

Summary of key documents and other information

This document contains summaries of the following:

- Shareholder Water Augmentation Agreement
- Irrigation Scheme Water Augmentation Agreement
- Wholesale Water Augmentation Agreement
- Shareholder Agreement
- Project Deed
- Convertible Notes
- Project funding
- Budgeted costs for the Project

Capitalised terms used in this document have the same meaning given to them in the Product Disclosure Statement for the offer of Water Shares in Waimea Irrigators Limited dated 14 June 2019 (**PDS**).

Summary of Shareholder Water Augmentation Agreement

The SWAA provides the terms and conditions upon which Shareholders are entitled to Dam Water. The following is a summary of some of the key provisions:

- **Term** (clause 3): the term of the SWAA is open-ended and continues until such time as it is terminated in accordance with the provisions of the SWAA (i.e. by agreement or for breach).
- **Water Augmentation and Affiliation** (clause 4):
 - Subject to compliance with the WWAA and the Shareholder Agreement, the Company has the right to (and shall) require WWL to release Dam Water from the Dam into the Upper Lee River.
 - The Shareholder, under the SWAA, is entitled to apply to TDC under the TRMP to Affiliate its Ground Water Permit or Surface Water Permit for a volume of water represented by the number of Water Shares held by the Shareholder at a rate of 300m³ of water per week, per Water Share.
 - The release of Dam Water is always subject to the availability of Dam Water, the terms of the Resource Consent, the Ground Water Permit(s) and/or Surface Water Permits, the terms of the WWAA (as the case may be) and any statutory or regulatory requirements including but not limited to, the TRMP. The Company will use reasonable endeavours to procure WWL to release the required volume of Dam Water, but does not guarantee to the Shareholder the availability or release of Dam Water.
 - Where the shareholder is an Irrigation Scheme Member it is the Irrigation Scheme that applies for Affiliation and will hold the Affiliated Permit.
 - In the event of a Trigger Event, WIL, in its sole discretion, will act as agent for the Shareholder in seeking the appropriate compensation from TDC (if any).
- **Water Charges** (clause 5): the Shareholder shall pay Water Charges on a per Water Share basis. The Water Charges are determined by the Board in its sole discretion. In the event of non-payment, a penalty interest rate of 5% above the commercial overdraft of WIL's Bank will accrue from the date of non-payment to the date payment is actually made.
- **Licensing** (clause 6): the Shareholder may license any Surplus Water in accordance with the provisions and restrictions contained in clause 6.
- **Metering** (clause 7): this clause provides WIL with the ability to access water use records and to also access a Shareholder's Land to request testing to ensure compliance with the Shareholder Water Augmentation Agreement.
- **Company's obligations** (clause 8): this clause contains standard obligations on the part of WIL including obligations to ensure that that WWL undertakes all reasonable maintenance of the Scheme and promptly pays and discharges any amounts or obligations in relation to the taking of Dam Water or the operation of the Scheme, including its obligations to WWL. WIL may also implement Scheme policies relating to the release of Dam Water.
- **Shareholder's obligations** (clause 9): this clause contains relatively standard obligations requiring the Shareholder to install and maintain its own irrigation infrastructure required to take and distribute Dam Water on their land. The Shareholder must at all times hold the number of Water Shares as provided for in its respective SWAA unless agreed in writing by WIL. The Shareholder must also comply with the Constitution and their Ground Water Permit and/or Surface Water Permit.
- **Transfer of Shares** (clause 10): the Shareholder may transfer its Water Shares in accordance with the provisions and restrictions contained in the Constitution.
- **Breach of Agreement** (clause 11): this clause enables WIL to suspend the Shareholder's right to take and receive Dam Water from the Dam and notify the TDC of the suspension with the result that the Shareholder Affiliation of the Shareholder's Ground Water Permit and/or Surface Water Permit will be suspended by the TDC. WIL may also cancel the SWAA and forfeit the breaching Shareholder's Water Shares.

- **Termination** (clause 12): this clause sets out the requirement for the Shareholder to be a Shareholder in WIL, and the ability to terminate in the event that the Shareholder ceases to be a Shareholder or if certain events occur, for example if the Shareholder is put into receivership.
- **Dispute Resolution** (clause 13): these provisions provide a process through which the parties will be able to resolve any disputes which arise between them.
- **Force Majeure** (clause 14): this clause is a standard provision included in most commercial arrangements. The force majeure provision is necessary in this instance to the extent that WIL may need to rely upon this clause should something happen to the Dam which obstructs its ability to discharge its obligations under the SWAA. The Shareholder's obligation to pay Water Charges continues notwithstanding any force majeure event.
- **Contract review** (clause 15): WIL may from time to time review and update the terms of the WSA to take into account changes in (not limited to) legislation, farming and practice.
- **Limitation and liability** (clause 16): WIL has no liability for any claim for compensation arising for failure to release Dam Water.
- **Delegation** (clause 17): this clause enables WIL to delegate its powers and rights under the WSA to any third party.
- **Assignment** (clause 20): the Shareholder shall not be entitled to assign, transfer, mortgage or charge their interest in the SWAA without the prior written consent of WIL. WIL will have the ability to assign its interests under the WSA without the prior consent of the Shareholder and the Shareholder must do all things to give effect to any such assignment.
- **Financiers** (clause 32): this clause has been included to anticipate a likely Bank requirement to take an assignment of the SWAA as security for its loans. This is because a principal asset of WIL is the SWAAs that allow WIL to charge the Shareholder Water Charges, which are in turn used to pay water charges up to WWL.
- **Independent advice** (clause 33): WIL's solicitors act for WIL, and the Shareholder acknowledges that the Shareholder has either obtained independent advice or has declined to do having been advised to obtain independent advice.

