

**BEFORE THE INDEPENDENT HEARING COMMISSIONERS
FOR GISBORNE DISTRICT COUNCIL**

IN THE MATTER: of the Resource Management Act 1991

AND

IN THE MATTER: of an application by Gisborne District
Council for resource consent associated
with wastewater overflows

SUMMARY STATEMENT OF EVIDENCE OF IAN DAVID MAYHEW – PLANNING

13 July 2021

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1 INTRODUCTION

- 1.1 My full name is Ian David Mayhew. I am employed by 4Sight Consulting Ltd (**4Sight**) as a Principal Planning and Policy Consultant and Technical Director. I have the qualifications and experience as outlined in my Evidence in Chief (**EIC**).

2 SUMMARY OF EVIDENCE

The Gisborne Wastewater System (GWS)

- 2.1 The GWS comprises an extensive network of pipes, pumping stations and other components that conveys wastewater from homes and commercial properties to the WWTP. It is essential regional infrastructure which provides a sanitation service that is functionally required to service Gisborne's community and a lifeline utility that provides significant health and safety benefits to the Gisborne community.
- 2.2 The GWS has developed and evolved over many years to meet the changing needs and expectations of the Gisborne community and improve performance. As of today the GWS is assessed as having been sized adequately to convey six times ADWF, which is consistent with current practice in New Zealand. Gisborne's current WWO and DWO performance is on a par with the better performing territorial authorities/wastewater network operators in New Zealand.
- 2.3 Importantly, approximately 50% of the reticulated wastewater network is located on private property. These are the pipes (and other components) that take wastewater from individual houses and buildings to the council network and is owned by the property owner. The other 50% is the public network, owned and managed by Council. These two components operate as one system – with both public and private responsibilities – which presents specific management challenges.

Wastewater Overflows

- 2.4 The causes of DWOs have been described at length in the Application and technical evidence. In short, the predominant cause of these overflows is assessed as being the excessive direct (quick response) flow of stormwater from private property. Other sources (for example infiltration through cracks and joints) contribute, but flow monitoring clearly indicates the rapid increase in flow in parts of the wastewater network following heavy rainfall.

- 2.5 In Gisborne, WWOs are controlled to occur at specific locations and are directed to Gisborne's main rivers. While this is not desirable, it is done to avoid the more significant health risk consequences of overflows occurring through informal overflow points in potentially unknown locations – including on private property – often mixed with flood waters. Overflow points require manual intervention – the opening of a valve and closing it when wastewater/stormwater flows have sufficiently subsided. Accordingly, Council carefully monitors rainfall and its network up to and during wet weather events and has specific protocols in place governing the opening of the valves, as described in the evidence of Mr West.
- 2.6 DWOs occur as a result of unexpected problems in the wastewater network – generally where there is a blockage in the network, mostly associated with a third party putting a foreign object in the wastewater system or fat build-up – but they can occur as a result of an extended power failure to a pumping station or a break in the network. As they are problem/fault related, DWOs can occur anywhere in the network and the overflow exits the network at the lowest open point upstream of the blockage – typically a private gully trap or a manhole.
- 2.7 Most DWOs are infrequent, of short duration, small in volume and only approximately one quarter reach a waterway. Given their predominant causes, Council has a multi-faceted approach to the management of DWOs as outlined in the evidence of Mr West. This includes a programme of public education to address third party behaviour and help prevent avoidable blockages and a programme of proactive maintenance (including cleaning) of problem areas to reduce material build up that may lead to a blockage. This work is ongoing as these causes are never able to be entirely eliminated.

The Application

- 2.8 Resource consent for both WWOs and DWOs is required under the TRMP. As the consents have been 'bundled' consent is sought as a non-complying activity. This is by virtue of the activity status for DWOs discharges under the TRMP and discharges of sewage/wastewater to the CMA. In respect of the latter, there are no known discharges and none are proposed – consent has been applied for out of an abundance of caution should there be circumstances where a wastewater overflow finds its way directly to the CMA.

2.9 Resource consent is sought on the basis of measures and actions to ensure that WWOs are progressively reduced, that both WWOs and DWOs are minimised to the extent practicable over time and that adverse effects are responded to and mitigated through a range of measures as detailed in Council's evidence. These include the DrainWise programme, refined operational and response procedures, on-going engagement with tangata whenua and incorporation of mātauranga Maori into monitoring, and transparent reporting and review. These can be ensured through proposed conditions of consent, together with specified performance targets.

Adverse Effects

2.10 As indicated in the s42A Report, Council have provided a comprehensive and robust assessment of effects in both the Application and technical evidence to the Panel. This included engagement with tangata whenua, stakeholders and interested parties.

