

Title: Consent Review Group Progress Report
Section: Water
Prepared by: Wolfgang Kanz (Stormwater/Wastewater Team Leader)
Meeting Date: 18 October 2018

Legal Financial Significance = HIGH

Report to WASTEWATER MANAGEMENT Committee for information

SUMMARY

The purpose of this report is to update the Wastewater Management Committee (WMC) on outcomes of the deliberations with the Consent Review Group (CRG).

The CRG was created with the purpose of reviewing the existing wastewater resource consent conditions, providing suggestions on future consent requirements, and reporting these back to the WMC and Council, to ultimately inform Council's consent application for the Wastewater Management Options Project. In terms of the Council-adopted wastewater management option in the 2018–2028 Long Term Plan (LTP), a consent variation is necessary for:

- (i) amending the deadline for wastewater disinfection (Clause 4); and potentially
- (ii) reducing the required Biological Oxygen Demand (BOD) loading onto the Biological Treatment Filter (BTF) (Clause 37) although recent analysis indicates that current BOD load is close to that required by Clause 37.

Key outcomes of engagement with the CRG are as follows:

- A variation to the discharge consent is opposed.
- The LTP budget phasing of the implementation of disinfection (completion in 2023/24) is considered unacceptable.
- A consent variation is more likely to be supported if Council demonstrates significant commitment to completing the necessary upgrades to install wastewater disinfection ideally immediately.
- Alternate Use and Disposal (AUD) investigations need to continue, with a focus on the practical implementation of AUD including identifying uses for treated wastewater.
- Mortuary waste should be removed from the domestic wastewater system

As a consequence of the above outcomes, the Wastewater Management Options project team will be taking a paper to the 15 November 2018 Council meeting to inform the Council that the general consensus of the CRG is that the current LTP timeframes for implementation of disinfection are not appropriate and that there needs to be further discussion on whether moving the timeframes forward is something that the Council will consider. The project team will report back to the CRG once we have that decision.

The matters in this report are considered to be of **HIGH** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS

That the Wastewater Management Committee:

- 1. Notes the contents of this report.**

Authorised by:



Neville West
Infrastructure Manager



David Wilson
Director Lifelines

BACKGROUND

1. Council has opted to commence work on consenting the wastewater management option adopted for the 2018–2028 Long Term Plan, so that the critical timeframes in Clause 4(d) of the consent can be met.

Clause 4

The permit holder shall:

(d) By 31 December 2018, lodge the necessary applications and/or notices required under the RMA to implement the preferred alternative wastewater management system with the intention for construction by 31 December 2019 and in any event no later than 12 months after the commencement of all necessary authorisations.

2. The CRG was proposed in order to enable a comprehensive review of the existing consent.
3. The WMC endorsed the draft terms of reference for the CRG on 31 May 2018 as part of Report 18–089 (Consent Review Group - Terms of Reference), and adopted the final terms of reference at the 30 August 2018 committee meeting (Report 18–352). (These are incorporated into Appendix 1).
4. The CRG has met four times, with a summary of meeting outcomes (including minutes of meetings) provided in Appendix 1.

DISCUSSION and OPTIONS

5. The CRG has met on 30 July, 16 August, 6 September, and 27 September 2018, with further meetings to be scheduled after the 18 October 2018 committee meeting. A further meeting had been scheduled for 12 October, but this has been deferred to after the next WMC meeting, to enable CRG members more time to have input into a CRG summary document.
6. The outcomes of the CRG meetings were summarised by Council's consenting consultant for the Wastewater Management Options project (also a member of the CRG). These were then provided to the CRG for their review and comment, and a final summary of feedback to date is provided in Appendix 1. As above, this incorporates both the Terms of Reference and the minutes from each meeting.
7. Key feedback from the CRG is:
 - (i) Tangata whenua, the Medical Officer of Health and expert advisors from the WTAG currently strongly oppose a variation to the discharge consent. They expect Council to deliver on the consent and associated timeframes that were agreed to with them in the past and stipulated in the consent and not doing so is unacceptable.
 - (ii) The LTP budget phasing of the implementation of disinfection (completion in 2023) is considered unacceptable, with a general consensus in the CRG that implementation of disinfection should commence immediately. The LTP timeframes for implementation of disinfection assumed a contentious consenting process, including public notification processes and Environment Court proceedings. However, the CRG agrees that implementation of wastewater disinfection can commence without the requirement to amend the consent. Immediate implementation and significant progress could potentially avoid these lengthy drawn out processes, as tangata whenua and other stakeholders may then not object to a future variation (so that Council can remain compliant with its consent) on the basis that Council commitment to implementing disinfection was evident.