Summary of Irrigation Scheme Water Augmentation Agreement

The ISWAA sets out the agreement as between WIL and the Irrigation Scheme as to the Irrigation Scheme's rights and responsibilities in respect of the supply of water to its members or shareholders who are Shareholders in WIL and who have entered into a SWAA (defined as Affiliated Water User under the ISWAA).

The following is a summary of some of the key provisions:

- **Term** (clause 3): the term of the ISWAA is open-ended and continues until such time as it is terminated in accordance with the provisions of the ISWAA (i.e. by agreement or for breach).
- **Water Augmentation and Affiliation** (clause 4):
 - Subject to compliance with the WWAA and Shareholder Agreement, WIL has the right to (and shall) require WWL to release Dam Water into the Upper Lee River.
 - The Affiliated Water User is entitled to request that its Irrigation Scheme apply to the TDC under the TRMP to Affiliate the Irrigation Scheme's Permit for a volume of water represented by the number of Water Shares held by that Shareholder at a rate of 300m³ of water per week, per Water Share.
 - The release of Dam Water is always subject to the availability of Dam Water, the terms of the Resource Consent, the Ground Water Permit(s) and/or Surface Water Permits, the terms of the WWAA (as the case may be) and any statutory or regulatory requirements including, but not limited to, the TRMP. WIL will use reasonable endeavours to procure WWL to release the required volume of Dam Water, but does not guarantee to the Shareholder the availability or release of Dam Water.
 - Where the shareholder is an Irrigation Scheme Member it is the Irrigation Scheme that applies for Affiliation and will hold the Affiliated Permit.
- **Obligations in respect of Affiliated Water Users** (clause 5):
 - The Irrigation Scheme must ensure that its Affiliated Water Users comply with the terms of their respective SWAAs and that they receive the full benefit of Affiliation. Any shareholders or members of the Irrigation Scheme that are not Affiliated Water Users will receive no more water than the unaffiliated entitlement, as provided for under the TRMP.
 - The Irrigation Scheme shall make amendments as necessary to its separate water supply agreements with its Affiliated Water Users to make it an obligation on the Affiliated Water User to comply with the SWAA and to provide that in the event the Affiliated Water User breaches its respective SWAA, the rights to Affiliation will be suspended or terminated as the case requires.
- **Water Charges** (clause 6): the Affiliated Water User will be responsible for paying Water Charges under their respective SWAA as well as any water charges payable under any water supply agreement in place with the Irrigation Scheme. In the event that the Irrigation Scheme is a Shareholder, it shall pay Water Charges on a per Water Share basis. In the event of non-payment, a penalty interest rate of 5% above the commercial overdraft of WIL's Bank accrues.
- **Licensing** (clause 7): the Irrigation Scheme may license any Surplus Water in accordance with the provisions and restrictions contained in clause 6.
- **Metering** (clause 8): this clause provides WIL with the ability to access water use records and to also access the Irrigation Scheme's Land to request testing to ensure compliance with the ISWAA.
- **Company's obligations** (clause 9): this clause contains standard obligations on the part of WIL including obligations to ensure that that WWL undertakes all reasonable maintenance of the Scheme and promptly pays and discharges any amounts or obligations in relation to the taking of Dam Water or the operation of the Scheme including its obligations to WWL. WIL may also implement Scheme policies relating to the release of Dam Water.
- **Irrigation Scheme's Works and Obligations** (clause 10): this clause contains relatively standard obligations requiring the Irrigation Scheme to install and maintain its own irrigation infrastructure required

to take and distribute Dam Water on their land and to its respective water users. To the extent that the Irrigation Scheme is itself a Shareholder, it must at all times hold the number of Water Shares as provided for in its respective ISWAA unless agreed in writing by WIL. It must also comply with the Constitution and its Ground Water Permit and/or Surface Water Permit.

