

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

An application made to the Consents
Section of the Gisborne District Council

(Consent Authority)

BY

Gisborne District Council Community
Lifelines

(the Applicant)

**For the hearing of for resource
consents to discharge overflows of
untreated wastewater into rivers and
streams within Gisborne City**

DECISION OF THE HEARING COMMITTEE

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1 Introduction

This is the decision of a hearing committee comprising Independent Commissioners Mr Peter Callander, Mr Rauru Kirikiri, and Dr Brent Cowie (Chair) to hear and decide an application from the Community Lifelines Department of the Gisborne District Council (the applicant) for ongoing overflows of untreated wastewater to the various points in rivers and streams within Gisborne City. Discharge permits were (eventually) sought for both dry weather and wet weather discharges to land and water associated with any potential future overflows.

The provision of sewage networks and the treatment and disposal of wastewater is a core function of Territorial Authorities under s25 of the Health Act 1956 and sub part 2 in s10 of the Local Government Act 2002. The GDC is a Unitary Authority, with both regional and district council functions. This means they are responsible for both wastewater networks, treatment and disposal, and regulating the effects of the discharges of wastewater to the environment. This is why independent commissioners were appointed to hear and decide the applications, and independent s42A officers reported to us on the proposed applications.

We undertook a site visit on Monday 12 July 2021 prior to the hearing commencing, and in challenging conditions. We were shown around by Mr Michael Greeff, an employee of the GDC very

familiar with the overflow points, but who had no role in the hearing. We saw the main primary overflow points at Wainui Road and Turenne Road, and several other locations. We thank the applicant for providing this opportunity, as it helped us to put the applicant's proposal in context.

The hearing of the application commenced at 9am on Tuesday 13 July 2021 and was adjourned at about 5.45pm on Wednesday 14 July 2021. We heard from counsel and eight witnesses from the applicant (along with two other written briefs), eight submitters and three reporting officers. A process followed where new sets of draft conditions were put forward by the applicant and the s42A reporting officers, and an opportunity was then provided to other parties to comment on those draft conditions before the applicant was given the right of reply.

When we reviewed the draft conditions of consent there were a number of matters that we sought clarification on, or further comment on. We sent a memorandum to the Council's administrator for forwarding to the applicant on 2 September 2020, but due primarily to delays caused by the country's move to Covid 19 Alert Level 4, we did not receive the response until 22 September.

We closed the hearing on Wednesday 29 September 2021.

2 The Proposal

2.1 The GDC Wastewater Network

Gisborne City has a population of nearly 32,600 people, with the wider District having a population of about 48,000. The Gisborne rohe (district) has the highest proportion of Māori of all regions, with 53% identifying as Māori in the 2018 census compared to 16% nationally. This is expected to remain relatively constant in the future, and suggests that in the future there will be an increased Māori voice in local affairs.

The city's wastewater network has about 15,278 connections, 226km of main wastewater lines, 2,856 manholes, 91km of laterals, 40 pump stations and a Wastewater Treatment Plant (WWTP). About a third of the wastewater is pumped and the other two thirds is gravity fed to the WWTP. The wastewater network is estimated to have a replacement value of \$128 million, with the WWTP having a depreciated replacement value of an extra \$29.6 million.¹

A witness for the applicant, Mr Neville West, who is their Water Utilities Manager, estimated that about an equivalent length of wastewater pipes to those in GDC network exists on private properties in Gisborne.² This includes lateral pipes and gully traps on private land that connect to the public system at the property boundary.

The city is traversed by three rivers – the Waimata and Taruheru combine to form the Turanganui. The former two have substantial catchments of about 100 km² upstream of the city boundary. There are eight river crossing points within the city that carry wastewater.

In the normal course of events wastewater collected from the area serviced by the GDC within Gisborne City would be conveyed to the WWTP at the south east end of the city and discharged

¹ EIC of Mr David Wilson at Paragraph 18.

² Paragraph 10 of his EIC.

offshore into Poverty Bay. That discharge is consented until 2042, and is not part of what we were considering here.

All wastewater networks carry higher flows following local rainfall; this is due to direct inflows to the network, and infiltration into the network from high groundwater levels leaking into the wastewater pipes. In Gisborne the wastewater network is designed to convey up to six times the Average Dry Weather Flow (AFDW) without any overflows to water. To put this another way, any overflow resulting from local high rainfalls will be about one part untreated wastewater and five parts stormwater that has overflowed or infiltrated into the wastewater network.³

Overflows from the wastewater network into the ambient environment following high local rainfall are known as wet weather overflows (WWO's). These are usually to rivers or streams, but can be to local streets or properties if the overflow is from sources like manholes.

The WWO's to rivers and streams are via what the GDC call primary, secondary and tertiary overflow points. At the time the application was lodged there were two primary discharge points, which overflow in about a 50% ARI or larger event, two secondary discharge points, which overflow in about a 20% ARI or larger event, and six tertiary discharge points, which overflow in about a 10% ARI event.⁴

Notably, by the time the hearing was held, works had been undertaken to upgrade the Turenne/Seymour Street primary overflow point to a tertiary overflow point. Several submitters, some of whom had long suffered from high water levels in and around their houses, spoke favourably of the GDC's recent efforts to remedy long standing issues in this area.⁵

The application also sought to authorise dry weather overflows (DWO's) of wastewater. Unlike WWO's these can occur at any point in the network, and are of untreated wastewater, rather than wastewater diluted by stormwater. They can occur due to a variety of factors, including blocked pipes, system malfunctions or operator errors. The applicant sought to persuade us that most DWO's are attributable to matters beyond their control, which is a matter that we will comment on more, later in this decision.

The applicant also sought consent to discharge WWO's to the coastal marine area, which includes all of the Turanganui River downstream of the Gladstone Road Bridge. They said this was "out of an abundance of caution", which Mr Mayhew explained meant that although no overflows had been recently recorded to the CMA, the possibility did exist that they might in the future. In the early stages of the hearing we signalled that we did not see this as sufficient justification for consenting any WWO's to the CMA, and the Applicant subsequently withdrew this application.

We also signalled that we wanted conditions of consent to deal with WWO's and DWO's separately. We will discuss the reasons for this later in this decision.

³ Untreated wastewater is not the "thick brown sludge" that many people might imagine it to be. Rather all the water from a house enters the wastewater system including showers, washing machines, washing dishes and hands, brushing teeth and the like. Toilet waste only makes up a small proportion of the untreated wastewater.

⁴ Throughout this decision we will refer to AEP (annual exceedance period) events. A 50% AEP event is one that occurs on average once every two years, and is often referred to as a 2-year flood, similarly a 20% AEP event is commonly referred to as a 5-year flood and a 10% AEP event is commonly referred to as a 10-year flood. However, just because a large flood occurred in one year does not mean there is any less chance of it occurring in the following year.

⁵ These included Josie McClutchie and Jan Crawford

2.2 Background to the Present Applications

Wet weather overflows from Gisborne City's wastewater network were provided for as a permitted activity up until 1 July 2020.⁶ Dry weather overflows have not been consented in any way in the past.

The present application was lodged in June 2020, and the Applicant requested that it be publicly notified. Twenty one submissions were received on the application by the time submissions closed. Three submitters supported the application, with the balance being opposed, albeit in some cases with an acknowledgement that the consent should be granted, but with strict conditions and on terms much less than the 20 years requested by the Applicant.

The main points raised by submitters are summarised in Section 6 of Mr Whittaker's s42A report.

2.3 History of Overflows from the GDC Network

Wet Weather Overflows

Mr Neville West provided us with information about the recent history of WWOs. While the pipe network is designed to carry up to six times the average dry weather flow, in accordance with typical New Zealand design practice, greater inflows can occur due to inflow and infiltration that exceed the pipe carrying capacity. In broad terms this occurs due to:

- a. Inflow, which enters the wastewater system directly, such as via illegally or misconnected stormwater drains and when gully traps are inundated by surface flooding, all of which result in a rapid increase in wastewater flows;
- b. Infiltration, which typically has a longer response time than that of inflow and also has a longer effect on the network and is generally due to either groundwater or rainfall entering through cracks and joints in the pipe network on both private lateral drains and in the public network.

When the flow in the GDC wastewater pipe network is exceeded, wastewater can emerge from manholes and gully traps onto public and private land creating a significant public health risk. To avoid this, GDC have formal overflow points that they open manually to drain wastewater into waterways in a controlled manner to relieve the pressure within the pipe network, thereby creating the WWOs.

Mr Ian Garside (a very experienced wastewater engineering consultant) advised us that numerical modelling of flows within the GDC wastewater network during rainfall events that lead to WWO's indicated that the contribution to inflow and infiltration was dominated by the fast response inflow component.

Mr Sandy Gibson presented helpful information in his submission to us. He is a practicing drainlayer and a former manager of the GDC Inflow Infiltration program. In his experience private lateral leakage is a major source of inflow into the wastewater network, particularly via older earthenware pipes and concrete pipes. He expressed the view that the focus of GDC's "Drainwise" program on fixing gully trap inflow points was missing this major inflow component.

⁶ In our experience allowing overflows of untreated wastewater as a permitted activity is very unusual.

Based on Mr Gibson's enquiries, we were provided with information from GDC on the combined wastewater pipe network for Gisborne and Te Karaka. When commenting on the wastewater mains, this information includes the observation that:

"Earthenware mains make up nearly 1/3 of the network and are assessed as being in the worst condition (based on age), followed closely by AC mains. These were the pipe types installed early in the development of the wastewater network. Poor condition earthenware pipes are thought to significantly contribute to groundwater infiltration into the wastewater network."

With regard to the laterals, which deliver the wastewater from the private properties to the Council mains, the information notes:

"Earthenware and AC are the most common lateral materials which reflects the most common main types. Laterals are not assessed for condition, but are assumed to be the same as the main they connect to."

The information from GDC also indicated that around 50% of the wastewater mains are more than 50 years old and around 12% are more than 100 years old.

This information indicates that GDC are well aware of the issues that Mr Gibson raised. We understand that their approach to reducing the occurrence of WWOs is guided by their modelling of the wastewater network, as described by Mr Garside, and their scheduled upgrades to the pipe network, as described in the evidence of Mr David Wilson (GDC's Director – Community Lifelines), with \$15.6 million allocated for renewals of old wastewater pipes in the 2018/28 Long Term Plan.

Mr West presented a detailed breakdown of the frequency and magnitude of WWOs over the last 14 years. This shows there have been between 1 and 4 WWO events each year with each event ranging from 7 – 75.5 hours in duration. Mr West noted that the pattern of WWO occurrences are quite variable, due to the influence from the amount of heavy rainfall events that occur in any particular year. Overflow volumes are reported for the last 9 years and these do show that smaller discharge volumes have occurred since 2014/15 onwards, although the record may be too short to determine whether or not this is a long term improvement.

Ms Bridget Bosworth (GDC Senior Hydrologist) has undertaken a high-level analysis of significant rainfall events, to compare them with the occurrence of WWOs. This showed no clearly defined rainfall intensity or frequency that correlated with the occurrence of WWOs. She noted that rainfall can be quite variable across Gisborne and concluded that *"the direct cause of the valves being opened may depend on where and when the rain occurred within the catchment and the travel time of surface runoff to and within the pipe network."*

We agree that this variability is likely to be a significant factor that makes the occurrence of WWOs difficult to predict.

Mr West described how Gisborne's WWO occurrences per 1000 connections have been benchmarked relative to other Councils. This indicates that GDC's performance is comparable to (or better than) typical performance throughout New Zealand.

Dry Weather Overflows

Mr West described that DWO's occur as a result of unexpected problems in the wastewater network. Based on the information we heard, we think the cause of DWOs can usefully be placed into three main categories:

- a. blockages in the pipe network caused by foreign objects being disposed of in the wastewater system, including fat build up (i.e. anything other than the 3Ps: pee, poo and (toilet) paper);
- b. a break in the pipe network, such as the collapse of an old pipe, or blockage by tree roots; or
- c. a failure in GDCs operations, such as at a pumping station.

We make this distinction to differentiate between causes which are clearly within the control of GDC (item (c)) and DWO's that result from other factors, but are still the responsibility of GDC to manage.

The AEE provided a Table summarising the occurrence of DWO's which indicates 36 DWO events have occurred in the 5 years from 2015/15 to 2019/20 (ranging from 2 – 12 events per year) although due to the GDC response to these events, only 9 (i.e. a quarter) of these overflows resulted in a discharge reaching water (ranging from 1 – 3 discharges per year). Most of these DWO's are estimated to be in the range of 100 – 2,000 litres and last for less than 2 hours.

However, occasionally more significant discharges have occurred. Ms Juliet Milne presented her Human Health/ Ecological Technical Review of the application (appended to Mr Whittaker's S42A report), which describes a March 2015 failure at the Steele Road pump station that led to around 450 m³ of untreated wastewater entering Wainui Stream over a 32-hour period. This coincided with low stream flows and high water temperatures and resulted in the death of eels and other aquatic life, which Ms Milne surmised was most likely due to dissolved oxygen and/or ammonia reaching lethal levels. Mr West's evidence was that this event was caused by human error, but since then there have been no other DWO's caused by mechanical failure.

Mr Simon Aiken's summary evidence of his Appendix to the S42A report also notes that due to an increased level of redundancy at pump stations and GDC's improved operational procedures there have been no DWOs from pump station failure since that Steele Rd event in 2015, including during a 30-hour power outage that occurred in December 2016. Based on this information it seems useful to make a distinction between DWO's caused by operational errors from GDC as opposed to other causes. We agree with Mr Aiken that elimination of discharges due to GDC operational errors should be achievable, as this appears to have been the case over the last 6 years.

We consider that GDC still have a major role to play in minimising the discharge of DWOs to waterways, even when they are not caused directly by the actions of the Applicant. They presently achieve that minimisation by public education, managing commercial grease traps, monitoring the network flows and pressures, undertaking preventative maintenance (including regular jet cleaning of mains) and providing a fast response to DWO events so as to intercept them before they reach waterways and to use sucker trucks to relieve the build-up of wastewater pressure in the network.

Mortuary Waste

One particular aspect of the wastewater discharge that is absolutely abhorrent to tangata whenua is the addition of mortuary waste into the wastewater network. This was emphasised in the summary from the KIWA Engagement Group and reinforced in submissions from iwi representatives, as noted in section 3.2 of this decision. GDC have recently been proactive in addressing this concern and have recently passed their Trade Waste Bylaw 2021 which identifies mortuary waste in the list of items that are prohibited from discharge to the wastewater network.

The bylaw came into force on 1 July 2021, although there is an exemption for the prohibition of mortuary waste, which will come into force on a date determined by resolution of Council. Mr David

Wilson advised us that this was because alternative land disposal measures for mortuary waste still needed to be established.

We accept this information as being part of the consent application which therefore commits GDC to implementing this change as soon as practicable. This seems to be well in hand based on Council's adoption of Te Ture ā-rohe Para Hohoko o Te Tairāwhiti 2021 (Gisborne Trade Waste Bylaw 2021).

