DUNEDIN CITY COUNCIL | kaunihera a-rohe o Ōtepoti

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Kia ora,

DCC SUBMISSION ON PROPOSED WASTEWATER ENVIRONMENTAL PERFORMANCE STANDARDS

Introduction

1 The Dunedin City Council (DCC) thanks Taumata Arowai – the Water Services Authority for the opportunity to make a submission on proposed wastewater environmental performance standards.

2 This submission begins with background information on the DCC wastewater system to provide context for the DCC's submission points. It then goes on to provide feedback on the proposals set out in the document 'Consultation on proposed wastewater environmental performance standards: Discussion document', published 25 February 2025 (discussion document).

3 In summary, the DCC supports the proposal to introduce a standards-based approach for regulating discharges from public wastewater systems ***in principle***. However, the DCC considers the current proposals outlined in the discussion document require substantial refinement and further public consultation before they are given effect. This would help to mitigate the risk that shifting to a standards-based approach comes at an inappropriate cost to environmental, cultural and community values. The DCC feedback and recommendations are intended to be constructive and to assist Taumata Arowai as the development of draft standards progresses.

Context: DCC wastewater system

4 The DCC provides wastewater collection, treatment and disposal services to connected properties across urban Dunedin.

5 The DCC operates seven wastewater treatment plants (WWTP): three 'metropolitan' WWTPs at Tahuna, Green Island and Mosgiel, and four 'community' WWTPs servicing smaller populations at Middlemarch, Waikouaiti/Karitāne, Seacliff and Warrington.

6 The DCC holds multiple resource consents that authorise WWTP activities, including permits for discharges to the coast, land (including discharges to land in a manner that may enter water) and air. The majority of these consents expire in 2032, however some expire sooner or later than this date. The consents include a range of conditions, including conditions related to discharge quantity and quality limits, and monitoring and reporting requirements.

7 In addition, the DCC holds four resource consents to discharge wastewater network overflows to freshwater or the coast for the purpose of managing the wastewater network. These consents, which include monitoring and reporting requirements, expire between 2032 and 2042.

8 Compliance with wastewater discharge consents is regularly audited by the Otago Regional Council (ORC).

9 Unplanned and infrequent wastewater system discharges to the environment can occur when system capacity is exceeded due to weather conditions (for example, significant high rainfall) or when asset failure occurs. These events can include discharges of untreated wastewater from the network, and WWTP discharges that have bypassed parts of the treatment process. These discharges are not consented but are reported to the ORC when they occur from DCC systems.

10 Drawing on its experience as a wastewater system operator, the DCC has actively participated in the development of national and regional planning and policy instruments that contribute to managing the environmental effects of discharges from public wastewater systems. These include the National Policy Statement for Freshwater Management 2020, the proposed Otago Regional Policy Statement 2021 and changes to the Regional Plan: Water for Otago. The DCC has advocated for policy approaches that appropriately balance environmental, mana whenua and other community values with affordability considerations and a holistic, system-wide approach to three waters infrastructure planning.

11 The DCC has recently completed a holistic, system-wide strategic planning exercise to inform future investments in its three waters systems. An overarching purpose of the exercise was to ensure that the investments in three waters systems are properly prioritised to achieve optimal outcomes (including environmental outcomes and giving effect to mana whenua values) from a system-wide point of view.

12 The holistic, system-wide approach recognises the interconnected nature of three waters systems and seeks to avoid investment decisions being made on a narrow, case-by-case basis. For example, it seeks to avoid investment decisions being driven solely by regulatory factors such as consent expiry, or by a narrow focus on one part of the system.

13 The DCC's three waters strategic planning work was undertaken in partnership with mana whenua and was underpinned by objectives that relate to a range of drivers, including levels of service, Te Mana o te Wai, cultural values, affordability, regulatory compliance and responding to impacts of climate change and population growth. The exercise incorporated an adaptive planning approach designed to provide flexibility in the DCC's plans to adjust to

changes in the operating environment (including, for example, regulatory and policy changes, changes in community expectations, and climate change).

DCC submission points

14 The DCC recognises the proposed shift to a standards-based approach would be a major change to New Zealand's regime for regulating public wastewater systems.

15 The DCC acknowledges the rationale for change set out in the discussion document and considers aspects of the proposals have merit, in principle. The DCC considers aspects of the proposals may contribute to achieving some of the intended benefits in terms of cost reductions, efficiency and certainty for service providers and communities when consenting and subsequently operating wastewater systems.