- **Transfer of Shares** (clause 11): the Irrigation Scheme may transfer its Water Shares in accordance with the provisions and restrictions contained in the Constitution.
- **Breach of Agreement** (clause 12): this clause enables WIL to suspend the Irrigation Scheme's right to take and receive Dam Water from the Dam and to notify TDC of the suspension, with the result that the Affiliation of the Irrigation Scheme's Ground Water Permit and/or Surface Water Permit will be suspended by TDC. WIL may also cancel the SWAA and forfeit the breaching Shareholder's Water Shares.
- **Termination** (clause 13): this clause provides WIL with the ability to terminate the ISWAA in the event that certain events occur, for example if the Irrigation Scheme is put into receivership.
- **Dispute Resolution** (clause 14): these provisions provide a process through which the parties will be able to resolve any disputes which arise between them.
- **Force Majeure** (clause 15): this clause is a standard provision included in most commercial arrangements. The force majeure provision is necessary in this instance to the extent that WIL may need to rely upon this clause should something happen to the Dam which obstructs its ability to discharge its obligations under the ISWAA. The Irrigation Scheme's obligation to pay Water Charges (if applicable) continues notwithstanding any force majeure event.
- **Contract review** (clause 16): WIL may from time to time review and update the terms of the ISWAA to take into account changes in but not limited to legislation, farming and practice.
- **Limitation and liability** (clause 17): WIL has no liability for any claim for compensation arising for failure to release Dam Water.
- **Delegation** (clause 18): this clause enables WIL to delegate its powers and rights under the ISWAA to any third party.
- **Assignment** (clause 21): the Irrigation Scheme shall not be entitled to assign, transfer, mortgage or charge its interests in the ISWAA without the prior written consent of WIL. WIL will have the ability to assign its interests under the ISWAA without the prior consent of the Irrigation Scheme and the Irrigation Scheme must do all things to give effect to any such assignment.
- **Financiers** (clause 32): this clause has been included to anticipate a likely Bank requirement to take an assignment of the ISWAA as security for its loans. This is because a principal asset of WIL is the ISWAAs that allow WIL to charge the Irrigation Scheme Water Charges, which in turn are used to pay Water Charges to WWL.
- **Independent advice** (clause 33): WIL's solicitors act for WIL and the Irrigation Scheme acknowledges that the Irrigation Scheme has either obtained independent advice or has declined to do having been advised to obtain independent advice.

Summary of Wholesale Water Augmentation Agreement

Under the WWAA, WWL agrees to operate the Dam to comply with the minimum flow levels and other conditions required under the Resource Consents, subject to compliance with the TRMP, all applicable resource consents, any section 329 notice issued under the Resource Management Act 1991 and other laws applicable to it. Subject to this, WWL will provide security of water supply for 7,765 hae of extractive use, comprising supply to:

- the holder of Water Shares to take water up to a maximum of 5,425 hae; and
- TDC/NCC to take water up to a maximum of 2,340 hae,

in accordance with the conditions of its Affiliated Permits or the Water Permits held by the holders of Water Shares. WWL is also responsible for operating, repairs and maintenance of the Dam, complying with all health and safety legislation, paying invoices and holding adequate insurance.

The following is a summary of some of the key provisions of the WWAA:

- **Term:** The WWAA commenced on the date of signing (12 December 2018) and continues until terminated in accordance with its terms.
- **WWL's water obligations:**
 - WWL agrees to operate the Dam in compliance with the minimum flow levels and other conditions required under the Resource Consents, and acknowledges this is material to TDC/WIL or in the case of WIL, its irrigators, in respect of their rights to take water under the 'affiliated permit regime' in the TRMP.
 - Subject to the above, WWL agrees to meet the minimum flow requirements and to provide a right to Affiliate:
 - (a) for holders of Water Shares to a maximum of 5,425 hae when requested by WIL; and
 - (b) for TDC up to a maximum of 2,340 hae when requested by TDC.
 - WWL will also operate the Dam to comply with the TRMP rules or any section 329 notice under the Resource Management Act 1991.
 - A hectare equivalent or "hae" represents a volume of water equal to 300m³ per ha per week.
 - WWL will not enter into any agreement or arrangement with any other person in relation to the release of water from the Dam or the operation of the Dam, other than relating to any Hydro Operation in accordance with a term sheet entitled "Term Sheet - Waimea Hydro Concession" attached to the Project Deed.
- **WWL's operational obligations:**
 - WWL will Operate the Dam:
 - (a) in a professional manner, and to the appropriate industry standards (including but not limited to standards approved by the New Zealand Society on Large Dams) and will attend to such reasonable maintenance and repairs as required to maintain the Dam in a condition able to be operated to meet WWL's obligations to WIL and TDC; and
 - (b) in accordance with the TRMP and Resource Consents.
- **Water Charges:**
 - The Water Charges will be allocated between WIL and TDC and set on a recovery basis, and include operating charges, finance charges including TDC WWL Loan costs, and one-off capital charges.
 - Operating Costs:
 - (a) will be set based on a cost-recovery forecast and will be shared between TDC and WIL 51%:49% respectively, from the earlier of scheduled Practical Completion or actual Practical Completion of the Dam;
 - (b) include all costs of operating WWL such as director's fees, premises rental, staff and material costs but excludes any costs in connection with the CIIL Loan and WWL's responsibility to pay

interest on and repay the TDC WWL Loan from TDC on terms set out in the TDC WWL Loan; and

- (c) can accrue and be invoiced (following Practical Completion of the Dam), in which case shall be payable even if the Dam is not operational and/or WWL is unable to release any or the required amount of water.