2.11 This latter aspect was recognised in the s42A Report, which indicated that: *'the Applicant has engaged with tangata whenua and the community in a comprehensive and meaningful manner. This has been a constructive process and supports the broader understanding of the challenges facing the Applicant and the community in resolving the discharge issues'*.¹

2.12 While wastewater overflows can give rise to a range of adverse effects, in my opinion the most significant are the effects on tangata whenua and community values and the uses of the receiving waters. Wastewater overflows are not desirable and are offensive to, and opposed by, tangata whenua and the community. They are however, relatively infrequent events and are limited in duration; and Council's Application is made on the basis that these events (particularly WWOs) will be further reduced over time.

2.13 Unfortunately wastewater overflows, both wet weather and dry weather, are a consequence of having an urban drainage network, particularly one such as Gisborne's that has been in place for many years. Embedded in this network is a high level of inflow from private drainage that result in *'rapid and substantial increases in wastewater network flows associated with rainfall events'*² – which adds to the complexity of addressing overflows.

2.14 In my opinion, there is no question or debate as to whether wastewater overflows should be reduced – rather the key questions are over what time, to what end point

¹ S42A report – para 1.5

² Mr Garside – para 25

and how is this best achieved? Coupled with this is the need to ensure appropriate response, management, monitoring and reporting is in place as the desired reductions are delivered.

The DrainWise Programme

- 2.15 Council's key programme to reduce overflows is the DrainWise programme which, as described by Mr Kanz, is comprehensive and multi-faceted. While the DrainWise programme has an initial focus on the removal of 'fast response' inflow, it includes other aspects including identifying and resolving leaking laterals, providing necessary stormwater drainage extensions onto private property, education and awareness and on-going public network upgrades and renewals.
- 2.16 In my opinion, this is a very comprehensive and detailed programme that has the aim of inspecting every property that connects to the GWS and to set in train a process to resolve problems in a way that is affordable to the community. I note that the s42A Report writers concur with this, stating *'that the DrainWise Programme is an appropriate and effective method to engage with the community and to progressively reduce the issues of inflow from private properties'*³.
- 2.17 Mr Kanz's evidence details the current implementation of the DrainWise programme across Gisborne. This clearly demonstrates that it is not a theoretical programme, but one that is being implemented with success. Furthermore, the full DrainWise programme is appended to Mr Kanz's evidence, showing the structured approach to its implementation. Mr Dave Wilson advises that resourcing for the programme has been provided for in Council's Long-Term Plan.
- 2.18 I consider that the Panel can have confidence that the DrainWise programme is robust and comprehensive and will deliver on its multiple aims, including the substantial reduction of stormwater inflow into the wastewater network. The programme is backed up by regular monitoring, reporting and reviews – required by the draft consent conditions attached to my EIC – to ensure it is on-track to achieve its goals and to adapt as new information becomes available. I note that Mr Garside advises that such an adaptive approach is *'essential and is consistent with best management practice world-wide'*⁴.

³ S42A Report – para 1.15

⁴ Mr Garside EIC, para 50

Proposed Conditions

- 2.19 A set of draft conditions was provided with the Application, and accordingly the submissions received and the s42A Report have responded to that initial set of draft conditions. This includes the table provided as Appendix 5 to the s42A Report which provided a schedule of comments/recommendations regarding the Application conditions.
- 2.20 Since that time, the Applicant has carefully considered the issues raised by submitters, the evidence of its own experts, and the comments and recommendations made within the s42A Report. A further set of conditions, attached as Appendix 1 to my EIC, is now proposed by the Applicant. I also attached as Appendix 3 to my EIC a schedule of responses to the s42A Report comments and recommendations, which provides a reference guide for the Commissioners regarding the changes made to the conditions to address the issues raised, where appropriate.
- 2.21 I note that the draft conditions have been amended substantively in order to address the concerns raised by submitters and the recommendations made in the s42A Report, where it is appropriate to do so. In my opinion the amended draft conditions are comprehensive and appropriately provide for a range of outcomes including:
- a) the progressive reduction in WWOs towards a target of no overflow in a 50% AEP rain event;
 - b) the management of DWOs to a practicable minimum;
 - c) ensuring effective on-going response to overflows if and when they occur, including effective management of public health risk;
 - d) continued constructive engagement with tangata whenua, including incorporating mātauranga Maori into monitoring;
 - e) transparent reporting and reviews; and
 - f) the ability to respond to external changes, for example in response to the implementation of the NPS-FM 2020 or to three waters reform.
- 2.22 I consider that the conditions provide a robust and appropriate framework to deliver the outcomes that are sought and ensure the appropriate management and reduction of wastewater overflows.