2.4 Engagement with Tangata Whenua

We heard that from the outset local tangata whenua had been engaged in one way or another in the evolution of the Council's strategy to deal with overflows from the wastewater network leading up to the application. The engagement had focussed specifically on wet and dry weather wastewater overflows into Gisborne City rivers, and the connected coastal environment, as targeted in the present applications.

A key component of the strategy was the establishment of the KIWA Engagement Group (KIWA Group), comprising technical and iwi/hapū leaders who provided expert advice and support to the Council throughout the process. Members include elected representatives of Te Rūnanga o Tūranganui-a-Kiwa, the iwi of Rongowhakaata, Ngāi Tāmanuhiri, Ngā Ariki Kaiputahi and Te Aitanga a Māhaki, the hapū of Ngāti Oneone, plus the Gisborne District Council. The KIWA Group was heavily involved in the pre-application dialogue with tangata whenua. Their focus was largely on tangata whenua values and perspectives on wastewater discharge in the rohe.

The KIWA Group had made a number of recommendations that are incorporated into the conditions, including (in summary):

- ensuring ongoing meaningful engagement;
- bringing forward the DrainWise programme;
- providing opportunities for tangata whenua to work alongside the Council;
- monitoring provisions to include tikanga Māori;
- reviewing current public health monitoring procedures and locations;
- reviewing management protocols; and
- improving the mauri of the wai (water) in the awa

More specifically the KIWA Group is adamant that the mauri of Tūranganui a Kiwa awa will not be restored until the following are addressed:⁷

- overflows of raw sewage into our rivers and sea are stopped;
- the marine outfall pipe is turned off;
- the Port stops polluting the Bay [inner harbour to dredging spoils];
- the leaky landfill at Te Pā o Kahu is plugged; and
- the ineffective oxidation ponds at Te Karaka are fixed.

The S42a report applauds the Applicant and local iwi and hapū for the constructive engagement and partnership entered into, in seeking a pathway to better deal with the wastewater overflow problem at issue.

⁷ Noting that only the first of these is relevant to the present applications

'The cultural concerns of tangata whenua must have their own voice in this application and hearings process and I do not wish to interpret cultural concerns through a pakeha lens. As a professional planner I am required to address cultural issues as part of the issues to be assessed through this application process.'

*'Fortunately, the concerns and position of tangata whenua have clearly been articulated and presented both through the KIWA Engagement Group Report and through submissions. In my opinion the Applicant and local iwi and hapu should be commended for the constructive engagement and partnership which has allowed for an open dialogue and understanding of the challenges arising from the overflow discharges. From the breadth and detail contained within the KIWA Engagement Report, it is clear that the Applicant and iwi and hapu have invested significant time and resources into this project.'*⁸

3 The Hearing

3.1 The Case for the Applicant

We heard from legal counsel and nine witnesses for the Applicant. We had no questions of two other witnesses who had provided expert evidence, and they were excused from attending the hearing.⁹

Most of what was covered in the expert evidence of the GDC witnesses is addressed elsewhere in this decision, and so we provide only a brief outline here.

Counsel, **Ms Rachael Zame** of CooneyLeesMorgan in Tauranga, presented her legal submissions, in which she provided a detailed background to the application. She noted that because in the Tairāwhiti Resource Management Plan (TRMP) WWO's overflows are a restricted discretionary activity, and DWO's are a non-complying activity, they should be bundled as a non-complying activity. In some initial comments however we expressed concern about the applications being bundled, as they have quite different causes and effects, and would be subject to some quite separate conditions (and perhaps terms). The applicant accepted this, and in their right of reply addressed this matter, which we return to later in this decision.

At this stage of the process the Applicant also sought a coastal permit to discharge WWO's to the coastal marine area "out of an abundance of caution". As there are however no overflow discharge points in the coastal marine area we could not see any point in this, and that application was subsequently withdrawn by the Applicant.

Mr **David Wilson**, the Council's Director of Community Lifelines, provided some context to the applications. He detailed how the GDC has a non-statutory spatial plan out to 2050, which sets out eight aspirations for the community, several of which would be part met by the present proposal. He detailed some provisions of the Council's Long Term Plan, and discussed consultation through what is known as the "KIWA" Group.¹⁰

⁸ S42A Report of Todd Whittaker at Paragraphs 9.31 and 9.32.

⁹ These witnesses were Dr Brett Beamsley who covered hydrodynamic modelling in the offshore environment, and Dr Michael Stewart, who discussed the possible ecological consequences of emerging organic compounds in the overflow discharges.

¹⁰ This is a matter we return to later in this decision.

Mr **Neville West** is the Council’s Waste and Utilities Manager. His evidence provided an overview of the Council’s wastewater networks, and we have summarised the main points of this in Section 2.3 above.

Mr **Wolfgang Kanz** was the Council’s “4 waters strategy manager”, with particular responsibilities for the “Drainwise” program.¹¹ His evidence focussed on the implementation of this program, consultation with the “KIWA” Group, and the actions that the Council has taken as a result of consultation. We discuss his evidence elsewhere in this decision.

Mr **Ian Garside** is an experienced environmental engineer with broad experience in wastewater management, including the management of overflows. His evidence focussed particularly on the implementation of the “Drainwise” program, and we discuss this in some detail elsewhere in this decision.

Dr **Shane Kelly** is an experienced aquatic ecologist, who had carried out assessments of the effects of the wastewater overflows on receiving environments. We discuss his evidence in Section 4.3.3 of this decision.

Dr **Pete Wilson** is a water quality scientist; we similarly discuss his evidence in Section 4.3.3 of this decision.

We discussed the evidence of the Council’s hydrologist, Ms **Bridget Bosworth**, in Section 2.3 of this decision.

Dr **Chris Dada** is an environmental health microbiologist. His evidence focussed on the potential effects of wastewater overflows on enterovirus concentrations in the offshore environment, where he relied on the evidence of Dr Beasley to assess effects. We discuss this evidence in Section 4.3.4 of this decision.

Mr Ian Mayhew is an experienced consultant planner who works for 4sight Consulting Limited. His evidence addressed relevant planning matters which we assess elsewhere in this decision.

3.2 The Submitters

Murray Palmer and **Samuel Lewis** spoke to the submission from Rongowhakaata Iwi Trust. They described the former abundance of kai that could be obtained from the awa, and the various bathing spots that Māori frequented over the years. In their view this is no longer the case. They said that the waterways, where once 25 to 30 hapū traditionally bathed and fed, have changed to the point where it is no longer safe to eat uncooked kai from them, and it is unhealthy to swim there anymore. Primarily for this reason they opposed the application.

Josie McClutchie, who has lived at 6 Turenne Street since returning to Gisborne in 2012, spoke to her written submission, in which she described how she now “dreads the rain” as this has led to numerous wastewater overflows on to the street and her property. On occasions, as recently as July 2020, her lateral drains have been blocked due to overflows, her toilet has backed up and untreated wastewater has flowed back up her gully traps.

¹¹ Mr Kanz had resigned from the Council shortly before the hearing commenced. We also note that his contribution while working there was praised by several submitters.

When speaking to her submission she said that after the street came together as a group the situation had now “definitely improved” with the works recently undertaken by the Council, and that the issues described in her submission have not occurred since 2020. She was not however filled with confidence that Council’s upgrades in Turenne Street will solve all the problems, and it would take a large event to convince her that the overflows will no longer occur frequently.

Jan Crawford lives, together with five young boys, at 9 Dominey Street, which is in the Turenne Street/Seymour Road area. After a visit by Council staff she “appreciated the professionalism and proactive approach to problem solving”, and that “in general” she was pleased with the Applicant’s initiative to reduce the Seymour Road overflow to a tertiary overflow point and re-activate the Owen Road line as a tertiary overflow. She supported the draft conditions of consent proffered by the Applicant after the hearing requiring that this work be completed by 31 December 2022.

Owen Lloyd (*Ngā Ariki Kaiputahi*) opposed the application while lamenting the years of empty promises on the part of the Council. He said that the words “Working towards solutions” as has often been uttered over the years have no mana when they remain meaningless.

Like other tangata whenua submitters Mr Lloyd emphasised the need to restore the mauri of the awa (river/s) as a priority. He urged the Council to get its priorities right, for example spending \$50m on a swimming pool rather than on fixing the overflow wastewater problem. He echoed the cry from tangata whenua and others in opposition to come up with a solution now rather than later.

Gordon Webb, who pre-circulated some detailed evidence, has lived at 18 Seymour Road since 1984. He said it was “inconceivable” that the Applicant should seek to legitimise the discharge of untreated wastewater from the Turenne Street/Seymour Road intersection manhole on to the carriageway and down an overland pathway to a city drain. He could “vividly recall” such overflows during rainfall events. He noted that this pathway is a pedestrian link which is regularly used by students from two schools.

Having said this Mr Webb acknowledged that the work the Council had done to “alleviate these horrible discharges”, for which he was grateful, and that it was “pleasing news” that the site would be converted to a tertiary discharge point and further overflows from the manhole cover were unlikely to occur.

Mr Webb sought a definitive date for the completion of these works, and suggested the consent be granted for two years only. He said however that a 10 year term was appropriate for the WWO’s, saying that this would “avoid further decades of poor environmental practice”.

Ian Ruru (Te Aitanga ā Māhaki and Chair of the KIWA Group) reiterated that overflow discharges into the awa, and ultimately into the moana (ocean), is unacceptable to tangata whenua because of the negative effect on Māori cultural, spiritual and social values. He said two key areas of concern are the ability of tangata whenua to meet their kaitiakitanga responsibilities, and to be able to restore the mauri of the wai.

Mr Ruru also reflected on the productive work undertaken by the WMC and KIWA Group to get things to where they are today, but warned against becoming complacent. He said that the job is only half done so there is still a long way to go. He sought stringent safeguards be imposed on the consent holder.

He highlighted the abhorrence tangata whenua have towards mortuary waste also being added to the Gisborne wastewater discharge system. Mixing wastewater - and in particular wastewater containing human mortuary waste - with natural water is offensive and spiritually damaging. In his view it breaches the Māori adage of “ ... that which comes from Papatūānuku should be returned to Papatūānuku”. For this reason, he viewed the passing of the 2021 Gisborne Trade Waste Bylaw - where mortuary waste is trucked to, and disposed of, at a specially designed “mound” system - as a major triumph.

Zane (Sandy) Gibson is a registered drainlayer. He was the Manager of the Council’s inflow/infiltration programme (now rebranded as “Drainwise”) from 2009 to 2011. We have already referred to some of his evidence in Section 2.3 above.

In his technical evidence he said much of their work was during wet conditions after midnight, because during those hours there are few other discharge sources into a house’s drainage and wastewater systems. In his view, which was supported by observations and other evidence, the main causes of surcharges from the network are via leaks into both lateral drains on private land, and older and/or poorly maintained sections of the public network. He considered the Council’s focus on illegal connections from roof stormwater drainage into the wastewater network to be “low hanging fruit” because they are relatively inexpensive to remediate. Mr Gibson was adamant that these initiatives alone will not meet the Council’s targets for substantially reducing the frequency of WWO’s from the wastewater network.

Dianne Irwin (Ngāti Oneone), together with Charlotte Gibson, also opposed the proposal and she blamed western science, engineering, thinking and design for what has happened. Ngāti Oneone has little faith that the Council will resolve the current discharge problem, particularly if another 20 years is approved. In her view the core problem is that mātauranga Māori continues to be ignored, or overlooked, in the planning process, which she argued is a fundamental shortcoming under the key Treaty of Waitangi partnership principle.¹²

3.3 The Reporting Officers

Three independent reporting officers provided advice to us on the application under the provisions of s42A of the RMA. The primary reporting officer was **Mr Todd Whittaker**, who is a consultant planner. His report was supported by supplementary reports prepared by **Mr Simon Aiken**, a water resources scientist employed by Tonkin and Taylor, and **Ms Juliet Milne**, a resource management scientist at NIWA. Their main reports were provided well prior to the hearing in accordance with statutory timelines, but they also each provided helpful supplementary reports towards the conclusion of the hearing. We have referred to some of their material in Section 2.3 above, and we refer to it again when carrying out our statutory evaluation and discussions of terms and conditions.

3.4 Information Provided Post Hearing

After the hearing was adjourned we issued directions that outlined the procedure to be followed from that point on. In an amended version of these directions the Applicant was to provide a new set of draft conditions, including separate provisions for WWO’s and DWO’s, by Monday 9 August for

¹² Which is a not a matter that we can resolve.

circulation to the parties for comment, which was due on Monday 16 August, and then the Applicant's right of reply was to be provided by Monday 23 August.

Comments on the Applicant's draft set of conditions were received from three submitters: Gordon Webb, Zane (Sandy) Gibson and Rongowhakaata Iwi Trust. These were addressed as part of the Applicant's right of reply.

We reviewed these draft conditions and had a number of concerns about them, which we sent via a memorandum to the Applicant on 2 September 2021. Primarily due to delays resulting from the country's move to Alert Level 4, a response was not received from the Applicant until 24 September 2021. We closed the hearing on 30 September 2021.

4 Statutory Assessment

4.1 Activity Classification

As we have already discussed discharges resulting from DWO's are a non-complying activity in the TRMP, but those from WWO's are a restricted discretionary activity. While the Applicant had originally proposed that these be bundled as a non-complying activity, we had asked that this approach be re-assessed.

Ms Zame addressed these matters in her right of reply.¹³ She noted that there is legal precedent for separating out activities on several grounds including that:

- One of the consents sought is classified as a restricted discretionary activity (WWO) and therefore the scope of the consent authority's judgment is relatively confined; and
- The effects of exercising the two consents will not have consequential or flow-on effects on matters to be considered, but are distinct.

We agree that in this instance it is not appropriate to bundle the DWO and WWO consents, as they are for distinct activities with quite different causes. Accordingly, only the DWO consent is subject to evaluation as a non-complying activity, and so has to pass through one of the two "gateway" tests of s104D of the Act. These tests either require that the adverse effects of the activity on the environment are no more than minor, or that the application will not be contrary to the objectives and policies of the (most recent and relevant) planning documents. We note that strictly speaking we should apply the s104D tests prior to considering s104(1) matters¹⁴, but in this instance the s104D tests rely on both our assessments of the actual and potential effects of the activities for which consent is sought, and an analysis of the provisions of the TRMP.

