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**REPORT 2**  
*(1215/52/IM)*

## **WESTERN TREATMENT PLANT - RESOURCE CONSENT CONDITION OPTIONS**

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### **1. Purpose of Report**

The Council is seeking new resource consents for the continued operation of the Western Wastewater Treatment Plant in South Karori. While the consents have been granted (or recommended to be granted) the Council has appealed the Hearing Commissioners' decision regarding the duration of consent and conditions. Two other parties have appealed other elements of the decision. An Environment Court mediation has explored options for the resolution of the appeals and in order to proceed further, Council consideration is required.

The purpose of this report is to present an option to the Council that will resolve the appeals without a need to proceed to the Environment Court, and will secure the resource consents required for the operation of the Western Treatment Plant for 25 years.

### **2. Executive Summary**

Council has applied for resource consents to continue operating the Western Wastewater Treatment Plant (WWTP) in South Karori. Council lodged appeals to the decisions regarding duration and conditions of consent. Subsequent mediation has been successful on all but one issue concerning the length of time that the Council proposes to continue with the two consents for discharges to the stream in very wet weather events. These discharges occur because flows of treated and untreated wastewater exceed the capacity of the pipeline to the coast.

The pipeline was installed in the 1930's and due to its age and location, occasional leaks from the pipe are visible, but cause only minor effects on the physical environment although community and cultural effects have generated strong concerns.

Three options are detailed and it is recommended that the proposal to replace the pipeline within 15 years be adopted.

### **3. Recommendations**

Officers recommend that the Committee:

1. *Receives the information.*
2. *Agrees to authorise officers to implement option 3 as outlined in section 5 of this report. This option includes the replacement of the South Karori Wastewater Treatment Plant pipeline within 15 years.*

### **4. Background**

In 2006 Council applied for five resource consents that are required to continue operating the Western Wastewater Treatment Plant (WWTP) in South Karori. The consents sought are as follows:

1. The discharge of treated wastewater to the Coast (via the 6.6km pipeline to the coast)
2. The discharge of untreated (but milli-screened and settled) wastewater to the Coast (via the 6.6km pipeline to the coast) during very wet weather events
3. The discharge to air from the biofilter and the plant
4. The discharge of treated wastewater to the stream in very wet weather events
5. The discharge of untreated (but milliscreened) wastewater to the stream during exceptionally wet weather events.

This paper mainly relates to the wet weather consents (4 and 5 above). In very wet weather the flow of wastewater is significantly increased by the entry of stormwater into the wastewater network. At times it exceeds both the storage within the network (and at the plant), the treatment capacity of the plant, and the capacity of the pipeline to the coast.

When that occurs 2 things happen:

1. The flows that are unable to be treated, are discharged to the coast (via the 6.6km pipeline)
2. The treated flows that can not be discharged to the coast via the pipeline (due to capacity) are discharged direct to the Karori Stream.

In exceptionally wet weather events (when the wet weather flows are at their maximum) there is a further discharge to the stream of untreated (but milli-screened) wastewater.

Currently discharges of treated wastewater to the stream are happening on an average of 3-4 times a year, and the untreated (but milli-screened) discharge has occurred 11 times in the past 7 years.

All consents were sought for a term of 25 years. The Hearings Commissioners granted the air discharge for 25 years, and the stream discharges for 10 years, and recommended that the treated discharge to the coast and untreated (but milli-screened) discharge to the coast were granted for 20 and 10 years respectively. While the Hearings Committee could not require the discharges to the stream to stop, it sought to send a strong message to WCC that there was a strong expectation on WCC to be in the position to stop the stream discharges at the end of that 10 year period.

A number of appeals were lodged by both WCC and submitters in January 2007. WCC appealed all of the consent durations (with the exception of the air discharge) and a number of conditions. Action for the Environment Inc and West Wellington Environmental Protection Society Inc (AFE/WWEPS) jointly appealed the durations and sought 3 years only for all consents, except the discharge of untreated (but milli-screened) wastewater to the stream which they have asked the Court to decline. The New Zealand Forestry Group (NZFG) (which owns some of the land on which much of the pipeline to the Coast is located) has also appealed a number of conditions.