Submissions

2.23 A total of 21 submissions were received, including:

- a) 19 in opposition /oppose in part;
- b) 2 in conditional support (Hauora Tairāwhiti and Ministry of Education)

2.24 I have provided an assessment of the submissions in terms of what I consider to be the key submission points and changes sought in my EIC. In my opinion, the submissions demonstrate iwi and community's concern regarding overflows.

2.25 The points raised in the submissions have been considered carefully and have been addressed where possible. A key change is the improvements in the Seymour/Turenne area to replace the existing overflow point with a new one that does not discharge to Owen's Stream, and other improvements such that the overflow points become tertiary (rarely used) overflows. A range of other matters have been addressed as a result of submissions and the pre-hearing meeting as outlined by Mr Kanz.

Key Residual Issues

2.26 In my opinion, the key remaining issues relate to:

- a) Term;
- b) Whether DWOs can be eradicated.

2.27 I have discussed the matter of term of consent in detail in my evidence. I consider that that a term of 20 years is appropriate for both DWOs and WWOs, given:

- a) the essential nature of the wastewater infrastructure;
- b) the operations and maintenance regime that is currently in place and which will continue to be refined over time;
- c) the substantial programme of work and improvements that have been delivered in the past;
- d) the substantial DrainWise programme that has been committed to;
- e) the availability of alternative options should levels of inflow reduction be less than the target of 85%; and

f) the high level of engagement, reporting and review provided for in proposed consent conditions.

2.28 In my opinion, this provides confidence that the identified levels of performance sought by Policy C6.2.2(9) can, and will be, met.

2.29 Some submitters are concerned that a 20 year consent term will mean 'business as usual'. With respect, I disagree. Having a longer-term resource consent in place commits Council to a continued and sustained effort focussing on progressively reducing overflows – recognising that there is no 'easy fix'. In particular, as outlined by Mr Dave Wilson, the requirement for private property owners to fix issues on their property raises the issue of affordability – which is an issue for Gisborne. In addition, the proposed conditions are comprehensive and require a high level of reporting and transparency that ensures that Council can be held accountable for the performance of its wastewater network. Finally, review conditions are available, if needed, to enable the consent conditions to be revisited if necessary.

2.30 In respect of the eradication of DWOs, Mr Garside and Mr West advise that such an approach is not feasible given the unpredictable (and often unforeseeable) nature of these overflows. The causes of DWOs are set out in the evidence of Mr West – with blockages, including from third party actions, being the main cause of DWOs in Gisborne. On this basis, I do not consider the eradication of DWOs to be a realistic aim for the DrainWise programme or the consent. Rather, in my opinion, the aim should be to minimise DWOs to the extent practicable. As set out by Mr West, Council has a multi-faceted approach to managing the risk of DWOs which accords with best practice. This includes both work from Council's end (i.e. jet-cleaning, surveillance, trade waste compliance, levels of redundancy etc within the system) and a comprehensive public education strategy to address third party behaviour.

2.31 The draft conditions of consent proposed by the Applicant (and attached to my evidence) are comprehensive and will achieve the aim of managing DWOs to the extent practicable.

Statutory Assessment

2.32 Resource consents are assessed under an ever-increasing range of (and sometimes contradictory) statutory instruments. This necessitates a thorough and detailed assessment, which I have provided in my evidence. However, my conclusions are:

- a) The Application is not contrary to the objectives and policies of the TRMP. Accordingly, consent can be granted under section 104D.
- b) I acknowledge that Gisborne has yet to implement the NPS-FM 2020 and hence how Te Mana o te Wai applies to Gisborne's waterways has yet to be fully determined. Notwithstanding this, I consider that the Application is consistent with the intent, objective and policies of the NPS-FM 2020 as it:
 - i will manage natural and physical resources in a way that prioritises the health and wellbeing of water bodies and freshwater ecosystems.
 - ii reflects that while tangata whenua and the community oppose wastewater overflows, as recognised by the KIWA Group and in submissions, Council is working closely with tangata whenua to integrate tikanga, mātauranga Māori, and Māori values into its management of overflows. While this does not resolve the cultural issues inherent with wastewater overflow discharges to water, the ongoing involvement of tangata whenua in managing this challenging issue is consistent with the intent of the NPS-FM 2020.
 - iii Recognises that the GWS is critical infrastructure which provides an essential sanitation service to protect the health of Gisborne's community and provide for their social, economic and cultural well-being, both now and in the future, while mitigating adverse effects.
 - iv Seeks to improve the water quality in, and health of, water bodies from their current state.
 - v Furthermore, a review condition is proposed to provide for the consent to be reviewed to amend it if necessary, once the NPS-FM 2020 has been fully implemented.
- c) The Application is consistent with the objectives and policies of the NZCPS to improve the quality of the coastal environment and is not contrary to other policies.
- d) The proposal is consistent with the relevant RPS and TRMP provisions as:
 - i The GWS is a critical essential lifeline utility that provides for the health and safety of the community by transporting wastewater from homes and businesses to the WWTP for treatment and disposal.

