

# THREE WATERS VESTING AND ACQUISITION OF PRIVATE SCHEMES

## TABLE OF PROCESS STEPS AND DOCUMENTATION REQUIREMENTS

### GLOSSARY

**Council** means Queenstown Lakes District Council

**Governing Policy** This document is issued under the [Three Waters Vesting and Acquisition of Private Schemes Policy](#) published by the Council in December 2021.

**Scheme Operator** means a private incorporated entity who owns and operates a Private 3-waters scheme within the Queenstown Lakes District.

### PROCESS OVERVIEW

- This table sets out the individual process steps to be performed by the Council and a Scheme Operator to comply with the Governing Policy.
- The steps may be run concurrently or sequentially.
- The process to vest a private water scheme requires submission of a range of documentation from the Scheme Operator. A Scheme Operator must be ready to present and submit the documentation requested in a timely manner to facilitate the application process.
- The Council has a responsibility to analyse the documentation alongside site visits, risk assessments and other activities within a reasonable time but has no specific service levels in this regard.

### COSTS AND EXPENSES

- Legal expenses relating to the review, advice, preparation and revision of documentation relating to the steps below shall be at the cost and expense of the Scheme Operator.
- Ancillary costs are to be met by the Scheme Operator and include, but are not limited to the following:
  - Independent legal advice and property legal expenses relating to, among other things, revisions to easements and supplier contracts
  - Independent reports and risk assessments
  - Works or actions to remediate a Private 3-waters Scheme to meet minimum risk levels to meet legislative and statutory requirements
  - Costs and Expenses under the Employment Relations Act 2020
  - Any other cost and expense ancillary to the process to vest a Private 3-waters scheme to the Council incurred directly by a Scheme Operator

### ENQUIRIES

All enquiries related to this document should be directed to **Brandon Ducharme** at [brandon.ducharme@qldc.govt.nz](mailto:brandon.ducharme@qldc.govt.nz)

| <b>PHASE DESCRIPTION</b><br><i>This is subject to change and additional steps may be added</i>   | <b>PURPOSE</b><br><i>This is the purpose of the step or sub-process</i>   | <b>DOCUMENTATION</b><br><i>A list of the documentation required. This list is non-exhaustive and may be updated as the due diligence and vesting process continues.</i>  | <b>QLDC SPECIFICATIONS</b><br><i>This lists any applicable specifications to which Documentation must conform to be accepted by QLDC.</i>  | <b>RESPONSIBLE PARTY</b><br><i>This is the party who must supply/issue this documentation/information</i> |
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| <b>DUE DILIGENCE PHASE</b><br>In this phase the Council assesses, inter alia, the scheme design, its performance, the condition of the assets, access and operating rights related to the Scheme, costs to maintain Scheme, the legal structure of the Scheme Operator and operational and contractual documentation relating to the Scheme. |   |  |  |   |
| <b>1. Scheme Due Diligence – Risk Assessment</b>   | A risk assessment to demonstrate compliance of private scheme to Health Act 1956, DWSNZ and Water Services Act 2021 to the Council prior to vesting.<br><br>To identify the remedial actions to be performed by a private scheme owner to meet acceptable risk levels to comply with legislation above.                   | <b>Risk Assessment Tool</b>  | Excel spreadsheet file format to comply with <i>Risk Assessment Tool issued by Public Health South</i>   | Scheme Operator to submit to the Council  |
| <b>2. Scheme Due Diligence - Vendor Information</b>  | A record of the vendor/s who will sell and transfer 3 waters assets to the Council.<br><br>To enable the Council to perform due diligence on ownership structure.   | <b>Company Extracts</b><br><br><b>Organisation Chart</b> (if multiple entities or subsidiaries)  | To be in a format supplied by the Scheme Operator.   | Scheme Operator to submit to Council  |
| <b>3. Scheme Due Diligence – Asset Design Information</b>  | To provide the Council with enough design information to enable it to perform an analysis and assessment of the operational design features of the Private Scheme.<br><br>To be in a format to enable the Council to compare feasibility of Private Scheme and operational integration to existing Council-Owned Schemes. | <b>Asset Design Report including as a minimum:</b> <ul style="list-style-type: none"> <li>- <b>Scheme Overview</b></li> <li>- <b>P&amp;I Diagrams</b></li> <li>- <b>Process Flow Diagrams</b></li> <li>- <b>Hydraulic Diagrams</b></li> <li>- <b>Operational Narrative (as applicable)</b></li> </ul>  | To be in a format supplied by the Scheme Operator.   | Scheme Operator to submit to the Council  |
| <b>4. Scheme Due Diligence – Asset and related equipment Documentation</b>   | To provide the Council with records evidencing ownership of assets, any security interests registered over the assets and records of valuations of the assets and related equipment.<br><br>To enable the Council to identify conditions precedent to require release and discharge of encumbrances over assets.          | <b>Asset Register including as a minimum:</b> <ul style="list-style-type: none"> <li>- <b>Asset type – water supply, wastewater, stormwater</b></li> <li>- <b>Type</b></li> <li>- <b>Make</b></li> <li>- <b>Model</b></li> <li>- <b>Dimension/Size</b></li> <li>- <b>Quantity</b></li> <li>- <b>Installation Date/age</b></li> <li>- <b>Physical Condition</b></li> <li>- <b>Record of any PPSR registrations (Personal Property Securities Register)</b></li> </ul> | Excel spreadsheet file format to comply with <i>QLDC 3 Waters Facilities Asset Register Template</i><br><br>Available to download at <a href="http://landdevelopmentsandsubdivisions.qldc.govt.nz">Land developments and subdivisions (qldc.govt.nz)</a> | Scheme Operator to submit to the Council  |