- **Dam Costs:**

- Dam Costs include:
 - (a) all of the costs and other amounts payable by WWL to CIIL in connection with the CIIL Loan. Recovery of finance charges shall commence only after scheduled Practical Completion of the Dam;
 - (b) all of the costs and other amounts payable by WWL to CIIL in connection with the TDC WWL Loan to a maximum of \$376,000 per annum, until the expiry of the 15-year period starting from Financial Close; and
 - (c) any amount payable by WWL to TDC: (i) as a result of TDC funding WWL to pay any amount owing by WWL to CIIL; and/or (ii) in respect of the TDC WWL Loan, that WIL fails to pay to WWL when due for on-payment to TDC, and in each case, plus TDC's cost relating to the relevant amount(s).
- WWL will invoice TDC a finance charge as part of its Water Charge on a quarterly basis:
 - (a) to cover any balance outstanding under the TDC WWL Loan, if the \$376,000 per annum cap described above has been exceeded; and
 - (b) if the TDC WWL Loan is still outstanding at the expiry of the 15-year period starting on Financial Close, as necessary in order for WWL to meet the payments under the TDC WWL Loan.
- Recovery of the Dam Cost component of the Water Charges shall commence only after scheduled Practical Completion of the Dam or in accordance with the provisions of the CIIL Loan or any other contractual arrangement as between WWL and TDC in relation to the TDC WWL Loan so as to enable WWL to make the payments required pursuant to its obligations in respect of the CIIL Loan or TDC WWL Loan (as applicable).
- WWL will prepare a 3-5 year budget of expected costs.
- Any cash reserves will be used as a reduction of the following year's operating charges or to meet upcoming capital requirements.
- Unbudgeted costs may be met by TDC and WIL at 51%:49% respectively.

- **Resupply of Water:**

- Each Head Water User has the right to resupply water provided that WIL shall not agree to resupply/affiliate any volume of water greater than 5,425 hae and TDC shall not resupply or apply for any water-take consents for any volume of water greater than 2,340 hae.
- WIL shall not enter into a SWAA with any person who is:
 - (a) at the time of supply, connected to TDC's reticulated and extended reticulated networks, or any property which TDC is responsible for, operates, or occupies (including parks and reserves); or
 - (b) supplied by TDC for any industrial activities,without the prior written agreement of TDC, provided that:
 - (c) such prior written agreement is not required where the SWAA is entered into in respect of supply from a permit to take water for horticultural or agricultural use; and
 - (d) WIL will not enter into a SWAA in respect of supply from a permit to take water for industrial use.
- WIL shall be entitled to enter into a SWAA in respect of supply for ancillary industrial activities serviced from a ground water bore that is not used primarily for industrial purposes where, at the time of supply, the relevant property is not connected to TDC's reticulated and extended reticulated networks.

- **SWAA:** The terms of WIL's SWAA must include provision for Shareholders' permits to become temporarily Unaffiliated if the SWAA is in breach and the breach is not remedied within 30 Working Days.

Any breach incapable of remedy will immediately result in the termination of the SWAA and that Shareholder's Affiliated Permit becoming Unaffiliated.

- **Suspension:** Water rights may be suspended for non-payment, material breach, or where the release of water by WWL would result in the breach of any laws or damage to the Dam Infrastructure.
- **Termination:** The WWAA is only terminable on non-payment within 60 Working Days, material breach, direct or indirect change in control of WIL (not approved by WWL).
- **End of Life:** The WWAA may be suspended or terminated if the Dam is no longer able to be operated or cannot be operated safely and the parties do not want to, or cannot, contribute additional funds to keep it operating.
- **Consequence:** If WIL's WWAA is suspended, it will immediately lose the benefit of being Affiliated and must take all steps as necessary to Unaffiliate its Shareholders' Affiliated Permits during the suspension period. If WIL's WWAA is terminated, it will immediately terminate all SWAAs so that Shareholders with Affiliated Permits will not be considered to be 'Affiliated Permit holders' under the TRMP.

Summary of Shareholder Agreement

The Shareholder Agreement is an agreement between WIL, TDC and WWL.

- **Capital contributions:**

- WIL will be responsible for direct and indirect capital contributions of up to \$49.5 million towards the construction of the Dam. WIL's equity contributions in WWL total approximately \$26 million, comprising \$15.6 million from the issue of Water Shares under WIL's previous offer and \$10.35 million from the issue of 2,000 Convertible Notes. The remaining \$23.5 million will come from the CIIL Loan (Facility A). Repayment of the CIIL Loan will be funded by WIL by the payment of increased water charges to WWL (40 year amortisation) sufficient to ensure WWL has adequate cash to service the CIIL Loan.
- In addition, WWL will receive \$8.75 million under the TDC WWL Loan. The TDC WWL Loan is funded by TDC borrowing from the Local Government Funding Authority (LGFA). WWL will make all payments in respect of the TDC WWL Loan, including of principal and interest, on a table loan basis, amortising over the 40-year period from Financial Close. The interest rate will be set as First Drawdown, using the LGFA rate card for a 10 year tenor, then reset on the same basis for further 10 year periods. No principal will be payable from first Drawdown to Practical Completion of the Dam though interest will accrue and will be capitalised (then amortised over the 15 years from Practical Completion of the Dam) or paid in cash by WWL at WIL's election.
- Payments by WWL to TDC under the TDC WWL Loan will be initially funded to the date 15 years after Financial Close by WIL paying to WWL an increased water charge up to a maximum of \$376,000 per annum, with TDC paying any balance as part of its water charges. From the expiry of that period, if the TDC WWL Loan is still outstanding, TDC will pay an increased water charge as part of its water charges in order for WWL to make payments under the TDC WWL Loan.