Officers have been involved in two Environment Court mediations since August 2007. During these sessions a number of the issues have been resolved, in particular between WCC and Greater Wellington. The key outstanding issue for all parties is the Council's proposal at the hearing to continue the stream discharges until such time as the useful life of the pipeline to the coast is at an end (and the pipeline is replaced) or for 25 years (whichever is sooner). This issue revolves around the effects of the stream discharges on the physical, cultural and social/ recreational qualities of the stream and the condition of, and the timing of the replacement of the pipeline to the Coast.

The pipeline is relevant as when it is replaced the capacity will be increased (i.e. a larger diameter pipe will be installed). This increased capacity provides the only practical opportunity to totally eliminate the 2 stream discharges. AFE/WWEPS (supported by NZFG) argue that replacement of the pipeline presents a viable, and far preferable, alternative to the stream discharges and that it should be implemented immediately (and the 3 year term sought will allow for that to occur). They argue that the pipeline is in poor condition and needs to be replaced. The appellants and Greater Wellington would not accept a proposal whereby the Council would commit to replace the pipeline at the end of its useful life as determined by an independent expert.

During the mediation in June, NZFG, AFE/ WWEPS with assistance from Greater Wellington, tabled a proposal, without prejudice, that might enable all appeals to be resolved by consent. The parties proposed a condition obliging WCC to replace the pipeline to the coast by a certain date. Greater Wellington suggested that 15 years would be appropriate, and have confirmed that if that

commitment is made by WCC it will consent to the extension of the stream discharge consents to 15 years (from 10 years). The other parties indicated that they would each prefer a shorter time period for the pipeline replacement and the consent durations (for instance 10 or 12 years) but were supportive of WCC making a firm commitment to a replacement date, rather than having the uncertainty of not knowing when that decision will be made and therefore when the stream discharges will cease.

The Court and the parties were advised that this matter would need to be considered by Council. Council's position is to be conveyed back to the Court by the end of August. All parties are aware that this Committee will consider the proposal and that in order to do so the ordinary rule of Environment Court mediation that all matters are kept confidential, would not apply to the extent that it is necessary in this case to present the matters discussed at mediation to the Committee.

This paper has not been dealt with in 'public excluded' in order that the parties to the appeal can view the paper. However, it is recorded that the potential compromise position put forward by the parties, and the Council's consideration of it, is "without prejudice". In other words, if the appeals proceed to a hearing the fact that a compromise was suggested and considered is not a matter that can be raised by any party. It is noted that should the Committee wish to obtain legal advice on the appeals that the Committee can resolve to exclude the public from the meeting in order to receive that advice orally.

## **5. Discussion**

There are a number of matters relevant to Council's decision on this proposal. They include the effects of the discharges on the stream (including cultural effects), the condition of the pipeline, the cost of replacing the pipeline, the Council management of the pipeline under its Asset management practices, the effects of the leaks from the pipeline, Community expectations and relationship, and the scope and cost of any Environment Court appeal hearing (and prospects of success).

The appellants, and/ or other interested parties may seek to be heard by the Committee during public participation and may express different views and/or raise additional matters to those set out below.

### Effects of the discharges to the stream

The discharges occur only during very wet weather so occur when the Karori stream is in flood. The Council's expert evidence is that the aquatic and ecological effects of the discharges are minor. Further, the discharges are unlikely to cause any breach of the relevant Regional Freshwater Plan guidelines for waters managed for aquatic ecosystem purposes.

The discharge of human waste to the stream is abhorrent to Maori. The mauri of a body of water can be affected even where, as here, there are minor physical effects from the discharge. It is recognised that the only way to entirely mitigate

the cultural effects is to stop the discharges. Some mitigation has been proposed, and is adopted by the consent conditions, including involvement of iwi in the proposed new Community Liaison Group and broader strategies within the catchment for the improvement of the quality of the Karori Stream.

The discharges are likely to have only a minor, if any, effect on recreational opportunities in the stream. This is because of the infrequent occurrence of the stream discharges and because, at such times, the stream is in flood and access is difficult or dangerous due to floodwaters.

It is noted that although recreational use is not currently high, such uses may increase as this area is being opened up more for recreational purposes. Access to Karori Stream is one of the top initiatives in Councils Open Space Access Plan (2004) linking the rural south coast track and South Makara Road. While some access has now been secured full access will not be achieved until negotiations are completed with all the affected landowners.

#### Pipe Condition

The pipeline to the coast is some 6.6 km long and located in rugged terrain. There are a number of stream crossings, tunnelled sections of pipe and a long length is constructed at ground level.