|    |  |  | - Record of non-registered encumbrances   |  |  |
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| 5. | <b>Scheme Due Diligence - GIS and As Built Records</b> | <p>To provide the Council with a record of all as-builts and GIS data to show location of assets on deposited plans.</p> <p>To enable the Council to assess if records meet Council as-built specifications and to migrate files to Council GIS records if vesting is approved.</p>  | <p><b>As Built Records for all assets</b></p> <p><b>As Built Records for all roads</b></p> <p><b>GIS files for all assets</b></p>   | <p>File format to comply with ArcGIS submission methods as set out in <i>QLDC Three Waters and Open Spaces As-built Submission Package</i></p> <p>Available to download at <a href="http://landdevelopmentsandsubdivisions.qldc.govt.nz">Land developments and subdivisions (qldc.govt.nz)</a></p> | Scheme Operator to submit to the Council |
| 6. | <b>Scheme Due Diligence – Asset Valuation</b>          | <p>To provide the Council with an independent valuation of the Private Scheme and each individual asset.</p> <p>To enable the Council to, among other things, identify if Private Scheme triggers special consultative procedures as per policy requirement 9 and to classify as a Small, Minor or Large Scheme.</p>   | <b>Valuation Report</b>   | <p>Valuation to comply with requirements of <i>Accounting Standard for public benefit entities based on PBE IPSAS 17</i>.</p> <p>Available to download at <a href="#">PBE IPSAS 17 » XRB</a></p>   | Scheme Operator to submit to the Council |
| 7. | <b>Scheme Due Diligence – Key Contracts</b>            | <p>To provide the Council with the records related to the current contractual obligations in place for the private scheme.</p> <p>To enable the Council to identify key contracts to be assigned or novated as part of the vesting process.</p> <p>To enable Private Scheme owner to terminate contracts that may not be assigned or novated as part of the vesting process.</p> <p>To enable the Council to classify Scheme type (Secondary/Integrated/Islanded) based on current supply and secondary supplier arrangements.</p> | <p><b>Maintenance Service Agreements</b></p> <p><b>Supplier Contracts (equipment and services)</b></p> <p><b>Secondary Supplier Agreements (Scheme Operator to third parties)</b></p> | To be in a format supplied by the Scheme Operator.   | Scheme Operator to submit to the Council |
| 8. | <b>Scheme Due Diligence – Resource Consents</b>        | <p>To provide the Council with the schedule of resource consents in place for the use and operation of the Private Scheme Assets.</p> <p>To enable the Council to identify where holder of consents may need to be varied or transferred and where existing designations may require modification.</p>   | <b>Resource Consent Numbers and Copies of Consents</b>  | To be in a format supplied by the Scheme Operator.   | Scheme Operator to submit to the Council |
| 9. | <b>Scheme Due Diligence – Property Rights</b>          | To provide the Council with the schedule of easements or land access rights in place over the Private Scheme above and below-ground assets and the status of roads in which Private Scheme assets may be located.  | <p><b>List of Easement Instruments</b></p> <p><b>Records of Title</b></p>   | To be in a format supplied by the Scheme Operator.   | Scheme Operator to submit to the Council |