¹³ At her Paragraph 18

¹⁴ Queenstown Central Ltd v Queenstown Lakes DC (2013) NZHC 817

4.2 Assessment Criteria

Decisions on resource consent applications are made under the criteria listed in Section 104(1) of the RMA. Subject to Part 2 of the Act, we must have regard to the following matters:

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) any relevant provisions of*
 - i. a national environmental standard;*
 - ii. other regulations;*
 - iii. a national policy statement;*
 - iv. a New Zealand coastal policy statement;*
 - v. a regional policy statement or proposed regional policy statement;*
 - vi. a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

In relation to these matters and the present applications:

- We discuss Part 2 RMA matters in Section 4.7 below.
- We see the actual and potential effects of the Proposal as being a mix of positive effects (section 4.3.2), and potential adverse effects on water quality and biota in the rivers to which discharges occur (section 4.3.3), on water quality, including bathing water quality in the offshore environment (section 4.3.4), on the cultural values of inland and coastal waters (section 4.3.5), and on amenity values (section 4.3.6).
- s104(1)(ab) is not relevant to these decisions.
- There are no directly relevant national environmental standards or regulations
- The two relevant national policy statements are the NZ Coastal Policy Statement 2010, and the National Policy Statement for Freshwater Management 2020, which we discuss in Sections 4.4 and 4.5 below
- The Tairāwhiti Resource Management Plan encompasses all of the Regional Policy Statement, the Regional Plan and the District Plan. We discuss its provisions in Section 4.6.

There are several particularly relevant other provisions that need consideration under Section 104(1)(c), which are covered in Mr Whittaker's S42A report and Mr Mayhew's evidence. This includes the Management Plan of Ngā Ariki Kaiputahi and the Te Aitanga ā Māhaki Environmental Inventory. Mr Whittaker listed the objectives of the former in his report, which focus on better recognition and integration of cultural values into decision making. As already discussed, the consultation carried out by the Applicant facilitated a clear understanding of cultural values.¹⁵

¹⁵ S42A Report of Todd Whittaker at Paragraph 13.3.

Several waterways are subject to statutory acknowledgments, which Mr Whittaker listed as:¹⁶

Ngāti Porou statutory areas:

- a) Tūranganui River and its tributaries (to the extent that this area is within the area of interest), upstream of the coastal marine area.
- b) Waimata River (as a tributary of the Tūranganui River) to the extent that this area is within the area of interest), upstream of the coastal marine area.

Rongowhakaata statutory areas:

- a) Tūranganui River within Rongowhakaata area of interest.
- b) Taruheru River within Rongowhakaata area of interest.
- c) Waimata River within Rongowhakaata area of interest.
- d) Waikanae Stream within Rongowhakaata area of interest.
- e) Rongowhakaata coastal marine area within Rongowhakaata area of interest.

Ngai Tāmanuhiri statutory areas:

- a) Ngai Tāmanuhiri coastal marine area; and Part Waipaoa River (including Karaua Stream)

Mr Mayhew also considered that the Council's 2050 Spatial Plan was another relevant matter under 104(1)(c). We doubt that it has much relevance.

4.3 Actual and Potential Effects

4.3.1 Introductory Comments

We found the effects of the WWO's relatively straightforward to assess. They are infrequent, and as they occur only following high intensity local rainfall events, river and stream flows will be high and the wastewater will be much diluted both before it enters natural water, and it then is diluted further by floodwaters. Abhorrent as they may be to many in the community, particularly tangata whenua, it is not practicable that they be avoided altogether, as any wastewater system only has a limited capacity to carry very high flows. However, the frequency of their occurrence can, and should, be reduced by minimising inflow and infiltration into the wastewater network.

Assessment of the effects of DWO's is more difficult. Only about a quarter reach fresh water. They can occur in different places at different times, are of undiluted wastewater and can occasionally have significant adverse effects, including apparently fish kills. The Applicant said most DWO's are due to factors that in large part out of their control; Mr Whittaker on the other hand said the Applicant should take an "elimination" approach to DWO's.

We think the appropriate response lies somewhere between these divergent views. It was common ground that there have no DWO's directly attributable to GDC operational failures since 2015, and this was cited by Mr Aiken and Mr Whittaker, who said it showed DWO's can be "eliminated".

4.3.2 Positive Effects

The safe disposal of wastewater is a core function of territorial authorities. The GDC has obligations under the Health Act 1956 to provide sanitary services.

¹⁶ S42A Report of Todd Whittaker at Paragraph 9.36; EIC of Ian Mayhew at Paragraph 7.103.

The Gisborne wastewater network is an essential lifeline utility that provides for the health and safety of the community by transporting wastewater to the treatment plant and providing for its disposal. It has a replacement value estimated at \$128 million, excluding the wastewater treatment plant and associated ocean outfall.

Granting the present applications enables the wastewater network to meet its statutory obligations to provide for resource consents for any overflow discharges.

4.3.3 Effects on Freshwater Quality and Biota

The effects of the WWO's on water quality and biota were discussed primarily by Dr Wilson and Dr Kelly for the Applicant, and Ms Milne in her supplementary Officer's Report.

Dr Wilson undertook water quality analyses of background water quality (i.e. with no overflows) in four water bodies in Gisborne City: the Taruheru River, Waimata River, Waikanae Stream and Kopuawahakapata Stream. He found that these water bodies at all times had elevated levels of contaminants (faecal bacteria, sediment, nutrients, and heavy metals), which in all but the Waimata River were sourced primarily from their upper catchments, which are well upstream of the city. In the Waimata River the main source of contaminants was unclear. Contaminant concentrations can be high, with for instance none of the sites monitored meeting TRMP recreational limits for enterococci bacteria, with particularly high levels being recorded after heavy rain.¹⁷

In WWO's Dr Wilson found it difficult to separate the effects of the overflows with the higher contaminant loads that occur "naturally" during heavy rainfall (such as from stormwater outlets and upstream run-off). He found that water quality downstream of the WWO discharge points to be "generally poorer" than it was upstream for up to about 48 hours, although this was a little confounded at times by tidal inflows. The greatest effects were on enterococci bacteria levels in the lower Taruheru River, where they were generally about twice what occur following heavy rainfall with no overflows. However the Waimata River showed only slight decreases in water quality due to overflows and the Kopuawahakapata Stream always had elevated enterococci levels, which Mr Kanz advised us were caused by an illegal private wastewater connection to a public stormwater main, which GDC are requesting the private landowner to correct.¹⁸

Dr Kelly found little evidence of any ecological effects from WWO's. This is not surprising given they are such intermittent events, and do not have any significant adverse effects on water quality. Dr Kelly was concerned however about potential effects of DWO's, which he observed have the potential to cause short-term adverse ecological effects, if they make their way to streams and watercourses. He recommended "that effective systems and processes are put in place for preventing, detecting and responding to such events."¹⁹

We conclude from the evidence of these experts that the effects of WWO's on water quality and biota in local rivers and streams are not significant, nor are they of long duration. The effects of DWO's are not predictable, and have on occasions in the past had significant adverse effects on biota in urban watercourses.

¹⁷ EIC of Peter Wilson at Paragraphs 27 and 28.

¹⁸ EIC of Wolfgang Kanz at Paragraph 80

¹⁹ EIC of Shane Kelly at Paragraph 31

4.3.4 Effects on Coastal Water Quality

Given that the effects of WWO's on freshwater quality are little different during higher flows following rainfall and WWO events, we would not expect any widespread significant adverse effects on coastal water quality.

However, the one potential adverse effect is from enterococcal viruses and/or bacteria that can be concentrated in filter feeding shellfish that may be collected from coastal waters, and subsequently eaten raw. These include Salmonella, noroviruses and enteroviruses and various bacterial gut parasites. There is also a very small risk to swimmers.

This was addressed in the evidence of Dr Dada for the Applicant. He applied the hydrodynamic modelling of Dr Beasley, which indicated where high flows in local rivers and streams may be distributed in the coastal environment in different wind and tide conditions. He noted that while comprehensive bacterial assessments had been carried out following WWO's²⁰, little assessment had been carried out on potential viral contaminants.²¹

Dr Dada concluded that following the proposed reduction in the frequency of WWO's there will remain a low to moderate health risk following consumption of raw shellfish harvested from the receiving environment within 24 hours after an WWO event. He said that this will improve if the Council provides permanent signage at shellfish gathering locations to discourage shellfish collection, and noted that such signage would also assist in managing health risks associated with other contaminant sources not addressed in the present application, including closed landfills, urban and agricultural runoff. He also suggested that any DWO's need separate public notification protocols and procedures.²²

4.3.5 Effects on Tikanga

Tikanga (Māori traditional beliefs and practices) and the Resource Management Act (RMA) system inevitably clash in hearings such as this because tikanga is based on mātauranga (Māori knowledge) while the RMA is underpinned by 'western science'. Western science often dominates the consent decision-making process because it is the language of such decision making. Tikanga (more popularly referred to these days as 'cultural') more often than not flounders because there is no natural counterbalance between the two.

Arguably, tikanga also struggles because it is not well enough understood, or is not aligned or prioritised accordingly. For example, the science fraternity struggles to acknowledge the basic tikanga spiritual foundation that a river (awa) is tapū, or has 'a personality'; and conversely, scientific methodology can be challenging for even the most informed layperson.

In our view it is necessary to highlight the philosophical 'collision' between tikanga Māori and western science by way of introduction because this is what underscores the strong Māori views expressed during the hearing.

²⁰ As described in Dr Wilson's EOC.

²¹ Conditions 23 -25 of the consents granted require more detailed assessment of these potential contaminants.

²² EIC of Chris Dada at Paragraphs 87 and 88.

In essence, the Māori world view is that awa have mana, they are taonga, and they have their own personality - which include whakapapa that link them to the land and people. This needs to be afforded due recognition, nurturing and protection in any consent. Wastewater discharges degrade awa, and threaten their very well being.

It was clear from each of the submissions from tangata whenua, and the views of the KIWA group, that any discharge of untreated wastewater to rivers and streams in Gisborne city is unacceptable. In summary, tangata whenua oppose the application on grounds including (that):

- overflow discharges are repugnant to Māori, and therefore total elimination of discharge should be the ultimate objective;
- wastewater overflows encroach on Māori customary rights and practises primarily because the application fails to adequately recognise, and provide for, the relationship of affected iwi and hapū with their tipuna awa (ancestral waterways);
- mahinga kai and swimming in local rivers will continue to be adversely affected, whilst "...tangata whenua still lived and breathed the awa";
- tangata whenua are unable to properly and effectively carry out their responsibilities as kaitiaki of local natural resources;
- wastewater overflows negatively impact the mauri of waterways and mitigate against the ability of tangata whenua to apply tikanga in order to return water bodies to a safe balanced state;
- while the Council's proposed reduction in wastewater overflows is considered a step in the right direction, tangata whenua would prefer to work with the Council to eliminate wastewater overflows altogether;
- managing and reducing overflows into their tipuna awa has been highlighted by tangata whenua as a serious concern as far back as the 1990's, yet nothing appears to have been done about it.

As a consequence, the key concerns of tangata whenua are for continuous meaningful engagement with the Council to address tikanga Māori concerns re wastewater discharge and overflows; ensuring, for instance, that all monitoring processes are inclusive of tikanga Māori. Secondly, tangata whenua kaitiakitanga responsibilities must be provided for, and prioritised. In that regard there is general support for the KIWA Engagement Group to continue to play a prominent role going forward. And finally, if the application is approved it should be limited to 5 years rather than 20 years.

4.3.6 Effects on Local Amenity Values

We were dismayed to hear about the Applicant's past neglect and unacceptable management of regular wastewater overflows on both public and private property in the Seymour Street/Turenne Street area. It was a longstanding issue of much concern to local residents, and it is a poor reflection on the Council's performance that it was neglected for many years. The resulting adverse effects on local amenity, and the quality of life for residents, were significant.

Having said that submissions to the current applications apparently compelled the Council to act²³, and recent remedial works initiated by Mr Kanz were described by Mr West as follows:

²³ EIC of Neville West at Paragraph 23

*There are currently two primary overflow points at Wainui Road and Seymour/Turenne (which is intended to become a tertiary overflow point). Council is confident that overflow from this valved manhole is unlikely to occur due to the mitigation work undertaken.*²⁴

These works also received praise from local residents, who are hopeful that the overflows will occur far less frequently²⁵. This should mean overflows in this location should only occur once every ten years on average. In the context that some WWO's cannot be avoided this is much more acceptable.

One issue that did concern us in the draft conditions proffered by the Applicant after the hearing was that they did not specify a completion date for these works until 2025. We asked the Applicant for a final date in our Memorandum on the Draft Conditions dated 3 September. In response Ms Zame said that the works necessary to complete the transition to a tertiary overflow point were scheduled to be completed in the current financial year (i.e by 30 June 2022). She then said that because of difficulties sourcing materials in the global pandemic the Applicant sought a completion date of 1 December 2022.²⁶ We think this is too long for the residents to wait, so the completion date we have set is 1 September 2022.

4.4 The New Zealand Coastal Policy Statement 2010 (the NZCPS)

The TRMP has not been amended to give full effect to the NZCPS.

Most of the overflow discharges are to the coastal environment, as identified in the TRMP, so the provisions of the NZCPS must be taken into account.

The most relevant policy is Policy 23, which in sections 23(1) and 23(2) read (emphasis added):

(1) In managing discharges to water in the coastal environment, have particular regard to:

- (a) the sensitivity of the receiving environment;*
- (b) the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and*
- (c) the capacity of the receiving environment to assimilate the contaminants; and:*
- (d) avoid significant adverse effects on ecosystems and habitats after reasonable mixing;*
- (e) use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and*
- (f) minimise adverse effects on the life-supporting capacity of water within a mixing zone.*

(2) In managing discharge of human sewage, do not allow:

- (a) discharge of human sewage directly to water in the coastal environment without treatment; and*
- (b) the discharge of treated human sewage to water in the coastal environment, unless:
(i) there has been adequate consideration of alternative methods, sites and routes for undertaking the discharge; and*

²⁴ EIC of Neville West at his Paragraph 56, slightly paraphrased.

²⁵ This was also supported by Mr Whittaker who noted in his Paragraph 9.49 that “the Applicant has been very responsive to any concerns which have been raised, and has demonstrated a genuine commitment” to resolving these.

²⁶ Memorandum on behalf of the Applicant dated 23 September 2021 at Paragraph 6

(ii) informed by an understanding of tangata whenua values and the effects on them.

We are satisfied that all the relevant matters in Policy 23(1) have been addressed elsewhere in this decision. In particular the receiving environments generally have degraded water quality, particularly following heavy rainfall, with or without the overflow discharges.

On the face of it Policy 23(2)(a) is effectively a prohibition on us granting the consent sought. However, it reads as a prohibited activity rule rather than a policy, and by definition policy statements cannot contain rules. Perhaps because of this non statutory “guidance” has been provided by the Department of Conservation on how this particular policy is to be interpreted. That guidance reads (with emphasis added):

“Policy 23 concerns the discharge of contaminants, including human sewage. Policy 23(2)(a) is strong direction against discharges of untreated human sewage to water in the coastal environment. It signals that very clear justification should underpin any provision for discharge of untreated sewage to water in the coastal environment. However, it is not a rule, and does not mean that resource consent applications that involve discharges of untreated human sewage cannot be approved. Nor does it mean that such discharges must be classified as prohibited activities in regional coastal plans and regional plans.

