended)

- By reviewing the Bylaw now, it means the Council can consider whether a replacement bylaw should be put in place. This means the Council will be better placed to manage navigation safety issues and risks and ensures the best protection for navigational hazards and health and safety is put in place as soon as possible.
- [17] If Council has a navigation safety Bylaw, the Council will have better means to intervene and manage maritime risks. This will help ensure public safety on our waterways and lead to better safe boating practices.

Option two – do not review the bylaw

- If Council does not review the Bylaw, the current Bylaw will automatically be revoked on 3 April 2026. This will mean that there will be no means to effectively control navigation in Otago waterways. Without a Bylaw Council has limited powers to manage these navigation safety issues. The Resource Management Act 1991 does not include provisions that address maritime safety or navigation.
- [19] As a result, there is the potential for safer boating practices to lapse; there will be no regulatory basis to support water users and the potential for incidents and accidents across the region's waterways to increase.
- [20] This option increases the legal and reputational risk to Council.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[21] The Bylaw connects the Strategic Directions to ORC's work programme for matters related to navigation safety.

Financial Considerations

[22] The review of the Bylaw is not included in current work programmes or budgets. However, any costs for communication materials and staff time to support the review of the Bylaw can be accommodated within existing budgets by reprioritising other work and using support from internal teams.

Significance and Engagement Considerations

- If Council decides to review the Bylaw, consultation will be carried out in accordance with the steps required under the LGA 2002. It is likely that Council will need to follow the special consultative procedure required under the Act, as this was used when the Bylaw was amended in 2020.
- [24] Council's Significance and Engagement Policy/He Mahi Rua Rika will be further considered in any future papers which will include any recommendation to notify the Bylaw and to start consultation.

Legislative and Risk Considerations

[25] Council will meet its obligations under the LGA 2002 and MTA 1994 if the decision is made to review the Bylaw. The commencement of the process for reviewing the Bylaw will mitigate any risk of not having a bylaw in force, come April 2026. If the Bylaw is not reviewed and there is no Bylaw in place, then there is a risk that Council is not meeting its obligations under the LGA 2002 or the MTA 1994.

Climate Change Considerations

[26] There are no direct climate change considerations because of any decision to review the Bylaw.

Communications Considerations

[27] A communications and engagement plan will be developed to support any consultation on the Bylaw.

NEXT STEPS

- [28] If Council agrees to commence the process for reviewing the Bylaw, staff will review the Bylaw provisions and report back to Council in December 2025 with:
 - a. Any recommended amendments to the Bylaw;
 - b. A recommendation to notify or not a new Bylaw;
 - c. A request for nominees of three Councillors for a hearing panel;
 - d. A proposal for consultation under the LGA 2002; and
 - e. A draft communications and engagement plan.
- [29] Staff will liaise with staff from Maritime New Zealand and Harbour Masters from other Regional Councils to ensure consistency of Bylaws where possible.

ATTACHMENTS

Nil

10.3. Process for developing the Annual Plan 2026-27 (LTP Year Three)

Prepared for: Council

Report No. GOV2626

Activity: Governance

Author: Jasmin Lamorie (Senior Corporate Planner), Joanne Greatbanks (Manager

Organisational Performance and Planning)

Endorsed by: Amanda Vercoe (General Manager Strategy and Customer)

Date: 26 November 2025

PURPOSE

This report communicates the process for developing the Annual Plan 2026-2027 (AP), which is year three of the Long-Term Plan 2024-2034 (LTP).

EXECUTIVE SUMMARY

- [2] This report outlines an approach to complete the AP that includes:
 - a. Council workshop to review LTP year three (Yr3) programmes and budgets and potential changes (December).
 - b. Council endorsement of a draft AP for community feedback or consultation (February).
 - c. A process for engaging, consulting, or informing the community (March).
 - d. Council consideration of feedback prior to making final decisions (April).
 - e. Proposed adoption of the AP 2026-27 in May, prior to the Local Government deadline of 30 June 2025.

RECOMMENDATION

That the Council:

1) **Notes** the proposed Annual Plan 2026-27 process and scenarios outlined in this report and attachments.

BACKGROUND

[3] The Long-Term Plan 2024-2034 cycle includes development of Annual Plans in year two (2025-2026) and year three (2026-2027) as outlined in Figure 1.

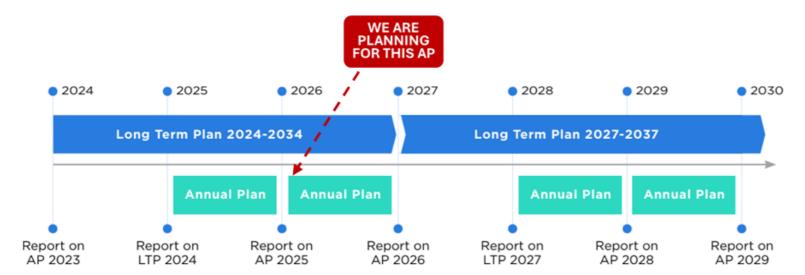


Figure 1. Council corporate planning and performance cycle

- [4] Each Annual Plan is to be developed with reference to the adopted content of the LTP, including:
 - a. ORC Strategic Directions, including the community outcome statements.
 - b. Detailed financial forecasts and associated work programme.
 - c. Level of service content, i.e. service statements, measures and targets.
 - d. LGA Strategy and Policy, i.e. Financial Strategy; Infrastructure Strategy; Revenue and Financing Policy; Significance and Engagement Policy.
- [5] The process to complete the Annual Plans enables Council to give effect to the LTP as adopted and introduce change where needed.

LTP year three work programme and adjustments

- [6] The LTP Yr 3 includes several additional or expanded work programmes resulting in a planned increase in expenditure, and in some cases rates. Items noted in the LTP include:
 - Land and Water
 - Hazardous Activities and Industries List (HAIL) mapping and analysis.
 - Increased level of funding support to community-based groups to improve water quality.
 - Citizen science strategy implementation.
 - Natural Hazards and Climate Change
 - Otago Natural Hazard Risk Assessment Programme start in year three with phased delivery over time.
 - Transport
 - Additional and expanded services were to be implemented by year three.
 - Local public transport service trials and business cases.

Financial estimates

The budget for LTP Yr3 has an estimated operating expenditure of \$154.7m which represented a planned expenditure increase of \$10.7m from the LTP Yr2. However, changes agreed in the AP 2025-26 reduced the planned expenditure and therefore would require a higher expenditure increase of \$14.1m to reach the estimated LTP Yr3 position, as follows in Table 1:

	2025-26 (YR2) BUDGET \$m	LTP YR3 BUDGET \$m	YR2 to YR3 SHIFT \$m	YR2 to YR3 SHIFT %
OPEX SPECIFIED IN LTP	\$144.0	\$154.7	+\$10.7	+7.5%
Reduction adopted last AP	-\$3.4			
OPEX CURRENT PLAN	\$140.6	\$154.7	+\$14.1	+10.0%

Table 1.

[8] The AP2025-26 operating expenditure for each of Council's LTP activities is outlined below in Table 2. The LTP Yr3 estimated expenditure is also listed, along with the comparative decrease or increase in expenditure from current year:

Activity	AP 2025-26	LTP Yr3 estimate	Shift	Shift
	(\$,000)	(\$,000)	(\$,000)	%
Regional Leadership	\$ 32,331	\$ 32,017	-\$314	-1%
Environment	\$ 33,891	\$ 37,636	\$3,745	11%
Climate Change and Resilience	\$ 19,627	\$ 22,024	\$2,397	12%
Transport	\$ 46,637	\$ 54,111	\$7,474	16%
Council Organisation	\$ 8,148	\$ 8,930	\$782	10%
Total	\$ 140,634	\$ 154,718	\$14,084	10%

Table 2.

Revenue and rates

[9] Council work is funded through a range of sources with around half of the revenue received coming from rates. The total LTP Yr3 estimated rating revenue from general and targeted rates was \$80.3 million, which represented a planned rates increase of \$6.5m from the LTP Yr2. However, changes agreed in the AP 2025-26 reduced the planned rating increase and therefore would require a higher increase of \$11.8m to reach the estimated LTP Yr3 position, as follows in Table 2:

	2025-26 (YR2) BUDGET \$m	LTP YR3 BUDGET \$m	YR2 to YR3 SHIFT \$m	YR2 to YR3 SHIFT %
RATING REVENUE SPECIFIED IN THE LTP	\$73.8	\$80.3	+\$6.5	+8.7%
Reduction adopted last AP	-\$5.3			
RATING REVENUE CURRENT PLAN	\$68.5	\$80.3	+\$11.8	+17.2%

Table 3.

[10] Noting also that Council recorded an unbudgeted surplus in 2024-25.

Fees and charges

The schedule of fees and charges will be reviewed and updated as needed through the Annual Plan process. If changes are proposed to the schedule of fees and charges these will be consulted with the community as required under the Local Government Act (LGA).

DISCUSSION

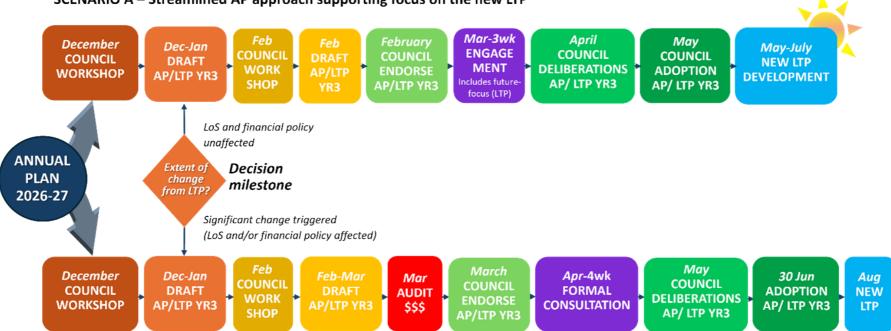
Annual Plan Process

- Through the upcoming planning process, Council will review the planned work programmes and estimated budgets for the LTP 2024-34, Yr3. This statutory process requires Council to consider what change, if any, is required to the financial estimates and associated work programme from the LTP position adopted in June 2024.
- Through the review process staff will consider LTP commitments, legislative requirements, community expectations and fiscal responsibility and look to find savings while balancing delivery, outcomes and affordability. Staff will present proposed adjustments to Council through a series of workshops and formal Council meetings for consideration and direction.

Annual Plan Development

- The Annual Plan 2026-27 is the final year of the legacy LTP 2024-2034, and therefore Council approach, and decision on how best to deploy organisational resources will influence the pathway for plan development.
- [15] This approach will be informed by the degree of substantive change needed from the existing already agreed LTP Yr3 position. Material change may trigger the LGA amendment process and the need for a LGA Section 93 Special Consultative Procedure.
- [16] The diagram below (Figure 2) illustrates two pathways for Annual Plan development:
 - Scenario A Streamlined AP approach that supports an early focus on developing/initiating the new LTP (2027-37).
 - Scenario B Significant AP change that triggers an LTP amendment process requiring formal consultation and auditing of the Annual Plan 2026-27.

Figure 2
SCENARIO A – Streamlined AP approach supporting focus on the new LTP



SCENARIO B – Significant AP change with formal consultation

Scenario A – Streamlined AP approach supporting focus on the new LTP.

- This approach accounts for adjustments to the LTP Yr3 but looks to the new LTP 2027-37 to implement significant change. Key features include:
 - a. A shorter timeframe with Council adoption of the Annual Plan 2026-27 targeted for May, enabling an earlier focus on the new LTP (an early pivot to the LTP).
 - b. A 'light touch' three-week communication approach, with informal feedback.
 - c. The enabling of meaningful LTP early engagement with the community, which is sector best practice.
 - d. The ability to combine the messaging of exiting one LTP and entering a new LTP with a fresh elected Council.
 - e. The avoidance of community consultation fatigue.
 - f. No audit costs.
 - g. The removal of duplicated efforts across two planning cycles.
- [18] There are several advantages with this forward-focused approach that prioritises early commencement of the new LTP, as outlined in table 4:

Advantages	Disadvantages	
Enables adoption by May 2026.	 Reduced opportunity for community feedback on the legacy LTP Yr3/AP 2026-27. 	
• Enables an early start on the new LTP.		
One joined up conversation with the community		
Avoids audit fees.		
A leaner, more efficient process.		

Table 4

Scenario B – Significant AP change requiring formal consultation.

- [19] This approach accounts for significant changes to the already agreed LTP Yr3 position that trigger the requirement for a formal LTP amendment process as per the LGA. Key features include:
 - a. A longer timeframe with Council adoption likely to push out to late June 2025, due to the timeframe required for formal consultation.
 - b. The triggering of an LTP amendment process will require a formal audit process and expanded requirements for community consultation over four weeks.
 - c. High-cost exposure, related to the requirement to develop and circulate a consultation document that is to be externally audit assured by Deloitte, resulting in an unbudgeted overspend.
 - d. Delays to Council's strategic attention on shaping up the new LTP, including the opportunity for broad engagement with the community early to shape Otago's future.

[20] There are fewer advantages with this expanded process that applies full formal consultation and audit assurance procedures, as outlined in table 5:

Advantages	Disadvantages	
 Opportunity for community consultation on the legacy LTP Yr3 AP. 	Risks community engagement fatigue.	
	Extends the adoption timeframe.	
	 Compresses the timeframe for the new Council to shape the next LTP. 	
	 Incurs audit fees and additional consultation costs. 	
	 Increases staff and Councillor workloads. 	

Table 5

AP development timelines and tasks

- [21] Attachment 1 of this report provides a specific roadmap with dates, for the phased development of AP2026-27. This breakdown assumes a streamlined AP approach that does not trigger the need for formal consultation or an LTP amendment and audit process.
- [22] The following Table 6, expands on this roadmap, describing in more detail the key touchpoints for the Council over the coming months.

COUNCIL TOUCHPOINT	DETAILS
October Briefing	Introduction to the corporate planning cycle and Annual Plan process. Provision of a snapshot of current Annual Plan 2025-26 budgets and work programmes for context.
November Report	Process for developing the AP2025-26 (LTP Yr3). Scenarios for Annual Plan approach with implications.
December Council Workshop	 Workshop to consider broader fiscal objectives and to review LTP Yr3 data and seek Councillor feedback. Data considered includes: - Budgets, Work programmes, Context, Current year forecasts and potential changes including rating impacts, Staff advice on possible adjustments and the related impacts to rates, delivery, and outcomes. Councillors will consider if significant change is needed to the planned LTP Yr3. If significant change is signalled, then a meeting to formalise the position and progression pathway will be required. This will enable staff to complete the detailed planning, create the draft Annual Plan and will guide the nature of community engagement that required.
February Council Workshop & Meeting	A short workshop with Council will introduce the draft AP, it will then be reported to the February Council meeting for consideration and approval of the draft AP and endorsement of the approach for community engagement.

March	This step implements Council's decision about how it informs the
Community	community about the AP and seeks feedback.
Engagement	
April	Key decision-making meeting that directs staff on final adjustments to the
Deliberations	AP.
May	This step finalises the AP, with Council adopting the plan and rates
Council	resolution. Adoption of the AP enables Council to:
Meeting	a) Provide certainty to the community regarding services and
	rate requirements,
	b) Implement key reporting and revenue processes,
	c) Meet core planning legislative requirements.

Table 6.

OPTIONS

[23] There are no options presented as this is a noting report.

CONCLUSION

The AP2026-27 offers the new Council an opportunity to adopt a streamlined approach, whilst being able to commence shaping the new LTP2027-37 early, bringing forward meaningful community engagement that will collectively shape Otago's future across the next decade.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [25] The 'Strategic Directions' work initiated with Councillors in 2023 has been embodied in the adopted LTP. The Annual Plan process references this work.
- [26] The delivery of LTP and Annual Plan work programmes gives effect to Council's strategic directions and makes progress towards achieving strategic goals.

Financial Considerations

[27] There are no financial considerations at this stage of the process. There is budget allocated for the AP process.

Significance and Engagement

- [28] Adjustments to the LTP will be assessed against He Mahi Rau Rika, Council's Significance and Engagement Policy, during the AP process and decisions made accordingly.
- [29] Engagement and/or community consultation approaches will be considered during the AP process and Council staff will prepare a recommending report on this matter.

Legislative and Risk Considerations

[30] The process outlined in this report is consistent with the relevant planning requirements under the Local Government Act 2002.

- [31] Risk associated with service delivery will be discussed with Councillors through the Annual Plan process. Quarterly activity and financial reporting to Council and corporate risk reporting to the Audit Risk sub-committee will provide a means of monitoring delivery risk.
- If Council determines that the proposed adjustments to the Long-Term Plan 2024-2034 do not represent a significant or material change, external audit of the Annual Plan 2026-27 will not generally be required.
- [33] Central Government reform may impact how ORC's work programmes are delivered in the future. This Annual Plan process will enable the revising of work programmes and associated service level measures and targets to reflect current government direction and new legislation.

Climate Change Considerations

- [34] There are no climate change considerations relating to this report.
- [35] The annual plan includes climate change work programmes and projects as well as associated budgets across various Council activities such as Natural Hazards, Flood protection, Biodiversity and Engagement.
- [36] The Annual Plan supports implementation of our strategic directions and the climate related goals which it articulates.

Communications Considerations

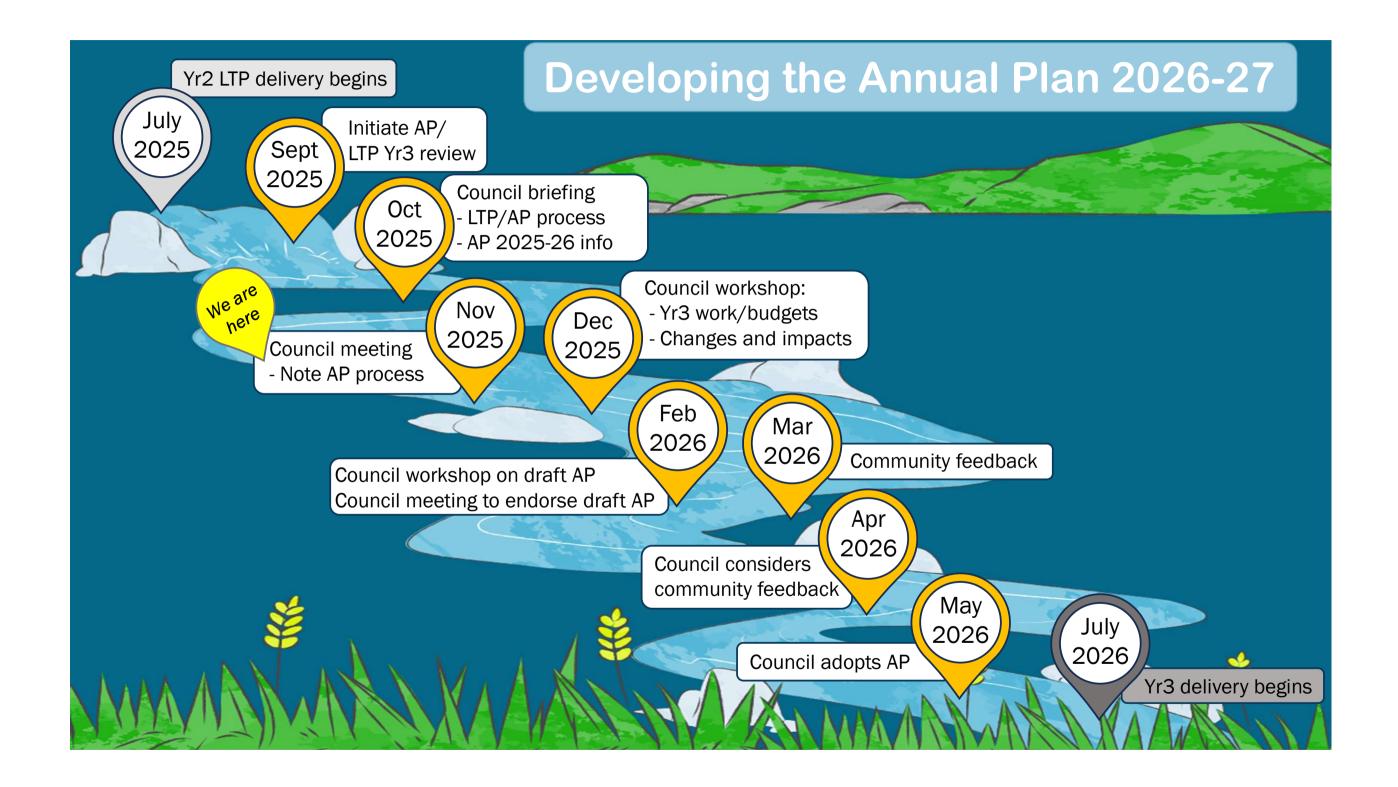
[37] A decision of Council about communicating with the community will be required during the AP process. Council staff will prepare a recommending report to enable this decision.