- **Shareholding in WWL:**

- Two separate classes of shares have been issued in WWL, being ordinary shares and non-voting shares (with the non-voting shares also not being entitled to any dividends or any right to any assets of WWL on liquidation). On Financial Close, TDC was issued ordinary shares so that it holds 51.1% of the total number of WWL shares (ordinary and also non-voting shares) on issue, on a partly paid basis.
- On Financial Close, WIL was issued:
 - (a) Partly-paid ordinary shares so that such ordinary shares represent 29.8% of the total number of WWL shares (ordinary and non-voting shares) on issue; and
 - (b) Fully paid non-voting shares so that such non-voting shares represent 19.1% of the total number of WWL shares (ordinary and non-voting shares) on issue.
- WIL's non-voting shares will be periodically converted to ordinary shares as TDC's liability under the TDC Credit Support is reduced. WIL's shareholding in WWL will automatically convert to 48.9% ordinary shares in the event that TDC Credit Support is no longer necessary as the CIIL Loan will have been repaid or refinanced (subject to adjustment to reflect any additional shares issued to TDC pursuant to any overruns of the budget costs for the Project).
- WIL's shareholding cannot be any higher than this (48.9% ordinary shares) because TDC needs to control WWL at Board level in order for it to remain a CCO. At no time will WIL hold less than 25% of the ordinary shares in WWL.

- **Timing of capital contributions:** TDC and WIL both contributed 50% of their equity contributions at Financial Close, being the point in time when the loan and security documents and funding with CIIL was unconditional and able to be drawn down (excluding the \$7 million of the TDC contribution that is intended to be funded by way of the Ministry for Environment grant). For WIL, this was approximately \$12.6 million. WIL will contribute the remainder of its share of capital in three tranches on 20 December 2019, 20 January 2020 and 20 July 2020.

- **Board appointment rights/composition:** The board of WWL may comprise of 2 WIL appointees, 1 Ngāti Koata appointee and 4 TDC appointees (one of whom may be a joint TDC/NCC appointee).

- **Shareholder reserved matters:**

- The Shareholder Agreement between TDC and WIL sets out reserved matters that require written consent from each of the major shareholders (i.e. these decisions will require consent from all shareholders each holding 15% or greater of the ordinary shares on issue), with the major shareholders in each case being required to act reasonably. All other governance decisions will be made by simple majority. There are 15 reserved matters which are set out below. Note the defaulting Shareholder's right to vote on Shareholder reserved matters marked with an * are suspended if the default is un-remediated:
 - (a) Any material variation to the Construction Contract(s) to build the Dam and associated Infrastructure, where such variation could result in WWL being liable for pay any additional amounts under those contract(s), or that materially and adversely from a functional perspective changes the design or performance testing or functional specifications;
 - (b) "Major transactions" under the Companies Act 1993;
 - (c) *Adoption of annual WWL operating budget and cashflow forecast, including approval of pricing decisions in relation to Water Charges (as opposed to finance charges under the CIIL Loan and TDC WWL Loan) under Wholesale Water Augmentation Agreements;
 - (d) *Capital Calls by WWL, which will be made severally based on 51% of such capital Call being met by TDC and 49% being met by WIL, and each of WIL and TDC must act reasonably so that WWL is sufficiently funded to enable it to meet its obligations and to operate its business;
 - (e) Payment of any distribution / dividend;
 - (f) Any decision to put WWL into receivership or liquidation;
 - (g) *The incurring of indebtedness by WWL (other than trade creditors in the ordinary course of business), or entry into any contract or obligation, over a dollar amount that exceeds 20% of WWL's operating budget for that year, if such indebtedness, contract or obligation was not expressly provided for in an agreed budget;
 - (h) The granting of a security interest in WWL;
 - (i) Issuing additional equity by WWL other than where permitted / contemplated in any Project documents, such as additional equity issued to TDC to reflect any cost overrun over \$3 million that TDC funds;
 - (j) Any proposed variation to any Project document to which WWL is a party;
 - (k) The undertaking of any other project or business venture other than constructing and operating the Dam;
 - (l) Any variation of the Wholesale Water Augmentation Agreement for WIL or TDC;
 - (m) Any material alteration to the initial design of the Dam, other than Hydro Operations in accordance with a term sheet agreed prior to Financial Close between WWL and TDC;
 - (n) The charging of any water charges pursuant to the WWAA in relation to the TDC WWL Loan or CIIL Loan in excess of the amounts required in order to recover from WIL:
 - (i) any payments (of up to \$376,000 plus GST per annum) in relation to the TDC WWL Loan in relation to the period commencing on Financial Close and ending on the date 15 years after Financial Close; and
 - (ii) any repayment, other amounts required to be paid or amounts which have been paid without prior funding from WIL to CIIL in relation to the CIIL Loan, or in respect of any payment made by TDC pursuant to the TDC Credit Support; and
 - (o) The charging of any water charges to TDC pursuant to its WWAA in relation to the TDC WWL Loan in excess of the amounts required in order to recover from TDC any amounts payable by WWL to TDC under the TDC WWL Loan Agreement.

- **Conflicts of interest:** The Shareholder Agreement includes an appropriate conflicts of interest regime to exclude any Directors from discussions, meetings etc. on matters that involve claims, enforcement and similar matters affecting that party.