As with all management of natural and physical resources, particular situations must be looked at in context. In relation to activities involving the discharge of human sewage the relevant context will include location, frequency, duration, volume, level of treatment, and the extent to which the discharge is the best practicable option (within a relevant timeframe). Relevant matters will vary according to the source of a discharge (e.g. from a treatment plant, or an overflow from a reticulation network) and whether it is in the course of normal operation or caused by an anticipated and perhaps unavoidable operational disruption (such as a blockage, power interruption or overflows in some wet weather events). There is a continuum that should result in different discharges of human sewage being dealt with differently within plans, both in policies and activity classifications (rules), and through the determination of resource consent applications. Clause 4 of Policy 23 provides particular direction in respect of discharges involving both sewage and stormwater.

Policy 23 should also be considered together with objectives and other policies in the NZCPS 2010 which address issues of discharge, water quality and infrastructure. The complete statutory framework for RMA decision making in relation to discharges both in relation to plans and consent applications applies. Sections 69 and 70 of the RMA provide some direction for rules and sections 107 and 108(2)(e) and (8) provide guidance for resource consents and conditions.”

Given this guidance we are satisfied that the present application for WWO’s meets the intent of Policy 23, and particularly Policy 23(2)(a), of the NZCPS 2010, but note it is more ambivalent in relation to DWO’s. We are similarly satisfied that the application is generally in accordance with the overall policy direction of the NZCPS.

4.5 The National Policy Statement for Freshwater Management 2020 (the NPSFM)

The latest iteration of the NPS came into effect on 3 September 2020. It contains a single objective and 15 policies²⁷, the relevant provisions of which include:

- (1) *The Objective of this NPS is to ensure that natural and physical resources are managed in a way that prioritises:*
 - (a) *first, the health and well-being of water bodies and freshwater ecosystems*
 - (b) *second, the health needs of people (such as drinking water)*
 - (c) *third, the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future.*

*Policy 1: Freshwater is managed in a way that gives effect to Te Mana o Te Wai.*²⁸

Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole of catchment basis, including the effects on receiving environments.

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of other water bodies and freshwater ecosystems is maintained (and if communities choose) improved.

Policy 15: Communities are enabled to provide for their social economic and cultural well-being in a way that is consistent with this National Policy Statement.

All regional authorities are required to notify a regional plan that gives effect to the NPSFM 2020 by 31 December 2024. To do so Councils have to go through a very prescriptive and time-consuming process involving extensive iwi and community consultation. In the case of the GDC, this will necessarily involve a complete review of all the freshwater management provisions in the TRMP. In the meantime, we are required to weigh the objective and relevant policies of the NPSFM in this decision.

The objective of the NPSFM clearly gives first priority to instream values. It is not clear if management of a wastewater network (including DWO's and WWO's) fits into the second priority (as it helps provide for the health needs of communities such as Gisborne) or the third priority.

As discussed in Section 4.3.3, the instream values of the rivers and streams to which the WWO's can discharge are already degraded due to factors such as run-off from upstream land use and stormwater discharges. None could reasonably be called "healthy" waterways, even during lower flows. The WWO's occur at times of high flows, and their incremental effects on water quality and biota do not much worsen the "health" of the waterways. Such discharges are abhorrent to tangata whenua.

²⁷ Mr Whittaker considered all 15 of these policies in Section 10 of his s42A report. We have only picked out those we think particularly relevant, but for those which we have not discussed, we generally adopt his analysis.

²⁸ This embraces six principles, which we do not need to detail here.

The NPSFM provides little guidance as to resolve conflicts such as this. Elsewhere in this decision we have attempted to do so (see particularly Section 4.3.5)

In relation to Policy 2, through the KIWA Group tangata whenua have been involved in extensive discussions with the Applicant about the present applications.

Policy 3 requires that water management be on a whole of catchment basis.

Dr Wilson's quality studies have shown that in all but the Waimata River, where the evidence was unclear, most contaminants found in the city's rivers and streams originated from land use activities upstream of the city's boundaries. This and Policy 5 will need to be addressed in 2024 review of freshwater management in the TRMP.

Finally, we note that Policy 15 provides for activities such as wastewater overflow discharges, albeit with the rejoinder that it must be "in a way consistent with this NPS". Quite what that latter clause means in this particular instance is not very clear to us.

Given the lack of certainty about how conflicts within the Objective and Policies of the NPSFM are to be resolved, we find that while there is no one matter that weighs absolutely against granting the present applications, there is little that clearly supports them being granted either.

4.6 Objectives and Policies of the TRMP

Mr Whittaker carried out comprehensive evaluations of the relevant objectives and policies of the TRMP. We do need to repeat all that here, as much of it is rather peripheral to the present applications.

Both Mr Whittaker, and Mr Mayhew for the Applicant, agreed that the most relevant policies are found in the Regional Plan under the heading C6, Freshwater. Both highlighted two particular policies under the heading "Policies for Point Source Discharges":

Policy C6.2.2.1 which reads:

1. That there are no direct discharges to surface waterbodies, or land where it can flow directly to a water body or groundwater of:

a) untreated sewage, wastewater (except as a result of extreme weather related overflows where these are being reduced over time).

Policy C6.2.2.9 which reads:

9. Discharges of untreated sewage from the reticulated infrastructure network shall be managed to:

a) Minimise the frequency of these discharges; and

b) Achieve performance an overflow occurrence of no more than 50% probability in any given year;

c) Issue discharge permits for no longer than 5 years except where there is evidence from past performance to demonstrate that wastewater overflow events can reliably achieve the performance standard in clause b. above.

Both these policies are problematic for the Applicant. The first gives no indication of what an "extreme" weather related event is. The Applicant's own AEE referred to an extreme heavy and

infrequent event as larger than 5% AEP/20 year ARI. However this is inherently contradictory to Policy C6.2.2.9(b), which refers to a 50% AEP/2 year ARI as a suitable performance standard. We have chosen to take the latter approach, as a massive capital works programme would be necessary to achieve a 1 in 20 overflow event standard.

Equally problematic is that the policy gives no guidance for DWO's, except perhaps an implication that they should be avoided altogether.

Policy C6.2.2.9(c) means on the face of it, we cannot grant the WWO consent for a term of more than five years, except where there is evidence from past performance to demonstrate that wastewater overflow events can reliably achieve a 50% AEP standard.

In his evidence Mr West documented the history of WWO's from 2006 to 2019.²⁹ The "Drainwise" program started in about 2010, and this table shows there has been a general decline in the number of overflows, the number of locations at which overflows occurred and the duration of those overflows since that time.

However, this "evidence from past performance" could be related to fewer intense rainfall events. It is unclear if this is the case; as the evidence of Ms Bosworth, the Council's hydrologist, shows 50% AEP storm events of different durations at different sites may or may not cause overflows to occur.

What we are left with is a generally improving trend, which we see as providing at least reasonable evidence from past performance that WWO events can in the future meet the 50% AEP standard. Mr Whittaker believes that the Applicant has "*provided a credible body of technical material which supports a program to reduce the frequency and overflow events*". However, Mr Whittaker's report also says that being confident that the target will be met:

*"is not the same as having actual proven results to demonstrate that the modelled improvements have been achieved. In my opinion, the Applicant's commitment to addressing the existing overflow issues through the current consent process is appropriate and should be supported; however this falls short of Policy C6.2.2.9 with regards to the proposed consent term of 20 years."*³⁰

Despite this Mr Whittaker recommends a 20y term for the WWO consent.

We discuss the term of both consents in Section 5.3 below.

4.7 Part 2 of the Act

Both Mr Whittaker and Mr Mayhew said it was necessary to take account of Part 2, as we cannot be entirely confident that the plan had given full effect to Part 2.

Having undertaken their analyses they both concluded that the applications are broadly consistent with Part 2. Mr Whittaker did not find any particular provision that weighed against granting the applications.

²⁹ EIC of Neville West at Paragraph 65; the Table was taken from the AEE.

³⁰ Both quotes are from Paragraph 11.38 of his report.

Mr Mayhew concluded³¹ that in his opinion:

the application is consistent with the principles and purposes of the RMA and Part 2 matters. It provides for the essential health need of communities, while ensuring that adverse effects are appropriately avoided, remedied or mitigated.

We agree with his conclusion.

4.8 Section 104(D) Assessment

As already outlined briefly as the application to discharge dry weather overflows of untreated wastewater to local rivers and streams is a non-complying activity, it has to pass at least one of the two threshold tests of s104D of the RMA.

There are no direct policy provisions in the TRMP that relate to DWO's, and so any DWO cannot be "not contrary to the policies and objectives" of the TRMP.³²

The effects of DWO's can only be "no more than minor" if any significant effects of such discharges are avoided. This will require active management by the Applicant, and work towards eliminating DWO's as far as practicable. This is not only eliminating those DWO's for which the Council is directly responsible, but also other instances where network blockages cause DWO's.

There may be circumstances – such as following a major earthquake – where DWO's cannot be totally avoided. This would be a "potential effect of low probability which has a high potential impact"³³, about which we note that an Environment Court decision has said (after referring to another oft quoted decision):

This is of interest because it suggests that a major, potentially catastrophic effect could be regarded as minor if the probability of its occurrence is very low. With respect that is a sound approach to risk and within the spirit of the RMA.³⁴

Given this we accept that the effects of the DWO's should be "no more than minor". Robust conditions of consent are essential to achieve this outcome, and we discuss these, and the term of the DWO consent, later in this decision.

4.8 Sections 105 and 107 of the RMA

There are two other sections of the RMA relevant to our decision making. These are s105, which requires consideration of alternatives, and s107, which requires either a series of criteria be met by the discharge, or one of three exemption provisions apply.

Section 105(1) of the Act requires that we must have regard to:

(a) the nature of the discharge and the sensitivity of the environment to adverse effects;

³¹ At his Paragraph 7.137.

³² The only possible exception is Policy C6.2.1.1(b) which is an assessment criterion, but it is not possible to evaluate the range of possible DWO's against such criteria.

³³ Section (g) of definition of "effect", s3 RMA

³⁴ Saddle Views Limited v Dunedin CC (2014) NZEnvC 243.

(b) the applicant's reasons for the proposed choice; and

(c) any other possible alternative methods of discharge, including discharge into any other receiving environment.

Almost all wastewater systems surcharge to local rivers, streams and coastal areas following heavy local rainfall. Perhaps the worst example in the country is Auckland, where regular overflows occur to local streams and beaches after heavy rain; these are currently proposed to be eliminated by 2040. In this context Mr Garside, a witness for the Applicant with extensive experience of wastewater management, said that Gisborne's wastewater system "was designed in accordance with industry standards, and conforms with those standards".³⁵ In response to a question he said that the Gisborne system appears to be able to handle six times average dry weather flows with only minor overflow discharges, whereas many wastewater systems overflow at about four times average wet weather flows.

We have discussed the discharges and their effects on the receiving environment in Section 4.3 above. There are no realistic alternative receiving environments for occasional WWO's, which occur only when the wastewater system cannot cope with additional stormwater inflows during high intensity storms. Conditions of consent require that substantial improvements be made to both public and private wastewater networks to reduce the frequency of WWO's.

In some, now apparently quite rare, DWO's there is also no realistic receiving environment other than local rivers and streams. We agree broadly with Mr Whittaker that the Council should be working to eliminate any DWO's from entering natural water bodies.

In regard to s107 we accept that there is a small possibility that a DWO could have significant adverse effects on aquatic life (s107(1)(d)). As however any such discharge is temporary, it meets one of the exemption criteria of s107(2), and accordingly meets s107.

5 Discussion of Principal Issues

In this section we discuss the four main issues that arose from submissions and the hearing, but which we have not yet addressed. They are: should the consents be granted at all; if so for what term or terms; whether the Council can rely on "Drainwise" to achieve satisfactory environmental outcomes; and future engagement with tangata whenua.

5.1 Should the Consents be Granted

Given that tangata whenua strongly opposed the present applications, we considered declining the consent applications for both WWO's and DWO's. To our knowledge only one precedent exists for any refusal to grant consents for wastewater overflows. This was in Queenstown, where a panel appointed by the Otago Regional Council turned down an application by the District Council for DWO's only, as they considered that in Queenstown most such overflows were due to various system failures (such as pump stations regularly breaking down) and neglect by the District Council, and that most of these could be avoided by better management.

This is not the case in Gisborne, where system failures and Council neglect now very rarely cause DWO's.

³⁵ EIC of Ian Garside at Paragraph 67

If the current applications are declined, the Applicant will not be bound by any conditions of consent. Overflows will continue, but there will be no directive conditions that force the Council to improve the performance of the wastewater system, so any overflows could be more frequent in future. This would not be an acceptable environmental outcome, so we have decided it is better to grant the consents on stringent conditions than to decline them outright. By doing that we can help ensure that wastewater overflows of any origin become less frequent.

5.2 Can the Council rely on “Drainwise”

In broad terms stormwater ingress or infiltration into the wastewater system comprises of what is called “quickflow”, which is the rapid response to events and which largely comprises ingress into the network, and infiltration, which is slower and is predominantly via leakage into wastewater pipes.

In their evidence Council officers placed strong reliance on the “Drainwise” programme to achieve the performance targets set out in consent conditions for WWO’s. The current focus of this is what the Council calls the Infrastructure Improvements on Private Property Strategy (IIOPS), which aims to reduce quickflow stormwater ingress into the wastewater network.³⁶ We understand this to be a slightly more compassionate version of the initial “Drainwise” programme, the focus of which was on ensuring that any illegal cross connections from stormwater into the wastewater system were remedied, and ensuring that gully traps were not too low or broken, and causing overflows into the wastewater system.

The Council aims to reduce quickflow ingress into the wastewater network by up to 85% by implementing “Drainwise”. This appears to be a highly optimistic target. Mr Gibson described the long term focus on reducing quickflow from private properties as targeting the “low hanging fruit”, and he was adamant that it could not succeed fully unless wastewater pipes on private property, and the associated public network, were also rigorously inspected and remedied where necessary.

Mr Garside described how he had developed a model of the Gisborne wastewater network to look at the effects of various interventions on the frequency of WWO’s. He used this to study the effects of reductions in quickflow on the frequency of overflows. While he supported the current Council programme, he described their target of an 85% reduction in quickflow as ‘highly ambitious, and strongly inferred that a 65 – 75% reduction was more realistic. A Figure 7.1 in his evidence, which was taken from another document, suggested that even a 75% reduction may be overly optimistic.

The Applicant’s proposed Condition 46, which required a comprehensive review of progress in meeting consent targets five years after the consent comes into effect, did not explicitly require a review as to whether the “Drainwise” programme can meet the targets set out in Condition 17 and Attachment B of the conditions of consent. We have required that “Drainwise” be reviewed at that time, to ensure that it can meet the targets specified, or if not, that a more effective strategy is implemented.