NEXT STEPS

[38] Council staff will prepare material for a Council workshop in December to consider the LTP Yr3 work programmes, budgets, proposed adjustments, priorities and high-level funding.

ATTACHMENTS

1. Timeline for developing the Annual Plan 2026-27 [10.3.1 - 1 page]



10.4. Regional Infrastructure Fund Tranche 2

Prepared for: Council
Report No. OPS2506

Activity: Governance Report

Author: Brett Paterson, Manager Engineering

Endorsed by: Tom Dyer, General Manager Science and Resilience

Date: 26 November 2025

PURPOSE

To seek Council approval to enter into two Regional Infrastructure Fund (RIF) funding agreements with the Ministry of Business, Innovation and Employment (Ministry) for part-funding of six flood resilience projects.

EXECUTIVE SUMMARY

- The second tranche of Government Regional Infrastructure Fund (RIF) co-investment in flood resilience projects was announced on 16 October 2025. It included 32 flood resilience projects across the country including 6 Otago Regional Council (ORC) projects. See Figure 1.
- [3] Two Nation-Wide programmes of work, to be administered through Environment Canterbury have also been awarded RIF grants.
- The six (6) successful ORC projects together with the two Nation-Wide programs that ORC is part of, have a combined project value of \$8.85 million and will receive RIF cofunding worth \$5.31 Million (60%). The RIF funding agreements require ORC to co-fund the remaining \$3.54 million (40%). Refer to Table 1 below.
- Tranche 2 RIF funding is in the form of grants and loans administered through MBIE's Kānoa Regional Economic Development and Investment Unit. Of the ORC projects, four have been approved for grants and two for suspensory loans.
- [6] A draft RIF Grant Funding Agreement (Attachment 1) and a draft RIF Suspensory Loan Agreement (Attachment 2) are in the process of undergoing legal review and information is being compiled to enable the finalisation and signing of these agreements.
- ORC has two (2) months from the date of signing the Grant Funding Agreement, and six (6) months from the date of signing the Suspensory Loan Agreement to fulfil the Conditions Precedent set out in each agreement.
- [8] ORC would like to sign the agreements before the end of December 2025, subject to Council approvals below and approval by MBIE of the completed agreements.

[9] The value of the construction contracts for some of the works required during these projects will most likely exceed the Chief Executive's current financial delegation of \$500,000. Therefore, delegation to the Chief Executive in consultation with the Chairperson is sought to enable the CE to sign the RIF Funding Agreements and approve all contracts and payments on these projects.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Notes** that four of the six projects have been funded as part of the 2024-2034 Long-Term Plan and the two of projects will draw on Scheme Reserves for co-funding.
- 3) **Notes** that the ORC contribution to the Nation-wide monitoring and telemetry project has been included in the 2024-2034 Long-Term Plan. The agreement for this project will be between MBIE and Environment Canterbury on behalf of the Regional Councils.
- 4) **Notes** that the ORC contribution to the Nation-wide Asset Management Process Improvement Project is yet to be determined and is not funded in the 2024-2034 Long-Term Plan.
- 5) **Delegates** the Chief Executive in consultation with the Chairperson to execute contracts with suppliers for goods and services relating to these 8 Infrastructure Projects above the CE's current financial delegations, in accordance with the RIF Funding Agreement requirements not exceeding the Total Project Cost.
- 6) **Approves** entering into the Grant Funding Agreement with the Ministry for up to \$2,460,000 (excluding GST) for the four named projects.
- 7) **Approves** ORC providing Co-Funding of up to \$1,640,000 (excluding GST) to fund ORC's portion of the total grant funded project costs.
- 8) **Approves** entering into the Loan Funding Agreement with the Ministry for up to \$2,220,000 (excluding GST) for the two named projects.
- 9) **Approves** ORC providing Co-Funding of up to \$1,480,000 (excluding GST) to fund ORC's portion of the total loan funded project costs.
- 10) **Approves** ORC providing Co-Funding of up to \$420,000 (excluding GST) to fund ORC's portion of the Nation-wide project on Monitoring and Telemetry.
- 11) **Approves** the Chief Executive to sign the RIF Grant and Loan Funding Agreements for and on behalf of ORC.

BACKGROUND

- [10] ORC has received several rounds of Central Government funding since 2020 entering into co-funding agreements with MBIE. ORC has successfully delivered on each agreement.
- In 2020 ORC was awarded Provincial Growth Fund co-funding to the value of \$5.44 million for four (4) "Shovel Ready" projects at a combined project value of \$8.5 million. ORC successfully completed the projects by December 2024 according to the funding agreements and co-funded the remaining \$3.06 million.
- [12] Following the success of the "Shovel Ready" projects, ORC along with other Regional Councils submitted a co-investment case to Central Government to secure a permanent budget line for funding towards flood resilience.

- In what MBIE now refers to as Flood Protection Work Tranche 1, ORC was successful in being awarded a Regional Infrastructure Fund (RIF) co-funding commitment in August 2024 for the continuation of the Contour Channel (West Taieri) Resilience Upgrade Project. MBIE co-funding to the value of \$5.4 million has been committed to this project through a RIF grant funding agreement.
- [14] Application for second tranche of Government RIF co-investment in flood resilience projects was jointly submitted by the Regional Councils to MBIE in December 2024.
- The 32 flood resilience projects across the country to receive RIF Tranche 2 coinvestment in flood resilience were announced on 16 October 2025. See Figure 1 and the announcement at: https://www.beehive.govt.nz/release/flood-resilience-funding-targets-regional-risk
- Six ORC projects were successful in receiving a 60% Regional Infrastructure Fund (RIF) co-funding commitment of \$4.68 Million, subject to signing the funding agreements and ORC committing to co-funding the remaining 40% (\$3.12 million).
- [17] Two Nation-Wide programmes of work, to be administered through Environment Canterbury have also been awarded RIF grants.
- The ORC Monitoring Telemetry project will receive \$0.63 million in RIF co-funding, with ORC co-funding \$0.42 million as part of the Nation-Wide Telemetry Programme.
- The Nation-Wide Asset Management Process Improvement programme, valued at \$3.5 million will require a \$1.4 million (40%) contribution for the participating Regional Councils. The ORC co-funding contribution is yet to be determined.



Regional Infrastructure Fund: Co-investment for 32 flood resilience projects

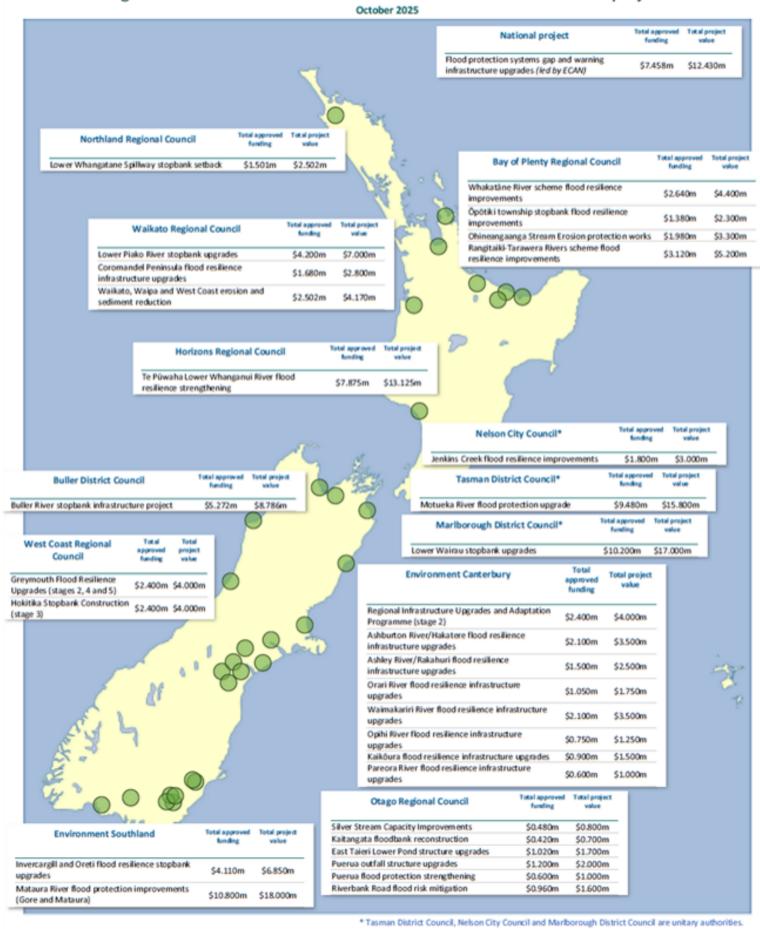


Figure 1: Map showing the 32 projects receiving Tranche 2 funding from the Regional Infrastructure Fund, announced in October 2025.

DISCUSSION

[20] ORC projects receiving a co-funding commitment through the RIF Flood Resilience Tranche 2 round of funding are shown in Table 1 below.

- [21] Each of these projects already has funding in the 2024-2035 Long-Term Plan or is being funded through the Lower Clutha Flood Protection and Drainage Scheme Reserves (currently in deficit) in the case of the two projects resulting from flood damage.
- [22] All of the projects attracting Grant and Loan funding have already started, due to the long lag time between the application for funding in December 2024 and the announcement of successful projects in late October 2025.
- [23] Acceptance of RIF co-funding through the funding agreements will accelerate the completion of most of these projects. Attachment 3 presents detail on each project, why it is needed and shows the benefit of accepting RIF co-funding.
- [24] Clarification is being sought from MBIE on whether or not expenditure prior to signing the grant and loan agreements can be retrospectively claimed, and if so, how far back this can be claimed for each project.
- [25] ORC Legal Counsel has reviewed the Grant and Loan funding agreements to determine any red flags or risks to Council in these documents. No significant issues have been identified.

Table 1. Regional Infrastructure Fund Tranche 2 co-funding commitments.

Project	ORC Contribution Million \$	RIF Contribution Million \$	Total Project Value Million \$	ORC Funding Source
Grant Funded Projects				
Silver Stream Capacity Improvements	0.32	0.48	0.80	LTP
Kaitangata Floodbank Reconstruction	0.28	0.42	0.70	Scheme Reserves
Puerua Floodbank Strengthening	0.40	0.60	1.00	Scheme Reserves
Riverbank Road Flood Risk Mitigation	0.64	0.96	1.60	LTP
Subtotal	1.64	2.46	4.10	
Suspensory Loan Projects				
Lower Pond Structure Upgrades	0.68	1.02	1.70	LTP
Puerua Outfall Structure Upgrades	0.80	1.20	2.00	LTP
Subtotal	1.48	2.22	3.70	
National Projects				
Pump Station Telemetry Installation	0.30	0.45	0.75	LTP
River Monitoring Telemetry	0.12	0.18	0.30	LTP
Asset Management Process Improvement	Contribution from ORC (still TBD) towards Joint Council 40% (\$1.4M) share of \$3.5M			TBD
Subtotal	0.42	0.63	1.05	
TOTAL	3.54	5.31	8.85	

Grant Funding

- [26] Under the Grant Funding Agreement, there will be two (2) months to achieve the Conditions Precedent to ensure that the Ministry is satisfied that ORC will meet its obligations.
- Conditions Precedent (see Attachment 1, Part 1 clause 5), include letters confirming ORC's commitment to co-funding, providing a Workforce Development Plan satisfactory to the Ministry, milestone schedules and budgets for each project, consents and insurance certificates, and confirmation that works will commence in the 2025/26 construction season.
- [28] ORC staff are in the process of compiling the necessary information to meet the Conditions Precent for each project.
- [29] Reporting requirements (see Attachment 1, Schedule 2) include detailed monthly, quarterly and completion reporting, similar to that undertaken for government cofunded projects under previous co-funding agreements successfully completed by ORC.
- [30] Additional Undertakings (see Attachment 1, Part 1 clause 12) require ORC to deliver broader procurement outcomes including upskilling opportunities for Māori and local businesses, support environmental benefits and a transition to a net zero emissions economy. ORC procurement of contractors on each of the RIF Tranche 2 projects has already included a broader outcomes attribute to meet these undertakings.

Loan Funding

- Under the Loan Agreements, there will be six (6) months to achieve the Conditions Precedent to ensure that the Ministry is satisfied that ORC will meet its obligations.
- This is a Suspensory Loan in that the loan may be partially of fully forgiven if the project is completed as agreed, or a significant weather event prevents completion of the project. The Ministry has discretion to approve forgiveness and release security (see Attachment 2, Part 2, clause 27).
- [33] Conditions Precedent for Loan Funding include executed documents, financial forecasts, evidence of co-funding and insurance, a Workforce Development Plan, and a milestone schedule and budget (Attachment 2, Part 1 clause 26).
- [34] Reporting requirements include detailed monthly and quarterly progress reports, annual audited financial statements and a final completion reporting summarising outcomes and benefits (see Attachment 2, Schedule 4).
- [35] The Loan Agreement for ORC includes a Facility Limit of \$2.2 million consistent with the Suspensory Loan projects in Table 1 above (Attachment 2, Part 1 clause 4).
- The loan interest rate is 0% for the first 5 years and at the LGFA based rate from year 6 to 10, dependent on credit rating. The default interest rate is 5%. Repayment is amortised from year 5 to year 10 with full payment due by the maturity date, 10 years from the first drawdown (Attachment 2, Part 1, clauses 7-11).

OPTIONS

- [37] Council has two options to choose from, as follows.
- [38] Option 1: Status Quo. Do not accept Ministry's offer and do not enter into RIF funding agreements.
 - a. Advantages
 - i. Maintains business as usual as set out in the Long-Term Plan 2024-2034 and Infrastructure Strategy 2024 2054 including essential flood repairs (no acceleration of work programme).

b. Disadvantages

- The loss of a central government funding of approximately \$5.31 million that could reduce targeted rates.
- ii. Project works remain as per the Long-Term Plan and are not accelerated.
- iii. Greater exposure to flood events and health and safety risks for some flood protection assets until these projects are completed.
- iv. Discouragement of central government from making similar offers of cofunding in the future.
- v. Reputational risk to the ORC with central government that it was unable to meet funding requirements despite participating in the business case presented to government.
- [39] Option 2: Accept the offer. Enter into the RIF Funding Agreements with the Ministry (Attachment 1 and 2).
 - a. Advantages:
 - i. Reduced direct cost to ratepayers through the provision of central government grants and loans.
 - ii. Acceleration of project work programmes.
 - iii. Improved flood protection resilience, improving the levels of service for the community.
 - iv. Improved environmental outcomes such as reduced overland flows and reduced erosional effects.
 - v. Increased community resilience through positive engagement at Regional Council and central government levels.
 - vi. Proven and demonstrated ability to deliver and comply with Ministry Agreements.

b. Disadvantages:

- ORC has very little ability to amend the government's standard terms and conditions.
- Commits ORC to completing the projects with any possible overrun costs to be met by ORC.
- iii. There are additional reporting and other administrative requirements over the duration of the agreements that would not be required if ORC was the sole funder.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[40] The Ministry's requirements around "Additional Undertakings" (Attachment 1, Part 1 clause 12) need to be adhered to and incorporated into project contracts where possible.

Financial Considerations

[41] The co-funding from central government allows the project work programmes to be accelerated at slightly different rates for each project (see Attachment 3).

Significance and Engagement Considerations

The proposal does not trigger ORC's Significance and Engagement Policy, as the ORC funding for these projects have been consulted on through the Long-Term Plan 2024 – 2034 process, which has resulted in the expenditure for each project adopted into the Long-Term Plan 2024 – 2034.

Legislative and Risk Considerations

- [43] The risk of exceeding the funding estimates is carried by ORC and treated through long term planning rating processes and scheme reserves.
- [44] The works require resource consent, some of which have been obtained already however further consenting is required to meet the project obligations. This may present a risk to timely delivery of the works.
- [45] Contractual obligations included in both the RIF Grant Funding and Loan agreements extends liability to ORC through termination provisions and providing Ministry with powers to intervene at any time.
- [46] Community opportunity for essential asset upgrade, renewal and improvement through co-funding which allows targeted rating to provide funding towards key areas of flood resilience and continuous improvement of scheme management and accelerates work programmes by years.
- There will be two (2) months to achieve the Conditions Precedent to ensure that the Ministry is satisfied that ORC will meet its obligations under the RIF Grant Funding Agreement to receive funding.
- There will be six (6) months to achieve the Conditions Precedent to ensure that the Ministry is satisfied that ORC will meet its obligations under the RIF Loan Funding Agreement to receive funding.
- [49] The funding cash flow for the milestones and quarterly payment request depends on the acceptance of the RIF Funding Agreements by Council.

Climate Change Considerations

[50] These projects align with ORC's Climate Change strategies, primarily being adaptation through building community flood resilience and protecting key infrastructure.

Communications Considerations

- [51] Communications with Kānoa will primarily be undertaken by the Project Delivery Team in conjunction with the ORC Communications team.
- [52] All communications and media releases are required to be approved by Kānoa as set out in the Funding Agreements.
- [53] MBIE must be acknowledged as a source of funding in all publications and publicity regarding the projects.
- The Regional Development Minister announced Flood resilience funding on 16 October 2025. See:
 https://www.beehive.govt.nz/release/flood-resilience-funding-targets-regional-risk
- [55] On 24 October 2025, the funding announcement was reported in the Otago Daily Times. See: https://www.odt.co.nz/regions/south-otago/47m-funds-given-flood-protection

NEXT STEPS

- [56] Finalise RIF funding agreements subject to Council approval in recommendations above.
- [57] Progress RIF Tranche 2 projects.
- [58] Continue to engage with MBIE and the River Managers Special Interest Group (SIG) to progress future funding opportunities through the upcoming Regional Infrastructure Fund (RIF) Tranche 3 funding request submission.

ATTACHMENTS

- 1. DRAFT RIF Grant Funding Agreement. MBI E- ORC [10.4.1 30 pages]
- 2. DRAFT RIF Loan Funding Agreement. MBI E- ORC [10.4.2 54 pages]
- 3. ORC Project Details. Extract from RIF Tranche 2 Funding Application [10.4.3 2 pages]



REGIONAL INFRASTRUCTURE FUND GRANT FUNDING AGREEMENT FLOOD RESILIENCE PROGRAMME

BETWEEN

MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

AND

OTAGO REGIONAL COUNCIL

FOR

FLOOD PROTECTION WORK TRANCHE TWO



Agreement

The parties (identified below in Part 1) agree to be bound by the terms and conditions of this Agreement, as set out below in Part 1 (Key Details), Part 2 (General Terms), Part 3 (Definitions and Construction), Schedule 1 (Payment Request), Schedule 2, Reporting), Annex One (Project Details) and Annex Two (Project Budgets).

PART 1: KEY DETAILS

1 Parties

The Sovereign in right of New Zealand, acting by and through the Secretary for the Ministry of Business, Innovation and Employment (**Ministry**)

Otago Regional Council, a Regional Council listed in Part 1 Schedule 2 of the Local Government Act 2002, NZBN_9429041912362, with registered offices at 70 Stafford Street, Dunedin, 9054 (**Recipient**)

2 Funding Start Date

Commencement Date

3 End Date

30 June 2028

4 Background

Kānoa - Regional Economic Development & Investment Unit of the Ministry is responsible for administering the Regional Infrastructure Fund (**RIF**) which aims to achieve the following objectives:

- lift productivity in regional economies by increasing the performance of businesses and catalysing the development of new or emerging industries; and/or
- improve the ability for regional businesses and communities to absorb and recover from shocks and adapt to changing conditions.

The Recipient has sought a funding contribution from the Ministry for the purposes of the Project(s) described in Annex One. The Ministry has agreed to contribute funding on the terms and conditions of this Agreement (Agreement).

Key details of this Agreement are set out in this **Part 1**. The full terms and conditions are set out in **Part 2**. Defined terms and rules of interpretation are set out in **Part 3**.

5 Conditions Precedent

No Funding is payable under this Agreement until the Ministry has confirmed to the Recipient in writing that it has received, and found, in its sole discretion, to be satisfactory to it in form and substance, the following documents and evidence:

- Co-funding: a copy of a letter from the Recipient confirming any co-funding commitments and evidence of any co-funding commitments;
- Workforce Development Plan: a completed Workforce
 Development Plan in a form that is satisfactory to the Ministry;
- Financial information: a final, updated, budget setting out the funding and application of funds in relation to the Project(s) and the financing thereof, including all fees, costs and expenses (including taxes) in connection with the same;



- Consents: a copy of the resource consent(s) and building consent(s)to enable physical work to commence and progress without delay in construction season 2025/ 2026;
- Construction Insurance certificates: if required by the Ministry, evidence, by way of letter, that the Recipient has (or its broker on its behalf has) addressed all required insurance requirements; and
- Confirmation of physical works commencement: written confirmation that the Project(s) will commence physical works in construction season 2025/ 2026.

These conditions precedent must be satisfied within a two month period from the date of signing this Agreement, unless agreed otherwise in writing with the Ministry. In the event that they are not satisfied within that time, the Ministry may notify the Recipient that this Agreement has not come into effect and is null and void.