- **Transfers:** No transfer of shares in WWL may occur without written consent of either party (being WWL and TDC) (including consent as to the purchaser of the shares) and pre-emptive rights will apply, except that CIIL will be entitled to exercise its security over WIL's shares in WWL and TDC will be entitled to transfer its shares to another CCO, NCC (limited as to 10%) and/or any successor of TDC that is a local authority under the Local Government Act 2002.
- **Credit support from TDC:** TDC is to provide credit support in relation to the CIIL Loan and TDC WWL Loan such that CIIL may call on TDC to satisfy WWL's obligations to CIIL in relation to the CIIL Loan or TDC WWL Loan. If TDC makes payment to WWL or CIIL in connection with the TDC Credit Support, then a debt shall be owing by WWL and WIL jointly and severally to TDC.
- **Events of default:**
 - Events of default include:
 - (a) material breach of the Shareholders Agreement, including non-payment of amounts due under the Shareholder Agreement with a 20-Working Day remedy period unless incapable of remedy; and
 - (b) breach of the transfer provisions.
 - If an event of default is not remedied within the 20 Working Day cure period, then the defaulting shareholder's rights to vote in relation to certain matters are suspended and the defaulting shareholder's rights under its WWAA will be suspended (including its ability to provide Affiliated Permit Holder status under the TRMP to any person under a WWAA).

Summary of Project Deed

The Project Deed between TDC, WIL, WWL and CIIL regulates the relationship between CIIL (which has provided the CIIL Loan) and TDC (which has provided credit support for the CIIL Loan) and records certain other related matters. The following is a summary of some of the key provisions:

- **TDC Credit Support:** TDC will provide credit support for the CIIL Loan capped at \$29 million on standard guarantee terms (**TDC Credit Support**). The TDC Credit Support will be secured by the issuance of debenture stock by TDC in favour of CIIL. The TDC Credit Support will be exercisable by CIIL on demand if there is an event of default arising from failure of WWL to pay any amount due and payable under the CIIL Loan or TDC WWL Loan and the default is not rectified within the applicable cure period.
- **Cure of a payment breach by TDC:** If TDC cures a default, then any amount paid by TDC to cure the payment breach will remain owing by WIL to WWL, and WWL will incur a debt to TDC equal to that amount (TDC Cure Debt).
- **TDC Option:** TDC is able to exercise an option to acquire all of CIIL's rights and obligations under the CIIL Loan for an amount equal to all outstanding amounts under the CIIL Loan if CIIL makes demand under the TDC Credit Support.
- **Priority of payments:** The payment of all amounts owned to TDC under the TDC WWL Loan will be subordinated to (and rank behind) the payment of all amounts owed to CIIL under the CIIL Loan.
- **Project Cost Overruns:** The first \$3 million of Project cost overruns will be shared equally by TDC and WIL. WIL's \$1.5 million share will be funded by the CIIL Loan (Facility C). TDC's \$1.5 million share will be funded in cash by payment of a water charge to, or issue of non-voting shares in, WWL. TDC is responsible for meeting overruns beyond \$3 million by subscribing for ordinary (voting) shares in WWL, subject to WIL holding not less than 25% of all of the ordinary shares on issue in WWL.
- **Compensation Events:**
 - It will be a Compensation Event if any act, omission, or failure by TDC, including any change to the TRMP, has the effect of:
 - (a) removing the right to Affiliation for WIL's Shareholders who hold a SWAA and an Affiliated Permit;
 - (b) allowing any person that does not hold a SWAA to become Affiliated or to have rights to take and use water equivalent to Affiliation;
 - (c) materially changing the relative rights or obligations of Affiliated WIL Shareholders and persons who are not Affiliated WIL Shareholders to take and use water; or
 - (d) any other event that is analogous to the above or has a substantially similar effect.
 - It will also be a Compensation Event if:
 - (a) TDC does not use all reasonable endeavours to oppose or resist any process that would have the effect of causing a Compensation Event under paragraphs (a) to (d) above, where TDC is permitted to do so at law;
 - (b) TDC does not manage, enforce or implement (in accordance with best practice taking into account the nature and extent of any breach) the relevant provisions in the TRMP in relation to the taking of water by persons who are not Affiliated Permit holders.
- **Consequences of Compensation Event:**
 - If WWL or CIIL or WIL considers that a Compensation Event has occurred, the parties will go through an agreed set of steps to determine compensation payable by TDC to WWL, WIL or WIL's Shareholders. The total amount of compensation payable by TDC in respect of a Compensation Event is limited to \$50,000,000 in aggregate. TDC will have no liability in respect of a Compensation Event that occurs after the 40th anniversary of Financial Close.

- WIL undertakes to use all reasonable endeavours to support TDC in opposing or resisting any process initiated by any third party that would have the effect of causing a Compensation Event provided always that this undertaking shall not extend to WIL incurring costs (including professional fees) without WIL's approval.

- **Agreed Principles:**

- TDC, WWL, WIL and CIIL have entered into the various Project documents on the basis that:
 - (a) TDC, WIL and CIIL will jointly fund the cost of the construction and operation of the Dam, through WWL and, with WIL funding the repayment obligations to CIIL via WWL and backed by the TDC Credit Support;
 - (b) only TDC (and water users supplied by TDC in accordance with the WWAA), and WIL and its Shareholders who hold an Affiliated Permit will be entitled to directly benefit from the water to be released from the Dam for the purposes of taking water under the TRMP and WAA;
 - (c) each SWAA and ISWAA will enable WIL's Shareholders to Affiliate their permits;
 - (d) WIL's Shareholders who enter into a SWAA or ISWAA and hold an Affiliated Permit will have relatively superior rights to take water as compared to any person who does not have an Affiliated Permit;
 - (e) except for domestic bore users, no person is entitled to extract water as a consequence of the release of water from the Dam other than as permitted under the WWAAs;
 - (f) the Dam will be operated and water will be released from the Dam in accordance with the resource consents for the Dam and TRMP.