5.3 Term of the Consents

The Applicant sought terms of 20 years for both the wet weather and dry weather overflows. In his Section 42A report Mr Whittaker supported a 20 year term for the WWO’s, but recommended a 10 year term for the DWO’s. The latter was based on his view that “much of the risk of DWO’s can be

³⁶ Some witnesses referred to this as “fast response” inflow.

managed by the Applicant” and that “any consent for the DWO’s should be granted within the context of an eradication strategy”.³⁷ He also said that in his opinion “the Applicant needs to demonstrate that they have adopted all practical and best practise methods to manage the potential risks of dry weather events”.³⁸

Tangata whenua however were unanimous in their opposition to a 20 year consent. They asserted that five years is generally more acceptable, noting particularly that it has taken so long to reach this point. They said that to contemplate more than five years runs the risk of further inaction and/or flip flopping.

The Ngāti Oneone submission sums it up (in our words) as follows:

- A 20 year consent is contrary to Policy C6.2.2.9 in the Tairāwhiti Resource Management Plan; and
- Policy C6.2.2.9 requires that overflows be reduced before a longer consent can be considered.
- Neither the application, nor the AEE, indicate timeframes for when Policy C6.2.2.9 requirements will be met;
- A 20 year consent is concerning given the long period of inaction on an issue identified as worrying by iwi in the 1990’s, when the Regional Policy Statement was notified;
- A 5 year consent will encourage the Council to ensure that maximum effort is taken to reduce overflows, as is intended in the policy.

Turning first to the five years sought by tangata whenua, we consider this term to be too short. It will not allow the Applicant to continue the long term “Drainwise” programme to reduce the frequency of overflows, or to provide long term funding, with any certainty. Additionally, the Applicant estimates the total costs of seeking the present consents to date are in excess of \$1million.³⁹ A similar sum of money will have to be spent when replacement consents are sought, and if the applications are granted for a term as short as five years, that would certainly take resources away from the works programmes necessary to improve the performance of the wastewater network.

As discussed in Section 4.7, we do not see that Policy C6.2.2.9 directs us to only grant the WWO consent for 5 years. There is some evidence of improving performance trends to suggest that the Applicant can meet the 50% AEP standard for the primary overflow points within 10 years. That is what the consent we have granted requires. It similarly requires that the secondary and tertiary discharge points can meet 20% and 10% AEP standards within 10 years.

Given that these standards are to be met within 10 years, we have granted the WWO consent for a term of 15 years from its commencement. By that time the Consent Holder should be able to demonstrate that its promises have been more than met. The term of 20 years sought by the Applicant in our view is too long after the performance standards should have been met. Additionally, we cannot predict accurately how climate change in particular could require further improvements after 15 years.

³⁷ At his Paragraph 9.19

³⁸ At his Paragraph 9.18

³⁹ Applicant’s right of reply at Paragraph 23

Dry Weather Overflows

In our memorandum dated 3 September 2021 we said:

*In **Conditions 7a and 7b** of the DWO conditions, the Applicant proffers targets for the maximum number of DWO's per annum at the commencement of consent and after a further 2 years. A term of 20 years is sought for this consent. Given that the Applicant has committed to a Dry Weather Overflow Elimination and Management Strategy in draft Conditions 4-6, it seems strange to us that no stricter performance targets are suggested within the remaining duration of this consent. In saying this we note that Rongowhakaata also seek additional DWO performance targets, albeit within a "total elimination" approach.*

In response the Applicant said:

Through proposed Conditions 4 to 6, the Applicant has agreed to an Elimination and Management Strategy to eliminate DWOs to the extent that they are within its control within 10 years and to manage third party actions as far as possible to keep DWOs caused by these actions to a practicable minimum – recognising that this latter component is necessarily on-going and requires frequent refreshing.⁴⁰

The Applicant has also proposed Condition 49, which requires the performance objectives and targets to be reviewed and reset within ten years so as to apply for years 10 to 20 of the resource consent – as well as continuing to achieve the Elimination and Management of DWOs. Accordingly, the Applicant considers that the conditions provide a robust process to reset overflow performance targets, which will be informed by DWO performance over the preceding years.⁴¹

As we have already discussed we consider that the Council must work to eliminate all DWO's within its control within 10 years. It needs to prove that it can do so successfully. This, and the reluctance to set higher performance standards from Year 2 onwards of the consent, mean that we have granted the DWO consent for a term of 10 years from its commencement.

5.4 Future Consultation with Tangata Whenua

One of the issues we raised at the hearing was whether it was appropriate that tangata whenua involvement with the Council's wastewater management, including the Wastewater Treatment Plant and its offshore discharge, and the overflows into rivers and streams, continue to be via the KIWA group. Our potential concern was that many of the members of the KIWA group also have many other commitments, and we wanted to be sure that it could continue to operate effectively.

We were assured by members of the group, including its Chair Mr Ian Ruru, that it could continue to have a strong contribution to wastewater management in the district. As we have discussed at length in Section 2.4 above this certainly has been the case in the recent past. We accept those assurances that the KIWA group (which we understand will form the core of the Tangata Whenua Reference Group provided for in Conditions 35 – 40 of the consents we have granted)⁴² can continue to play a very important role representing tangata whenua into the future.

⁴⁰ Applicant's right of reply at Paragraph 7

⁴¹ Applicant's right of reply at Paragraph 8

⁴² This is provided for in the advice note to Condition 35, which reads:

6 Conclusions

We have assessed the applications against all relevant criteria in the RMA, these being those listed in s104(1), the non-complying activity tests in s104D for the DWO's and Sections 105 and 107.

Based on this detailed assessment we have decided that the consents can be granted. It is not practical to decline them, as overflow discharges will continue to occur and without consent they would be unauthorised and technically in breach of the RMA. Additionally, without consents being issued there would be no requirements for the GDC to meet any performance standards for wastewater overflows.

In regard to DWO's, we are strongly of the view that any overflows for which GDC has primary responsibility must be eliminated in the next 10 years, which is the term we have granted this consent for. We acknowledge that there are matters which the Council has no control over, which include (to some extent) blockages in pipes and natural events such as possible earthquakes, but we broadly agree with Mr Whittaker that all reasonable steps must be taken by the GDC to eliminate DWO's, and particularly to avoid them reaching waterways.

In regard to WWO's, the 10 year targets specify particular environmental outcomes. Ultimately how these targets are met is over to the Applicant, noting that as presently configured the IIIOPS/Drainwise seems unlikely to meet them in full. But to be very clear, we believe it is essential to the credibility of the GDC, and its obligations to the community it serves, that they are met. Additionally, a reset target at the 10 year review is essential for the Council's credibility. We consider a term of 15 years is appropriate for these consents.

Regardless of this, any discharges of wastewater to waterways remain highly offensive to tangata whenua. They will never be satisfied unless all such discharges are eliminated. We believe this is an aspirational target, and it should be the GDC's eventual objective to reduce any wastewater overflows of any origin to the absolute minimum.

7 Conditions of Consent

The Applicant provided draft conditions in the Evidence of Chief of Mr Mayhew. At the conclusion of the hearing, we set down a process for progressing these conditions. Mr Mayhew and Mr Whittaker were to discuss the draft conditions, amend them as agreed, while highlighting any differences. These were then to be circulated to other parties for comment if they wished to.

Comments were received from four parties: Gordon Webb, Sandy Gibson, Rongowhakaata Iwi Trust and Jan Crawford (who supported the Applicant's conditions for the Seymour/Turenne overflow point). Some of the comments were on the term of the consents, which we have already discussed.

We reviewed these comments and the Applicant's proposed conditions, and then via a memorandum sought comments on a range of matters. A response from Ms Zame on behalf of the Applicant was received on 22 September, with no significant changes put forward as a result.

In appointing the TWRG, the WMC should give consideration to the multiple demands faced by tangata whenua and should seek to utilise existing groups, for example the KIWA Group, where feasible and appropriate to do so.

In the officer's response at the hearing, Ms Milne tabled comments about the (then) draft conditions of consent in a supplementary report. We have also considered these comments, although we have in general not accepted them as they seemed to impose disproportionate requirements relative to the effects that had been described to us.

By and large we have accepted the Applicant's draft conditions, but with some significant amendments. The main amendments are now discussed; other amendments are just to improve clarity.

Elimination of DWO's

There are changes to several conditions on the DWO consent requiring the Council to eliminate all such discharges as far as practicable, and ensure that no such discharges reach waterways.

Timelines for Meeting Deadlines

At the hearing we were under the impression that the secondary and tertiary discharge points already met 20% and 10% AEP standards (bar the Seymour/Turenne tertiary discharge point). This was based largely on the evidence of Mr West, where at his Paragraph 20 he said:

The GWS is no different and contains formal overflow points that are used to control discharges of wastewater/stormwater where necessary, in preference to uncontrolled overflows (including on private property). The operation of the system has been developed and refined by Council over time so that overflows are now managed to primarily occur in a hierarchy being:

- (a) Through two primary overflow points (utilised only where necessary);*
- (b) Via two secondary points, utilised only in large events (between the 5% and 10% AEP events - 20-year and 10 year ARI) as circumstances require; and*
- (c) Up to six tertiary overflow points, which may be required to be opened in very large rainfall events (larger than the 10% AEP/10-year ARI).*

Despite this the Applicant sought a further five years to bring the secondary and tertiary overflow points up to the 50% and 10% AEP standards. We think this is much too long, and have reduced these to two years. This is given effect via Table 1 in Condition 17, and Attachment B

As discussed in Section 4.3.6, we have decided that the Seymour/Turenne remedial works must be completed by 1 September 2022.

Other Changes to Conditions

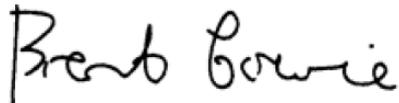
We have made a number of other changes, particularly to Conditions 33 and 44, with complementary changes to Conditions 46 and 48. These include:

- a. Moving where the actions for the next 12 months are from the one-off strategy provided for in Condition 33 to the Annual Report Programme in Condition 44, while also requiring this provide an assessment of the Drainwise programme, and considering whether any changes are necessary.
- b. Similarly, the five year review of progress provided for in Condition 46 must transparently look at whether existing programmes, including Drainwise and any others, will achieve the 10 year targets for WWO's (see Condition j(i)), and if necessary, must modify the programmes to ensure that the 10 year targets are met (as set out in the other clauses of Condition (j)).

The Tangata Whenua Reference Group

We are generally satisfied with the conditions proposed for this group, and have not changed them from what the Applicant proposed.

Rongowhakaata Iwi Trust sought, in their comments on the draft conditions proffered by the Applicant, that the TWRG certify some strategies and reports put forward by the consent holder. We do not consider this an appropriate role for the TWRG, as it is not mandated to be an approving authority for any certification processes. That is a role for the regulatory arm of the GDC.

A handwritten signature in black ink that reads "Brent Cowie". The signature is written in a cursive, slightly slanted style.

Dr Brent Cowie

Chair of the Hearing Panel

21 October 2022

Attached: Conditions of the Consents Granted

Consent DW-2020-109732-00 / WD-2020-109733-00: Dry Weather Overflows

Consent is granted pursuant to rule 6.2.3(15) of the Tairāwhiti Resource Management Plan

Scope

1. This consent authorises the discharge of wastewater via dry weather overflows (DWOs) from the Gisborne City Wastewater System (GWS) within the Gisborne Reticulated Services Area subject to both the Consent Specific Conditions (Section 1) and General Conditions (Section 3) below. This includes:

DWO discharges from the public wastewater network including, pumping stations, manholes and pipes.

DWO discharges from private wastewater systems, caused by a blockage or failure in the public wastewater network.

However, this consent does not authorise:

DWO discharges on private property that occur as a result of a blockage or failure of a private wastewater network.

SECTION 1: DWO CONSENT SPECIFIC CONDITIONS

Expiry

2. This consent shall expire 10 years after it commences.

Documentation

3. This consent shall be exercised generally in accordance with the information included in the consent application and appendices, updated as required by these conditions.

DWO Performance

4. Within one year of the commencement of consent, the Consent Holder shall provide the Consents Manager, Gisborne District Council with a DWO Elimination and Management Strategy for certification, following engagement with the Tangata Whenua Reference Group (TWRG)
5. The objective of the DWO Elimination and Management Strategy is to prevent DWOs while recognising that there will be events outside the control and/or management of the Consent Holder. It should incorporate best practice asset management and preventative action procedures for the Gisborne Wastewater System (GWS) ('Elimination' component) and measures and actions to minimise, and as far as possible eliminate, third party impacts on the GWS ('Management' component).

6. As a minimum, the DWO Elimination and Management Strategy shall include:

Elimination Component

The Consent Holder's strategy for managing the public component of the GWS in order to achieve the target of Elimination of DWOs within the 10 year term of the consent. 'Elimination' means that the public component of the GWS is managed so that DWOs do not occur in circumstances other than those which are outside of the control of the Consent Holder; for example: natural disasters, third party actions which cannot be eliminated, or damage, or extended power failure. The strategy shall outline how progress will be measured and implemented over the term of the consent and in accordance with the conditions of this consent and shall include, but not be limited to:

- i. the Consent Holder's systems and processes to ensure good practice asset management, including:
 - (1) Network management. This shall include a summary of wastewater network inspection and maintenance including periodic jet-blasting or other maintenance activities of lengths of pipework or other network assets known to be prone to blockages;
 - (2) Asset renewals and upgrades;
 - (3) Targeted maintenance of priority areas;
 - (4) Network flow surveillance;
 - (5) The appropriate pathway and processes to be followed by the Consent Holder if a specific location has two or more DWOs in a 12 month period. The strategy shall outline the measures that may be undertaken to resolve such issues and an appropriate timeframe for completion and reporting to the Consents Manager, Gisborne District Council. Such measures could include the use of CCTV to investigate blockages, increased maintenance and inspection methods, and retargeting and/or refinement of the public education campaign (as set out in Condition 6(b) below).

Management Component

The Consent Holder's strategy to minimise, and as far as possible eliminate, DWOs resulting from third party actions or damage, including provision for an on-going public education programme to minimise the incidence of third party actions/damage. The strategy shall include provision for ongoing reviews of the educational component of the DrainWise programme (including the DrainWise website) to assist with changing public behaviours that contribute to DWOs, such as fat blockages, flushing of inappropriate objects and wet wipes. It shall also include a description of the process for review, retargeting and/or refinement of the public education campaign if ongoing issues associated with third party behaviour are being experienced either within a particular catchment or from a particular cause (e.g. wet wipe flushing), or where two or more DWOs have occurred in the same location in a 12 month period.

Advice Note: The DWO Elimination and Management Strategy may be a standalone document or form part of the Operations and Management Plan as set out in the General Conditions below.

7. Notwithstanding Conditions 4 to 6, the GWS shall be managed to meet the following:
- No more than **0.8 DWO per 1,000 connections per year** (no more than 12 DWOs per year) from the commencement of the consent.
- No more than **0.6 DWO per 1,000 connections per year** (no more than 9 DWOs per year) from two years after the commencement of the consent.
- Consent objectives, measures/targets and timeframes as specified in Attachment B.
- At all times components of the GWS shall have sufficient capacity to cater for peak dry weather wastewater flows from their contributing catchment area.
- Future performance targets as established through General Condition 49.
- Advice Note: A year is defined as from 1 July to the following 30 June inclusive in order to align with Council's reporting requirements.*
8. The Consent Holder shall demonstrate and implement best practice strategies and response protocols to manage DWOs to avoid discharges reaching any stream or waterway.