6 **Project Description**

The Recipient will use the Funding to deliver the programme of works as described in (Annex One). The Recipient will deliver the Project(s) in accordance with the Project Plan (Annex One) and will apply the Funding in accordance with the indicative Project Budget: Condition Precedent (**Project(s)**).

7 Payment

The Recipient can submit a Payment Request quarterly. At the end of each quarter, being the end of: March, June, September and December, a Payment Request can request reimbursement for up to 60% of the Project(s) costs incurred in that quarter. A summary of Project(s), project descriptions, funding and co-funding can be found in Annex One.

8 Key Personnel

Key Personnel	Respective Roles
Richard Saunders	Chief Executive Officer
Nick Donnelly	Chief Financial Officer
Tom Dyer	General Manager Science and Resilience
Brett Paterson	Manager Engineering
Michael Burrows	Project Manager

9 Funding

The total Funding available under this Agreement is up to **NZ \$2,460,000** plus GST (if any), (Total Maximum Amount Payable).

The Funding will be paid Quarterly on satisfactory submission of a Payment Request in accordance with clause 1 of Part 2 and the terms and conditions of this Agreement.

10 Co-Funding

The Recipient must have secured the Co-Funding (see Annex One) to be used for the Project(s), plus GST (if any). The amount of Co-Funding in Annex One shall be calculated as the difference between the Total Project(s) cost less the Total Maximum Amount Payable.

11 Reporting

The Recipient will, in accordance with this clause 11 of Part 1 and Schedule 2, provide the Ministry with the following reports, the timing and details of which, are as set out in Schedule 2:

(a) Monthly Reports (Progress Reports and Monthly check in



meeting);

- (b) Quarterly Reports; and
- (c) Post-Project Completion Outcomes Report.

The Recipient acknowledges that the Ministry continues to develop, review and refine the reporting requirements for the Regional Infrastructure Fund and agrees to provide such additional, amended, varied or new information as the Ministry may reasonably request during the Term.

12 Additional Undertakings

The Recipient undertakes to deliver broader procurement outcomes (where appropriate) through this project, and is required to demonstrate, through its procurement processes, employment and upskilling opportunities, including for:

- participation of Māori businesses and local firms to deliver goods, services and capital works to support improved supplier diversity and local opportunity;
- supporting local people into local job opportunities and improved conditions for workers to improve wellbeing in regions;
- environmental and broader community benefits; and
- supporting the transition to a net zero emissions economy and reduction in waste to support meeting the Government's goals.

(the Additional Undertakings).

13 **Insurance** Refer to Part 2, section 3.16

14 **Contact Person** Ministry's Contact Person: Recipient's Contact Person:

Name: Jason Leppens Name: Brett Paterson

Email: Email: Brett.Paterson@orc.govt.nz

Jason.leppens@mbie.govt.nz

Contract ID:

15 Address for Notices To the Ministry: To the Recipient:

15 Stout Street, Otago Regional Council
PO Box 1473 70 Stafford Street
Wellington 6140 Private Bag 1954
Attention: Kānoa Dunedin 9054

Email: Attention: Engineering

Kanoamonitor@mbie.govt.nz Email: engineering@orc.govt.nz



SIGNATURES

SIGNED for and on behalf of the SOVEREIGN IN RIGHT OF NEW ZEALAND by the person named below, being a person duly authorised to enter into obligations on behalf of the Ministry of Business, Innovation and Employment:

SIGNED for and on behalf of the Otago Regional Council by the person named below, being a person duly authorised to enter into obligations on behalf of the Recipient:

Name: Position: Date: Name: Richard Saunders Position: Chief Executive Officer Date:

Name: Tom Dyer

Position: General Manager Science

and Resilience

Date:

Each signatory warrants that the persons signing on behalf of the Recipient have the necessary authority to execute this Agreement on behalf of the Recipient.

END OF PART 1



PART 2: GENERAL TERMS

1 FUNDING

- 1.1 The Ministry must pay the Funding (up to the "Total Maximum Amount Payable" specified in the Key Details) to the Recipient, subject to the terms of this Agreement. Unless stated otherwise in this Agreement, the Recipient may only claim the Funding to the extent necessary to cover Eligible Costs incurred by the Recipient. If the Recipient receives any Funding before it has incurred corresponding Eligible Costs, the Recipient must use the Funding solely on Eligible Costs.
- 1.2 On completion of a Quarter the Recipient must submit a Payment Request to <u>Kanoamonitor@mbie.govt.nz</u> and copying in Ministry's Contact Person in accordance with item 7 (Payment) of the Key Details.
- 1.3 Each Payment Request is to be signed by a Project Manager and an authorised signatory (Financial Manager) as an authorised signatory of the Recipient (with the appropriate delegations and oversight of Council procurement policies) and must be in the form set out in the Schedule 1 Payment Request and include the confirmations set out therein, and must include:
 - (a) the amount of Funding requested, which must not exceed item 7 of the Key Details;
 - (b) a breakdown of total Eligible Costs incurred by the Recipient and confirmation that such costs are Eligible Costs for the purpose of this Agreement and have been paid or are currently due and payable;
 - (c) copies of invoices and or evidence received by the Recipient from third parties, and/ or internal Finance Evidence (council costs) in relation to the Eligible Costs where those Eligible Costs are more than \$10,000 (on an individual basis or when grouped by supplier or subject matter) and statements and accounts showing the Eligible Costs incurred;
 - (d) a valid GST invoice complying with the Goods and Services Tax Act 1985;
 - (e) confirmation that no Termination Event is subsisting and that each of the warranties under clause 7 of this Agreement are correct as at the date of the Payment Request; and
 - (f) contain any other information required by the Ministry.
- 1.4 The Ministry is not required to pay any Funding in respect of a Payment Request:
 - (a) where the Ministry is not satisfied with the progress of the Project(s);
 - (b) if any Project(s) have not been completed by the relevant "Completion Date" specified in Annex One;
 - (c) if the Ministry is not satisfied with the information that is contained within, or provided in connection with, the reports or the Payment Request noting that in the context of the Payment Request the Ministry may elect to pay the Recipient for



certain Eligible Costs that are the subject of the Payment Request and withhold payment for other Eligible Costs that the Ministry disputes;

- (d) if the Ministry is not satisfied that the Recipient has applied Co-Funding in accordance with clause 2(a)(ii) of this Agreement;
- (e) if payment will result in the Funding exceeding the "Total Maximum Amount Payable";
- (f) while there are one or more Termination Event(s);
- (g) if this Agreement has expired or been terminated; and/or
- (h) while the Recipient is in breach of this Agreement.
- 1.5 Subject to the terms of this Agreement, the Ministry must pay each valid Payment Request by no later than the 20th day of the month after the month the Payment Request is dated, and if such day is not a Business Day, on the next Business Day.

2 **CO-FUNDING**

If specified at item 10 of the Key Details, the Recipient must:

- (a) ensure that during the term of this Agreement the Co-Funding:
 - (i) is and remains secured and available to the Recipient to be applied towards the Project(s) on the same terms and conditions approved by the Ministry; and
 - (ii) is applied to Eligible Costs as set out in the Key Details; and
- (b) immediately notify the Ministry if it becomes aware of any circumstances that may result in the Co-Funding (or any part of the Co-Funding) not being secured and available to the Recipient to be applied towards the Project(s).

3 **RECIPIENT'S RESPONSIBILITIES**

Standards and compliance with laws

- 3.1 The Recipient must undertake the Project(s) as described in this Agreement.
- 3.2 In undertaking the Project(s), the Recipient must comply with all applicable laws, regulations, rules and professional codes of conduct or practice.

Project(s), Key Personnel and Contractors

- 3.3 The Recipient must ensure that the Project(s) are carried out:
 - (a) promptly with due diligence, care and skill, and in a manner that meets or exceeds Best Industry Practice;
 - (b) by appropriately trained, qualified, experienced and supervised persons; and



- (c) in accordance with any directions of the Ministry, notified by the Ministry in writing from time to time.
- The Recipient must ensure that the Project(s) are completed by the relevant "Completion Date" specified in Annex One.
- 3.5 The Recipient must ensure that the Key Personnel undertake their respective roles in connection with the Project(s) as specified in the Key Details, except as otherwise approved in writing by the Ministry. If any Key Personnel become unavailable to perform their role, the Recipient must promptly arrange replacement Key Personnel acceptable to the Ministry.
- 3.6 N/A
- 3.7 The Recipient is responsible for the acts and omissions of any contractors.
- 3.8 The Recipient must ensure (and must procure that the head contractor when engaging with any other contractor ensures) that all agreements it enters into with contractors or any other party in connection with the Project(s) are on an "arm's length" basis, provide value-for-money and do not give rise to any Conflict of Interest. The Recipient must provide the Ministry with reasonable evidence of compliance with this clause 3.8 in response to any request by the Ministry from time to time.

Information Undertakings

- 3.9 The Recipient must provide the Ministry with the reports as specified in clause 11 of the Key Details in Part 1 and Schedule 2, in accordance with the timeframes and reporting requirements as set out.
- 3.10 The Recipient must provide the Ministry with any other information about the Project(s) requested by the Ministry within the timeframe set out in the request.
- 3.11 The Recipient must promptly notify the Ministry if:
 - the Recipient (or any of its personnel or contractors) becomes aware of, or subject to, a Conflict of Interest;
 - (b) the Recipient becomes aware of any matter that could reasonably be expected to have an adverse effect on the Project(s), or result in a Termination Event or a breach of any term of this Agreement by the Recipient.
- 3.12 The Recipient must not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry. The Recipient must keep the Ministry informed of any matter known to the Recipient which could reasonably be expected to have such an effect.

Funding, records and auditors

3.13 The Recipient must receive and manage all Funding in accordance with good financial management and accounting practices and to a high standard that demonstrates appropriate use of public funds including in respect of all adopted and applicable



procurement practices and procedures associated with the Recipient as a local authority and the Government procurement rules (as applicable).

The Recipient must keep full and accurate records (including accounting records) of the Project(s), and retain them for at least 7 years after the last payment of Funding under this Agreement. The Recipient must permit the Ministry (or any auditor nominated by the Ministry) to inspect all records relating to the Project(s) and must allow the Ministry and/or the auditor access to the Recipient's premises, systems and personnel for the purposes of this inspection.

Capital Assets

- 3.15 If the Recipient uses the Funding to purchase or develop any Qualifying Capital Asset and, at any point during the term of this Agreement or during the 5 years after the End Date, either:
 - (a) the Recipient sells, disposes or transfers the Qualifying Capital Asset, without the Ministry's prior written consent; or
 - (b) the Qualifying Capital Asset will no longer be used for the purpose intended by the Ministry at the time this Agreement was entered into,

then the Recipient must immediately repay to the Ministry an amount equal to the amount of Funding used by the Recipient in the purchase or development of the Qualifying Capital Asset, as determined by the Ministry.

Insurance

3.16 The Recipient must effect and maintain insurance that is adequate to cover its obligations under this Agreement, plus any other insurance specified in the Key Details. The Recipient must, on request, provide the Ministry with evidence of its insurance cover required under this clause.

Health and Safety

- 3.17 Without limiting its other obligations under this Agreement, the Recipient must:
 - (a) consult, cooperate and coordinate with the Ministry to the extent required by the Ministry to ensure that the Ministry and the Recipient will each comply with their respective obligations under the Health and Safety at Work Act 2015 as they relate to this Agreement and the Project(s);
 - (b) perform its, and ensure that the contractors perform their, obligations under this Agreement and the Project(s) (as applicable) in compliance with its and their obligations under the Health and Safety at Work Act 2015;
 - (c) comply with all directions of the Ministry relating to health, safety, and security; and
 - (d) report any health and safety incident, injury or near miss, or any notice issued under the Health and Safety at Work Act 2015, to the Ministry to the extent that it relates to, or affects, this Agreement or the Project(s).



4 PROJECT GOVERNANCE

- 4.1 If advised in writing by the Ministry the Recipient must:
 - (a) provide reasonable notice to the Ministry of all Project(s) management group meetings and Project(s) governance group meetings; and
 - (b) copies of all documents and notices to be tabled at the Project(s) management group meetings and Project(s) governance group meetings to the Ministry no later than a reasonable period prior to the meetings, and the minutes of those meetings within a reasonable period after each meeting.
- 4.2 The Ministry may appoint observers who will be entitled to attend and speak at all Project(s) management group meetings and Project(s) governance group meetings (but will not be entitled to vote on any matter at those meetings).

5 **INTELLECTUAL PROPERTY**

- 5.1 The Ministry acknowledges that the Recipient and its licensors own all pre-existing intellectual property which they contribute to the Project(s), and all new intellectual property which they create in the course of the Project(s).
- 5.2 The Recipient grants an irrevocable, perpetual, royalty-free, sub-licensable licence to the Ministry to use all reports, documents, information and other materials created or provided by the Recipient to the Ministry under or in connection with the Project(s) and this Agreement.
- 5.3 The Recipient warrants that it has obtained (or will obtain, prior to creation of each relevant work) all rights and permissions necessary to enable the grant and exercise of the licence in clause 5.2 without infringing the intellectual property rights of any third party.

6 **TERM AND TERMINATION**

- This Agreement will be effective on and from the Commencement Date, which will be the latest to occur of:
 - (a) the date this Agreement has been signed by both parties and
 - (b) the date on which the Ministry has provided written notice to the Recipient that the Conditions Precedent specified in the Key Details, if any, have either been satisfied (in the opinion of the Ministry) or waived by the Ministry.
- This Agreement will remain in force until the End Date, unless terminated in accordance with this Agreement (the **Term**).
- 6.3 The Ministry can terminate this Agreement with immediate effect, by giving notice to the Recipient, at any time while:
 - (a) the Ministry reasonably considers that the Recipient has become or is likely to become, insolvent or bankrupt;



- the Recipient is subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets;
- (c) the Recipient has ceased to carry on its operations or business (or a material part of them) in New Zealand; or
- (d) any one or more of the follow events or circumstances remains unremedied:
 - the Recipient is materially in breach of any obligation, or a condition or warranty, under this Agreement;
 - (ii) the Recipient abandons the Project;
 - (iii) the Recipient has provided the Ministry with information in connection with or under this Agreement that (whether intentionally or not) is materially incorrect or misleading, and/or omits material information;
 - the Ministry reasonably considers that this Agreement or the Project(s) has/ have caused, or may cause, the Ministry and/or the New Zealand Government to breach any legal obligations (including its international trade obligations);
 - (v) the Recipient is involved in any intentional or reckless conduct which, in the opinion of the Ministry, has damaged or could damage the reputation, good standing or goodwill of the Ministry, or is involved in any material misrepresentation or any fraud;
 - (vi) the Recipient (or any of its personnel or contractors) is subject to a Conflict of Interest which cannot be managed to the Ministry's satisfaction; or
 - (vii) any change in law, regulations, government policy or other circumstances materially affects the Ministry's ability to perform its obligations under this Agreement.
- 6.4 However, where the Ministry considers that a Termination Event set out in clause 6.3(d) can be remedied, the Ministry must give notice to the Recipient requesting a remedy, and must not exercise its right of termination unless the relevant event remains unremedied for at least 14 days (or any longer period agreed with the Recipient) after that notice has been provided by the Ministry.
- 6.5 The Ministry may recover Funding from the Recipient as follows:
 - (a) **Misspent Funding**. At any time the Ministry may recover the amount of any Funding that has been spent or used other than in accordance with this Agreement, together with interest on all such amounts calculated at 10% per annum from the date of the misspending to the date the money is repaid.
 - (b) **Uncommitted Funding**. On expiry or termination of this Agreement, the Ministry may recover any Funding paid to the Recipient, which the Recipient:
 - (i) has not spent or contractually committed to spend in accordance with this Agreement; or



- (ii) has spent or contractually committed to spend in accordance with this Agreement but which the Recipient can have refunded or released from that commitment, provided the Recipient must use all reasonable endeavours to obtain such refund or release.
- (c) **Co-Funding not provided.** If Co-Funding is required as set out in the Key Details, on expiry or termination of this Agreement, if the Co-Funding has not been used for the Project(s), the Ministry may recover an amount that represents the same proportion of the Funding as the proportion of Co-Funding that has not been used is of the total Co-Funding.
- (d) **Project abandoned.** If the Recipient has abandoned the Project(s) or stated an intention to abandon the Project(s), and does not within 10 Business Days of being requested to do so by the Ministry demonstrate to the Ministry's satisfaction that the Recipient will proceed with the Project, the Ministry may recover an amount up to the total value of the Funding, provided the Ministry may not recover under this subclause if the Recipient satisfies the Ministry that it acted on reasonable grounds in deciding to abandon the Project(s).
- (e) **Excess Funding.** On expiry or termination of this Agreement, where the total Funding paid under this Agreement and any other money received by the Recipient to carry out the Project(s) exceeds the funding required to perform the Project(s), the Recipient must upon request refund to the Ministry the excess amount. The Recipient is not required to refund, under this clause 6.5(e), any amount that exceeds the total amount of Funding.
- 6.6 Clauses 1.4, 3.1, 3.13, 3.14, 3.15, 5, 6, 7, 8, 9, 10, 11, 12 and 13 survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Termination Event that occurred before expiry or termination.

7 **WARRANTIES**

- 7.1 The Recipient warrants that, in the course of its activities in connection with the Project(s), it will not infringe any intellectual property or other rights of any third party.
- 7.2 The Recipient warrants that, as at the date of this Agreement:
 - (a) It has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms;
 - (b) all information and representations disclosed or made to the Ministry by the Recipient in connection with this Agreement are true and correct, do not omit any material matter, and are not likely to mislead or deceive the Ministry as to any material matter;
 - (c) it has disclosed to the Ministry all matters known to the Recipient (relating to Project(s), the Recipient, its contractors or its personnel) that could reasonably be



expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry; and

- (d) it is not aware of any material information that has not been disclosed to the Ministry which may, if disclosed, materially adversely affect the decision of the Ministry whether to provide the Funding.
- 7.3 The Recipient acknowledges that the Ministry has entered into this Agreement in reliance on these warranties.
- 7.4 The Recipient acknowledges and agrees that the Ministry has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Project other than the Funding.

8 LIABILITY

- 8.1 The maximum liability of the Ministry under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.
- 8.2 The Ministry is not liable for any claim under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.

9 **CONFIDENTIALITY**

- 9.1 Subject to clause 9.2 and 9.3, each party must keep the other party's Confidential Information in confidence, and must use or disclose that Confidential Information only to the extent necessary to perform its obligations, and/or take the intended benefit of its rights, under this Agreement. However, this will not prohibit:
 - (a) either party from using or disclosing any information with the written prior consent of the other party;
 - (b) use or disclosure of information that has become generally known to the public other than through a breach of this Agreement;
 - (c) either party from disclosing information to its personnel or contractors with a need to know, so long as the relevant personnel and contractors use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under this Agreement, and so long as they are informed of the confidential nature of the information and in the case of the Recipient, the Recipient receives an acknowledgement from its personnel or contractors that they acknowledge, and must comply with, the confidentiality obligations in this Agreement as if they were party to it;
 - (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or



- (e) the Ministry from using or disclosing to any party any documents, reports or information received in relation to this Agreement, provided that prior to any such disclosure the Ministry removes all information that is commercially sensitive to the Recipient from the relevant work.
- 9.2 The Recipient acknowledges and agrees that nothing in this Agreement restricts the Ministry's ability to:
 - (a) discuss, and provide all information in respect of, any matters concerning the Recipient, the Project(s) or this Agreement with any Minister of the Crown, any other government agency or any of their respective advisors;
 - (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the Cabinet Manual including the "no surprises" principle; and
 - (c) publicise and report on the awarding of the Funding, including the Recipient's and any of its subcontractor's names, the amount and duration of the Funding and a brief description of the Project(s), on websites; in media releases; general announcements and annual reports.
- 9.3 The Recipient acknowledges that:
 - (a) the contents of this Agreement; and
 - (b) information provided to the Ministry,

may be official information in terms of the Official Information Act 1982 and, in line with the purpose and principles of the Official Information Act 1982, this Agreement and such information may be released to the public unless there is good reason, in terms of the Official Information Act 1982 to withhold it.

10 MEDIA AND COMMUNICATIONS

- 10.1 Before making any media statements or press releases (including social media posts) regarding this Agreement and/or the Ministry's involvement with the Project(s), the Recipient will consult with the Ministry, and will obtain the Ministry's prior approval to any such statements or releases.
- 10.2 The Recipient will refer any enquiries from the media or any other person about the terms or performance of this Agreement to the Ministry's Contact Person.
- 10.3 The Recipient will acknowledge the Ministry as a source of funding in all publications (including any digital presence) and publicity regarding the Project(s) in accordance with the Kānoa Funding Acknowledgement Guidelines on the website: Funding acknowledgement guidelines (growregions.govt.nz). The Recipient must obtain the Ministry's approval of the form and wording of the acknowledgement prior to including the acknowledgement in the publication or publicity (as the case may be).



