

Monday 30 October 2023

OIA IRO-503

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Kia ora [REDACTED]

Official information request for Wellington City network discharge consents lodgement.

Thank you for your official information request dated Thursday 5 October 2023.

We have considered your request in accordance with the Local Government Official Information and Meetings Act 1987 (the Act) and determined that we are able to grant your request in part.

The information you have requested is enclosed in our email to you. Pursuant to [Section 7\(2\)\(a\)](#) of the Act, some of the information has been redacted as it is personal about private individuals.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngā mihi,

[REDACTED]

Group Manager, Network Strategy and Planning

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Our water, our future.

Briefing Paper

Author: [REDACTED]

Date: 15 May 2023

Implications of Network Discharge Consents

Purpose

1. To advise that Wellington Water will lodge three resource consent applications with Greater Wellington Regional Council relating to the discharge of untreated wastewater or stormwater from networks in the city, being:
 - a. Wellington wet-weather wastewater network overflows for discharge of untreated wastewater from the wastewater network (covering the Western and Moa Point networks)
 - b. Porirua and northern Wellington wet-weather wastewater network overflows for discharge of untreated wastewater from the wastewater network (covering the northern Wellington network that is connected to Porirua WWTP)
 - c. Global Stormwater Consent Stage 2 for discharge of stormwater from the stormwater network

Summary

2. Community expectations have driven an increase in standards for water in and entering the environment. These new standards are principally set out as new levels of service and requirements in response to the National Policy Statement – Freshwater Management, and in the management approach to Mana o te Wai.
3. The activity of measuring, monitoring, and improving water quality will be managed through new resource consents.
4. Council, through Wellington Water, is obliged to have resource consent applications relating to wastewater network discharges lodged by the end of May, and stormwater by the end of August 2023.
5. The new consents are likely to include requirements on the asset owner to finance and undertake programmes of work to improve network pipes and other assets in order to meet target standards. With the consenting process expected to take two years or more, implementation costs from the new consents will arise in 2026.
6. In the event that water reform does not result in the transfer of council stormwater and wastewater assets to a new entity, the liability for costs arising from the consents would remain with Council, and need to be included in future long term plans.
7. Public engagement on the consents will be extensive and ongoing over the proposed 35-year life of the consents

Background

8. Wastewater networks discharge into the environment for a number of reasons. The main causes are blockages, which can happen at any time; and overloading, due to high or heavy rainfall making its way into wastewater pipes through misconnections and leaks. It is the latter type of event, known as wet-weather discharges, that these consents are addressing.
9. Stormwater is rainwater that has collected after hitting the ground, including roofs, streets, buildings, cars and anything else left outdoors. The water collects contaminants from these surfaces, including inorganic compounds such as heavy metals, zinc from corrugated iron, brake dust, rubber, litter etc; and organic matter, including animal faeces and decomposing matter.
10. Both these circumstances degrade water in the environment, in streams and rivers, in coastal and harbour waters, which receive the contaminated overflows and discharges. They are regarded by environmental regulators as a discharge into the environment and therefore must be consented.
11. Wellington Water, on behalf of Wellington City Council, is renewing the existing consents for these activities (wastewater overflows and stormwater discharges), as they have or are due to expire.