Operations, Management and DWO Response (including Monitoring)

9. The Consent Holder shall ensure that the following plans shall be in place and adhered to at all times following certification:
- Operations and Management Plan (see General Condition 29 below).
- Dry Weather Wastewater Network Overflow Response Plan (**DWO Response Plan**).

Dry Weather Wastewater Network Overflow Response Plan

10. Within six months of the commencement of this consent, the Consent Holder shall submit for certification of the Consents Manager, Gisborne District Council, a DWO Response Plan. The Consent Holder can provide the DWO Response Plan either as a stand-alone document or as part of the Operations and Management Plan (**OMP**) required under General Condition 29. The DWO Response Plan, as a minimum, shall include:
- A brief overview of DWOs and their causes and potential effects on human health in the event that the overflow reaches a waterbody.
- A summary of the key performance measures for the Consent Holder's wastewater contractors, including response times for DWOs and pump station failures.
- Response protocols for managing on site and downstream health risk, including erection of temporary health warning signage (where required).
- Notification procedures, including:
- i. a list of contact details for partner organisations and key stakeholders, including tangata whenua, Hauora Tairāwhiti and recreational groups;
 - ii. details of the process and methods for notifying the parties listed under (i) and the general public of the occurrence of a DWO;
- In the event that a DWO enters surface water, procedures to monitor any biological impacts and surface water quality, which shall include as a minimum:
- iii. Investigations to determine any adverse effects on aquatic life;

- iv. water sampling collection protocols, including criteria for determination for initiating and ceasing sample collection and determination of sample collection points (including samples upstream and downstream of discharge points);
- v. parameters to be measured, which shall include (as a minimum) Escherichia coli and enterococci; and, for discharges of 100 L or more, dissolved oxygen, conductivity, temperature, pH, turbidity, 5-day biochemical oxygen demand and ammoniacal nitrogen; and
- vi. methodology for collection, transport and analysis of samples by an IANZ accredited laboratory.

A standard Dry Weather Overflow Incident Form to specify DWO details that includes:

- vii. the date, time and location of discharge;
 - viii. type of overflow discharge, including the presence of gross pollutants (for example, sanitary products);
 - ix. the estimated duration and volume of discharge;
 - x. whether the discharge has reached surface water and, if so, details of which water body;
 - xi. any instream effects recorded, including any mortality of aquatic species and on water quality; and
 - xii. a description of the remedial actions taken.
11. The DWO Response Plan shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council, to confirm it addresses all the matters listed above, and shall be subject to Condition 12 below. The DWO Response Plan shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Advice Note: The Consent Holder and Regulatory Authority recognise the importance of achieving final certified documents without delay and shall endeavour to establish a mutually agreeable timeframe to conclude the certification reviews.

Review and Re-certification of Plans

12. The DWO Response Plan can be updated and refined at any time by the Consent Holder, provided there is no reduction in the levels of service, effectiveness of overflow monitoring or notification of parties – unless a notified party no longer wishes to receive notification, and subject to Condition 13 below.
13. Any updated DWO Response Plan shall be provided to the Consents Manager, Gisborne District Council for certification within one month of their update and shall include a clear version history. The updated DWO Response Plan shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Advice Note: Changes that materially amend levels of service/monitoring etc will require the updated DWO Response Plan to be approved as part of a request to vary conditions pursuant to s127 of the RMA.

Consent 2: Wet Weather Overflows

Consent is granted pursuant to rule 6.2.3(10) of Part 6 of the Tairāwhiti Resource Management Plan

Scope

14. This consent authorises the discharge of wastewater via wet weather overflows (WWOs) from the Gisborne City Wastewater System (GWS) within the Gisborne Reticulated Services Area subject to both the Consent Specific (Section 2) and General Conditions (Section 3) below. This includes:

Discharges from formal and informal overflow points within the system during wet weather events (in accordance with their classifications and Table 1 below).

The formal wet weather overflow points, and their classifications, are identified in Attachment A1. These apply from the commencement of the consent until such time as these locations are superseded as provided for in Conditions 26 to 28. After that time, the locations and classifications in Attachment A2 apply.

SECTION 2: WWO CONSENT SPECIFIC CONDITIONS

Expiry

15. This consent shall expire 15 years after it commences.

Documentation

16. This consent shall be exercised generally in accordance with the information included in this consent application and appendices, updated as required by these conditions.

WWO Performance

17. The GWS shall be managed to achieve the following levels of WWO performance:

The performance standards specified in Table 1 below.

Consent objectives, measures/targets and timeframes as specified in Attachment B.

Future performance targets as established through General Condition 49.

Table 1: WWO performance and timing

Component	Performance	Timing (minimum)
Entire GWS	No WWOs in rain events up to and including a 50% AEP rain event	Within ten (10) years after the commencement of the resource consent
Secondary overflow points	Only utilised in rain events greater than a 50% AEP event	Within two (2) years after the commencement of the resource consent
	Only utilised in rain events greater than a 20% AEP event	Within ten (10) years after the commencement of the resource consent
Tertiary overflow points	Only utilised in rain events greater than a 10 % AEP rain event	Within two (2) years after the commencement of the resource consent
Seymour/Turenne Overflow Point	Only utilised in rain events greater than a 10 % AEP rain event	By 1 September 2022

Advice Note: There is an ongoing expectation that the Consent Holder will undertake further steps to refine the relationship between rainfall and the performance of the wastewater network. This will also be a critical part of the five year review.

Operations, Management and WWO Response (including Monitoring)

18. The Consent Holder shall ensure that the following plans are in place and adhered to at all times following certification:

Operations and Management Plan (see General Condition 29 below).

Wet Weather Wastewater Network Overflow Response Plan (**WWO Response Plan**).

Wet Weather Wastewater Network Overflow Response Plan

19. Within six months of the commencement of this consent, the Consent Holder shall submit for certification of the Consents Manager, Gisborne District Council, a WWO Response Plan. The Consent Holder can provide the WWO Response Plan either as a stand-alone document or as part of the Operations and Management Plan (**OMP**) required under General Condition 29. The WWO Response Plan, as a minimum, shall include:

A brief overview of WWOs and their causes and potential effects on human health.

- a. Process overview of the procedures for opening and closing WWO overflow points.
- b. Notification procedures, including:
 - i. A list of contact details for partner organisations and key stakeholders, including tangata whenua, Hauora Tairāwhiti and recreational groups; and

- ii. details of the process and methods for notifying the parties listed under (i) and the general public of the occurrence of a WWO.
- c. The protocols for managing downstream health risk in receiving riverine and coastal waters as a result of WWOs, including erection of temporary health warning signage and communication of the influence of wind and tides on the likely impacts of WWOs on microbiological water quality at Waikanae and Kaiti beaches.
- d. A standard Wet Weather Overflow Event Form to provide details of all WWO discharges that includes:
 - i. The date, time and location of discharge;
 - ii. the duration and estimated volume of discharge;
 - iii. the presence of gross pollutants (for example, sanitary products);
 - iv. details of rainfall at relevant rainfall gauges in the preceding 72 hours, including groundwater levels where readily available; and
 - v. a description of the remedial actions taken.

The procedures for monitoring receiving water quality during a WWO, which shall include as a minimum:

- vi. Water sampling collection protocols, including criteria for determination for initiating and ceasing sample collection;
 - vii. determination of sample collection points, including maps and details of receiving water sampling sites which shall include the mouth of the Tūrangānui River and, for microbiological analysis only, the shoreline of Waikanae and Kaiti beaches;
 - viii. parameters to be measured, which for rivers shall include (as a minimum), *Escherichia coli* and enterococci, ammoniacal nitrogen, pH, temperature and conductivity;
 - ix. tidal state, river flow, and wind direction and intensity at time of sampling; and
 - x. methodology for collection, transport and analysis of samples by an IANZ accredited laboratory.
20. The WWO Response Plan shall be certified by the Consents Manager, Gisborne District Council, to confirm it addresses all the matters listed above, and shall be subject to Condition 21 below. The WWO Response Plan shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Review and Re-certification of Plans

21. The WWO Response Plan can be updated and refined at any time by the Consent Holder, provided there is no reduction in the levels of service, effectiveness of overflow monitoring or notification of parties – unless a notified party no longer wishes to receive notification, and subject to Condition 22 below.
22. Any updated WWO Response Plan shall be provided to the Consents Manager, Gisborne District Council for certification within one month of their update and shall include a clear version history. The updated WWO Response Plan shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Advice Note: Changes that materially amend levels of service/monitoring etc will require the updated WWO Response Plan to be approved as part of a request to vary conditions pursuant to s127 of the RMA.

Virus Assessment

23. Within six months of the granting of this consent, the Consent Holder shall submit to the Consents Manager, Gisborne District Council, for certification, a proposed survey methodology to assess the persistence of viruses in the flesh of bivalve shellfish following a WWO event. The survey methodology shall be designed by a suitably qualified and experienced expert and, as a minimum, shall comprise:

A definition of the type of WWO event for which a survey should be undertaken;

The locations of at least four sampling sites spanning both river and nearshore coastal waters where shellfish are regularly collected and the overlying water quality is likely to be influenced by WWO discharges.

Details of shellfish species and the minimum number of individuals of each species to be collected at each site.

The timing of sample collection, including initial sampling following the onset of discharge and subsequent sampling on at least two occasions following an overflow event (or such other frequency as recommended).

The number of WWO events that sampling will follow and consideration of the merits of comparative sampling following wet weather in the absence of a WWO.

The list of indicator pathogens and representative viruses (including but not limited to *Escherichia coli* and enteric viruses) that will be tested in shellfish flesh and the laboratory and analytical methods that will be used.

An overview of how the shellfish virus assessment results will be evaluated and reported.

Advice Notes:

(a) It is recognised that the potential for health risk associated with the consumption of raw shellfish may be affected by other (non-overflow) discharges. Accordingly, the Consent Holder may extend the monitoring to other shellfish gathering sites and/or liaise with public health agencies regarding more general signage at its discretion.

(b) The Consent Holder is encouraged to consult with the Tangata Whenua Reference Group, Hauora Tairāwhiti and Gisborne District Council's Environmental Science Department for opportunities to extend the monitoring to other shellfish gathering sites.

24. The shellfish virus assessment shall commence in accordance with the certified survey methodology with the first available WWO that meets the requirements set in the methodology (Condition 23). The laboratory analytical results from each sampling event shall be submitted to the Consents Manager, Gisborne District Council within 30 days of receipt. The results of each sampling event shall be included within the Annual Report required under Condition 44.
25. Within three months of the completion of all sampling events, a shellfish virus assessment report shall be submitted to the Consents Manager, Gisborne District Council. This report shall

be prepared by a suitably qualified and experienced expert and align with the requirements of Condition 23(f). The report shall be accompanied with a statement from the Consent Holder outlining how the findings will be incorporated into the WWO Response Plan and Network Improvement Strategy. A summary of the shellfish virus assessment report and Consent Holder's statement shall be included in the next Annual Report required under Condition 44.

Seymour / Turenne Primary Overflow

26. The Consent Holder shall undertake such works and network management changes to reclassify the Turenne Street / Seymour Road Primary Overflow Point (see Attachment A1) as a Tertiary Overflow Point.
27. The Consent Holder shall notify the Consent Authority in writing on completion of the necessary works and operation changes.
28. The overflow locations and their classification in Attachment A2 apply following notification of the Consent Authority in accordance with Condition 27 or **1 September 2022**, whichever is the soonest.

SECTION 3: GENERAL CONDITIONS - APPLY TO BOTH CONSENTS [XXXXX] AND [XXXXX]

Operations and Management Plan

29. Within six months of the commencement of these consents, the Consent Holder shall submit for certification of the Consents Manager, Gisborne District Council, an Operations and Management Plan (**OMP**). The OMP, as a minimum, shall include:

An overview of the GWS network, including the identification of critical network assets from an overflow perspective, including pump stations and critical pipes, vulnerabilities in the system, risks to receiving environments and their management.

Details on the network of discharge points and their operation.

Operating procedures in relation to both WWO and DWO, including monitoring and notification.

A summary of the Consent Holder's network management including network inspection and maintenance programme, including cleaning / jetting / maintenance of critical network components / pump stations; asset renewals and upgrades; targeted maintenance of priority areas and network flow surveillance.

Advice Note: The operating procedures are requirements of both the DWO Response Plan and WWO Response Plan, which can be incorporated into the OMP as separate sections. A summary of the Consent Holders network asset management is also a requirement of the DWO Elimination and Management Strategy which can also be incorporated into the OMP.

30. The OMP shall be certified by the Consents Manager, Gisborne District Council, to confirm it addresses all the matters listed above, and shall be subject to Condition 31 below. The updated OMP shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.
31. The OMP can be updated and refined at any time by the Consent Holder, provided there is no reduction in the levels of service and subject to compliance with the conditions of this consent. Any update shall be submitted in accordance with Condition 32 below.
32. Any updated OMP shall be provided to the Consents Manager, Gisborne District Council for certification within one month of its update and shall include a clear version history. The updated OMP shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Network Improvement Strategy

33. Within one year of the commencement of this consent the Consent Holder shall provide the Consents Manager, Gisborne District Council with a Network Improvement Strategy for certification. At a minimum, the Network Improvement Strategy shall include:

Actions to improve the monitoring and performance of the GWS including the identification of any repeat DWO locations and the actions to address them (subject to Condition 6(a)(i)(5) above which relates to multiple DWOs at a single location in a 12 month period).

A five year programme for asset renewal for the public component of the wastewater network to contribute to achieving the overflow reduction targets.

An implementation plan that details available budget and proposed locations for continuous dry and wet weather flow monitoring, depth and inflow and infiltration indices.

An assessment on the feasibility of using the existing pump station network for determining wastewater network flows, including inflow and infiltration indices.

A plan to obtain additional information to improve the assessment and understanding of the relationship between WWO and rainfall events, for example through the use of rain radar and/or rain gauges, including possible implementation timeframes.

A programme for further assessment of the relationship between rainfall and wet weather performance, (including a revision of the previously presented hydrological assessment). At a minimum this assessment shall consider the relationship between WWO spill frequency and volume alongside shallow groundwater level, tide state, soil moisture and any other antecedent condition known to contribute to WWO.

34. The Network Improvement Strategy (including any updated versions) shall be provided to the Consents Manager, Gisborne District Council for certification within one month of its preparation/update and shall include a clear version history. The Network Improvement Strategy shall be deemed to be provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Advice Note: It is recognised that some of the information required by clauses above currently exists. The aim is not to duplicate existing documents but to provide an overall strategy that sets out the processes and information in a single and well-structured document.