- 10.4 If requested by the Ministry, the Recipient will establish or erect temporary and/or permanent signage (which may be in the form of a plaque) at the site of the Project(s) acknowledging the Ministry as a source of funding for the Project. The Ministry may provide such signage and the Ministry will consult with the Recipient in respect of a suitable location for such signage.
- 10.5 The Recipient does not have the right to enter into any commitment, contract or agreement on behalf of the Ministry or any associated body, or to make any public statement or comment on behalf of the Ministry.
- 10.6 All correspondence with the Ministry under this clause 10 must be directed to the Ministry's Contact Person and copied to kanoacomms@mbie.govt.nz.

11 **DISPUTES**

- 11.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement, or in relation to any question regarding its existence, breach, termination or invalidity (in each case, a Dispute), either party may give written notice to the other specifying the nature of the Dispute and requesting discussions under this clause 11. As soon as reasonably practicable following receipt of a Dispute Notice, the parties must meet (in person, or by audio or video conference) and endeavour to resolve the Dispute by discussion, negotiation and agreement.
- 11.2 A party must not commence any proceedings in connection with a Dispute unless at least 40 days have elapsed since the issue of a corresponding Dispute Notice, and that party has used reasonable endeavours to comply with this clause 11. However, nothing in this clause will prevent either party from seeking urgent interim relief from a court (or other tribunal) of competent jurisdiction.

12 **CONTACT PERSONS**

- 12.1 All matters or enquiries regarding this Agreement must be directed to each party's Contact Person (set out in the Key Details).
- Each party may from time to time change the person designated as its Contact Person on 10 Business Days' written notice to the other Party.

13 **GENERAL**

- 13.1 Each notice or other communication given under this Agreement (each a notice) must be in writing and delivered personally or sent by post or email to the address of the relevant party set out in the Key Details or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other party. A notice under this Agreement is deemed to be received if:
 - (a) **Delivery**: delivered personally, when delivered;
 - (b) **Post**: posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and



- (c) **Email**: sent by email:
 - (i) If sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
 - (ii) If subclause (i) does not apply, at 9am (local time) on the Business Day most immediately after the time of sending,

provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

- 13.2 The Recipient agrees to execute and deliver any documents and to do all things as may be required by the Ministry to obtain the full benefit of this Agreement according to its true intent.
- 13.3 No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.
- 13.4 This Agreement constitutes the sole and entire understanding with respect to the subject matter hereof and supersedes all prior discussions, representations and understandings, written or oral.
- 13.5 No amendment to this Agreement will be effective unless agreed in writing and signed by both parties.
- 13.6 The Recipient may not assign or transfer any of its contractual rights or obligations under this Agreement, except with the Ministry's prior written approval.
- 13.7 The Ministry may assign or transfer any of its contractual rights or obligations under this Agreement without the Recipient's prior approval. The Ministry may at any time disclose to a proposed assignee or transferee any information which relates to, or was provided in connection with, the Project or this Agreement.
- 13.8 No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver. A single exercise of any of those powers or rights does not preclude further exercises of those powers or rights or the exercise of any other powers or rights.
- 13.9 The exercise by a party of any express right set out in this Agreement is without prejudice to any other rights, powers or remedies available to a party in contract, at law or in equity, including any rights, powers or remedies which would be available if the express rights were not set out in this Agreement.
- 13.10 This Agreement is not intended to confer any benefit on or create any obligation enforceable at the suit of any person not a party to this Agreement.
- 13.11 Any provision of this Agreement that is invalid or unenforceable will be deemed deleted, and will not affect the other provisions of this Agreement, all of which remain in force to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.



- 13.12 This Agreement is to be governed by the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 13.13 This Agreement may be executed in any number of counterparts (including scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement.

END OF PART 2



PART 3: DEFINITIONS AND CONSTRUCTION

Defined terms

In this Agreement, unless the context requires otherwise:

Agreement means this agreement including Parts 1, 2 and 3 and Schedule 1 (and any other annexures or attachments).

Best Industry Practice means that degree of skill, care and foresight and operating practice that would reasonably and ordinarily be expected of a skilled and competent supplier of services engaged in the same type of undertaking as that of the Recipient or any contractors (as applicable) under the same or similar circumstances as those contemplated by this Agreement.

Business Day means any day other than a Saturday, Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

Co-Funding means the "Co-Funding" (if any) or any part of the Co-Funding (as the context requires), described in the Key Details.

Commencement Date has the meaning given in clause 6.1 of Part 2.

Completion Date is the date that the relevant Project Deliverable is to be completed by the Recipient, described in the Key Details, and includes any amendment to the date which may be agreed in writing (including by email but only when the Ministry's Contact Person expressly confirms in writing that they have received approval of the change from the correct Ministry delegation holder) between the parties from time to time.

Confidential Information of a party (Owner), means any information in the possession or control of another party (Holder) that:

(a) was originally acquired by the Holder in connection with this Agreement

- through disclosures made by or at the request of the Owner; and/or
- (b) was originally acquired by the Holder in connection with this Agreement through any access to, or viewing, inspection or evaluation of, the premises, facilities, documents, systems or other assets owned or controlled by the Owner; and/or
- (c) is derived from information of a kind described in paragraph (a) or (b) above;

but excludes any information which the Holder can show:

- (d) was lawfully acquired by the Holder, entirely independently of its activities in connection with this Agreement, and is free of any other obligation of confidence owed to the Owner; and/or
- (e) has been independently developed by the Holder without reference to the Owner's Confidential Information, and without breaching any other obligation of confidence owed to the Owner.

Notwithstanding the foregoing, the terms of this Agreement are Confidential Information of which each Party is both an Owner and a Holder.

Conflict of Interest means any matter, circumstance, interest or activity of the Recipient, its personnel or contractors, or any other person with whom the Recipient has a relationship that:

- (a) conflicts with:
 - the obligations of the Recipient (or its personnel or contractors) to the Ministry under this Agreement; or



- (ii) the interests of the Recipient in relation to this Agreement and/or the procuring of the Project; or
- (b) otherwise impairs or might appear to impair the ability of the Recipient (or any of its personnel or contractors) to diligently and independently carry out the Project in accordance with this Agreement.

Eligible Costs means the actual costs reasonably incurred by the Recipient:

- (a) on or after the Funding Start Date and no later than the End Date;
- (b) in good faith for the purpose of carrying out the Project or for purposes incidental to the Project, including all internal costs, disbursements and expenses incurred by the Recipient for such purposes (and to the extent the Recipient is carrying out any other activities) reasonably and proportionately allocated towards such purposes; and
- (c) to the extent that the expenditure relates to work performed by parties not at "arm's length", that expenditure is assessed at reasonable market value, and contains no unacceptable overhead and no element of "in group profit".

End Date means the "End Date" specified in the Key Details.

Funding means the funding or any part of the funding (as the context requires) payable by the Ministry to the Recipient in accordance with the terms of this Agreement, as described in the Key Details.

Funding Start Date means the "Funding Start Date" specified in the Key Details.

Key Details means Part 1 of this Agreement.

Key Personnel means the "Key Personnel" specified in the Key Details.

Payment Request means a request submitted to the Ministry by the Recipient seeking payment of Funding substantially in the form set out in the Schedule to this Agreement.

Post-Project Completion Outcomes Report has the meaning given in the Key Details.

Project(s) means the "Project(s)" described in the Key Details.

Project Deliverable means a deliverable to be provided by the Recipient to the Ministry, as set out in the Key Details.

Qualifying Capital Asset means a capital asset (as determined in accordance with generally accepted accounting practice, as defined in the Financial Reporting Act 2013) purchased or developed by the Recipient using no less than \$50,000 of Funding.

Recipient means the Recipient specified in the Key Details.

Termination Event means any one or more of the events or circumstances set out in clause 6.3.

Construction

In the construction of this Agreement, unless the context requires otherwise:

Currency: a reference to any monetary amount is to New Zealand currency;

Defined Terms: words or phrases appearing in this Agreement with capitalised initial letters are defined terms and have the meanings given to them in this Agreement;

Documents: a reference to any document, including this Agreement, includes a reference to that document as amended or replaced from time to time;

Inclusions: a reference to "includes" is a reference to "includes without limitation",



and "include", "included" and "including" have corresponding meanings;

Joint and Several Liability: any provision of this Agreement to be performed or observed by two or more persons binds those persons jointly and severally;

Parties: a reference to a party to this Agreement or any other document includes that party's personal representatives/successors and permitted assigns;

Person: a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

Precedence: if there is any conflict between the different parts of this Agreement, then unless specifically stated otherwise, Part 2 will prevail over the Key Details, and the Key Details will prevail over any Attachments;

Related Terms: where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

Statutes and Regulations: a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

Workforce Development Plan: means a detailed work force development plan to be

prepared in a form that is satisfactory to the Ministry and the Ministry of Social Development and shall include the following minimum criteria:

- (a) Workforce requirements by role (experience, qualifications and performance expectations);
- (b) Commitment to register vacancies with the Ministry of Social Development; and
- (c) Commitment to:
- (i) prioritise and employ New Zealanders from the Jobseeker Register; and
- (ii) work with the Ministry of Social Development to enable it to actively refer and support relevant candidates;
- (d) A commitment to work collaboratively with the Ministry and Ministry of Social Development to enable their active and ongoing support with the development and delivery of the Workforce Development Plan and related reporting required under this Agreement.

Writing: a reference to "written" or "in writing" includes email and any commonly used electronic document format such as .DOC or .PDF.

END OF PART 3

SCHEDULE 1: PAYMENT REQUEST

To: MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT Dated: [*]

PAYMENT REQUEST NO. [•]

- We refer to the Funding Agreement dated [*] between Otago Regional Council as recipient (Recipient) and The Sovereign in right of New Zealand, acting by and through the Chief Executive of the Ministry of Business, Innovation and Employment (Ministry) (the Agreement). Terms defined in the Agreement have the same meaning in this Payment Request.
- 2. This is a Payment Request for the purpose of clause 1.3 of the Agreement.
- 3. The Project Deliverables which are the subject of this Payment Request are: [insert description of Project Deliverables].
- 4. The amount of Funding requested is \$[•] plus GST if any.
- 5. The Funding requested in this Payment Request is required to meet the Eligible Costs.
- 6. Invoices/statements and accounts evidencing the Eligible Costs incurred are attached.
- *Note that for any Eligible Costs that are more than \$10,000 (on an individual basis or when grouped by supplier or subject matter) a copy of the original invoices received from third parties (or internal finance evidence for council costs) in relation to the Eligible Costs must be provided.
- 7. That each of the items referred to in paragraph 5 are Eligible Costs for the purpose of the Agreement have been paid or are currently due and payable.
- 8. [Co-Funding must be used to meet the following Eligible Costs that have been incurred by us:
 - [include breakdown description of Eligible Costs that Co-Funding must meet]
- 9. [Include valid GST invoice if relevant].
- 10. We confirm that:
 - (a) no Termination Event is subsisting; and
 - (b) each of the warranties set out in the Agreement are correct as at the date of this Payment Request.

Except to the extent otherwise agreed in writing by the Ministry, all those items forming part of the Eligible Costs identified in any previous Payment Request as due or becoming due and payable, have been paid in full.

By and on behalf of the Recipient, Otago Regional Council by
Signature:
Tom Dyer
Position: General Manager Science and Resilience

Authorised Officer

SCHEDULE 2: REPORTING

Note: The purpose of this Schedule 2 is to supplement and support the Recipient's reporting obligations set out in clause 11 of Part 1. The below reporting framework is generic and subject to ongoing refinement in accordance with the reporting requirements for the Regional Infrastructure Fund and after further discussion with Recipients.

A. Monthly Reports

Report Type	Frequency	Description/Purpose	Information to be provided includes
Progress Report	Monthly (to be provided by the 10 th Business Day following the end of each month)	Complete online questionnaire to track project progress.	Project Delivery vs Budget Risks and/or issues arising or expected to arise with the Project, costs or performance of this Agreement including detail of any issues notified to the Ministry in accordance with clause 3.11 of Part 2; Days ahead or behind schedule as at report date; Actual spend to report date vs budgeted spend (RIF Funding Only); Co-funding spent to report date; Forecast cost to completion of project; Current project account balance; Planned spend for next 3 months; Amount paid to report date to local contractors and suppliers; and Emerging risks affecting delivery.
			Employment For the purposes of this reporting 'employees' refers to both employees of the contractor(s) and Recipient employees working directly on the Project. Number of FTEs by occupation category per year; new employees started during the preceding month; total employees employed as at the report date (including new employees); total hours worked by all employees (includes contractors); currently employed employees that are resident locally; currently employed that were previously on Job Seeker Support; and

Report Type	Frequency	Description/Purpose	Information to be provided includes
			 percentage of total employees who are Māori. Physical Works A detailed summary and overview of the physical works undertaken during the reporting period including: Metres of earth works (Stop banks) worked on which work comprises new, strengthened repaired, or increased height; Tonnage of armour rock emplaced; Tonnage of groynes; Pump stations (the number of pump stations which are a work in progress or completed); Metres of revetment work; Floodgates (number of flood gates which are a work in progress or completed); Metres of floodway passage capacity upgraded (vegetation and debris removal); Metres of spillway and sill upgrades being undertaken; Culvert intake/outflow (number of culvert intake/outflows which are a work in progress or completed); and Metres of earth works (Stop banks) worked on (which work comprises vegetation stabilisation and/or erosion control).
Progress Check-In Meeting	Monthly (at a time to be agreed between the Ministry and the Recipient in the month following the Progress report)	Scheduled 1:1 on-site, phone or online meetings with Ministry's Advisor	 Meeting Discussion Topics include: Review monthly project reports; Recipient to advise details on areas of project risk; Recipient to provide details on any advances or payment requests; and Recipient to provide update on milestone achievements, budget changes, media and events.

B. Quarterly Reporting

Report Type	Frequency	Description/Purpose	Information to be provided includes
Quarterly Report	Quarterly to be provided by the 10th Business Day following the end of each quarter and within 20 Business Days of completion of the Project	Submission of relevant documentation or media as evidence of financial position, milestones completed or supplementary proof of project delivery or outcomes.	 Information to be provided includes: A copy of the latest project expenditure to date including, actual against budgeted expenditure and co-funding applied to the project; A copy of the latest available balance sheet, income statement, and cashflow statement; A copy of the latest project asset register; Any project reports, certificates, artifacts gathered as evidence of completed agreed deliverables to date; Any photos, media or marketing related to the delivery or progress of the project to date; Details of contracts entered into and related procurement process; Technical reports; and Board Reports (as related to the project).

C. Project Completion Outcomes Reporting

Report Type	Frequency	Description/Purpose	Examples of Information to be provided
Outcome	Due within 3	Report to summarise	Information to be provided includes:
Report/s	months after Practical Completion of the Project	what has been achieved, any variations from what was expected and other summary information	 Summary of the benefits achieved through the Project; Expected future benefits of the completed project/infrastructure; Any variation from expectations at the start of the project; Photos of the infrastructure completed and the opening event (if there is one); and Any other summary information required.

ANNEX ONE: PROJECT DETAILS

Project name and description	Construction Commencement must be 2025/26 construction season	Completion Date must before end of 2027/28 construction season	Project Cost, plus GST (if any)	Maximum Amount Pay- able	Co-funding
Silver Stream Capacity Improvements Upgrade stopbanks and associated flood resilience works for the Silver Stream, increasing the levels of protection to Mosgiel and East Taieri.	Sep-25	Jun-28	\$800,000	\$480,000	\$320,000
Kaitangata Floodbank Reconstruction Upgrade and reconstruct stopbank infrastructure, providing increased levels of protection to Kaitangata.	Apr-25	Jun-26	\$700,000	\$420,000	\$280,000
Puerua Flood Protection Strengthening Upgrade and repair stopbanks and associated flood resilience infrastructure around the Paretai area between the Clutha River Koau Branch and the Puerua River.	Apr-25	Jun-28	\$1,000,000	\$600,000	\$400,000
Riverbank Road Flood Risk Mitigation Floodbank setback and bank repairs to improve flow capacity of the Clutha River (Matau branch).	Mar-26	Jun-28	\$1,600,000	\$960,000	\$640,000
Total			\$4,100,000	\$2,460,000	\$1,640,000

ANNEX TWO – PROJECT BUDGETS

Silver Stream Capacity Improvements

Milestone	Funding Quarter* and Drawdown Date	Description	RIF funding	Co-funding	TOTAL
1	Q2 2025/2026	Completed design, procurement and complete Phase 1 construction.	\$ 267,067	\$ 178,045	\$ 445,112
2	Q3 2025/2026	Progress Phase 2 construction.	\$ 117,000	\$ 78,000	\$ 195,000
3	Q4 2025/2026	Complete Phase 2 construction and project closeout for RIF funding.	\$ 95,933	\$ 63,955	\$ 159,888
		TOTALS	\$ 480,000	\$ 320,000	\$ 800,000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4

Kaitangata Floodbank Reconstruction

Milestone	Funding Quarter* and Drawdown Date	Description	RIF funding	Co-funding	TOTAL
1	Q2 2025/2026	Signed agreement. Completed detailed design. Initial works on return bank completed.	\$ 79,200	\$ 52,800	\$ 132,000
2	Q3 2025/2026	Continue works on main floodbank and raising road at return bank crossing.	\$ 154,800	\$ 103,200	\$ 258,000
3	Q4 2025/2026	Complete floodbank works and project closeout.	\$ 186,000	\$ 124,000	\$ 310,000
		TOTALS	\$ 420,000	\$ 280,000	\$ 700,000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4

Puerua Floodbank Strengthening

Milestone	Funding Quarter* and Drawdown Date	Description	RIF funding	Co-funding	TOTAL
1	Q2 2025/2026	Signed agreement, initial investigation and high priority repair.	\$ 57,150	\$ 38,100	\$ 95,250
2	Q3 2025/2026	Complete geotechnical investigation Stage 2. Complete detailed design.	\$ 17,400	\$ 11,600	\$ 29,000
3	Q4 2025/2026	Complete Consent and Bylaw applications.	\$ 10,800	\$ 7,200	\$ 18,000
4	Q1 2026/2027	Procure contractor for floodbank works.	\$ 7,200	\$ 4,800	\$ 12,000
5	Q2 2026/2027	Start floodbank remediation construction (2026/27 season).	\$ 47,400	\$ 31,600	\$ 79,000
6	Q3 2026/2027	Continue floodbank remediation construction (2026/27 season).	\$ 120,000	\$ 80,000	\$ 200,000
7	Q4 2026/2027	Complete first season of floodbank remediation construction (2026/27).	\$ 83,400	\$ 55,600	\$ 139,000
8	Q1 2027/2028	Ongoing project management and preparation for next construction season.	\$ 1,800	\$ 1,200	\$ 3,000
9	Q2 2027/2028	Start second season floodbank remediation construction (2027/28 season).	\$ 46,800	\$ 31,200	\$ 78,000
10	Q3 2027/2028	Continue floodbank remediation construction (2027/28 season).	\$ 120,600	\$ 80,400	\$ 201,000
11	Q4 2027/2028	Complete floodbank remediation construction and closeout project.	\$ 87,450	\$ 58,300	\$ 145,750
		TOTALS	\$ 600,000	\$ 400,000	\$ 1,000,000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4

Riverbank Road Flood Risk Mitigation

Milestone	Funding Quarter* and Drawdown Date	Description	RIF funding	Co-funding	TOTAL
1	Q2 2025/2026	Signed agreement.	\$ 3,600	\$ 2,400	\$ 6,000
2	Q3 2025/2026	Geotechnical investigation and preliminary design.	\$ 69,000	\$ 46,000	\$ 115,000
3	Q4 2025/2026	Final design and consent applications.	\$ 24,000	\$ 16,000	\$ 40,000
4	Q1 2026/2027	Complete consenting and award works contract.	\$ 14,400	\$ 9,600	\$ 24,000
5	Q2 2026/2027	Start floodbank construction (season 1 2026/27).	\$ 183,600	\$ 122,400	\$ 306,000
6	Q3 2026/2027	Progress floodbank construction (season 1 2026/27).	\$ 225,600	\$ 150,400	\$ 376,000
7	Q4 2026/2027	Progress floodbank construction (season 1 2026/27).	\$ 35,400	\$ 23,600	\$ 59,000
8	Q1 2027/2028	Progress floodbank construction (season 2 2027/28).	\$ 33,600	\$ 22,400	\$ 56,000
9	Q2 2027/2028	Progress floodbank construction (season 2 2027/28).	\$ 156,600	\$ 104,400	\$ 261,000
10	Q3 2027/2028	Progress floodbank construction (season 2 2027/28.)	\$ 153,000	\$ 102,000	\$ 255,000
11	Q4 2027/2028	Complete floodbank construction and project closeout.	\$ 61,200	\$ 40,800	\$ 102,000
		TOTALS	\$ 960,000	\$ 640,000	\$ 1,600,000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4



REGIONAL INFRASTRUCTURE FUND LOAN AGREEMENT

BETWEEN

MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

AND

OTAGO REGIONAL COUNCIL

FOR

FLOOD RESILIENCE WORK TRANCHE TWO

PART 1: TRANSACTION SPECIFIC TERMS¹

KEY TERMS	
1 Parties	MINISTRY The Sovereign in right of New Zealand, acting by and through the Secretary for the Ministry of Business, Innovation and Employment (Ministry). Borrower Otago Regional Council, a Regional Council listed in Part 1 Schedule 2 of the Local Government Act 2002, NZBN 9429041912362, with registered offices at 70 Stafford Street, Dunedin, 9054 (Borrower).
2 Background	Through Kānoa - Regional Economic Development & Investment Unit (Kānoa), the Ministry is responsible for administering the Regional Infrastructure Fund, which aims to boost productivity, resilience and prosperity in New Zealand's regions, by investing in new and existing infrastructure assets that are used by, and generate benefits for, multiple businesses, organisations or communities. The Borrower has sought a funding contribution from the Ministry for the purposes of the Project described below. The Ministry has agreed to contribute funding by way of a loan on the terms and conditions of this Loan Agreement (Agreement). The transaction specific terms of this Agreement are set out in this Part 1, including some defined terms. Additional defined terms and rules of interpretation and the full general terms and conditions are set out in Part 2.
3 Project	 The Facility must be used for the following purposes. See Annex One for full project names, descriptions, approved funding and secured co-funding: East Taieri Lower Pond structure upgrades: Upgrading stopbanks and flood infrastructure to improve protection for the Lower Taieri flood scheme. Puerua Outfall Structure Upgrades: Two-stage upgrade involving culvert installation and training line strengthening on the Lower Clutha, increasing levels of protection to Balclutha and Kaitangata areas. (the Project)
Facility	
4 Facility Limit	\$2,220,000, ² plus capitalised interest (if any).
5 Loan Drawdown Availability Period	Unless otherwise advised by the Ministry in writing, drawdowns can be made by the Borrower during the period commencing on (and including) the date of Financial Close, to (and including) [31 December 2027 ³] (Availability Period).