Summary of Convertible Notes

The Convertible Notes Agreement contains the terms of the issue of Convertible Notes in WIL as part of WIL's funding of its equity contribution to WWL.

The following is a summary of some of the key provisions of the Convertible Notes Agreement:

- **Issue of Convertible Notes:** The Convertible Notes were offered in a single parcel of 2,000 Convertible Notes to CWL, which is made up of a number of investors. Convertible Notes were issued at \$5,500 per Convertible Note.
- **Conversion of the Convertible Notes:** 500 of the Convertible Notes will mandatorily convert to Water Shares on the 10th anniversary of Financial Close (21 December 2028), less the cumulative number of shares converted prior to that date. A further 500 Convertible Notes will mandatorily convert to Water Shares on the 14th anniversary of Financial Close (21 December 2032), less the cumulative number of shares converted prior to that date.
- **Interest:** CWL, as holder of the Convertible Notes, will be entitled to interest on the issue price of the Convertible Notes following Practical Completion of the Dam at the following interest rates:
 - 3% from Practical Completion of the Dam to the date that is the 10th anniversary of Financial Close (21 December 2028);
 - 3.5% from the 10th anniversary of Financial Close (21 December 2028) to the date that is the 14th anniversary of Financial Close (21 December 2032); and
 - 4% from the 14th anniversary of Financial Close (21 December 2032) to the date that is 45 years from Financial Close (21 December 2063) or the date of conversion.
- **Rights and obligations attaching to Convertible Notes:**
 - The holder of a Convertible Note may convert 1 or more of its Convertible Notes into Water Shares on a 1:1 basis, in which case such Convertible Notes would be converted into Water Shares and would have the same rights and obligations as those Water Shares issued under this Offer.
 - The holder of a Convertible Note may redeem 1 or more of its Convertible Notes on or after the date that is 45 years from Financial Close. On redemption, WIL must pay the holder the issue price plus any accrued or accumulated interest for each Convertible Note redeemed.
 - The holder of the Convertible Notes (which will convert to voting Water Shares) may not hold more than 20% of the votes attaching to the Shares of WIL. In the event the holder has more than 20% of the Water Shares on issue its votes will be capped at 20%.
 - Under the Moratorium, WIL is prevented from issuing any further Water Shares until the earlier of the date that CWL has converted all of its Convertible Notes and sold all of its Water Shares and the Maturity Date.
 - The Moratorium also prevents the sale or transfer of Water Shares by holders other than in accordance with clauses 6.1 or 6.7 of the Constitution (being a transfer between properties owned or leased by the holder of Water Shares or a sale in conjunction with the sale of land to which Water Shares relate) until the earlier of the date that CWL has converted all of its Convertible Notes and sold all of its Water Shares and the Maturity Date.

Summary of Project Funding

Project Finance - CIIL Loan

- **Summary:**
 - CIIL is a lender to the Project. The borrower is WWL, with WIL being both a guarantor and a co-obligor. The CIIL Loan is for WIL's benefit to fund its share of the budget costs for the Project, but will be made directly to WWL as the owner of the Dam, which is a requirement of CIIL.
 - The CIIL Loan is for a total sum of up to \$25 million (excluding capitalisation of interest and fees), made up of:
 - (a) Facility A (being the construction facility with a maximum cash drawdown of \$21.9 million and a facility limit of \$23.5 million);
 - (b) Facility B (being a facility to fund Uptake Driven Repayments of Facility A to ensure that the maximum facility limit between facility A and B will not exceed \$23.5 million); and
 - (c) Facility C (being the budget costs for the Project overrun facility with a facility limit of \$1.5 million). The facility limit across the facilities cannot exceed \$25 million.
 - The interest and principal payable by WWL to CIIL in connection with the CIIL Loan will be recovered from WIL as part of the Water Charges.
 - Recovery of these charges will commence only after the scheduled Practical Completion of the Dam. In the event Practical Completion of the Dam is delayed, this will still commence from the scheduled Practical Completion date.
- **Security:**
 - CIIL has taken a first ranking general security over all of WWL and WIL's assets and undertakings (including specific security over all Bank accounts. This means that the account into which subscription proceeds for Water Shares, and any other amounts payable under the Project documents to which WIL is a party, will be subject to security. CIIL has also taken a first ranking featherweight security over WWL's real property, the Dam and any consents acquired by WWL in connection with the Project.
 - TDC has taken a subordinated, second ranking security interest and second ranking featherweight security behind CIIL's first ranking security as security for, among other things, the performance by WIL of its obligations to TDC under the relevant Project documents (including credit support) and to ensure that TDC can control and complete the Project if any WIL-related breaches arise under the Project documents (including any insolvency event). TDC has guaranteed CIIL's Loan to WWL pursuant to a credit support arrangement referred to below.
 - TDC's security will be released on discharge of the TDC Credit Support and payment to TDC of any amounts owed to TDC under agreed Project documents.
- **Credit support and implications for irrigators:**
 - Whilst WIL as guarantor and co-obligor is responsible for the repayment of the CIIL Loan, TDC has agreed to provide capped credit support in respect of both the CIIL Loan and TDC WWL Loan (**TDC Credit Support**). The provision of TDC Credit Support has enabled lower interest rates to be retained for Shareholders, resulting in lower Water Charges. The TDC Credit Support will be exercisable by CIIL on demand if there is an event of default arising from failure of WWL to pay any amount due and payable under the CIIL Loan or TDC WWL Loan and the default is not rectified within the applicable cure period.
 - In the event of default by WIL under the Project Documents and the calling on the TDC Credit Support by CIIL, any shortfall in payments by WIL to WWL, or by WWL to CIIL, may be recovered by TDC through target rating owners of the relevant land (most of which will be Shareholders) under the Local Government (Rating) Act 2002 to recover amounts paid by TDC.