The pipeline to the coast was constructed in the mid 1930's and, due to its age and location, occasional leaks from the pipe are visible. As much of the pipe is on the surface and leaks are visible, this has caused public concern. There is no evidence that leaks in the past have created significant adverse effects or that they will do in the future. Leaks that are detected (either on the fortnightly general inspection, the 3 monthly detailed inspections or via notification by a landowner) are repaired as soon as possible.

In order to maintain the integrity of the pipe, Council has agreed to a rigorous pipe maintenance schedule. Funding this maintenance regime is considerably more economic than premature replacement of the pipe.

As a result of the first mediation the Council agreed to have a further condition survey undertaken. That report concluded that:

- *“Parts of the pipeline will continue to require maintenance to repair cracks, minor leaks, root intrusions and backflow problems.*
- *In some areas the stream bank may need minor remedial work to ensure adequate support to the pipeline is maintained.*
- *The pipeline is currently providing an acceptable performance and is likely to do so for at least another 10 years, and possibly another 30 years assuming appropriate repairs are carried out.*
- *Some parts of the pipeline may deteriorate faster than this, so the current level of pipe inspection should be continued. Any necessary repairs should be carried out as required including proactive preventative repair*

*work to avoid damage from sources other than just corrosion of the pipe, such as lack of support from stream bank erosion, slippage etc.*

- *Three monthly inspections are considered appropriate, given that a flow meter is installed close to the outlet to detect gross failure/leakages from the pipeline, and that maintenance inspections are significant and costly exercises taking two days to complete.”*

The report recommended that a further condition survey be undertaken in 10 years. It also noted that some 310m of the exposed pipe is in poor condition, with 40m being in very poor condition and that some of the samples taken from the pipe have already reached the end of their service life. (This means that the alkalinity of the concrete has deteriorated to such an extent that the reinforcing steel becomes susceptible to corrosion. It does not mean that the pipe is no longer serviceable.)

The replacement cost of the pipe in today's dollars is in the vicinity of \$10M.

#### Asset Management Plan process

The Council's position to date is that the timing of the replacement of the pipeline should be determined when the useful life of the existing pipeline has come to an end. This remaining useful life would be determined when an engineering and economic assessment undertaken in accordance with asset management planning principles (which include environmental monitoring), concludes that such replacement is necessary (i.e. that the appropriate benefit/cost trigger has been reached). This would enable the economic life of the pipe to be maximised.

In essence, the Council's position before the Hearings Commissioners was that although the replacement of the pipeline is an alternative to the stream discharges, full replacement of the pipeline and the resulting financial cost (now approx \$10M) cannot be justified in the absence of significant adverse environmental effects, until the useful life of the existing pipeline has come to an end.

The pipeline will require another condition assessment in 10 years time, and it is inevitable that the pipe will require replacement sometime after that. Based on the recent condition survey full replacement will be required sometime between the 10 and 30 year timeframe. . The possibility of continuing to carry out repairs on the pipeline forever is not an option. The time will come when the actual pipe material deteriorates to the extent that the pipes will need to be replaced. This replacement would not be done on a piecemeal basis due to the set up costs associated with the remote location. Therefore the whole length would be replaced as one task.

#### Community Expectations/ relationship

There are also the concerns of the local community that need to be considered. This community, including the affected landowners, have lobbied for improvement to the stream and replacement of the pipeline for decades. They

have been concerned about the wet weather discharges and the effects on both the natural environment as well as the social, cultural and recreational values particularly as any discharges to the stream are considered by Iwi as being abhorrent.

The Environment Court mediation has included this local community and they are closely involved with the concerns and the outcome of this process.

#### Environmental Court Proceedings

The following 3 options have been identified for consideration.

1. WCC progresses the appeal to the Environment Court and seeks a 25 year term for all discharge consents. This will be opposed by AFE/ WVEPS (who will continue to seek 3 years or decline). Greater Wellington has agreed in principle to a 25 year term on the two coastal discharges, but will maintain its position that 10 years is an appropriate timeframe for the two stream discharge consents.
2. WCC progresses with its appeal to the Environment Court and seeks 25 year terms for the two coastal discharges and 10 year terms for the two stream discharge consents. This position is acceptable to Greater Wellington but would be opposed by AFE/ WVEPS (who will continue to seek 3 years or decline).
3. The parties agree to a mediated settlement (as set out below).