Drafting note: Part 1 Transaction Specific Terms to be developed during the evaluation phase.

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Drafting note: The definition of "Facility Limit" is drafted on the basis that Ministerial approvals are for the amount to be advanced under the Loan Agreement. If there is no capitalised interest for the Agreement, delete the words 'plus capitalised interest (if any)'.

Drafting note: Insert last date for drawdown, which is usually 6 months after the scheduled completion date and needs to be before the first repayment is due.

6 Drawdown	The Borrower may draw down the Facility in accordance with clause 3 (Conditions to Advances) of Part 2.
7 Interest Rate	0% per annum for the Period from first drawdown until the 5^{th} Anniversary of first drawdown; and
	[•] per annum for the Period from the 5 th Anniversary of first drawdown until the Maturity Date.
	[this second interest rate will be calculated using the LGFA Rate which means:
	 If the Borrower does not have a credit rating, the prevailing 10 year fixed interest rate offered by the New Zealand Local Government Funding Agency Limited to unrated local authorities; or
	 If the Borrower does have a credit rating, the prevailing 10 year fixed interest rate offered by the New Zealand Local Government Funding Agency Limited to local authorities with that credit rating.]
	(the Interest Rate).
8 Payment of interest:	For each Interest Period, interest at the Interest Rate is payable on the Principal Amount in arrears on the corresponding Interest Payment Date.
	Payment of interest is to be made by direct credit to the bank account nominated by the Ministry and as may be advised from time to time.
9 Default Rate	The Interest Rate, plus 5% per annum.
10 Repayment	Subject to Part 1 Clause 28 (<i>Special Terms – Forgiveness</i>) the Amounts Outstanding under the Facility will be repayable in accordance with the table set out in Schedule 1.
	All Amounts Outstanding must be repaid in full on the Maturity Date.
11 Maturity Date	The date that is 10 years following the first Drawdown Date (the Maturity Date)].
12 Security	The debenture trust deed originally dated [XXXX] as amended from time to time between the [insert trustee name], as trustee and the Borrower, as stock issuer (Debenture Trust Deed); and
	 a Security Stock Certificate in respect of Security Stock to be issued by the Borrower in favour of the Ministry; and
	 [any other document as determined by the Ministry prior to the Ministry's execution of security documentation, required in order to secure or guarantee the Borrower's obligations under this Agreement or required in relation to any other Security Document],
	(each a Security Document and together the Security Documents)].

13 Co-Funding	The Borrower must contribute and/or procure the following co-funding for the Project, which must be at least equal to 40% of the total Project Costs. Any cost overrun must be met by the Borrower. See Annex One for co-funding quantum specific to each Project. (the Co-Funding). ⁴ The Co-Funding must be received and applied by the Borrower in the amounts and on the dates set out in the Project Budget or as otherwise agreed by the Ministry.			
14 Key Personnel	Vov Dorgonnol	Door	acetive Delec	
	Key Personnel	_	pective Roles	
	Richard Saunders	Chief Executive Officer		
	Nick Donnelly	Chief Financial Officer		
	Tom Dyer	General Manager Science and Resilience		
	Brett Paterson	Mana	ager Engineering	
	Michael Burrows	Proje	ect Manager	
15 Land			[address (if available)] as set out in] uildings and improvements on that land	
	Project		Location	
	East Taieri Lower Pond Structure Upgrades			
	Puerua Outfall Structure Upgrades		Clutha River Koau Branch mouth.	
			Section 1 Block XVII Coast SD	
16 Operating	The following documents shall co	nstitute	e Operating Documents: 5	
Documents	• [the [registered] lease over the Land]; and			
	 [insert operating contracts that are essential for the viability of the Project or the Borrower's business, e.g., supply contracts, offtake/purchase agreements]. 			
17 Additional Finance Documents	The following documents shall constitute Additional Finance Documents : ⁶			

Drafting note: Property and in-kind contributions unless agreed otherwise are not considered Co-funding. The total amount of Co-funding by each co-funder will be set out here, while the payment profile for Co-Funding will be set out in the Project Budget.

⁵ **Drafting note**: Delete (or include additional operating documents) as applicable for the relevant transaction.

Drafting note: The Ministry should be a party to each Additional Finance Document; if the Ministry is not a party, the relevant document should be an Operating Document.

	• [•]. ⁷
18 Financial Year	The financial year of the Borrower, ending on [●] (the Financial Year).
19 Additional Permitted Financial Indebtedness.	 Additional permitted financial indebtedness means: any [overdraft,][corporate credit card facility,] [working capital facilities,] [or facilities for the hire purchase or lease of equipment or inventory,] entered into in the ordinary course of the Borrower's business and provided that:
20 Additional Permitted Security	N/A
21 Scheduled Practical Completion Date	June 2027, unless replaced by another date as agreed between the Ministry and the Borrower in writing, (the Scheduled Practical Completion Date).
22 Additional Conditions to Advances	 Additional conditions to advances means: the Borrower is up to date with contract reporting on the progress of the Project and has confirmed that the Cost to Complete Test has been met; the Borrower has provided a schedule of invoices for the claimed costs to be drawn down. (the Additional Conditions to Advances).
23 Additional Undertakings	Legal to advise if additional undertakings required
24 Additional Events of Default	For purposes of clauses 17.4, 17.5, 17.6, 17.7, 17.9, 17.11, 17.12, 17.13, 17.14, 17.16 or 17.17 of Part 2, respectively, references to a "Related Party" shall: • [not apply;] • [refer to a Related Party;] • [refer to [•]].8 [For purposes of clause Error! Reference source not found., "the Borrower" shall

Drafting note: Insert any other documents, other than Security Documents, to which the Ministry is a party with the Borrower or Guarantor

Drafting note: Include additional entities here if certain event of defaults should extend to such entities, e.g. due to their importance in the Project.

	mean Otago Regional Council. ⁹
25 Events of Review	Each of the events and circumstances set out below is an Event of Review:
	 the Project is undertaken at a location other than the Land;
	 unless otherwise agreed by the Parties in writing, the Project is more than 90 days behind the timing detailed in the Milestone Document provided to the Ministry as a Condition Precedent;
	 at any time, the Cost to Complete Test is not satisfied;
	 any of the Events of Default referred to at clauses 17.6 (Insolvency) or Error! Reference source not found. (Cessation of business) (modified as necessary) apply to any counterparty of the Borrower undertaking works in connection with the Project and/or a material subcontractor of such counterparty; and
	 the Borrower fails to meet its obligations under clause 16 (Information Undertakings).
26 Conditions Precedent	The Borrower will deliver the following documents to the Ministry, each in form, substance and manner satisfactory to the Ministry in its sole discretion:
	 a duly executed original of each Transaction Document to which the Ministry is a party;
	 a true copy of each Transaction Document, duly executed, to which the Ministry is not a party;
	 a certificate of the Chief Executive of the Borrower in the form set out in Schedule 3 attaching the documents referred to in that certificate;
	 updated financial forecasts for the Borrower for at least 3 years;
	 written confirmation that all necessary Authorisations have been obtained and copies of those Authorisations;
	a copy of the Project Budget;
	 a completed Workforce Development Plan in a form that is satisfactory to the Ministry;
	 evidence that each of the conditions precedent has been satisfied and that such Project Agreement is unconditional, except for those conditions precedent that can only be satisfied contemporaneous with specified Advances;

Drafting note: Include entities with regard to which a Change in Control without the Ministry's consent shall constitute an Event of Default (e.g., to be considered if a parent company provides a guarantee).

- establishment of the Project Account with a bank acceptable to the Ministry;¹⁰
- evidence that all Co-Funding is unconditionally committed and that all amounts of Co-Funding that must be contributed before the first Drawdown Date have been paid into the Project Account¹¹;
- a document detailing the key milestones of the Project and corresponding dates for each milestone (the Milestones Document);
- copies of certificate(s) of currency confirming that the insurances required to be taken out in accordance with this Agreement have been taken out and are in full force and effect as at the date of this Agreement and that the Ministry's interest is noted if required by the Ministry;
- all searches and title documents to the satisfaction of the Ministry; and
- such other document, assurance or information as the Ministry may, by notice to the Borrower, require,

(together the Conditions Precedent).

It will also be a Condition Precedent that the Ministry has obtained all necessary approvals to enter into the Finance Documents, including:

- the approval of the relevant Ministers of the Crown; and
- approvals under any relevant legislation, including the Public Finance Act 1989.

These Conditions Precedent must be satisfied by the date that is six months following the signing of the contract by the Ministry, unless otherwise agreed in writing with the Ministry (the **Expiry Date**).

27 Special Terms - Forgiveness

Subject to the Borrower:

- completing the Project in accordance with this Agreement (including any necessary certifications by independent appropriate professionals); or
- being unable practically, economically or otherwise to complete the Project in accordance with the Agreement due to a significant weather event affecting the Project works before the Project is completed;

the Borrower may provide to the Ministry, in a form satisfactory to the Ministry on or prior to the Maturity Date, a written request, signed by a person authorised to act for the Borrower, requesting that the Ministry cancel the Facility and/or write-off some or all Amounts Outstanding as the circumstances require. Such, written request shall confirm:

RIF Loan Agreement template for Council as Borrower

Drafting note: Delete if not necessary for the Project – and delete references to it in Part 2 colour coded [grey].

Drafting note: Delete part in square brackets if no Project Account.

SIGNATURES	SIGNED for and on behalf of the	SIGNED for and on behalf of the
29 Address for Notices	To the Ministry: 1 Bowen Street PO Box 1473 Wellington 6140 Attention: Kānoa Email: KanoaMonitor@mbie.govt.nz	To the Borrower: Otago Regional Council 70 Stafford Street Private Bag 1954 Dunedin 9054 Attention: Engineering Email: engineering@orc.govt.nz
28 Contact Person	The Ministry may not decline a Cancellatic requirements of this clause for reason of requirements. Ministry's Contact Person: Name: Jason Leppens Email: Jason.Leppens@mbie.govt.nz Telephone: 027 457 8532 Kānoa Contract Number: [•]	
	 that the Project is complete or that the Borrower is unable practically, economically or otherwise to complete the Project in accordance with the Agreement due to a significant weather event; and contain a comprehensive report from the Borrower in support of the written request. (a Cancellation Request) If the Borrower provides a cancellation Request that complies with the requirements of this clause, and the Ministry verifies that the stated conditions have been met, the Ministry shall cancel the Facility and/or write off the Amounts Outstanding in respect of the completed Project and/or any uncompleted Project affected by a severe weather event. Upon such cancellation write-off, the Borrower will have no further obligations under this Agreement in respect of the affected Project. The Ministry will advise the Borrower of its decision in writing within a reasonable timeframe and will release all relevant Security Documents as soon practicable. 	

RIF Loan Agreement template for Council as Borrower

by the person named below, being a person duly authorised to enter into obligations on behalf of the Ministry of Business, Innovation and Employment:	BORROWER by the persons named below, being duly authorised to enter into obligations on behalf of the Borrower:
Name: Position: Date:	Name: Richard Saunders Position: Chief Executive Date:

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PART 2: GENERAL TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Part 1 Definitions

In this Agreement, capitalised terms defined in Part 1 or any schedule to this Agreement shall have the meanings given to them in Part 1 or that schedule, as applicable.

1.2 **Definitions**

In this Agreement, unless the context requires otherwise:

Act means the Local Government Act 2002.

Advance means each loan advance made or to be made available to, or at the request of, the Borrower under the Facility or, as the context may require, the principal amount of that Advance outstanding from time to time.

Amounts Outstanding means, at any date, the Principal Amount, together with any accrued and unpaid interest and other amounts then due and payable by the Borrower to the Ministry.

Authorisation means:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a Governmental Agency or required by any law (including any consent under the Resource Management Act 1991); or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Business Day means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003;

Chief Executive means the chief executive of the Borrower.

Cost to Complete Test means, on any date, that the aggregate of the amounts of the Facility and the Co-Funding (including Co-Funding which has been contractually committed but not provided to the Borrower) which, in each case, are available to the Borrower on that date and have not been applied to pay Project Costs exceeds the aggregate amount of all costs payable or reasonably expected to be payable to complete the Project, as at that date.

Default means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Transaction Documents or any combination of any of the foregoing) be an Event of Default.

Distribution means a distribution as defined in section 2 of the Companies Act 1993, and includes any reduction of capital (including a redemption by a company of its own shares),

RIF Loan Agreement 1

any acquisition by a company of any share in itself or in its holding company, and any financial assistance provided by a company to enable another person to acquire any such share.

Drawdown Date means the date of an Advance, being the date on which an Advance is or is to be made.

Drawdown Notice means a notice substantially in the form set out in Schedule 1 (Drawdown Notice).

Environmental Law means any law or regulation relating to the environment, land or water use, noise, smell, pollution or contamination, toxic or hazardous substances, waste disposal or conservation (including the Resource Management Act 1991) and any Authorisation, consent or notice under any such law.

Event of Default means event or circumstance specified as such in clause 17 (Events of Default).

Facility means the loan facility made available on the terms of this Agreement, as set out in Part 1.

Finance Documents means:

- (a) this Agreement;
- (b) any Drawdown Notice;
- (c) each Security Document;
- (d) any Additional Finance Document; and
- (e) any other document designated as a Finance Document by the Ministry.

Financial Close means the date on which the Ministry issues the confirmation referred to in clause 3.1 (Conditions Precedent).

Financial Indebtedness means any indebtedness (whether present or future, actual or contingent) for or in respect of:

- (a) any money borrowed or raised by any means (including amounts owing under any finance lease, any redeemable shares, and any deferred payment for the acquisition of assets or services payable more than 90 days after acquisition) and debit balances with banks or financial institutions;
- (b) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value must be taken into account);
- (c) any guarantee, security or other commitment designed to assure any creditor against loss in respect of any Financial Indebtedness described in paragraphs (a), (b), (d) and (e) of this definition;

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- (d) any indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; or
- (e) any other financial accommodation.

GAAP means generally accepted accounting principles in New Zealand that are applicable to the Borrower.

Governmental Agency means any government or governmental, intergovernmental, supranational, semi-governmental or judicial entity or authority including any local council or regional authority, any agency or department, any self-regulatory body or organisation established under statute, any stock exchange and any other regulatory, monetary or accountancy body.

GST means goods and services tax under the Goods and Services Tax Act 1985 and any other tax of a similar nature.

Insolvency Event means, in relation to any person:

- (a) a statutory manager is appointed or any step is taken to appoint, or with a view to appointing, a statutory manager (including a recommendation in that regard by the Financial Markets Authority or any other governmental agency) under the Corporations (Investigation and Management) Act 1989, or an associated person (as that term is defined in the Corporations (Investigation and Management) Act 1989 of it is declared at risk pursuant to the provisions of the Corporations (Investigation and Management) Act 1989;
- (b) except for the purpose of a solvent reconstruction or amalgamation on terms approved in writing by the Ministry, an application or an order is made, proceedings are commenced, a resolution is passed or an application to a court is made (other than any frivolous or vexatious application, proceeding or resolution which is withdrawn or dismissed within 10 Business Days) for the winding up or dissolution of that person;
- (c) an application is made (other than any frivolous or vexatious application, proceeding or resolution which is withdrawn or dismissed within 10 Business Days) to a court for an order appointing a liquidator or provisional liquidator in respect of that person, or one of them is appointed, whether or not under an order;
- (d) that person is declared or states that it is insolvent, is unable to pay its debts when they fall due or is presumed unable to pay its debts in accordance with section 287 of the Companies Act 1993;
- (e) except for the purpose of a solvent reconstruction or amalgamation on terms approved in writing by the Ministry, that person ceases, suspends or threatens to cease or suspend the conduct of all or substantially all of its business or disposes of or threatens to dispose of substantially all of its assets;
- (f) except for the purpose of a solvent reconstruction or amalgamation on terms approved in writing by the Ministry, that person enters into, or resolves to enter

into, a scheme of arrangement, administration, compromise or composition with or assignment for the benefit of its creditors or a class of them;

- (g) that person stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (h) an order is made requiring that person to pay any debts of another person that is in liquidation;
- (i) any step is taken for the appointment of a receiver, receiver and manager or similar officer of it or all or any of its assets and undertakings or an encumbrancer takes possession of, or a receiver or receiver and manager is appointed to, all or substantially all of the assets and undertakings of that person or any part thereof;
- a distress, expropriation, attachment or other execution is levied or enforced upon, or commenced (other than any frivolous or vexatious application, proceeding or resolution which is withdrawn or dismissed within 10 Business Days) against all or substantially all of the assets of that person and is not discharged or stayed within 10 Business Days; or
- (k) anything analogous or having a substantially similar effect to any of the events specified above occurs with respect to that person under the laws of any applicable jurisdiction.

Interest Payment Date means, with respect to each Interest Period (other than the last Interest Period), the date that is the last day of that Interest Period and, in the case of the last Interest Period, the Maturity Date.

Interest Period means each period from 1 January to 31 March (inclusive), 1 April to 30 June (inclusive), 1 July to 30 September (inclusive) and 1 October to 31 December (inclusive) of each year, and:

- (a) in the case of the first Interest Period, the period from the first Drawdown Date to the last day (inclusive) of the Interest Period in which the first Drawdown Date falls; and
- (b) the last Interest Period will end on the Maturity Date.

Material Adverse Effect means a material adverse effect on:

- (a) the business, operation, property, prospects or condition (financial or otherwise) of the Borrower;
- (b) the ability of the Borrower to observe or perform its obligations under any Transaction Document; or
- (c) the Ministry's rights or remedies under, or the validity or enforceability of, or the intended priority of any security held by the Ministry under, any Finance Document,

and Material Adverse Change is to be construed accordingly.

Material Variation means any variation which on its own or together with any other variation or variations results in, or is likely to result, in the Project Budget (taking into account all variations) being exceeded or the Project being materially delayed, or any variation that amends the scope, specifications or function of the Project [in any material respect].

Part 1 means part 1 (Transaction Specific Terms) of this Agreement.

Part 2 means part 2 (General Terms and Conditions) of this Agreement.

Permitted Disposal means a disposal:

- (a) made in the ordinary course of business of the disposing entity;
- (b) required by law;
- (c) on arm's length terms of assets in exchange for other assets comparable or superior as to type, value and quality;
- (d) of worn out or obsolete assets on arm's length terms; or
- (e) any other disposals agreed to in writing by the Ministry.

Permitted Financial Indebtedness means:

- (a) any Financial Indebtedness that has been notified to the Ministry prior to the date of this Agreement and that the Ministry has consented to in writing;
- (b) Financial Indebtedness under the Finance Documents;
- (c) any Additional Permitted Financial Indebtedness, if any is specified in Part 1; and
- (d) any other Financial Indebtedness incurred with the prior written consent of the Ministry.