The changed regulatory context and new levels of service

12. The National Policy Statement Freshwater Management 2020 puts Te Mana o te Wai at the centre of water management. It creates new levels of service for the environmental performance of wastewater and stormwater networks. Currently, these are managed for public health and flooding purposes, respectively; under the new regulations, they also need to be managed to reduce contamination entering streams, rivers and harbours and to implement Te Mana o te Wai.
13. To provide greater clarity about responding to the expectations of the National Policy Statement – Freshwater Management, Greater Wellington Regional Council established the Whaitua process. This was a consultative approach to uncovering and expressing what was significant to key parties in the management of water and water catchments. Te Awarua-o-Porirua catchment covers northern Wellington as well as Porirua; Te Whanganui-a-Tara catchment covers the rest of Wellington.
14. Both Whaitua made several recommendations about wastewater and stormwater that will be considered by Greater Wellington Regional Council when processing the new resource consent applications. Te Mahere Wai, a mana whenua statement of expectations associated with the Whaitua process, calls out wastewater in freshwater as the single biggest issue for water in Whaitua Te Whanganui-a-Tara. Te Mahere Wai is expected to carry significant weight in determining the applications.
15. Accordingly, for the resource consent applications to be successful, they must provide a pathway that works toward implementation of Te Mana o te Wai, the Whaitua recommendations and Te Mahere Wai, focusing on reduction of contamination from the wastewater and stormwater discharges.

Timeframes for lodging the applications

16. The new consents will apply to the different networks in Wellington City's wastewater network catchments: northern Wellington, treated at Porirua; and the rest, treated at Karori and Moa Point. Different improvements are required to manage the contaminants in each catchment.
17. The existing stormwater consent expires in November 2023. The new consent will be a single one for the whole metropolitan region and is known as a global stormwater consent.

18. Greater Wellington is expecting the applications to be lodged in accordance with legislative requirements¹, as below:
 - a. 30 May 2023 for wastewater
 - b. 30 August 2023 for stormwater
19. We anticipate the applications will be publicly notified in mid-2024, with a hearing in 2025, meaning that implementation will likely commence in early 2026.
20. If the applications are not successful, then the wastewater and stormwater networks will be operating illegally, exposing both Council and Wellington Water to enforcement action from Greater Wellington.

Consent application approach

21. For the applications to be successful, they must respond to the policy direction for water management as discussed above.
22. For wastewater, the resource consent is focussed on reducing wet weather overflows by a combination of limiting the rain entering the network and providing more capacity in the network. For stormwater, we propose to provide a combination of source control and contaminant treatment measures, including constructed wetlands at the bottom of sub-catchments.
23. Wellington Water's previous presentation to Council's Infrastructure Committee on these applications resulted in a high level of support for removing overflows from waterways, as shown on page 7 and 8 of the [minutes](#).
24. The three applications align with the Environmental Water Quality strategic priority for regional water services, agreed by all of Wellington Water's shareholding councils. Similar consent applications are in process for Wellington Water's other shareholding councils.
25. Wellington Water has prepared all three resource consent applications to be implemented over 35 years (i.e. until around 2058).
26. There are other discharges from the wastewater network, including dry weather overflows that will likely also require consenting in the future, and we will keep Council advised of that.

Financial and Resourcing

Investment Planning Processes and water reform

27. In late 2022, Wellington Water developed some unconstrained costs for inclusion in the asset management planning process of Central Government's water reform agency, the National Transition Unit. These costs were intended to provide an early indication of the possible order of magnitude of funding necessary to implement the consents and were in excess of \$3b for capex and \$150m for opex, when totalled across the three consents. These amounts are for 30 years and over that timeframe would provide activities such as constructed wetlands, storage tanks and community education programmes. They are also what Wellington Water refers to as Level zero costs, which means that the estimates were prepared prior to any investigation or feasibility work being carried out, and without any defined scope of works. They are provided at this stage as an indication of the

¹ Section 124 of the Resource Management Act 1991.

order of magnitude of possible expenditure, rather than specific amounts. There will be several iterations of investigations and design before implementation.

28. If the consent applications take two years to be processed, as expected, implementation costs would likely start in 2026.
29. The Council's current 2021-31 Long Term Plan has very little funding set aside for this type of activity. Wellington Water will be engaging with Council soon to consider the funding priorities for water services for the 2024-34 period, including to improve Environmental Water Quality.
30. Future investment planning may be affected by the outcome of water services reform. The latest announcement would require Council to include water services in their 2024-2034 LTPs up until the date that the relevant water services entity is stood up, which must occur sometime between early 2025 and 1 July 2026.
31. The necessary investment and asset management planning for proposed Entity G (that includes Wellington) will be delivered by the National Transition Unit.
32. Wellington City Council officers have advised that Wellington Water does not need to go through a specific process for the investment associated with these applications. The 2024 LTP process is considered to be the appropriate vehicle.