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|   | To enable the Council to identify where modifications, surrender or other actions are required to ensure land access rights meet Council minimum requirements.   |  |   |  |
| <b>10. Scheme Due Diligence – Roading</b>   | <p>To provide the Council with the schedule of roads, specifications to which they were constructed, location of all services under roads under which the Private Scheme assets may be located.</p> <p>To enable the Council to identify where remedial works, actions or other requirements are to be met to ensure roads to be vested to rights meet the Council minimum requirements.</p>   | <p><b>Roading Surfacing Specifications</b></p> <p><b>Cross-Section Diagrams showing services</b></p>   | <p>Excel spreadsheet file format to comply with <i>QLDC RAMM (Roading Assessment and Maintenance Register)</i></p> <p>Cross Section Diagrams and Sealing/Pavement specifications to conform to <i>Land Development and Subdivision Code of Practice</i></p> <p>All available to download at <a href="http://landdevelopmentsandsubdivisions.qldc.govt.nz">Land developments and subdivisions (qldc.govt.nz)</a></p> | Scheme Operator to submit to the Council |
| <b>11. Scheme Due Diligence – Maintenance Manuals and Records</b>   | <p>To provide the Council with a schedule of maintenance activities, copies of key operational manuals for assets and equipment and copies of existing OEM (Original Equipment Manufacturer) warranties related to the assets.</p> <p>To enable the Council to identify migration of maintenance tasks and activities to the Council maintenance schedule. To enable the Council to include conditions precedent for all OEM warranties to be transferred/assigned to the Council.</p> | <p><b>Maintenance Manuals</b></p> <p><b>Maintenance Log Records</b></p> <p><b>OEM (original equipment manufacturer) Warranty Documents</b></p> | To be in a format supplied by the Scheme Operator.  | Scheme Operator to submit to the Council |
| <b>12. Scheme Due Diligence – Health &amp; Safety</b>   | <p>To provide the Council with a record of safety incidents, water monitoring failures, current water safety plans and any other documentation relating to quality testing, monitoring or incident management.</p> <p>To enable the Council to identify if the Private Scheme will meet the required safety thresholds under statute.</p>  | <p><b>Water Safety Plans</b></p> <p><b>Incident Reports</b></p> <p><b>Incident Management Plan(s)</b></p>                                      | To be in a format supplied by the Scheme Operator.  | Scheme Operator to submit to the Council |
| <b>DUE DILIGENCE REPORTING PHASE</b>  |  |  |   |  |
| <i>In this phase, the Council produces its reports and recommendations on the Scheme vesting application to Council Officers.</i> |  |  |   |  |
| <i>Council identifies if a public consultation is required to be undertaken and the timeline for such consultation.</i>           |  |  |   |  |
| <b>13. Scheme Risk Assessment - Operational and Performance Testing Report</b>  | <p>A scheme assessment report to list required remedial actions to be performed by:</p> <p>Scheme Operator as conditions precedent to completion of asset transfer; or</p> <p>By the Council post completion at cost of Scheme Operator (e.g. via sinking fund or alternative funding arrangement).</p>  | <b>Scheme Assessment Report</b>  | To be in a format determined by the Council.  | Council to issue to Scheme Operator      |
| <b>14. Scheme Boundary Adjustment Assessment</b>  | To enable council to assess whether the Private Scheme shall be integrated into the Council's scheme boundary or not.  | <b>Council Boundary Adjustment Assessment Report</b>   | To be in a format determined by the Council.  | Council to issue to Scheme Operator      |
| <b>15. Due Diligence Assessment Report</b>  | To enable the Council to identify all and any conditions precedent and commercial terms of the Vesting sale and transfer agreement.  | <b>Heads of Agreement</b>  | To be in a format determined by the Council.  | Council to issue to Scheme Operator      |

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|   |                                     | <p>This may also be presented as a recommendation to co-develop as a development agreement.</p> <p>It may combination of both development and a purchase agreement.</p>  |  |  |   |
| 16.   | <b>Rating Assessment Report</b>     | An assessment by the Council to determine the rating treatment of properties served by the Private Scheme following vesting to the Council.  | <b>Rating Assessment Report</b>  | To be in a format determined by the Council. | Council to issue to Scheme Operator                   |
| 17.   | <b>Consultation Assessment</b>      | <p>A determination by the Council on what consultative procedures are required to approve the proposed Vesting to comply with the <a href="#">QLDC Significance and Engagement Policy</a>.</p> <p>This may include special consultative procedures or annual/long-terms planning consultation.</p> | <b>Consultation Assessment Report</b>  | To be in a format determined by the Council. | Council to issue to Scheme Operator                   |
| <p><b>CONSULTATION PHASE</b></p> <p><i>If this phase is required, the Council commences a public consultation through the annual planning or long-term planning process. Alternatively, a special consultative procedure may be undertaken.</i></p> <p><i>This phase does not purport to list all applicable steps and stages of a consultative procedure. Details of these can be viewed at the Governance tab at QLDC Policies.</i></p> |                                     |  |  |  |   |
| 18.   | <b>Consultation Procedure</b>       | The recommended consultation procedure (where applicable) is commenced to approve the proposed Vesting to comply with the <a href="#">QLDC Significance and Engagement Policy</a> .  | Consultation Documents - Various   | To be in a format determined by the Council. | Council to publish via standard consultation process. |
| <p><b>LEGAL VESTING AND HANDOVER PHASE</b></p> <p><i>In this phase, legal ownership of the Private 3-waters Scheme is transferred from the Scheme Operator to the Council.</i></p> <p><i>The handover process to transfer operational and maintenance obligations to the Council commence based on an agreed transitional plan.</i></p>   |                                     |  |  |  |   |
| 19.   | <b>Sale and Purchase Completion</b> | A legal process by which the Council and the Scheme Operator will legally transfer obligations and ownership of the Private Scheme Assets to the Council.  | <p><b>Sale and Purchase Agreement (incorporating any development obligations)</b></p> <p><b>Others - TBC</b></p> |  | Council to issue to Scheme Operator                   |
| 20.   | <b>Handover</b>                     | A transition process for practical handover and completion of conditions subsequent to meet the terms of the Sale and Purchase Agreement.  | <b>Transition Plan (incorporated into the Sale and Purchase Agreement)</b>                                       |  | Council to issue to Scheme Operator                   |