Permitted Security means:

- (a) any security that has been notified to the Ministry prior to the date of this Agreement and that the Ministry has consented to in writing;
- (b) any security under the Finance Documents;
- (c) any security created with the prior written consent of the Ministry;
- (d) any security in relation to personal property acquired by a person in the ordinary course of business, and which is given by a buyer in favour of a seller of the personal property, secures (and only secures) all or part of the purchase price for the personal property and is discharged within 60 days of its creation;
- (e) any lien arising by operation of law and in the ordinary course of business, provided that the debt secured by it is not overdue;

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- (f) any cash management, netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements;
- (g) any security in relation to personal property that is created or provided for by:
 - (i) a transfer of an account receivable or chattel paper;
 - (ii) a lease for a term of more than 1 year; or
 - (iii) a commercial consignment,

that does not secure payment or performance of an obligation; and

(h) any Additional Permitted Security, if any is specified in Part 1.

Practical Completion means the date on which the Borrower provides to the Ministry a certificate, in a form and attaching evidence satisfactory to the Ministry (in its sole discretion), certifying that the Project is practically complete and is ready for commercial operations.

Principal Amount means, at any date, the aggregate principal amount of all Advances outstanding as at that date plus all capitalised interest (if any).

Project means all of the project works as set out in Part 1, Clause 3 of this Agreement and, for the purposes of Part 1 Clause 27 (Special Terms – Forgiveness) each project within the Flood Resilience Tranche 2.

Project Agreement means any:

- (a) contract relating to the acquisition of assets for the purpose of the Project; and
- (b) design, construction or building contract relating to the Project;
- (c) any other contract agreed by the Ministry and the Borrower.

Project Budget means a breakdown of budgeted cashflows and costs relating to the Project broken down on a monthly basis in the form approved by the Ministry as a Condition Precedent or as subsequently varied with Ministry approval. The budget must include details of all Co-Funding, a breakdown of when and how the Co-Funding and amounts drawn under the Facility will be applied in order to meet Project costs and a provision of an acceptable level of contingency sums.

Project Costs means the total costs of the Project as set out in the Project Budget.

Related Party means, in relation to the Borrower, and subject to Part 1:

- (a) any Subsidiary of the Borrower;
- (b) any company which is related (as defined by section 2(3) or 2(4) of the Companies Act 1993) to the Borrower or any Subsidiary of the Borrower, any shareholder of the Borrower and any director of the Borrower and, in relation to any such shareholder

- or director, any relative of that person as defined in section 2(1) of the Companies Act 1993; and
- (c) any company which is related (as defined by section 2(3) or 2(4) of the Companies Act 1993, as if the Borrower were a company) to the Borrower or any Subsidiary of the Borrower.

Subsidiary means any company or entity that is:

- (a) a subsidiary (as defined in section 5 of the Companies Act 1993) of the Borrower; or
- (b) considered, in accordance with GAAP, to be a subsidiary or an "in substance subsidiary" of the Borrower.

Transaction Document means:

- (a) each Finance Document;
- (b) each Project Agreement;
- (c) each Operating Document; and
- (d) any other document designated as such in writing by the Ministry and the Borrower.

Workforce Development Plan means a detailed work force development plan to be prepared in a form that is satisfactory to the Ministry and the Ministry of Social Development and shall include the following minimum criteria:

- (a) Workforce requirements by role (experience, qualifications and performance expectations);
- (b) Commitment to register vacancies with the Ministry of Social Development; and
- (c) Commitment to:
 - (i) prioritise and employ New Zealanders from the Jobseeker Register; and
 - (ii) work with the Ministry of Social Development to enable it to actively refer and support relevant candidates; and
- (d) A commitment to work collaboratively with the Ministry and Ministry of Social Development to enable their active and ongoing support with the development and delivery of the Workforce Development Plan and related reporting required under this Agreement.

1.2 References

In this Agreement, unless the context requires otherwise:

an agreement includes a contract, deed, licence, undertaking and other agreement or legally enforceable arrangement (in each case, whether or not in writing, present and

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future), and includes that agreement as amended, assigned, novated or substituted from time to time, except to the extent prohibited by a Transaction Document;

assets or property includes the whole and any part of the relevant person's business, assets (including leased assets), undertaking, revenues and rights (in each case, present and future), and reference to any property includes any legal or equitable interest in it;

costs or expenses includes all expenses, losses, claims, costs (including legal costs on a solicitor and own client basis), disbursements, taxes, travel expenses, out of pocket expenses, commissions, charges and audit, investigative or administrative costs;

disposal includes any sale, assignment, exchange, transfer, loan, lease, surrender of lease, licence or parting with possession of, or the granting of any option, right of interest, the payment of money (including a distribution by way of dividend) or any agreement for any of the foregoing (but excludes any such transaction which is a security), and acquisition and acquire are to be construed accordingly;

financial statements means the financial statements of the Borrower;

guarantee includes any indemnity, letter of credit, letter of comfort, bond, suretyship or other agreement, the economic effect of which is to provide security, or otherwise assume responsibility, for the indebtedness, obligations, solvency or financial condition of another person;

indebtedness includes any obligation (whether present or future, actual or contingent, secured or unsecured, joint or several, as principal, surety or otherwise) relating to the payment of money;

loss includes loss of profit and loss of margin;

a *person* includes any individual, a body corporate, an association of persons (whether corporate or not), a trust, government, a state or agency of a state and any other entity (in each case, whether or not having separate legal personality) or two or more of them and any reference to a particular person or entity includes a reference to that person's or entity's executors, administrators, successors, substitutes (including by novation) and assigns;

a *regulation* includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any Governmental Agency, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

right includes any consent, power, remedy, authority, discretion or cause of action;

security includes:

(a) any present or future mortgage, charge, encumbrance, lien, pledge, finance lease, sale and lease-back, sale and repurchase, flawed asset arrangement, title retention arrangement, charge or similar interest imposed by statute, or any other arrangement of any nature having similar economic effect to a security; and

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(b) any present or after acquired interest in personal property that is a security interest for the purposes of the Personal Property Securities Act 1999,

and security interest is to be construed accordingly;

shareholder has the meaning given to that term in the Companies Act 1993.

tax includes any present or future tax, levy, impost, duty or other charge, deduction or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) imposed, assessed or levied by or on behalf of any Governmental Agency; and

writing includes an email communication and any means of reproducing words in a tangible and permanently visible form.

1.3 Construction

In this Agreement:

- (a) where the Ministry's consent or approval is required under this Agreement such consent or approval shall not be unreasonably withheld;
- (b) unless a contrary indication appears, a reference to a time of day is a reference to New Zealand time;
- (c) headings and the table of contents are for ease of reference only;
- (d) \$, NZ\$ and NZ dollars denote the lawful currency of New Zealand;
- (e) the singular includes the plural and vice versa;
- (f) a reference to *including*, *for example* or *such as*, when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (g) a Default and/or Event of Default is continuing until it has been waived in writing by, or remedied to the satisfaction of, the Ministry;
- (h) a party to this Agreement or another agreement includes its successors and its permitted assigns and transferees;
- (i) any legislation includes a modification and re-enactment of, legislation enacted in substitution for, and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation; and
- (j) if a clause in this Part 2 refers to a transaction specific term in Part 1 that is not detailed then any reference to the term in such clause of Part 2, but only to the extent of such term, shall be deemed not to apply.

2 THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement, the Ministry makes available to the Borrower a term loan facility in an aggregate amount equal to the Facility Limit (the **Facility**).

2.2 Purpose

The Borrower must apply all amounts borrowed by it under the Facility to pay:

- (a) Project Costs in accordance with the Project Budget; and
- (b) any other costs approved in writing by the Ministry.

3 **CONDITIONS OF ADVANCES**

3.1 Conditions Precedent

The Borrower may not deliver any Drawdown Notice unless the Ministry has received (or waived the requirement to receive) all of the documents and other evidence listed as Conditions Precedent. The Ministry will notify the Borrower promptly on being so satisfied.

3.2 Conditions to Advances

The Ministry will only be obliged to make an Advance available if, on the date the Drawdown Notice is received and on the proposed Drawdown Date:

- (a) all reporting required to be delivered to the Ministry in accordance with clause 16 (*Information Undertakings*) has been received in form and substance satisfactory to the Ministry and any questions that the Ministry has in relation to that reporting has been satisfactorily answered by the Borrower or its advisors (as applicable);
- (b) no Event of Default or Default is continuing or would be likely to result from the proposed Advance;
- (c) each representation in clause 11 (*General Representations*) is true in all respects and not misleading;
- (d) immediately after the Advance is made, the principal amount of all Advances made under the Facility will not exceed the Facility Limit;
- (e) the Borrower has certified that the Cost to Complete Test is met as at the date of the Drawdown Notice and will be met as at the Drawdown Date; and
- (f) certification from the Chief Executive that the requested Advance will be applied in accordance with clause 3 (*Project*);
- (g) certification from the Chief Executive that all agreed Co-Funding has been received and applied in accordance with the Project Budget; and
- (h) any Additional Conditions to Advances, if any are specified in Part 1, have been met to the satisfaction of the Ministry.

4 **PAYMENT**

4.1 Delivery of a Drawdown Notice

The Borrower may utilise the Facility by delivery to the Ministry of a duly completed Drawdown Notice not later than 12.00pm on a Business Day that is at least eleven Business Days prior to the proposed Drawdown Date. The Drawdown Notice must be submitted to Kanoamonitor@mbie.govt.nz and copied to the Ministry's Contact Person.

4.2 Completion of a Drawdown Notice

The Drawdown Notice is irrevocable (unless otherwise agreed by the Ministry) and must specify all matters as specified in the form of Drawdown Notice in Schedule 1 (*Drawdown Notice*), in accordance with the instructions in such form.

4.3 **Availability**

The Borrower may not request any more than one Advance (being a minimum of \$100,000) under a Facility in any three month period unless otherwise agreed with the Ministry.

4.4 Consolidation of Advances

On each Drawdown Date, the Advance made on that date will be consolidated and treated as a single Advance with each other Advance.

5 REPAYMENT, PREPAYMENT AND CANCELLATION

5.1 Repayment of Amounts Outstanding

The Borrower must repay the Amounts Outstanding under the Facility at the times and in the manner specified in Part 1.

5.2 Voluntary cancellation

The Borrower may, if it gives the Ministry not less than three Business Days (or such shorter period as the Ministry may agree) prior notice, cancel the whole or any part (being a minimum amount of \$10,000) of the unused portion of a Facility.

5.2 Voluntary prepayment of Principal Amount

The Borrower may, if it gives the Ministry not less than three Business Days (or such shorter period as the Ministry may agree) prior notice, prepay the whole or any part of the Principal Amount (but, if in part, being an amount not less than \$10,000 or such other amount as the Ministry may agree).

5.3 **Application of Payments**

Any amount repaid or prepaid will be applied in the following order:

- (a) first, to the payment of interest accrued and payable but remaining outstanding;
- (b) secondly, to the extent of any balance, to the payment of any scheduled repayments of the Principal Amount that have become payable but remain outstanding:
- (c) thirdly, in respect of prepayments only, to the extent of any balance, to the payment of interest accrued but not yet payable on the Principal Amount prepaid; and

(d) fourthly, to the extent of any balance, to the payment of any repayments of the Principal Amount scheduled for after the date of such prepayment, and as between such scheduled repayments, from the earliest to the latest repayment date.

5.4 Restrictions

- (a) Any notice of cancellation or prepayment given by the Borrower under this clause 5 must be irrevocable and must specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement must be made together with accrued interest, if any, on the amount prepaid.
- (c) No amounts repaid or prepaid under this Agreement may be re-borrowed.
- (d) The Borrower must not repay or prepay all or any part of the Principal Amount or cancel all or any part of a Facility except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of a Facility cancelled under this Agreement may be subsequently reinstated.

5.5 **Mandatory Prepayment**

The Borrower must pay to the Ministry the proceeds of insurance claims (other than claims in respect of business interruption, public liability, personal injury, directors and officers liability, other third party liability and workers compensation insurance), net of:

- (a) tax incurred or reserved for or in respect of the claim or the event giving rise to the claim;
- (b) closure, removal, relocation, reorganisation and restructure costs incurred prior to, in connection with or as a consequence of the claim or the event giving rise to the claim; and
- (c) all other reasonable costs associated with the claim or the event giving rise to the claim,

within six months after receipt of the same, to the extent that those proceeds are not committed to be applied to:

- (d) reinstate or replace assets in respect of which those moneys were received;
- (e) to meet a liability in respect of which those moneys were received; or
- (f) to pay to its senior lenders to the extent the Borrower is required to do so in accordance with the relevant facility agreement,

and, if so committed, applied within 12 months of receipt.

6 **INTEREST**

6.1 Payment of interest

The Borrower must pay accrued interest on the Principal Amount under the Facility at the times and in the manner specified in Part 1.

6.2 Accrual

- (a) Interest on the Principal Amount will accrue from (and including) the first Drawdown Date to (but excluding) the date on which all Amounts Outstanding are repaid in full, at the rate and in the manner specified in Part 1.
- (b) Interest will accrue daily on the Principal Amount and will be calculated on the basis of a year of 365 days and the actual number of days elapsed in the relevant Interest Period.

6.3 **Default interest**

If the Borrower does not pay, when due, an amount payable by it under a Finance Document, then, without prejudice to its other obligations, the Borrower will pay interest on that overdue amount (including interest payable under this clause) calculated from its due date to the date of its receipt by the Ministry (after as well as before judgment), compounded and payable at intervals set out at Part 1 or otherwise as selected by the Ministry at its discretion. This obligation to pay default interest arises without the need for a notice or demand. The rate of default interest will be the Default Rate.

7 TAXES

If any supply by the Ministry to the Borrower in relation to any Finance Document will, at the time of supply, be subject to GST, the Borrower will pay to the Ministry an amount equal to the applicable GST in addition to the consideration for that supply.

8 INTELLECTUAL PROPERTY

- 8.1 The Ministry acknowledges that the Borrower and its licensors own all pre-existing intellectual property which they contribute to the Project, and all new intellectual property which they create in the course of the Project.
- 8.2 The Borrower grants an irrevocable, perpetual, royalty-free, sub-licensable licence to the Ministry to use all reports provided by the Borrower under this Agreement.
- 8.3 If the Ministry Transfers (as defined in clause 19.2) this Agreement in accordance with clause 19 (*Assignment*), the Borrower grants, on and from the effective date of such Transfer (as defined in clause 19.2), an irrevocable, perpetual, royalty-free, sub-licensable licence to the Ministry to use all reports provided by the Borrower under this Agreement.
- 8.4 The Borrower warrants that it has obtained (or will obtain, prior to creation of each relevant work) all rights and permissions necessary to enable the grant and exercise of the licence in clauses 8.2 and 8.3 without infringing the intellectual property rights of any third party.

9 **INDEMNITIES**

9.1 Indemnities

The Borrower must, within three Business Days of demand, indemnify the Ministry against any cost, loss or liability incurred by the Ministry as a result of:

- (a) the occurrence or continuance of a Default;
- (b) a failure by the Borrower to pay any amount due under a Finance Document on its due date or in NZ\$;
- (c) acting or relying on any notice, request or instruction (including by way of email communication) in relation to the Borrower or the Project which the Ministry believes to be genuine, correct and appropriately authorised;
- (d) the Borrower's, or any of its personnel or subcontractors', or any Related Party's negligence, wilful default, fraud or dishonesty; or
- (e) the Borrower, or any of the Borrower's personnel or subcontractors, or any Related Party holding itself or themselves out as acting on behalf of the Ministry.

9.2 **Survival of indemnities**

The above indemnities survive the termination of this Agreement and payment of all indebtedness due under the Transaction Documents.

10 COSTS AND EXPENSES

- 10.1 The Borrower will promptly, and within three Business Days of demand, pay the Ministry all legal fees and other costs and expenses incurred by the Ministry in connection with:
 - (a) to the extent pre-agreed in writing by the Borrower and the Ministry, the review, preparation, negotiation, execution and registration of each Transaction Document;
 - (b) each amendment to, waiver or consent in respect of, or discharge of, a Transaction Document; and
 - (c) the exercise, protection, investigation or enforcement of the Ministry's rights under a Transaction Document.
- 10.2 No fees are payable by the Borrower to the Ministry where prepayments are made in accordance with clause 6 of this Part 2.

11 GENERAL REPRESENTATIONS

The Borrower makes the representations and warranties set out in this clause 11 to the Ministry.

11.1 Status

It is a regional council for the purposes of schedule 2 of the Act with power, capacity and authority to own its assets and carry on its business as it is being conducted.

11.2 Binding obligations

Its obligations under each Transaction Document are legal, valid, binding and enforceable obligations subject to general principles of law relating to enforceability of documents.

11.3 Compliance with the Act

For the purposes of section 117 of the Act, the entry into and performance by it of, and the transactions contemplated by, the Transaction Documents:

- (a) complies with the Act;
- (b) does not contravene any provision of the Act;
- (c) is within its capacity, rights and powers; and
- (d) is for a purpose authorised by either the Act or another act.

11.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents and the transactions contemplated by those Transaction Documents.

11.5 Authorisations

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents;
- (b) in relation to the validity and enforceability of the Transaction Documents; and
- (c) for it to conduct its business, trade and ordinary activities,

have been obtained or effected and are in full force and effect (or, in each case, will be when required).

11.6 Ownership

Except as otherwise notified to the Ministry on or before the date of this Agreement, it is, and will at all times be, the sole legal and beneficial owner of all assets that are used in connection with the Project except to the extent such assets are subject to a Permitted Security Interest.

11.7 No Default

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Advance.
- (b) No other event or circumstance is existing or outstanding which constitutes a default under any Transaction Document.

11.8 Full disclosure

(a) It is not aware of any facts relating to it, the Transaction Documents or the Project nor any other matter in connection with them, which would, or would be

reasonably likely to, adversely affect the decision of the Ministry in entering into the Finance Documents and providing the Facility that have not been disclosed to the Ministry in writing.

(b) It has disclosed to the Ministry all matters known to it (relating to the Project, it or its personnel) that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry.

11.9 Financial statements

- (a) Its latest annual financial statements as delivered to the Ministry:
 - (i) include those most recently prepared for the last period and as at the last date for which financial statements have been prepared, and include copies of all documents required by law to accompany them;
 - (ii) were prepared in accordance with GAAP consistently applied unless disclosed to the Ministry in writing to the contrary;
 - (iii) give a true and fair view of its financial condition and operations as at the date and for the period to which they relate;
 - (iv) discloses or provides for all liabilities, obligations or commitments (contingent or otherwise) as at the date of the financial statements including all costs (unrealised or anticipated) associated with the absolution of all liabilities, obligations or commitments (contingent or otherwise);
 - (v) include a true and complete copy of any auditor's report, if the Borrower's financial statements are audited; and
 - (vi) are signed by the Borrower's chief executive officer.
- (b) There has been no Material Adverse Change since the last date as at which the latest annual financial statements were prepared, or, to the extent no financial statements have been prepared, since the date of this Agreement.

11.10 Pari Passu

The Borrower's obligations under this Agreement will rank at least *pari passu* with its other unsecured obligations, subject to any obligations preferred by law.

11.11 Not trustee

Except as disclosed to the Ministry prior to the date of this Agreement, it is not a trustee of any trust or settlement and it does not enter into any Transaction Document, or hold any property, as a trustee.

11.12 No breach of laws

It is not in breach of any law binding upon it, and it is in compliance in all material respects with all applicable consents and Authorisations and other requirements (including any certificates of compliance, resource and buildings consents and orders).

11.13 Transaction Documents

(a) Each representation given by the Borrower in each Transaction Document is true.

- (b) There are no side agreements or variations in relation to any Transaction Document other than those disclosed to, and consented to by, the Ministry.
- (c) Each Transaction Document has been entered into for fair market value and all obligations under each Transaction Document are on arm's length commercial terms.

11.14 No Notices

To the best of its knowledge, no notices, orders or planning proposals have been issued in respect of the Land by any local body, government or other authority having jurisdiction in respect of the Land other than notices the requirements of which have been complied with or have been disclosed to the Ministry.

11.15 Environmental Law

To the best of its knowledge there are no circumstances which have given rise, or may give rise, to a material claim against it, a requirement of material expenditure or a requirement to cease or vary any material activity under or as a result of any Environmental Law or any consents and approvals required under such law.

12 REPRESENTATIONS CONTINUING

12.1 Representations continuing

The representations in clause 11 will be deemed to be repeated on each Drawdown Date and on each Interest Payment Date so long as this Agreement remains in effect by reference to the facts and circumstances then existing, except that each reference to financial statements is to be construed as a reference to the latest available financial statements of the Borrower.

13 **GENERAL UNDERTAKINGS**

13.1 Authorisations

The Borrower must promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) on request by the Ministry, supply certified copies to the Ministry of,

any Authorisation required under any law or regulation of New Zealand to enable it to perform its obligations under the Transaction Documents required in respect of, and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation, of any Transaction Document.