#### Options 1 and 2

These options will require a full Environment Court hearing. The scope of the hearing will be wider under option 1, as will the level of opposition (as Greater Wellington will be opposing part of the Council's case in addition to the appellants). One of the issues will be whether the replacement of the pipeline is a viable alternative to the pipeline (over the 25 year period).

Under option 2 the Council will accept the 10 year term granted by Greater Wellington. This would leave open the option that in 10 years time the Council can apply for new consents to continue the discharges for a further period. Under this option the level of opposition to the Council's application will be reduced as Greater Wellington will not oppose the grant of consent for 10 years, and the assessment of the pipeline will be focused on the 10 year period only.

The cost of legal and experts witness fees will be very significant (in the order of \$200,000-300,000) if all matters remain at issue. The outcome will not be certain. Legal counsel will be available at the meeting to answer any legal questions Councillors may have regarding this issue.

Whatever consent term is granted, until such time as the pipeline is replaced, the Council will have to apply for new consents for the stream discharges and the same issues regarding the effects on the stream and the condition of the pipeline will be at issue.

### Option 3

This option is to resolve the appeal by consent and avoid the need for an Environment Court hearing.

This is an option if WCC will agree to replace the pipeline within a 15 year timeframe. While the final decision on funding will be made by the future Council at the time through the relevant LTCCP and Annual Plan process, under this option the Council is required to commit to replace the pipeline and consequentially stop the stream discharges. Through appropriate milestone conditions and the agreed duration for the stream discharges, the future Council will have to replace the pipeline by a certain date or face compliance action under the RMA. All parties would have certainty. There would not be a need to apply for consents for stream discharges in the future.

There are also other advantages of this option. This option presents an opportunity to improve relationships with landowners and settle long standing issues. These issues include health and safety concerns regarding contractors on the sites. Going forward, these issues will remain both for maintenance and for the construction of the new pipeline. However the landowners at the mediation expressed a willingness to progress these matters in a constructive way.

### Recommendation

Based on the reports and on Asset Management principles the pipeline to the coast will need to be replaced at some stage within the next 10-30 years. Whilst under strict asset management reasoning this replacement may not occur within 15 years, there are other factors that contribute to bringing that date forward to get certainty. Based on the fact that the pipeline will need to be replaced in the foreseeable future, the community and Iwi concerns and the increasing public access to the Karori Stream it is recommended that 15 years (by the end of 2023) is an appropriate timeframe within which to replace the pipeline.

It is recommended that officers are authorised to negotiate a settlement that provides for the replacement of the pipeline by 2023, 15 year durations on the 2 stream discharge consents and agreement on appropriate access, construction and reinstatement arrangements with the affected landowners.

## **6. Conclusion**

The pipeline to the coast from the Western Wastewater Treatment Plant will need to be replaced sometime between 10 (conservative) to 30 years based on current Asset Management Plan pipe condition criteria. When it is replaced, it will be replaced at a greater size so it can also transport all wet weather flows (both treated and untreated) to the coast. The outcome of an Environment Court decision/hearing would be uncertain and could result in lesser duration consents than the 15 years proposed under the recommended option.

Agreeing to the proposed 15 year consent term with the condition that the pipe be replaced in that timeframe is a compromise and avoids the necessity and expense (for both Council and all other parties) of an Environment Court hearing now and the process of an additional consent application in 10 years time.

Contact Officer: *Maria Archer, Manager, Infrastructure Planning*

## Supporting Information

### **1) Strategic Fit / Strategic Outcome**

*The policy supports Council activity as a provider of wastewater services and contributes to Council meeting the outcome of “reduce its environmental impact by making efficient use of.....resources....and minimising waste” (see outcome 4.5 more sustainable).*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*The expenditure will be included in the Wastewater Asset Management Plan for construction commencing in 2022.*

### **3) Treaty of Waitangi considerations**

*Consultation has been carried out with the tangata whenua as part of the resource consent process. No appeals have been received from them regarding these consents and have not requested to be further involved at this stage.*

### **4) Decision-Making**

*This is not a significant decision in that the expenditure will be required for Asset management purposes regardless. The decision is limited to the timing of the expenditure.*

### **5) Consultation**

#### **a) General Consultation**

*Extensive consultation has been carried out with all stakeholders and affected parties as part of the resource consent process.*

#### **b) Consultation with Maori**

*see 4 above*

### **6) Legal Implications**

*Council's lawyers have been consulted during the development of this report.*

### **7) Consistency with existing policy**

*The recommendations in this report are consistent with existing WCC policies.*