Tangata Whenua Reference Group (TWRG)

35. Within two (2) months of the commencement of this consent, the Consent Holder shall request Gisborne District Council's Wastewater Management Committee (**WMC**) to appoint a Tangata Whenua Reference Group comprising tangata whenua groups or iwi entities affected by the wastewater overflows, with the intent of establishing the TWRG within six (6) months of the commencement of the consent.

Advice Note: In appointing the TWRG, the WMC should give consideration to the multiple demands faced by tangata whenua and should seek to utilise existing groups, for example the KIWA Group, where feasible and appropriate to do so.

36. The Consent Holder shall provide an offer to the appointed parties to be a part of the TWRG and once established, subject to Condition 40, the TWRG shall be maintained for the term of these consents.

37. On acceptance of the offer a Memorandum of Understanding (MoU) shall be entered into by the Consent Holder and the members of the TWRG that includes as a minimum:

The conditions of these consents.

The composition of the TWRG and the process by which membership may be amended.

A terms of reference.

The rates of remuneration for members of the TWRG.

Period of review of the MoU and rates of remuneration.

38. The purpose/role of the TWRG shall be to:

Recognise the importance of the wai and to recognise the kaitiakitanga of Māori who have a kaitiaki relationship with the wai.

Provide a forum for discussing the cultural aspects and effects of the operation of the consent.

Advise on management protocols related to dry and wet weather overflows to integrate tikanga aspects such as the placement of rahui and other processes.

Provide input in setting priorities for works and associated programmes to mitigate cultural effects associated with the operation of this consent.

Assist in identifying any research or investigations necessary to help improve the management of the wastewater network overflows to mitigate cultural effects associated with the operation of this consent.

Advise on wastewater monitoring related to wastewater overflows to include cultural elements, and make the monitoring relevant to kaihoe waka, mahinga kai, and other Māori practices, including input into preparing, reviewing and providing feedback on the Tangata Whenua Cultural Monitoring Plan (see Conditions 41 to 43) to report on the performance and effects of the wastewater network from a cultural perspective.

To participate in annual consent reporting, 5 yearly reviews and review of documents as provided for in the consent conditions.

Provide a report to be included as part of the Consent Holder's annual reporting under Condition 44.

39. The Consent Holder shall:

Facilitate and fund the administration of each formal meeting of the TWRG. The first TWRG meeting shall be held as soon as practicable after the establishment of the TWRG. The TWRG shall then meet at least twice yearly, including before and after the Annual Report is prepared under Condition 44 or the Five Year Report prepared under Condition 46, for the term of this consent.

Take minutes of the TWRG, which shall be forwarded to the Consents Manager, Gisborne District Council within 15 working days of each meeting being held.

40. Should the TWRG be disbanded at the request of a majority of its members, then the Consent Holder is not obliged to continue to facilitate and support it. In such an event the Consent Holder shall advise the Consents Manager, Gisborne District Council in writing.

Cultural Monitoring

41. The Consent Holder shall, develop a Tangata Whenua Cultural Monitoring Plan (TWCMP) in conjunction with the Tangata Whenua Reference Group (TWRG) and submit the TWCMP to the Consents Manager, Gisborne District Council for certification within six months of the establishment of the TWRG or such other time period as agreed by the TWRG, but in any event, no later than one year after the commencement of the consent.

42. The TWCMP shall be informed by mātauranga Māori. The objective of the TWCMP is to specify cultural indicators of the effects associated with the activities authorised by this consent, and to assist the Consent Holder in understanding those cultural effects, including how such effects may be reduced and mitigated over time. Such indicators may include, but are not limited to:

the mauri of waterways.

the connection of Tangata Whenua to waterways.

the health of culturally significant flora and fauna.

the health of the waterways in the vicinity of the overflow locations.

other matters relevant to either WWOs and/or DWOs that are raised by the TWRG.

43. If full agreement on the TWCMP is not achieved between the Consent Holder and the TWRG, the Consent Holder shall submit the plan as drafted in accordance with the timeframes and implement those elements that have been agreed. The TWCMP shall be deemed provisionally operative upon submission and fully operative following certification by the Consents Manager, Gisborne District Council.

Annual Reporting – Gisborne Wastewater System

44. The Consent Holder shall prepare and submit an Annual Report to the Manager Consents by 30 September each year for the period 1 July to 30 June inclusive. The Annual Report shall, as a minimum, include the following:
- a summary of dry and wet weather overflow events that occurred in the year, including the date and time, duration, estimated discharge volume, causes and remedial actions undertaken or planned (with timeframes).
 - the results of all water quality monitoring, biological monitoring, shellfish virus sampling and any other assessments that have been undertaken by the Consent Holder, along with relevant weather and tide conditions and copies of the analytical laboratory reports.
 - a summary of physical capital, maintenance and remedial works carried out on the wastewater network, including any significant extensions to the network.
 - a summary of DrainWise and educational activities carried out.
 - an assessment of performance against the consent objectives, measures/targets and timeframes measures/targets and timeframes in Attachment B and the LTP Levels of Service and Performance Measures in Attachment C.
 - any report from the TWRG.
 - priority works, investigations, educational activities and other initiatives planned for the coming 12 months, and consider amending the status for private property laterals from medium to high priority, and any replacement programmes for lateral pipes in the private and public networks
 - A summary of progress in developing or implementing the DWO Elimination and Management Strategy.
45. Within one month of submission to the Consent Manager, an electronic copy of the Annual Report shall be provided to the Gisborne District Council Wastewater Management Committee (WMC), the TWRG, and made available to the public on the Gisborne District Council website.

Five Year Reporting and Review of Progress

46. Within three months of the five-year anniversary of the commencement of this consent, the Consent Holder shall prepare and submit a comprehensive performance report to the Manager Consents. This report shall, as a minimum, include the following:

Details of all dry and wet weather overflow events that occurred in the preceding five-year period, including the date and time, duration, estimated discharge volume and causes.

An assessment of wet weather network performance against the Consent Holder's existing wastewater model and a long time series simulation.

Patterns or trends in overflow occurrence, including consideration of repeat DWOs and an assessment of the basis for any patterns or trends.

A review and analysis of rainfall events and climatic conditions both where WWOs occurred; as well as for rainfall events which exceed the 1-48 hour existing 50% AEP rainfall event where overflow valves have not been opened. The assessment shall be undertaken by a suitably qualified and experienced person and be based on rainfall measured at multiple rainfall measurement sites, including the Gisborne Airport meteorological station, together with additional information identified through the Network Improvement Strategy (See Condition 33).

A summary of inspections, fixes and improvements, including repair, replacement or renewal of pipes and private property sewer laterals, undertaken over the preceding five-year period.

A summary of any expansions or additions to the wastewater and stormwater network (such as new roads or subdivisions) in the preceding five-year period.

A technical assessment, by a suitably qualified and experienced person, of the results of all water quality monitoring, shellfish virus sampling and any other assessments that have been undertaken in relation to overflows that examines any differences and trends through time and in response to environmental conditions, and the significance of the results from a human health and ecological perspective.

The cultural monitoring undertaken and associated outcomes.

Details of any updated wastewater, hydrological or receiving water dilution and dispersion modelling.

Assessment of performance against the consent objectives, measures/targets and timeframes set out in Table 1 of Condition 17, including:

- i. a comprehensive review of the Drainwise programme, along with any changes to that programme, to ensure they will achieve the ten year targets set out in Table 1 of Condition 17;
- ii. whether an alternative approach, including additional infrastructure or changes to the wastewater network will be, or are likely to be, required to achieve the ten-year targets in Condition 17;
- iii. contingency planning, including funding, if it is considered that an alternative approach may be required;
- iv. any alternative funding models or sources which may be available to support or accelerate the implementation of the network improvements; and
- v. future focus areas to further improve the elimination and management of DWOs and to continue to reduce the potential for DWOs, such as a review of the effectiveness of the educational components of the DrainWise programme and messaging and the Consent Holder's public education campaigns to assist with

behavioural change, including suggestions for improvement, priorities and a timetable for implementation.

- vi. A review of the Network Improvement Strategy provided for by Condition 33 to incorporate the changes arising from (j) (i) – (v) above.

Any emerging wastewater management issues or trends.

The implementation of the DWO Elimination and Management Strategy.

Advice Notes:

- (a) *The Consent Holder may wish to incorporate the results of Gisborne District Council's bathing beach monitoring and State of the Environment river water quality monitoring in its assessment under clause (g).*
- (b) *Within one month of submission to the Consent Manager, an electronic copy of the Five-year Report shall be provided to the Gisborne District Council Wastewater Management Committee (WMC), the Tangata Whenua Reference Group, and made available to the public on the Gisborne District Council DrainWise website.*

47. Prior to its submission in accordance with Condition 46, the five year report shall be subject to an independent peer review as follows:

An independent Peer Reviewer, experienced in the management of wastewater networks, shall be appointed by the Consent Holder after consultation with the Consents Manager, Gisborne District Council and an agreed scope of work/peer review shall be prepared.

The Peer Reviewer shall assess the information that has been provided, and in particular the implications for the future management of the GWS and whether an alternative approach is, or is likely to be, required including the need for additional infrastructure or changes to the wastewater network in order to achieve the ten-year target in Condition 17.

The Peer Reviewer shall provide a summary of their findings, which is to be provided in full as part of the five year report, together with any response from the Consent Holder.

Ten Year Review and Reset of Targets

48. Within ten years after the commencement of the WWO consent, the Consent Holder shall:

Update the Gisborne wastewater network model to reflect changes to the network, including updated impervious coverage, hydrology, and the findings from a long rainfall time series of network performance, changes in population growth as well as improvements as a result of the implementation of the DrainWise programme, or any updated programme consistent with Condition 46(j). The model shall be calibrated using new flow metering and depth monitoring data.

Commission a suitably qualified and experienced hydrodynamic modeller to carry out wastewater overflow dilution and dispersion modelling within the Tūranganui River and Tūranganui-a-Kiwa/Poverty Bay. Inputs to the modelling shall be provided from a review of meteorological conditions and the review of the Consent Holder's wastewater modelling undertaken in accordance with Condition 48(a) above.

Commission a report documenting a review of literature on priority Emerging Organic Contaminants (EOCs). This report shall be prepared by an appropriately qualified and experienced eco-toxicologist and shall:

- i. establish an appropriate priority list of EOCs for measurement in Gisborne wastewater, including human health consumptive risk (if available);
- ii. incorporate the sampling details and results of the priority list of EOCs measured in both dissolved and particulate phases of the influent wastewater to the Gisborne Wastewater Treatment Plant on four separate occasions; and
- iii. provide an assessment of human health risk arising from the EOCs (where an appropriate methodology is available).

A review and analysis of the findings of these three reviews, including any associated assumptions and limitations, shall be reported to the Manager Consents within six months of the tenth anniversary of the granting of this consent, along with a summary of the implications of the management of the network and any potential health risks.

49. Within ten years after the commencement of the consent, the Consent Holder shall review the progress with the implementation of the implementation of the DrainWise programme, or any updated programme consistent with Condition 46(j), and the Consent objectives, measures/targets and timeframes in Attachment B, and set new objectives, measures/targets and timeframes that:

Apply to years 10 to 15 (after commencement) of the consent.

Take into account input from the TWRG and WMC.

Reflects the updated monitoring, investigations and other information received from the assessments required by Conditions 41 and 48.

Reflect any requirements in a relevant operative regional plan resulting from the implementation of the NZ Coastal Policy Statement 2010 and the National Policy Statement for Freshwater Management 2020, or any updates of those National Policy Statements.

Demonstrate on-going improvements to reduce the frequency and volume of overflow events beyond the measures/targets set for years 1 to 10 of the consent in Table 1 of Condition 17 and Attachment B.

Are not less stringent than any nationally established performance standard for wastewater overflows (if these exist at that time).

Advice Note: A s127 variation will be required to introduce the proposed new targets into the consent.

Review

50. The conditions of this consent may be reviewed by the Consent Authority pursuant to section 128 of the RMA (with the costs of the review process being borne by the Consent Holder) by the giving of notice, pursuant to section 129 of the RMA:

Within three (3) years of the consent being granted and thereafter at three (3) yearly intervals.

Within six (6) months of the receipt of a five yearly report and review, where either the review or the independent peer review indicates that the current approach is unlikely to achieve the required DWO or WWO performance standards.

Within six (6) months of the receipt of the Ten Year Review, where the Consent Holder has not applied for a variation to the consent to adopt new overflow targets.

At any time:

- i. to address any unanticipated adverse effects that arise from the exercise of the consent; or
- ii. where a regional plan has been made operative which sets rules relating to minimum standards or water quality and in the opinion of the Consent Authority, it is appropriate to review the conditions of consent in order to enable the standards set by the rule to be met; or
- iii. where a regional plan that gives effect to the National Policy Statement for Freshwater Management 2020 becomes operative; or
- iv. following the transfer of the wastewater management functions of the Consent Holder to another agency if this transfer of functions necessitates a change in consent conditions.

51. The review under Condition 50 may only be for one or more of the following purposes:

To address any material adverse effects on the environment, that in the opinion of the Consent Authority, is not contemplated by this consent which may arise from the exercise of the consent, or upon which the exercise of the consent may have an influence, including, but not limited to:

- i. modifying existing conditions to require the Consent Holder to identify the character or nature of any discharges authorised by this Consent and to report the results of any monitoring or investigations to the Consents Manager, Gisborne District Council;
- ii. consideration of the conditions of this consent that may relate to the matters contained in s.108(4) of the RMA or any Act in substitution thereof; and
- iii. inserting conditions, or modifying existing conditions, related to water quality standards.

