

9.5 Waikato Waters Ltd - Transfer Agreement

Report To:	Council
Meeting Date:	Thursday, 29 January 2026
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Authorised by:	Chief Executive

Purpose

The purpose of this report is to seek Council's adoption of the legal terms of the Transfer Agreement and associated subsidiary agreements with Waikato Waters Limited (Waikato Waters), and to confirm the associated delegations necessary to finalise and execute the suite of documents required to transition the Council's drinking water and wastewater services to Waikato Waters with effect from 1 July 2026.

Recommendation

That the Council:

1. **Adopts** the content of the draft Transfer Agreement and associated draft subsidiary agreements, attached as appendices (collectively referred to as the Agreements) (Resolve # 2026-17) and
2. **Delegates** to the Mayor and Chief Executive the power to:
 - a. Finalise the contents of the Schedules and Annexures to the draft Transfer Agreement in accordance with the Transfer Principles agreed in the Shareholders' Agreement.
 - b. Agree to any subsequent legal mechanisms / documentation that may be required to give effect to the terms of the Draft Transfer Agreement.
 - c. Execute the finalised version of the draft Transfer Agreement on behalf of Council.
 - d. Execute the LGFA funding documentation, subject to the overall nature of the guarantee documentation being in accordance with what was agreed in the Shareholders' Agreement.
 - e. Take any actions and sign such documentation necessary to give effect to the transfers contemplated in the draft Transfer Agreement and the above resolutions.
3. **Delegates** to the Chief Executive the power to:
 - a. Agree the specific services that Council will provide to Waikato Waters under the Post Completion Services Agreement and sign that agreement.
 - b. Agree the terms of the Shared Services Agreement and sign that agreement.
4. **Note** that the Mayor and Chief Executive will present the finalised suite of documents (and any other ancillary documentation) to Council in a future meeting.

Executive Summary

In order for the Council to give effect to its approved Water Services Delivery Plan, the Council must complete a Transfer Agreement with Waikato Waters. This is also specified in the Shareholders' Agreement. Adoption is therefore sought for the legal terms of the draft Transfer Agreement and associated subsidiary agreements with Waikato Waters and confirmation of the associated delegations

necessary to finalise and execute the suite of documents required to transition the Council's drinking water and wastewater services to Waikato Waters with effect from 1 July 2026.

Context

The Local Government (Water Services Preliminary Arrangements) Act 2024 requires a Council to give effect to its Water Services Delivery Plan. Council has submitted and had its Water Services Delivery Plan approved with Waikato Waters identified as its future water services delivery model. Council has already, through the Shareholders' Agreement, committed to entering into a transfer agreement with Waikato Waters, in the form appended to the Shareholders' Agreement. The agreed date for the transfer to take effect is 1 July 2026.

Discussion

The legal terms have been largely agreed by Council as part of the Shareholders' Agreement, with some amendments made to reflect recommended updates since July 2025 and to include Council specific information in the schedules to the draft Transfer Agreement.

The schedules and annexures to the draft Transfer Agreement are a work in progress and will be finalised by Council staff and Waikato Waters in the coming weeks. Approval in this paper is for the overarching Transfer Agreement.

The draft Transfer Agreement is one of three key documents required to facilitate the safe transition of water services from Council to Waikato Waters, with the other two being:

1. the Post-Completion Services Agreement (setting out services Council will provide to Waikato Waters on a transitional basis).
2. the Shared Services Agreement (providing a framework for enduring services).

Under the terms of the Shareholders' Agreement and the draft Transfer Agreement, Council and all other transferring shareholding councils are required to execute a deed of guarantee to the Local Government Funding Agency (LGFA) enabling Waikato Waters to borrow funds directly from LGFA.

The Transfer Agreement records the terms on which:

- The responsibility for providing drinking water and wastewater services will transfer from Council to Waikato Waters.
- Assets, obligations and debts relating to these water services will effectively transfer from Council to Waikato Waters.
- Council and Waikato Waters will work together on matters of shared interest following the transfer taking place.

As Council has already committed to transferring responsibilities to Waikato Waters, entry into a transfer agreement is a legal requirement.

Approving the Transfer Agreement will:

- Align with decisions already made by Council under the Local Government (Water Services Preliminary Arrangements) Act 2024.
- Align with the requirements of a transfer agreement as set out in the Local Government (Water Services) Act 2025, as confirmed by external legal review.
- Align with the implementation plan in the water services delivery plan adopted by Council, which was approved by the Secretary of Local Government on 17 September 2025.

- Allow Council to fulfil its contractual obligations to enter into a transfer agreement with Waikato Waters Limited at least four months prior to the agreed date of transfer, as required under the Shareholders' Agreement.
- Allow Council and Waikato Waters sufficient time to satisfy their respective preclosing obligations and achieve completion under the Transfer Agreement by 1 July 2026.

Options

To enable Council to meet its above obligations in a timely manner it is recommended that the draft Transfer Agreement is adopted and delegated authority granted in accordance with the above resolutions. There is a need to finalise the Transition Agreement with Waikato Waters before 28 February 2026 to allow for the effective transfer of staff, assets and liabilities and the novation of contracts.

In the absence of the transfer agreement being signed, Waikato Waters is not in a position to issue offers of employment to staff. Similarly, it puts the compliance of council with Local Government (Water Services) Act 2025 requirements at risk.

It should be noted that the approach Council is taking with this report is consistent across all the early transferring councils.

Linkage to Strategic Plan Priorities

The Transfer Agreement execution is in line with our Water Services Delivery Plan.

Consultation (Internal and External)

The transfer of Council's drinking water and wastewater operations to Waikato Waters has already been the subject of consultation, through the earlier decision-making processes progressed by the Council under the Local Government (Water Services Preliminary Arrangements) Act 2024.

Financial Considerations

There are no financial considerations for this decision.

Risks

The risks are as follows:

- The most substantial risk facing the Council in relation to the matters addressed by this report would be failing to agree to the recommendations. This may lead to significant delays in the delivery of the transfer, contrary to commitments in the Shareholders' Agreement and Water Services Delivery Plan. A delay would also have a resultant and significant impact for Council staff, who would not have the certainty of the staff transfer pathways.
- The Transfer Agreement is not complete or is inaccurate. There are two aspects to this:
 - That the agreement is not legally 'correct'. Significant legal input has gone into the agreement from Waikato Waters and the six councils involved, so the risk is limited.
 - That the information going into the Transfer Agreement schedules is not complete or inaccurate. Significant work has and is still going into compiling and checking these are correct.
- The financial aspects regarding loans, reserves and cost transfer is not complete. This is being discussed and compiled.

Significance & Engagement Policy

The overall subject matter of this report is of high significance. However, it has already been the subject of consultation, through the earlier decision-making processes progressed by the Council under the Local Government (Water Services Preliminary Arrangements) Act 2024.

The recommended resolutions in this report are considered to be of low-medium significance, given the previous decisions already made by Council.

Reference

Not applicable.

Attachments

1. South Waikato PCSA v1 (8.12.25)
2. South Waikato Shared Services Agreement v1 (8.12.25)
3. South Waikato Transfer Agreement (Active)