Investment planning

33. It is important to emphasise the unconstrained element of the figures noted above, which were developed on the basis of a high level of service to support mana whenua and community aspirations rather than typical engineering expectations. The costs could be materially reduced with a lower level of service.
34. Any changes to the applications will also be influenced by the need to put forward proposals that have a reasonable chance of success, meaning that they need to respond to the national policy statement, Te Mana o te Wai, the Whaitua processes and Te Mahere Wai.
35. As part of the Significant Decisions process set out in the Water Services Act 2022, Wellington Water provided the National Transition Unit with copies of the applications, who provided confirmation that the applications could be lodged.
36. Wellington Water has advised Greater Wellington Regional Council about the potential for changes to the applications as central Government shares more information about water reform over coming months as well as potential for changes from other influences such as Resource Management Act reform or mana whenua engagement. In particular there is potential for changes if the National Transition Unit indicates that there is insufficient investment to support the applications.

Public Engagement

37. Engagement and consultation on these consents will be ongoing with mana whenua, in order to fulfil the principles of Te Mana o te Wai, particularly Mana Whakahaere². Early conversations with mana whenua have suggested the proposals are heading in the right direction, but mana whenua will need additional resourcing to fully participate in the processes and provide more comprehensive feedback.

² Mana whakahaere: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater – NPS-FM 2020

38. We have undertaken community engagement on the wastewater wet weather overflows in 2022 and stormwater in early 2023. Costs were identified as significant but no further information was provided.
39. For future community engagement, there are three main points:
 - a. We will continue to engage with those who have shown interest to date throughout the resource consent process. We expect to have a further session with these parties in July 2023, updating them on lodgement of the applications and information from the National Transition Unit regarding investment availability.
 - b. The applications will be publicly notified and Wellington Water is working towards a notification date of 1 July 2024.
 - c. The applications set up a framework for on-going community engagement over 35 years through the proposed consent conditions.

Legal and Risk

40. There four aspects of legal risk to consider:
 - a. Currently, there is a risk of enforcement action from Greater Wellington Regional Council for overflows from the wastewater network that are not legalised via the global stormwater consent. This enforcement risk is being managed by preparing resource consent applications for the activity and ongoing discussions with GW officers. These enforcement risks would be shared by both Wellington City Council as asset owner and Wellington Water as asset manager.
 - b. If the applications are not lodged on time (or at all), then the discharges from the networks will become unauthorised and Greater Wellington Regional Council is likely to take enforcement action against Wellington Water and/or Council. This risk is being managed by lodging the applications in accordance with the agreed timeframes.
 - c. Lodging the applications does not create any legal commitment on behalf of Council. It does create community expectations that need to be managed, but not commitments. Once the applications are lodged, Council will need to continue to comply with the existing consents for discharge of stormwater and wastewater network overflows (regardless of their expiry) while the new applications are being processed. Accordingly, lodgement of the applications does not create new legal risks but is a critical tool for managing other legal risks.
 - d. If the applications are granted by Greater Wellington Regional Council, the wastewater and stormwater networks will need to be operated in accordance with those consents, which is when an uplift in funding is likely to be necessary. Failure to reduce contamination over time is likely to result in enforcement action for the asset owner and/or the asset manager.
41. The profile of the legal risks may change with RMA reform, which creates a greater expectation of Councils undertaking initiating enforcement action with an increase in any eventual penalties.

Next steps

42. The next steps are:

- a. lodge applications in accordance with agreed timeframes
- b. implement resourcing for mana whenua groups so that detailed engagement can commence
- c. undertake Investment Needs and Options 2024-2034 work with our client councils to inform upcoming investment decision making by both the NTU and our councils
- d. further community engagement in July 2023