- **Refinancing:**

- Every 5 years from Financial Close, WWL (as borrower), WIL (as guarantor) and CIIL (as lender) will jointly appoint a suitably qualified independent consultant or advisor to assess whether WWL is in a position to refinance the CIIL Loan in full without the ongoing benefit of the TDC credit support. If the consultant determines that a refinancing is achievable on prevailing market and arm's length terms (which can be less favourable than the terms of the CIIL Loan), then WWL and WIL must use reasonable commercial endeavours to obtain the refinancing in accordance with the consultant's recommendations.
- Any refinancing drawdown and subsequent repayment of all amounts owing to CIIL and to TDC, and full release of TDC Credit Support, will trigger a commensurate increase in shares held in WWL by WIL, up to maximum of 48.9% shareholding.
- Should early repayment of the CIIL Loan not occur by the date that is 15 years from Financial Close, WIL will be responsible for refinancing outstanding principal to repay the CIIL Loan.

Project Finance - TDC WWL Loan

- **Summary:**

- TDC is also a lender to WWL as borrower under the TDC WWL Loan. The TDC WWL Loan part funds the construction and commissioning of the Dam.
- This has been implemented by TDC providing a \$8.75 million facility to WWL, on a 40-year table loan basis. Table loan repayments (in respect of interest and principal) for the 15-year period from Financial Close will be funded by WWL through the Water Charges calculated under the Wholesale Water Augmentation Agreements, up to \$37,000 per annum. The WWL payments will include payment of interest for the period from the first drawdown of the facility to the date of Practical Completion of the Dam. Such pre-Practical Completion interest will be capitalised until the date of Practical Completion of the Dam (then amortised over the 15 years from Practical Completion of the Dam) or paid in cash at WIL's election.
- The 15-year period from Financial Close is intended to align with the period of intended CIIL concessionary funding to WWL. WWL (funded by WIL) will continue to pay the above mentioned finance costs even if CIIL concessionary funding to WWL is refinanced earlier than the expiry of that 15 year period.
- The interest rate from drawdown has been set at the LGFA 10-year term loan rate, after which it will be reset to a comparable term rate then available to TDC from the LGFA.
- After the expiry of that 15-year period, repayment of the loan will be funded by TDC (although TDC may elect to collapse the facility at any point from thereon).

- **Security**

- TDC's security package from WIL and WWL in respect of the TDC Credit Support (as set out above in respect of the CIIL Loan) will extend to all amounts owing by WWL in respect of the TDC WWL Loan.
- The security for the TDC WWL Loan is a second ranking general security over all of WWL and WIL's assets and undertakings (including specific security over all Bank accounts). This means that the account into which subscription proceeds for Water Shares, and any other amounts payable under the Project documents to which WIL is a party, will be subject to security. TDC, CIIL and WWL will enter into priority and subordination arrangements in relation to the CIIL Loan.
- TDC, CIIL and WWL will enter into priority and subordination arrangements in relation to the CIIL Loan, the TDC WWL Loan and the TDC Credit Support.

Summary of budgeted costs for the Project

Project Capital Costs Funded

The total estimated capital cost of the Project to be funded is \$104.4 million including risk allowance and contingency. A breakdown of this cost is to the right:

Description	Estimated Cost (\$ million)
Procurement and ECI	\$4.0
Land acquisition	\$2.5
Project Office	\$5.5
Governance & corporate	\$2.5
Construction	\$83.2
Construction related professional services	\$4.3
Consent compliance	\$1.1
Sunk costs	\$1.3
Total Capital Cost	\$104.4

WWL Operating Charges

The operating charges for WWL, post construction, have been estimated to be approximately \$1.5 million per annum (2018 dollars). A breakdown of this cost is to the right:

Description	Annual Cost (\$000)
Administration including accounting, audit and legal	\$101
Insurances	\$513
Governance	\$120
Repairs and maintenance	\$200
Staff costs	\$76
Rates	\$230
Resource consent, hydrology and power	\$270
Total estimated annual operating costs	\$1,510

WIL Operating Charges

The operating charges for WIL, post-construction, have been estimated to be approximately \$315,000 per annum (2018 dollars). A breakdown of this cost is to the right:

Description	Annual Cost Post-Construction (\$000)
Administrative costs including accounting, audit and legal	\$138
Insurances	\$15
Director's fees	\$30
Staff costs	\$132
Total	\$315