- ii Adverse effects are proposed to be minimised by a programme that progressively reduces WWO frequency and volume and manages DWOs to a practicable minimum and manages risks if overflows occur.
- iii The proposal will result in a progressive improvement in both coastal water and freshwater quality. The adverse effects of wastewater overflows on ecosystems are currently low, and will be further reduced.
- iv While the discharge of wastewater to water is offensive to tangata whenua and has significant negative impacts on the mauri of affected waterbodies, Council has committed to a substantial programme of improvement. In addition, tangata whenua will continue to be involved in the consent through the TWRG, including the development of cultural monitoring measures and a range of other initiatives aimed at reducing effects on the mauri of affected waterbodies and associated cultural values.
- v Council's progressive improvement of the public network and the management of overflows, together with its DrainWise programme moving forward provides confidence that the specified overflow targets in Policy C6.2.2(9) will be met:
 - *minimising the frequency of overflow discharges; and*
 - *an overflow occurrence of no more than 50% probability in any given year*
- vi The programme to reduce WWO and DWO discharges will contribute to the water quality objectives for the Gisborne FMU being met.

2.33 I have also considered the Application in respect of Part 2 of the RMA and conclude the Application is consistent with the purpose and principles of the RMA and Part 2 matters. I reach this conclusion as:

- a) The GWS is essential infrastructure that contributes to the health of people and communities. While the GWS performance is already at a level consistent with better performing wastewater networks nationally, the Application is based on an on-going process of network development (to provide for growth) and improvement (to levels of service and progressive overflow reduction), in order to meet the foreseeable needs of future generations and to provide for the health and well-being of the community.

- b) The approach to wastewater overflow management and proposed conditions of consent set out the management framework for overflow events, which seeks to protect natural and physical resources and the health and safety of communities while progressively mitigating and minimising existing adverse effects. Through the proposed consent conditions, the potential adverse effects caused by the overflow events on the environment and to human health are avoided, remedied or mitigated (and minimised) to the extent practicable and risks to human health are mitigated through appropriate overflow response procedures.
- c) Appropriate regard has been given to matters of importance and matters pertaining to Te Tiriti o Waitangi. Again I acknowledge wastewater overflows are offensive to tangata whenua and affect Māori cultural values. However, Council is working closely with tangata whenua to progressively reduce overflows and their associated adverse effects on mauri and associated cultural values.

2.34 In conclusion, in my opinion the Application can be granted subject to the Applicant's proposed conditions or similar as the Panel see fit.

3 SUBMITTER EVIDENCE AND ADDITIONAL INFORMATION

3.1 I would like to briefly respond to the evidence and additional information lodged by submitters.

Mr Gibson

3.2 On Page 5 Mr Gibson discusses a major review being undertaken by Ms Helen Churton (formerly Council's Wastewater Manager). Mr Gibson states:

'I have asked GDC for a copy of this referred to review report but at this point I have not received a response.'

3.3 I advise that Mr Gibson's request was forwarded to me by Mr Whittaker on 21 June 2021. I responded to Mr Gibson the following morning, advising that I was seeking the information from Council. I also addressed a misunderstanding Mr Gibson had in relation to the evidence exchange timetable.

3.4 The following afternoon (23 June), I provided Mr Gibson with Council's response, which included information on the type, length and age of the Gisborne wastewater network and a copy of Council's DrainWise Wastewater Discharge Reduction Plan (2016) as per his request. Council staff advised that the Reduction Plan was the report that had

resulted from the review that was undertaken at that time (circa 2015) and, in their opinion, was the review and report that Ms Churton was referring to.

- 3.5 Mr Gibson responded to the first email but not the second. Both my email responses were copied to Mr Whittaker.

Mr Webb

- 3.6 Mr Webb states his opinion that draft condition 19 is 'clumsy'. While as an *Augier* condition it is worded differently from other conditions, I consider that it appropriately records the Council's intention to alter this overflow point to a tertiary overflow and provides for the updated overflow locations and classifications to be adopted into the consent without the requirement for a subsequent consent variation. I disagree that this overflow point should be subject to its own resource consent that expires in two years. This overflow point is to be retained as a tertiary overflow, utilised rarely if at all, and hence ongoing authorisation is required.
- 3.7 In respect of Mr Webb's comments on aspects of the statutory assessment I have undertaken, the basis for my evaluation is outlined in detail in my EIC.

Ian David Mayhew

13 July 2021