- (iii) Tangata whenua and CRG participants consider it a priority to continue with the assessment and implementation of AUD, this to comprise a holistic and integrated strategy with the ultimate goal of removing all treated wastewater from the ocean outfall in accordance with the intent of the consent. An AUD working group should be set up by the WMC, with a focus on the practical implementation of AUD (including an integrated 'toolbox' approach that includes control/reduction at source).
 - (iv) The removal of mortuary wastewater from the domestic wastewater system is seen as an essential step in restoring the mauri of Turanganui a Kiwa and meeting aspirations for removal of human waste products from the ocean outfall. This is an issue that is considered relatively easy to resolve through changes to the existing trade waste bylaw, with capital costs of treating mortuary waste likely to be relatively small (<\$100,000).
8. It is strongly recommended that the WMC review the CRG summary report and associated meeting minutes (Appendix 1) for a comprehensive understanding of the feedback from this working group.
 9. The CRG has strongly indicated that the Wastewater Management Options project team take the outcomes of the CRG meetings to Council as soon as possible, to provide Council with an opportunity to reconsider the LTP budget phasing in respect of the implementation of wastewater disinfection.
 10. The CRG has requested that all costs, benefits and risks (including potential enforcement, which has been raised by members of the CRG) of not bringing the budget forward are presented to Council, to ensure that Council is aware of all repercussions if it chooses to remain with the current LTP budget phasing (and not commence implementation of wastewater disinfection with the intention of meeting specified consent timeframes).
 11. The Wastewater Management Options project team will therefore be taking a paper to the 15 November 2018 Council meeting to provide the Council with the above information, to enable a discussion on whether moving the timeframes forward is something that the Council will consider. The project team will report back to the CRG once the Council decision is made.

ASSESSMENT of SIGNIFICANCE

Criteria	This Report	The Process Overall
The effects on all or a large part of the Gisborne district	Low	Medium
The effects on individuals or specific communities	Low	Medium
The level or history of public interest in the matter or issue	Low	High
Inconsistency with Council's current strategy and policy	Low	Low
Impacts on Council's delivery of its Financial Strategy and Long Term Plan.	High	High

12. The key aspect of this paper relates to finances and the LTP. The decisions or matters in this report are therefore considered to be of **high** significance in accordance with Council's Significance and Engagement Policy.

COMMUNITY ENGAGEMENT

13. The community was engaged through a thorough LTP pre-consultation process, which led onto the 7 December 2017 Council decision (17-499). The community has been afforded with further consultation opportunities during the formal LTP consultation process in 2018.
14. Any decisions and recommendations must comply with financial, regulatory and community aspects of the Local Government Act 2002. As the options all involve a significant decision in relation to land or a body of water, Council needs to take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga. This aspect is addressed by the inclusion of Kaupapa Māori expertise in the review group.
15. The CRG comprises tangata whenua, the Medical Officer of Health and expert advisors from the previous WTAG. Any consent outcomes, as informed by the work of the CRG, may be subject to a separate consultation process.

CONSIDERATIONS

Financial/Budget

16. The costs in the 2018/19 financial year will be funded through the Wastewater Treatment Plant capital budget, as the final preferred solution has been determined and all consent work will be towards implementation of the preferred wastewater upgrade infrastructure.
17. The bringing forward of LTP budgets would have significant financial/budget implications for subsequent financial years.

Legal

18. The Wastewater Management Options Project is delivered in a manner that ensures the consent holder (Council) remains compliant with consent requirements.
19. The current LTP implementation timeframe will put Council into a non-complying status on 31 December 2020 unless Council secures a variation on the consent. Feedback from the CRG strongly indicates that any variation will be opposed by tangata whenua and potentially other stakeholders, with Environment Court proceedings likely unless Council shows a commitment to implementing disinfection as required in the consent.
20. Compliance with the BOD loading requirement in Clause 37 may also be an issue. However, recent assessments have indicated that BOD loading has reduced significantly and current loading is close to the required level.

POLICY and PLANNING IMPLICATIONS

21. This project was included in the 2015–2025 Long Term Plan titled 'The Wastewater Wetlands Project', is included in the draft 2018–2028 Long Term Plan titled 'Wastewater Treatment Plant Upgrades & Renewals', and is consistent with strategic policies and plans.
22. Any change to implementation timelines would require alterations to the current LTP.

RISKS

23. Council is required to submit a new consent by 31 December 2018, or continue with the current consent. There are significant legal risks associated with non-delivery in this timeframe, and then again at the 31 December 2020 consent milestone.
24. A risk exists that the CRG cannot reach consensus on some aspects, that not all proposed group members agree to contribute, and that the consent application does not sufficiently address all consent requirements.

NEXT STEPS

Date	Action/Milestone	Comments
18 October 2018	Report back to the WMC	Provide CRG outcomes
15 November 2018	Paper submitted to Council	Review of LTP budgets, consider bringing budget for the project forward
13 December 2018	Council meeting – decisions on consent application and budgets	Feedback on CRG and IRP processes, setting out next steps
Before 31 December 2018	Consent application is lodged	If required

APPENDICES

- Appendix 1 - Consent Review Group – Summary of Feedback to Date.