13.2 **Compliance with laws**

The Borrower must duly and promptly comply with all laws and Authorisations applicable to it.

13.3 Transaction Documents

The Borrower must comply with its obligations under each Transaction Document to which it is a party.

13.4 Conduct of business

- (a) The Borrower must pay all its Financial Indebtedness when due.
- (b) The Borrower must keep proper books of account recording its business and activities to a standard required of a prudent operator in equivalent circumstances.

13.5 Maintenance of status

Subject to clause 19.1, the Borrower must do all things necessary to maintain its status as a regional council under Schedule 2 of the Act.

13.6 Insurance

The Borrower shall:

- (a) insure and keep insured (with reputable insurers acceptable to the Ministry (acting reasonably)) all its insurable assets (including its inventory) against loss or damage by such causes as should be insured against (including earthquake, explosion, theft, fire and flood protection) in accordance with good commercial practice (for example public liability insurance, building and improvements full replacement/reinstatement insurance and business continuity/interruption insurance);
- (b) promptly deliver to the Ministry a copy of each certificate of currency, each insurance policy undertaken in accordance with this clause and any variations made from time to time if requested by the Ministry;
- (c) promptly pay when due all premiums and other amounts and do all other things necessary to maintain the insurances, and not do anything or permit anything to be done, or not done, which would prejudice any of the insurances required by the Transaction Documents or any claims thereunder;
- (d) as soon as practicable after becoming aware of the same, notify the Ministry of any proposed cancellation of an insurance policy or reduction in the amount payable under any insurance policy;
- (e) immediately rectify any matter, thing or circumstance that is likely to materially prejudice any of the policies; and
- (f) apply all claim proceeds to the extent that the proceeds are in respect of the Project at all times to reinstate the relevant asset, unless otherwise approved by the Ministry or in accordance with clause 5.5 (Mandatory Prepayment).

13.7 Information to be true

The Borrower undertakes to the Ministry that:

- (a) all information provided by it to the Ministry (including in connection with the Transaction Documents or the Project and whether before or after the date of this Agreement) was and will be true, complete and accurate in all material respects as at the date that information was and will be provided;
- (b) it has not omitted and will not omit to state any fact or circumstance that would make that information untrue or misleading in any material respect; and

(c) all projections and forecasts made by it have been and will be prepared in good faith and on the basis of information and assumptions believed by it to be reasonable.

13.8 Environmental Laws

The Borrower must:

- inform the Ministry of any material breach of an Environmental Law, or any notice or order received by it under an Environmental Law, that could affect it or its assets; and
- (b) if the Ministry has reasonable cause to believe that the Borrower is in breach of any Environmental Laws, provide the Ministry on request with environmental audits and reports in respect of its property, in a form and from an independent consultant acceptable to the Ministry; if such audit and report show no breach of any Environmental Law, the Ministry shall reimburse the Borrower for any reasonable costs incurred by the Borrower in the preparation of such audits and reports, while in all other cases, the Borrower shall pay such costs.

13.9 Change of business

The Borrower will not engage in any business or activity other than its ordinary business or those directly related to the Project unless approved by the Ministry.

13.10 Key Personnel

The Borrower will ensure that the Key Personnel undertake their respective roles in connection with the Project as specified in Part 1, except as otherwise approved in writing by the Ministry. If any Key Personnel become unavailable to perform their role, the Borrower must promptly notify the Ministry and arrange replacement Key Personnel acceptable to the Ministry within 20 Business Days.

13.11 Project Meetings

- (a) If requested in writing by the Ministry, the Borrower will:
 - (i) provide reasonable notice to the Ministry of all Project management group meetings and Project governance group meetings; and
 - (ii) provide copies of all documents and notices to be tabled at the Project management group meetings and Project governance group meetings to the Ministry no later than a reasonable period prior to the meetings, and the minutes of those meetings within a reasonable period after each meeting.
- (b) The Ministry may appoint observers who will be entitled to attend and speak at all Project management group meetings and Project governance group meetings (but will not be entitled to vote on any matter at those meetings).

13.12 Inspections and Site Visits

The Borrower must allow each of the Ministry, and any Independent Technical Expert (if appointed and as determined by the Ministry) and each of their representatives:

(a) to inspect the Land and/or the any asset used in connection with the Project on reasonable notice from the Ministry to the Borrower, and during usual business hours unless otherwise agreed by the Parties; and

(b) to attend any meetings relating to the Project between the Borrower and any person which the Ministry and/or the relevant Independent Technical Expert considers appropriate.

13.13 Media and Communications

- (a) Before making any media statements or press releases regarding the Project, the Borrower will consult with the Ministry and will obtain the Ministry's prior approval to make any such statements or releases, such approval not to be unreasonably withheld.
- (b) The Borrower will refer any enquiries from the media or any other person about the terms or performance of this Agreement to the Ministry's Contact Person provided that nothing in this subclause (b) will restrict the Borrower from complying with its policies or legal obligations.
- (c) Subject to clause 13.13(a), the Borrower will acknowledge the Ministry as a source of funding in all publications (including any digital presence) and publicity regarding the Project in accordance with the Kānoa Funding Acknowledgement Guidelines on the website: Funding acknowledgement guidelines (growregions.govt.nz).
- (d) If requested by the Ministry, the Borrower will establish or erect temporary and/or permanent signage (which may be in the form of a plaque) at the site of the Project acknowledging the Ministry as a source of funding for the Project. The Ministry may provide such signage and the Ministry will consult with the Borrower in respect of a suitable location for such signage.
- (e) The Borrower does not have the right to enter into any commitment, contract or agreement on behalf of the Ministry or any associated body, or to make any public statement or comment on behalf of the Ministry.
- (f) All correspondence with the Ministry under this clause 14.15 must be directed to the Ministry's Contact Person and copied to Kanoacomms@mbie.govt.nz.

13.14 Co-Funding

The Borrower must:

- (a) ensure that during the term of this Agreement the Co-Funding is and remains available to the Borrower to be applied towards Project Costs, to the extent it has not been applied to Project Costs at the relevant time, on the same terms and conditions approved by the Ministry;
- (b) take all steps necessary to ensure that all Co-Funding in the form of equity is called for and received by the Borrower in accordance with the Project Budget; and
- (c) immediately notify the Ministry if it becomes aware of any circumstances that may result in the Co-Funding (or any part of the Co-Funding) not being available to the Borrower to be applied towards Project Costs.

13.15 **Health and Safety**

Without limiting its other obligations under this Agreement, the Borrower will immediately report or copy to the Ministry any material health and safety incident or injury, any other incident or injury notified to WorkSafe and any notice issued to the Borrower under the

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Health and Safety at Work Act 2015, in each case to the extent that it relates to the Project and/or the Borrower.

13.16 Further assurance

The Borrower must promptly, and at its own cost, do all such acts or execute all such agreements (including assignments, transfers, notices and instructions) and will procure that its subsidiaries do all such acts/execute all such agreements as may be necessary (as the Ministry may specify, in such form as the Ministry may reasonably require) for the exercise of any rights, powers and remedies of the Ministry provided by or pursuant to the Transaction Documents or by law.

14 **PROJECT UNDERTAKINGS**

14.1 Project Account

N/A

14.2 Project

The Borrower must:

- (a) operate its assets and carry out the Project by exercising that degree of skill, care, diligence, efficiency, prudence and foresight and operating practice that would reasonably and ordinarily be expected of a skilled, experienced and competent person engaged in the same type of undertaking as that of the Borrower under the same or similar circumstances and in accordance with each Project Agreement, the Project Budget, and Authorisations required under any law or regulation;
- (b) inform the Ministry as soon as it becomes aware of:
 - (i) any delays to the Project;
 - (ii) any proposal or request to vary the nature, scope, quality, design or sequence of the Project or the cost of or time for performance under any Project Agreement;
 - (iii) any claim or demand made by or against it in connection with the Project; or
- (c) not enter into any material agreement in connection with the Project without the Ministry's prior written consent;
- (d) notify the Ministry within 20 Business Days if any contingency amount is used; and
- (e) not make or agree to any Material Variations without the Ministry's prior written consent.

14.3 Cost Overruns

The Borrower must ensure that any costs incurred or expected to be incurred in relation to the Project in excess of or in addition to the Project Costs are funded by it (without using all or any part of any Advance) unless otherwise agreed by the Ministry in writing.

14.4 Practical Completion

The Borrower must ensure that Practical Completion of the Project occurs no later than three months after Scheduled Practical Completion.

14.5 Building Standards

The Borrower must ensure that on Practical Completion any construction or works undertaken in connection with the Project are 100% compliant with all applicable building standards.

14.6 Maintenance of Borrower's Assets

The Borrower shall maintain or procure the maintenance of all of its assets in accordance with best industry practice and in accordance with any requirements from the manufacturer, including paying all operating expenses in a timely manner.

14.7 **Project Documents**

The Borrower must:

- (a) not, except with the prior written consent of the Ministry:
 - (i) accept any early termination of or exercise any right to rescind, cancel or terminate an Operating Document or a Project Agreement;
 - (ii) do or omit to do any act or thing which would entitle the counterparty to an Operating Document or a Project Agreement to either terminate or regard an Operating Document or a Project Agreement as terminated;
 - (iii) waive or agree to waive any provisions of an Operating Document or a Project Agreement;
 - (iv) make or agree to make any variation to an Operating Document or a Project Agreement;
 - (v) dismiss or change a counterparty to an Operating Document or a Project Agreement; or
 - (vi) assign, transfer or novate any interest under any Operating Document; and
- (b) exercise all of its rights and take such action and institute and maintain all such proceedings as may be necessary or expedient to preserve or protect the interests of the Borrower under each Operating Document and each Project Agreement.

15 **NEGATIVE UNDERTAKINGS**

15.1 Negative pledge

The Borrower and each subsidiary must not create or permit to subsist any security over any of its assets other than Permitted Security.

15.2 Disposals

The Borrower must not dispose of any assets relevant to the Project other than a Permitted Disposal.

15.3 Financial Indebtedness

The Borrower and each Subsidiary must not incur or permit to remain outstanding any Financial Indebtedness except Permitted Financial Indebtedness.

15.4 Related Party transactions

The Borrower must not enter into any transaction with any Related Party other than in the ordinary course of ordinary business and for fair market value on arm's length commercial terms except with the prior written consent of the Ministry.

15.5 Reputation

The Borrower will not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Ministry. The Borrower will keep the Ministry informed of any matter known to the Borrower which could reasonably be expected to have such an effect.

15.6 Authorisations

The Borrower must not apply to materially vary or change any Authorisations or approvals obtained in relation to the Project without the Ministry's prior written consent.

16 **INFORMATION UNDERTAKINGS**

16.1 Reports

The Borrower will provide reports to the Ministry at the times and containing the information set out in Schedule 4.

16.2 **Ongoing information**

The Borrower must provide the Ministry with the following:

- (a) promptly upon receipt:
 - (i) any material notice given or received by it in relation to the Project; and
 - (ii) any material notice received by it from a counterparty to any Transaction Document (other than the Ministry);
- (b) promptly and within 7 days of request:
 - (i) details of any current pending or threatened litigation, claim, arbitration or administrative proceeding which, had it been current or pending or threatened as at the date of this Agreement, if adversely determined, might reasonably be expected to have a Material Adverse Effect; and
 - (ii) such further information regarding the financial condition, assets, business and operations of the Borrower or as the Ministry may request.

16.3 Notification of changes

If there have been any changes to the Project which may materially affect the Project Budget, an Annual Budget and/or might be considered by the Ministry to adversely affect the Borrower's ability to perform its obligations under the Transaction Documents, the Borrower must promptly provide the Ministry with an updated Project Budget and Milestones Document or Annual Budget detailing the effect of such change.

16.4 Notification of default

The Borrower must notify the Ministry of the occurrence of any Default, Event of Default or Event of Review immediately upon becoming aware of it (giving full details of it and of

any steps taken or to be taken as a result) and upon receipt or a written request to that effect, confirm that, save as notified to the Ministry, no such event has occurred.

17 **EVENTS OF DEFAULT**

Each of the events or circumstances set out in clause 17 (other than clause 17.14 (*Acceleration*)) is an Event of Default.

17.1 Payments under Finance Documents

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document in the manner and currency required, except where such failure is of a technical or administrative nature and is remedied within 2 Business Days of such failure.

17.2 Breach of Certain Undertakings

The Borrower breaches the undertakings set out in clause 13.6 (*Insurance*) or clause 15 (*Negative Undertakings*).

17.3 Breach of Transaction Document

- (a) The Borrower or any Related Party does not comply with any provision of any Transaction Document (other than those referred to in clause 17.1 (*Payments under Finance Documents*) and clause 17.2 (*Breach of Certain Undertakings*).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the Ministry giving notice to the Borrower or, if earlier, the Borrower becoming aware of the failure to comply.

17.4 Misrepresentation

Any representation, warranty or statement made or deemed to be made by the Borrower or any Related Party in any Transaction Document or any other document delivered by or on behalf of the Borrower under or in connection with any Transaction Document or related to the Project is or proves to have been incorrect or misleading in any respect when made or deemed to be made and, if the circumstances giving rise to the misrepresentation are capable of remedy, such circumstances are not remedied within 20 Business Days of the earlier of the Borrower or the Related Party becoming aware of the representation, warranty or statement being incorrect or misleading or receipt of written notice from the Ministry to the Borrower or the Related Party to remedy the default.

17.5 Cross default

- (a) Any Financial Indebtedness (other than under the Finance Documents) of the Borrower, the Related Party or any Subsidiary is not paid when due nor within any originally applicable grace period.
- (b) Any creditor of the Borrower, the Related Party or any Subsidiary becomes entitled to declare any Financial Indebtedness of the Borrower or any Subsidiary due and payable prior to its specified maturity as a result of an event of default (however described).

17.6 **Insolvency**

An Insolvency Event occurs in relation to the Borrower, the Related Party or any Subsidiary.

17.7 Repudiation

Any provision of any Transaction Document:

- (a) ceases to have effect in whole or in part, other than by performance or as permitted by its terms; or
- (b) becomes wholly or partly void, voidable, invalid or unenforceable (other than by reason only of a party waiving its rights), or the performance of any such provision becomes illegal,

or the Borrower or any Related Party, or any person on their behalf, makes any allegation or claim to that effect (if in each case the Ministry is of the view that any matter in (a) or (b) above has, or is likely to have, a Material Adverse Effect).

17.8 Transaction Documents

An event of default or termination event (however described) occurs under a Transaction Document other than this Agreement.

17.9 Litigation

The Borrower or any Related Party is party to any litigation, tax claim or administrative or arbitration proceedings or to any dispute with any local body, government or other authority having jurisdiction in respect of the Land which in the reasonable opinion of the Ministry has, or is likely to have, a Material Adverse Effect if adversely determined.

17.10 Material Adverse Effect

Any event or circumstance or series of events or circumstances arises, whether related or not, which the Ministry believes has or is reasonably likely to have a Material Adverse Effect.

17.11 Illegality

It is, or will become, unlawful for the Borrower or any Related Party to comply with any of its obligations under a Transaction Document in any material respect.

17.12 Abandons

The Borrower abandons the Project, is unable to complete the Project or has no intention of resuming or restarting the Project and, for the avoidance of doubt, "abandoned" for this purpose shall not include any temporary stop of the Project works or similar.

17.13 Authorisations and Environmental Law

- (a) The Borrower is in breach of any Authorisation or Environmental Law or directives in relation to the Land; or
- (b) Any consent or Authorisation that is required in connection with the Project is lapsed, cancelled or is not renewed for any reason; or
- (c) The Borrower or any Related Party is charged, prosecuted or issued with a restraining order or clean up notice under any Environmental Law in respect of the Project which the Ministry considers would be likely to give rise to a material claim against it.

17.14 Acceleration

On and at any time after the occurrence of an Event of Default the Ministry may by notice to the Borrower:

- (a) cancel the Facility whereupon the Facility will immediately be cancelled; and/or
- (b) declare that all amounts accrued or outstanding under the Finance Documents, be immediately due and payable (or payable on demand), whereupon they will become immediately due and payable (or payable on demand); and/or
- (c) exercise all or any of its rights under any Finance Document or at law.

18 **EVENTS OF REVIEW**

18.1 Consequences of an Event of Review

- (a) Upon the occurrence of an Event of Review, the Ministry may review the Facility (and the conditions on which it is made available). The Ministry will notify the Borrower of any such review by serving a notice specifying the relevant Event of Review (Review Notice).
- (b) Upon receipt of a Review Notice, the Borrower must enter into negotiations with the Ministry in good faith with a view to agreeing:
 - any action to be taken by the Borrower to remedy and/or overcome the effects of the relevant Event of Review on terms acceptable to the Ministry; and
 - (ii) the terms on which the Ministry is willing to continue to make the Facilities available to the Borrower (if any).
- (c) If within 14 days of the date of the Review Notice, the parties cannot agree the terms and conditions on which the Facility will continue to be made available, the Ministry will be entitled to terminate the Facility at the expiration of that period and require the repayment of all Amounts Outstanding under the Finance Documents by a date not earlier than 45 days from the date of the Ministry's notice to terminate the Facility.

19 **ASSIGNMENT**

- 19.1 The Borrower may not assign, transfer, novate or otherwise dispose or deal with all or any part of its rights or obligations under a Transaction Document without the prior written consent of the Ministry except to any other local authority (as defined in the Act) where there is a reorganisation under the Act in respect of the Borrower.
- 19.2 The Ministry may assign, transfer, novate or otherwise dispose of or deal with (each a **Transfer** and "Transfers" and "Transferred" has a corresponding meaning) all or any of its rights and obligations under all or any of the Transaction Documents to:
 - (a) another Governmental Agency or any entity which constitutes the "Crown" as defined in the Public Finance Act 1989 or any entity referred to in paragraph (c) of that definition (a Crown Party), or other entity which the Ministry considers, acting

reasonably, considers able to meet the obligations of the Ministry under the Transaction Documents, without the consent of the Borrower; or

- (b) any other person with the Borrower's consent (not to be unreasonably withheld).
- 19.3 The Borrower hereby consents to any Transfer to a Crown Party and will be bound by any such Transfer on and from the effective date specified in the notification of the Transfer provided by the Ministry to the Borrower. The Borrower agrees to sign promptly on request any document reasonably requested by the Ministry to confirm or give effect to any such Transfer.
- 19.4 Without limiting clause 19.2, if the Ministry notifies the Borrower that it has Transferred all or any of its rights and obligations under all or any of the Transaction Documents to a Crown Party, then, with effect from the effective date specified in such notification, the Borrower:
 - (a) releases the Ministry from all obligations and liabilities under or in respect of the Transaction Documents;
 - (b) agrees that the Crown Party will be entitled to all of the rights and entitlements of the Ministry under and in respect of the Transaction Documents as if it was named in the Transaction Documents instead of the Ministry;
 - (c) agrees that all of its obligations and liabilities under or in respect of the Transaction Documents that were owed to the Ministry will be owed to the Crown Party; and
 - (d) agrees that it will comply with any other matter specified in the notification related to such Transfer.

19.5 Disclosure

The Ministry may at any time disclose to a proposed assignee, transferee or novatee any information which relates to, or was furnished in connection with, the Transaction Documents.

20 **PAYMENT MECHANICS**

20.1 Payments to the Ministry

On each date on which the Borrower is required to make a payment under a Finance Document, the Borrower must make the same available to the Ministry for value on the due date, at the time and to such account specified by the Ministry.

20.2 Partial payments

If the Ministry receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Transaction Documents, the Ministry may apply that payment towards the obligations of the Borrower under the Transaction Documents in such order as the Ministry determines (in its sole discretion).

20.3 Payments to be free and clear

All payments to be made by the Borrower under the Transaction Documents must be calculated and be made:

(a) free of any restriction or condition; and

(b) free and clear of and (except to the extent required by law) without any deduction or withholding for or on account of tax or on any other account, whether by way of set-off, counterclaim or otherwise.

20.4 Business Days

Any payment which is due to be made on a day that is not a Business Day must be made on the next Business Day.

21 **SET-OFF**

The Borrower authorises the Ministry to apply, without prior notice or demand, any amount owing or due by the Ministry to the Borrower in connection with any Finance Document or the Project in or towards satisfaction of any unpaid indebtedness due by the Borrower to the Ministry in connection with any Finance Document or the Project. For this purpose, the Ministry is authorised to accelerate the date for payment of any such amount owing by the Ministry to the Borrower.

22 **CONTACT PERSONS**

All matters or enquiries regarding this Agreement will be directed to each party's contact person set out in Part 1.