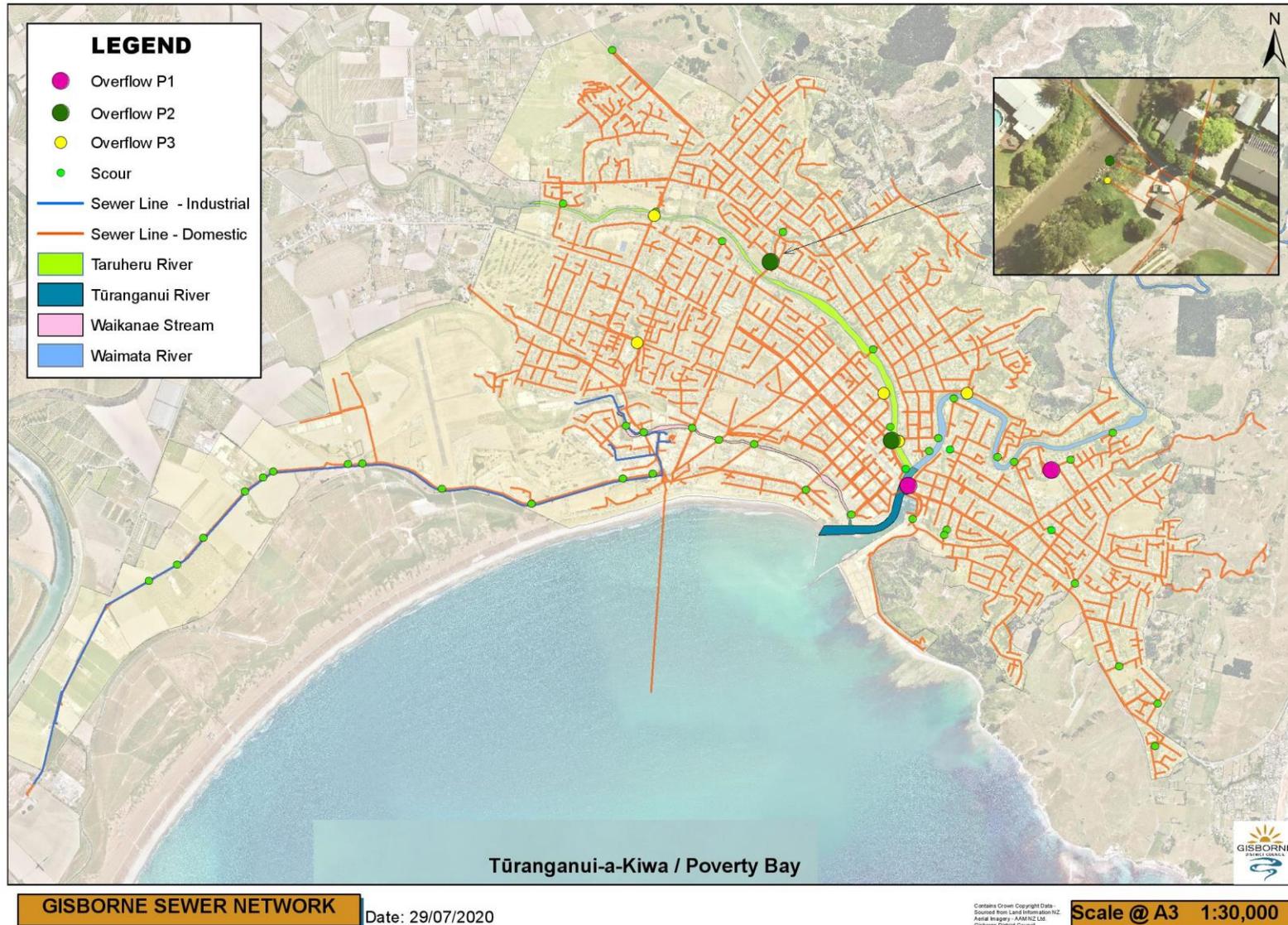
To insert conditions, or modify existing conditions, to the extent necessary to give effect to the National Policy Statement for Freshwater Management 2020 as implemented in a future operative Gisborne Regional Plan.

To modify the conditions to ensure that the required DWO or WWO performance standards, including those set as part of the ten year review, will be met.

Administrative Charges

52. The consent holder shall pay the Gisborne District Council's (acting as Consent Authority) full and reasonable costs in carrying out its functions in terms of implementation and monitoring under this consent.

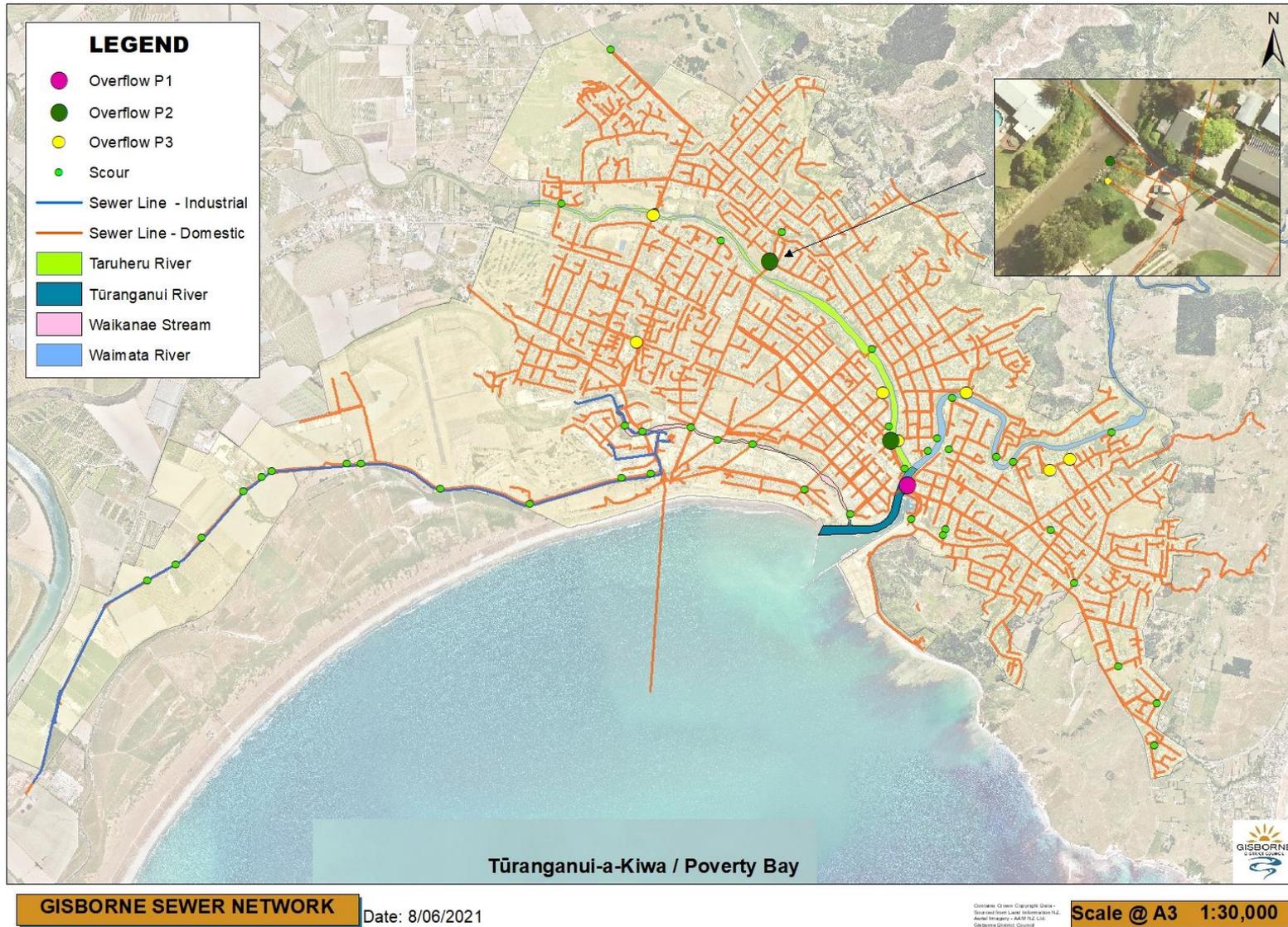
Attachment A1: Overflow locations applicable from the commencement of the consents



Category	Street Name	Asset Code	Easting⁴³	Northing
Primary Overflow Point	Wainui Road	WNUIDO005	2037659.42	5707953.16
	Seymour/Turenne	SEYMDO015	2039016.11	5708096.55
Secondary Overflow Points	Palmerston Road/Peel Street	PALMSO003	2037498.91	5708376.11
	Oak Street	OAK_SO074	2036347.09	5710062.17
Tertiary Overflow Points	Oak Street	OAK_SO080	2036346.60	5710057.28
	Lytton Road	LYTTSO045	2035240.87	5710498.71
	Childers Road	CHILSO264	2035080.77	5709303.76
	Stafford Street	RUSSSO001	2038219.38	5708824.47
	Derby Street	DERBSO001	2037424.05	5708825.96
	Fitzherbert Street	FITZDO115	2037565.64	5708371.24

⁴³ NZTM 2000

Attachment A2: Overflow locations applicable by 1 September 22.



Category	Street Name	Asset Code	Easting⁴⁴	Northing
Primary Overflow Point	Wainui Road	WNUIDO005	2037659.42	5707953.16
Secondary Overflow Points	Palmerston Road/Peel Street	PALMSO003	2037498.91	5708376.11
	Oak Street	OAK_SO074	2036347.09	5710062.17
Tertiary Overflow Points	Oak Street	OAK_SO080	2036346.60	5710057.28
	Lytton Road	LYTTSO045	2035240.87	5710498.71
	Childers Road	CHILSO264	2035080.77	5709303.76
	Stafford Street	RUSSSO001	2038219.38	5708824.47
	Derby Street	DERBSO001	2037424.05	5708825.96
	Fitzherbert Street	FITZDO115	2037565.64	5708371.24
	Owen Road	OWENSO051	2039202.23	5708196.09
	Seymour/Turenne	SEYMDO015	2039016.11	5708096.55

⁴⁴ NZTM 2000

Attachment B: Wastewater Overflow Consent Objectives and Targets

Issue	Objective	Measure/Target	Timeframe	Reporting (annual based on financial year 1 July to 30 June inclusive)
Dry Weather Overflows – Performance				
Dry Weather Overflow frequency	Minimise dry weather overflows to the extent practicable	≤0.8 dry weather overflow per 1,000 connections (no more than 12 in total) per year	Upon commencement of consent	Number and location of DWO per year Cause of overflow Estimated overflow volume
		≤0.6 dry weather overflows per 1,000 connections (no more than 9 in total) per year	2 years after commencement of consent	Whether overflow reached a waterway and which one Measures undertaken to mitigate effects, including response time Monitoring results
Dry Weather overflow response	Ensure appropriate response to overflow events	All overflow events responded to in accordance with the DWO Response Plan	Each event (that reaches water)	GDC Pollution Hotline and Environmental Health notified Monitoring undertaken as specified Website/Facebook warnings posted as required by Pollution Control
Wet Weather Overflows – Performance				
Wet Weather Overflow Frequency Level of Service	Progressively reduce frequency of overflow events	Progressive reduction in frequency (indicative)	On-going – indicative until target below ⁴⁵	Number of overflow events Duration of each overflow event
		No wet weather overflows in rainfall events up to and including 50% AEP rainfall event	10 years after commencement of consent	Return period rainfall assessment for each overflow event

⁴⁵ Indicative because change will take some time to become fully evident

Wet Weather Overflow Volume	Progressively reduce volume of overflow events for a similar size rainfall event.	Progressive reduction in volume for same AEP rainfall event (indicative)	On-going – indicative ⁴⁶	Overflow duration Volume of each overflow event Return period rainfall assessment for each overflow event Total volume of overflow per year
Overflows opened in a wet weather event	Entire GWS	No WWOs in rain events up to and including a 50% AEP rain event	Within ten (10) years after the commencement of the resource consent	Public advice/complaints.
	Secondary overflow points	Only utilised in rain events greater than a 50% AEP event	Within two (2) years after the commencement of the resource consent	Overflow locations opened Return period rainfall assessment for each overflow event
		Only utilised in rain events greater than a 20% AEP event	Within ten (10) years after the commencement of the resource consent	
	Tertiary overflow points	Only utilised in rain events greater than a 10 % AEP rain event	Within two (2) years after the commencement of the resource consent	
Seymour/Turenne Overflow Point	Tertiary overflow point	Only utilised in rain events greater than a 10 % AEP rain event	By 1 September 2022	
Wet Weather Overflow response	Ensure appropriate response to overflow events	All overflow events responded to in accordance with the WWO Response Plan	Each event (that reaches water)	GDC Pollution Hotline and Environmental Health notified Monitoring undertaken as specified Website/Facebook warnings posted as required by Pollution Control
Network Management and Inflow Reduction Programme				

⁴⁶ Indicative because relationships between AEP and volumes are complex and require further assessment

DrainWise Works	Progressively reduce stormwater inflow into the wastewater network on private property, where private property owners are responsible for improvements of private infrastructure	50 % of all properties in the Gisborne reticulated services area with connections to the wastewater network inspected for drainage problems	5 years after commencement of consent	Number of properties inspected Types and numbers of problems found Types and number of problems resolved Programme for resolution of unresolved problems
		100 % of all properties in the Gisborne reticulated services area with connections to the wastewater network inspected for drainage problems	10 years after commencement of consent	
Public wastewater network management and upgrading	Ensure public wastewater network is upgraded and maintained to achieve wastewater overflow performance objectives and targets as required to achieve the outcomes of the modelled 85% inflow reduction scenario	Annual Plan capital works programme delivered	Annual	Works undertaken
		Annual sewer cleaning and maintenance programme delivered	Annual	Works undertaken
Public stormwater drainage improvements	Scope and deliver public solutions for private property flooding, where individual private property owners are not responsible for flooding issues and there is a public benefit)	Properties within modelled significant ponding/flood areas in catchments inspected and scoped for solutions	10 years after commencement of consent	Inform capital works for the Public Pipes of Private Property programme (budget allocated \$5.4M over 10yrs)
		Deliver projects required to mitigate significant ponding/flooding	Annual	Works undertaken in accordance with the Public Pipes of Private Property programme.
	Undertake public stormwater network upgrade works required to achieve the outcomes of the modelled 85% inflow reduction scenario	Annual Plan capital works programme delivered	Annual	Works undertaken (relevant to reducing wastewater overflows)

Attachment C: LTP Levels of Service and Performance Measures (for monitoring and reporting)

These LTP measures are not performance standards for the purpose of this consent; they are only included as matters to be reported on.

(from LTP 2021 – 2031)

Level of Service	Performance Measures	Current (2019/20)	Target	
			Years 1-3	Years 4- 10
We provide a well-managed wastewater reticulation and treatment system which protects public health and the physical environment.	System and Adequacy: The number of dry weather sewage overflows from the territorial authority's sewerage system, expressed per 1000 sewerage connections to that sewerage system (Department of Internal Affairs) ⁴⁷ .	0	1	0.6
	Management of environmental impacts: Compliance with resource consents for discharge from the wastewater system: Measured by the number of: <ul style="list-style-type: none"> a) abatement notices; b) infringement notices; c) enforcement orders; and d) convictions (Department of Internal Affairs).	0	0	0
	Response to wastewater system faults attendance at wastewater overflows resulting from a blockage or other fault in wastewater system: <ul style="list-style-type: none"> a) Median attendance time: from the notification of the fault to the time that service personnel reach the site (hours). 	0.43	<1	<0.5
	<ul style="list-style-type: none"> b) Median resolution measured from the notification of the fault to the time that service personnel confirm resolution (hours) (Department of Internal Affairs). 	2.17	<15	<13
	Customer Satisfaction: Complaints about odour; system faults; blockages; AND Council's response to issues with its wastewater system: The total number of complaints per 1000 connections received (Department of Internal Affairs).	6.92	<10	<8

⁴⁷ Territorial Authority mandatory measure

	<p>Discharge to Rivers: The annual number of events where sewerage is discharged from Council's reticulation into rivers or streams (in a less than a 1 in 10-year rain event).</p>	3	≤4	≤4
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