23 **NOTICES**

Each notice or other communication given under this Agreement (each a notice) will be in writing and delivered personally or sent by post or email to the address of the relevant Party set out in Part 1 or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other party. A notice under this Agreement is deemed to be received if:

- (a) **Delivery**: delivered personally, when delivered;
- (b) **Post**: posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and
- (c) **Email**: sent by email:
 - (i) if sent between the hours of 9am and 5pm (New Zealand time) on a Business Day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9am (New Zealand time) on the Business Day most immediately after the time of sending,

provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

24 CALCULATIONS AND CERTIFICATES

Any certification or determination by the Ministry of a rate or amount under any Transaction Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

25 PARTIAL INVALIDITY

If, at any time, any provision of the Transaction Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

26 REMEDIES AND WAIVERS

- (a) The rights of the Ministry under the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law;
- (b) a single or partial exercise by the Ministry of any right does not preclude further exercises of that right; and
- (c) the exercise of any particular right will not preclude or waive the exercise of any other right.

27 AMENDMENTS AND WAIVERS

- (a) A waiver by the Ministry of any right under a Finance Document will only be effective to the extent expressly stated in writing by an authorised person on behalf of the Ministry. A failure by the Ministry to act, or a delay by the Ministry in exercising, or a non-exercise by the Ministry of, any right does not operate as a waiver of that right.
- (b) No amendment to this Agreement will be effective unless it is in writing and signed by an authorised person on behalf of the Ministry and the Borrower.

28 **INCONSISTENCY**

In the event of any inconsistency between the provisions of this Agreement and the provisions of any other Transaction Document, the provisions of this Agreement will prevail.

29 **CONFIDENTIALITY**

29.1 Confidential

Subject to clause 29.2 and 29.3, each party will keep the other party's confidential information in confidence. However, this will not prohibit:

- (a) either party from using or disclosing any information with the written prior consent of the other party;
- (b) use or disclosure of information that has become generally known to the public other than through a breach of a Finance Document;
- (c) either party from disclosing information to its personnel, its professional advisors, its senior lenders with a need to know, so long as the relevant personnel, professional advisors and senior lenders use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under

this Agreement, and so long as they are informed of the confidential nature of the information and in the case of the Borrower, the Borrower receives an acknowledgement from its personnel, professional advisors, senior lenders that they acknowledge, and will comply with, the confidentiality obligations in this Agreement as if they were party to it;

- (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or
- (e) the Ministry from using or disclosing to any third party any report licensed under clause 8.2 or clause 8.3, provided that prior to any such disclosure the Ministry removes all information that is commercially sensitive to the Borrower or its contractors from the relevant work.

The parties agree that the Finance Documents and the terms thereunder constitute confidential documents of the Ministry.

29.2 Ministry's ability

The Borrower acknowledges and agrees that nothing in this Agreement restricts the Ministry's ability to:

- discuss, and provide all information in respect of, any matters concerning the Borrower, the Project or this Agreement with any Minister of the Crown, any other government agency or any of their respective advisors;
- (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the "no surprises" policy advised by Ministers of the Crown; and
- (c) publicise and report on the loan funding, including the Borrower's name, the amount and duration of the loan funding and a brief description of the Project, on websites, in media releases, in general announcements or in annual reports.

29.3 Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987

The Borrower acknowledges and agrees that:

- (a) the contents of this Agreement; and
- (b) information provided to the Ministry and the Borrower,

may be official information in terms of the *Official Information Act* 1982 and/or the *Local Government Official Information and Meetings Act* 1987 and, in line with the purpose and principles of those acts, this Agreement and such information may be released to the public unless there is good reason, in terms of the *Official Information Act* 1982 (in respect of the Ministry) or the *Local Government Official Information and Meetings Act* 1987 (in respect of the Borrower), to withhold it.

30 **ANTI-MONEY LAUNDERING**

- (a) The Borrower agrees that the Ministry may delay, block or refuse to process any transaction without incurring any liability if the Ministry suspects that:
 - the transaction may breach any laws or regulations in New Zealand or any other country or any other prohibitions that may be applicable to the Ministry;
 - (ii) the transaction involves any person (natural, corporate or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is subject to sanctions imposed by the United States, the United Nations, the European Union or any country; or
 - (iii) the transaction may directly or indirectly involve the proceeds of, or be applied, for the purposes of, conduct which is unlawful in New Zealand or any other country.
- (b) The Borrower must provide all information to the Ministry which the Ministry requires in order to manage its money-laundering, terrorism-financing or economic and trade sanctions risk or to comply with any laws or regulations in New Zealand or any other country. The Borrower agrees that the Ministry may disclose any information concerning the Borrower to any law enforcement, regulatory agency or court where required by any such law or regulation in New Zealand or any other country.
- (c) Unless the Borrower has disclosed that it is acting in a trustee capacity or on behalf of another party, the Borrower warrants that it is acting on its own behalf in entering into this Agreement.
- (d) The Borrower represents and warrants to the Ministry that the processing of any transaction by the Ministry in accordance with the Borrower's instructions will not breach any laws or regulations in New Zealand or any other country or involve any sanctioned person.

31 TERMINATION AND SURVIVAL

- (a) This Agreement terminates on the earlier of:
 - (i) if Financial Close has not occurred by the Expiry Date, the Expiry Date; and
 - (ii) the date on which the Ministry is satisfied that all Amounts Outstanding have been repaid in full and no further Amounts Outstanding are capable of arising.
- (b) Clauses 8 (Intellectual Property), 9 (Indemnities), 13.13 (Media and Communications), 16 (Information Undertakings) and 29 (Confidentiality) survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Event of Default that occurred before expiry or termination.

32 **COUNTERPARTS**

- (a) This Agreement may be executed in any number of counterparts (including scanned and emailed copies). So long as each party has received a counterpart signed by each of the other party, the counterparts together constitute a binding and enforceable agreement.
- (b) Where the Borrower has transmitted to the Ministry an electronic copy of this Agreement (whether by email or otherwise) the Ministry is entitled to rely on the contents of that electronic copy as accurately reproducing the original and on that electronic copy (including the signatures) being authentic and complete.

33 **RELATIONSHIP**

No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.

34 **GOVERNING LAW**

This Agreement is governed by New Zealand law, and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

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Council Meeting - 26 November 2025

SCHEDULE 1: REPAYMENT TABLE

The Amounts Outstanding under the Facility will be repayable, and the Facility Limit will reduce, in accordance with the table as set out in this Schedule 1.12

Repayment Date	Repayment Amount
From the fifth anniversary of the first Drawdown Date to the Maturity Date	Amortised Principal and Interest as stated in the payment schedule that will be supplied by the Ministry following the First Drawdown.

Drafting Note: Preference for scheduled repayments frequency to be made not more regularly than once per quarter.

SCHEDULE 2: DRAWDOWN NOTICE

To: Ministry of Business, Innovation and Employment

From: Otago Regional Council

Date: [Insert date]

Dear Sirs / Madams

LOAN AGREEMENT DATED [INSERT DATE] BETWEEN THE MINISTRY AND OTAGO REGIONAL COUNCIL (THE AGREEMENT)

Kanoa Contract Number: [XXXXX]

- 1 We refer to the Agreement. This is a Drawdown Notice. Terms defined in the Agreement have the same meaning in this Drawdown Notice unless given a different meaning in this Drawdown Notice.
- We wish to drawdown the Advance on the following terms:

Proposed Drawdown Date: [insert date] **Drafting Note:** A date no less than 11

Business Days after the date of this Notice within the Availability Period] (or, if that is not a Business Day, the

next Business Day)

Amount: [insert amount] **Drafting Note**: Must not cause the

relevant Facility Limit to be exceeded

- We confirm that each condition specified in clause 3.2 of the Agreement (*Conditions to Advances*) is satisfied on the date of this Drawdown Notice.
- 4 The proceeds of this Advance should be credited to [insert account details].
- 5 This Drawdown Notice is irrevocable.

Yours faithfully

authorised signatory for [Insert name]

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SCHEDULE 3: CHIEF EXECUTIVE'S CERTIFICATE

To: Ministry of Business, Innovation and Employment

And to: [Legal Advisor]

I, , the Chief Executive of Otago Regional Council (the ${\bf Council}$) certify as follows:

1. **RESOLUTIONS**

- 1.1 The Council has, by all necessary resolutions duly passed (**Resolutions**):
 - (i) approved the transactions contemplated by the documents referred to in the schedule to this certificate (the **Documents**) and the Council's entry into and performance of the Documents, or delegated sufficient authority to the person(s) who has approved those transactions and the Documents to give those approvals; and
 - (ii) authorised execution of the Documents by the Council, or delegated sufficient authority to the person(s) who authorised execution of the Documents to give that authorisation.
- 1.2 The Resolutions remain in full force and effect.

2. **COMPLIANCE WITH THE ACT**

For the purposes of section 118 of the *Local Government Act 2002* (the **Act**),in entering into the Documents and performing its obligations under the Documents, and all other documentation contemplated by or entered into in connection with the Documents, the Council has complied with the Act. The entry into the Documents and all other documentation contemplated by or entered into in connection with the Documents constitute "protected transactions", as defined in and for the purposes of the Act.

3. **DUE EXECUTION**

The Documents have been properly executed by the Council.

This certificate is given by me in my capacity as Chief Executive of the Council in good faith on behalf of the Council and I shall have no personal liability in connection with the issuing of this certificate.

Dated:		
[NAME]		
Chief Executive		
	Schedule of Documents	
[complete]		
[complete]		
Signed by	Date:	
Director		

SCHEDULE 4: REPORTING

A. Monthly

Report Type	Frequency/Timing	Description/Purpose	Examples of Information to be provided
Progress Reports	On the last day of each calendar month from the beginning of the Availability Period to the date one month following Practical Completion.	Complete an online questionnaire to track progress with the Project	Project Delivery vs Budget Days ahead or behind schedule; Actual spend to date vs budgeted spend (RIF funding only); Forecast cost to completion of Project; Current project account balance; Planned spend for next 3 months; Date for next scheduled Advance; Amount for next scheduled Advance; Amount paid to date to local contractors and suppliers; Emerging risks affecting delivery. Employment #FTEs by occupation category per year; #new employees started this month; # total employees this month (including new); # total hours worked; # currently employed that are local; # currently employees who are Māori

Progress	Monthly	Scheduled 1:1 on-site,	•	Review monthly Project reports;
Check-In		phone or online meetings	•	Provide details on areas of Project risk;
		with Ministry's Advisor	•	Provide details on any advances or payment requests; and
			•	Provide update on milestone achievements, budget changes, media and events;

B. Quarterly

Report Type	Frequency/Timing	Description/Purpose	Examples of Information to be provided
Quarterly Return	Within 45 days after the last date of each quarter	Submission of relevant documentation or media as evidence of financial position, milestones completed or supplementary proof of project delivery or outcomes.	 Details of contracts entered into and related procurement processes; Technical reports; Photos of Project; Board Reports (as related to the Project); and Management accounts for the previous quarter

C. Annually

Report Type	Frequency/Timing	Description/Purpose	Information required
Annual financial statements	As soon as available but no later than 120 Business Days	Annual financial statements to assess ongoing financial viability/risk	 Annual financial statements (with such financial statements being audited if the Borrower prepares audited financial statements or if required by the Ministry¹³) prepared in accordance with GAAP.

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	after end of each Financial Year		
Annual Budget	Prior to start of each Financial Year	As above	 Prior to the start of each Financial Year, an annual budget (the Annual Budget) for the Borrower's business for that Financial Year in a form acceptable to the Ministry which shall: Include a forecast cash flow statement for the Borrower (with a breakdown of projected Project Costs and operating costs and revenue); include a description of the key assumptions supporting the Annual Budget; and be signed by the Chief Executive.
Updated Budget	As required	As above	a revised and updated Project Budget prepared on the same basis as the previous Project Budget but by reference to the facts, forecasts, assumptions and circumstances then existing.

D. Project Completion

Report Type	Frequency/Timing	Description/Purpose	Examples of Information to be provided
Project Completion Report	Due within 3 months after Practical Completion of the Project	Report to summarise what has been achieved, any variations from what was expected and other summary information	 Summary of the benefits achieved through the Project. Expected future benefits of the completed project/infrastructure. Any variation from expectations at the start of the project. Photos of the infrastructure completed and the opening event (if there is one). Any other summary information required.

ANNEX ONE: PROJECT DETAILS

Project name and description	Construction Commencement	Completion Date must before end of 2027/28 construction season	Project Cost, plus GST (if any)	Maximum Amount Payable	Co-funding
East Taieri Lower Pond structure upgrades Upgrading stopbanks and flood infrastructure to improve protection for the Lower Taieri flood scheme.	Sep-26	Jun-27	\$1,700,000	\$1,020,000	\$680,000
Puerua outfall structure upgrades Two-stage upgrade involving culvert installation and training line strengthening on the Lower Clutha, increasing levels of protection to Balclutha and Kaitangata areas.	Apr-25	Jun-28	\$2,000,000	\$1,200,000	\$800,000
Total			\$3,700,000	\$2,220,000	\$1,480,000

ANNEX TWO: MILESTONE AND DRAWDOWN TABLE

East Taieri Lower Pond Structure Upgrades

Milestone	Funding Quarter* and Drawdown Date	Description		IF funding	Co-	funding	TOTAL
1	Q2 2025/2026	Signed agreement. Investigation, design, consenting.	\$	27,000	\$	18,000	\$ 45,000
2	Q3 2025/2026	Design, Consenting and procurement.	\$	18,000	\$	12,000	\$ 30,000
3	Q4 2025/2026	Continue Consenting and procurement.	\$	9,000	\$	6,000	\$ 15,000
4	Q1 2026/2027	Commence Outfall remediation works.	\$	144,000	\$	96,000	\$ 240,000
5	Q2 2026/2027	Complete Outfall remediation works.	\$	666,000	\$	444,000	\$ 1,110,000
6	Q3 2026/2027	Closeout project, closure report and contractor washup.		156,000	\$	104,000	\$ 260,000
		TOTALS	\$	1,020,000	\$	680,000	\$ 1,700,000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4

Purua Outfall Structure Upgrades

Milestone	Funding Quarter* and Drawdown Date	Description	RIF funding	Co-funding	тот	ΓAL
1	Q2 2025/2026	Signed agreement. Investigation, design, modelling, culvert purchase. Completed Phase -1 partial reinstatement of Training Line.	\$ 886,458	\$ 590,972	\$ 1,477,4	430
2	Q3 2025/2026	Continue works: Phase 2 - Install pipes and reinstate Training Line.	\$ 210,000	\$ 140,000	\$ 350,0	000
3	Q4 2025/2026	Complete works: Phase 2 - Install pipes and reinstate Training Line. Close out project.	\$ 103,542	\$ 69,028	\$ 172,5	570
		TOTALS	\$ 1,200,000	\$ 800,000	\$ 2,000,0	000

^{*}Quarters align with government quarters, July-September is Q1, April-June is Q4

Attachment 3. ORC Project details. Extract from RIF Flood Resilience Tranche 2 Funding Application.

Project Title	Project Description	RIF Funding Benefit	Value for money cost benefit	Local Share
Silver Stream Capacity Improvements	Silver Stream Capacity Improvements project seeks to improve the capacity of the Silver Stream to increase the operating threshold of the Gordon Road spillway enhancing protection to the Mosgiel township and properties downstream of the spillway.	Long Term Plan - central government funding would accelerate the work from being completed within 4 years to 3. This project is within the Lower Taieri Flood Protection Scheme and continues improvements made	The funding requested from central government is a small investment for significant increase in levels of safety and resilience. The overall rateable value of land and assets protected by the Lower Taieri Flood Protection Scheme is approximately \$4 Billion. The Silver Stream and associated infrastructure (floodbanks and spillway) form a critical component of the functionality of the scheme.	Local share secured in 2024 -2034 Long Term Plan
East Taieri Lower Pond structure upgrades	The Lower Pond Gravity Gates are integral to managing the flow of floodwaters from the Lower Pond to the Taieri River. However, during high river flow events (e.g., 2017, 2021), backflow from the Taieri River into the Lower Pond has been observed. This issue is attributed to the aging infrastructure, including deteriorating culverts, compromised gate conditions, and suboptimal headwall configuration. To address this, a comprehensive upgrade of the gate structure, culverts, and associated components is proposed to ensure the stability of the structure during future high-flow events.		The funding requested from central government is a small investment for significant increase in levels of safety and resilience. The overall rateable value of land and assets protected by the Lower Taieri Flood Protection Scheme is approximately \$4 Billion. The Lower Pond gravity gates form a critical component of the functionality of the scheme.	Local share secured in 2024 -2034 Long Term Plan
Kaitangata floodbank reconstruction	culvert and gravity gates to ensure ongoing structural integrity. The Kaitangata floodbank along the Kaitangata Contour Channel	I	The funding requested from central government is a small investment for significant increase in levels of safety and resilience. The overall rateable value of the land and assets protected by the Lower Clutha Flood Protection and Drainage Scheme is approximately \$1.7 Billion. The Kaitangata floodbank protects the western low lying part of Kaitangata town from overflow from the Kaitangata Contour Channel that forms part of this scheme.	Local share will come from the Lower Clutha Flood Protection and Drainage scheme and an increase in the scheme deficit (debt) since flood damage is not included in the scheme budget.
Puerua outfall structure upgrades	Puerua river discharges through the training line via a set of large culverts. Following ongoing coastal erosion processes and damage from the October 2024 flood event, the Puerua outfall culverts require replacement to ensure continued drainage a	Plan but is being accelerated due to recent flood damage. This project is within the Lower Clutha	The funding requested from central government is a small investment for significant increase in levels of safety and resilience. The overall rateable value of the land and assets protected by the Lower Clutha Flood Protection and Drainage Scheme is approximately \$1.7 Billion. The training line forms a critical component of the functionality of the scheme.	Secured in 2024 -2034 Long Term Plan.

Attachment 3. ORC Project details. Extract from RIF Flood Resilience Tranche 2 Funding Application.

Project Title	Project Description	RIF Funding Benefit	Value for money cost benefit	Local Share
Puerua flood protection strengthening	The Puerua floodbank forms part of the Lower Clutha Flood Protection and Drainage scheme. It provides flood protection to approximately 2,800ha of productive rural farmland in the Partai area between the Clutha River Koau Branch and the Puerua River. Piping through the floodbank and resultant slumping during the 2024 flood event require urgent geotechnical investigation and repair to maintain the integrity of the flood protection scheme. Investigation and floodbank remediation is required over a further 1.2km where there is evidence of piping indicating the floodbank is prone to rapid failure during a flood event.	Clutha Flood Protection and Drainage Scheme and continues improvements to the scheme along with	The rateable value of the area protected by the Lower Clutha Flood Protection and Drainage Scheme is approximately \$1.7 Billion. The Puerua floodbank protects the land in the Paretai area between the Clutha and Puerua Rivers that forms part of this scheme.	Local share will come from the Lower Clutha Flood Protection and Drainage scheme and an increase in the scheme deficit (debt) since flood damage is not included in the scheme budget.
Riverbank Rd flood risk mitigation	This project provides long-term flood risk mitigation at the Riverbank Rd floodbank. It includes gravel removal to relieve pressure on the floodbank and re-aligning the floodbank to make more room for the river at this location.	Long Term Plan - this would accelerate the work from being completed within 7 years to 3	The rateable value of the area protected by the Lower Clutha Flood Protection and Drainage Scheme is approximately \$1.7 Billion. The Riverbank Rd floodbank provided flood protection to a large part of the Inch Clutha that forms part of this scheme.	Secured in 2024 -2034 Long Term Plan
Pumpstations upgrades	ORC operates 14 pumpstation housing 32 pumps across the flood protection and drainage schemes. This project will install telemetry, and remote monitoring and operation equipment at the pumpstations, as well as implementation of systems to allow operations teams to effectively monitor the performance of the pumpstation during flood events.	2024-2054 Infrastructure Strategy and the 2024 - 2034 Long Term Plan - this would accelerate the work from	The combined rateable value of the area protected by the Lower Taieri Flood Protection Scheme and the Lower Clutha Flood Protection and Drainage Scheme's is approximately \$5.7 Billion	Secured in 2024 -2034 Long Term Plan

NOTICE OF MOTION – ORC STRATEGIC DIRECTIONS 2024-2034 – ESTABLISHMENT OF A WORKING PARTY

EXECUTIVE SUMMARY

In accordance with Standing Order 27.1, a Notice of Motion has been received from Cr Michael Laws for inclusion on the agenda for the Council Meeting being held on Wednesday, 26 November 2025. This is attached.

Governance Paper #001 to ORC council meeting, 26 November 2025

Authors: Co-chairpersons, Strategy & Customer Portfolio

Title: 'ORC Strategic Directions 2024-34' – establishment of Working Party

Recommendations:

- 1. That a Working Party be convened for the purpose of reviewing the 'Strategic Directions 2024-2034' document, to ensure alignment with the strategic focus of the newly elected governance team;
- 2. That the Working Party comprise of Crs Michael Laws (chair), Kevin Malcolm, Hilary Calvert and Kate Wilson;
- 3. That the Working Party's report be scheduled for discussion and action, if required, at the first meeting of the full Council in 2026.

Moved: Cr Michael Laws

Seconded: Chair Cr Hilary Calvert.

18 November 2025