16 In particular, the DCC supports the principle of standardising wastewater discharge monitoring and reporting requirements across consents for similar discharge activities. The DCC also supports the proposed requirement for service providers to regularly make compliance information available to the public on their websites. In addition to creating potential efficiency benefits for the service provider and the environmental regulator, this should increase transparency of wastewater system performance and the ability for performance benchmarking.

17 However, the DCC notes that there are substantial uncertainties around the proposals because:

a) the legislative foundation for the proposals – via provisions in the Local Government (Water Services) Bill – is still progressing through the Parliamentary process and remains subject to change; and

b) the discussion document does not include actual draft standards for review and feedback.

18 As a result, the DCC reserves its full support for the proposals and expresses some concern about the potential outcomes of the proposals as currently understood. The remainder of this submission provides DCC feedback related to:

a) consultation on draft wastewater environmental performance standards;

b) the way the proposed standards would interface with existing resource management system, including opportunities for mana whenua and communities to participate in consenting processes; and

c) technical aspects of the proposals that the DCC considers require amendment and/or further clarification before a second round of public consultation.

Further consultation is needed

19 The DCC understands that the next step following the current consultation is for Taumata Arowai to prepare draft wastewater environmental performance standards and present them to Ministers for approval.

20 The DCC is concerned that there does not appear to be any plan for further public consultation on the proposals once they are at a more detailed stage of development. The DCC considers further public consultation prior Ministerial review and approval is warranted by the scale and potential significance of the proposals, combined with current uncertainties noted at paragraph 17 of this submission.

21 The DCC would repeat comments made in its February 2025 submission to Parliament's Finance and Expenditure Committee on the Local Government (Water Services) Bill.

- *Council understands Taumata Arowai would be required to consult on any proposed environmental performance standards and infrastructure design solutions prior to their coming into effect. However, the consultation requirements for making standards and infrastructure design solutions appear to provide less opportunity for input than is currently provided to the community, including local authorities, mana whenua and the general public, in the RMA plan-making system. Council is concerned that the implementation of standards and infrastructure design solutions could – if the details are not right – potentially compromise environmental outcomes and/or lead to outcomes inconsistent with cultural values and other values. Council is particularly concerned a standardised, one-size-fits-all approach may not be suitable for all circumstances.*

- *Council considers a rigorous process should be followed to make the standards and infrastructure design solutions, to reduce the potential for standards to cause adverse effects once implemented. Council suggests the Committee considers introducing provisions in the Bill to improve the ability of the community to participate in the development of environmental performance standards and infrastructure design solutions, for example by requiring Taumata Arowai to hold hearings on submissions and by providing an avenue for appeals on decisions on the final content of standards or infrastructure design solutions. This would provide a regulation-making process more akin to the RMA plan-making system, which is appropriate because any new standards and infrastructure design solutions would override some current policies and rules for managing the effects of wastewater and stormwater systems that were originally made through the RMA system.*

22 The DCC **recommends** Taumata Arowai consults the public on draft wastewater environmental performance standards after the Local Government (Water Services) Act [2025] comes into force and before draft standards are provided to Ministers for approval.

The way the proposed standards would interface with the existing resource management system needs further clarification

23 The DCC understands the standards would operate in a manner similar to a national direction instrument under the Resource Management Act 1991. The DCC also understands:

a) the standards would override provisions in other existing resource management planning instruments that relate to matters covered by the standard; and

b) environmental effects of public wastewater management activities that relate to matters not covered by the standard would be dealt with via the usual resource consent process.

24 The DCC is concerned that policies and rules in existing resource management instruments may be overridden by wastewater standards. These instruments have often been developed over many years and informed by engagement with mana whenua and local communities and detailed consideration of local environmental conditions.

25 In Otago, the current policy direction for wastewater discharges strongly prefers wastewater discharges to land over discharges to water. The proposed standards, it appears, would provide a more permissive approach to discharges to water. This may create pathways for wastewater service providers in Otago to consent discharges to water that were not previously considered available from a regulatory perspective. Mana whenua and local communities are likely to be concerned that their values, as expressed through existing regional policies and plans, will have less weight (or perhaps no weight) when regional councils come to make decisions on discharge consent applications. In addition, the DCC can foresee scenarios where wastewater management decisions create tensions between affordability requirements driven by an economic regulatory regime on the one hand, and giving effect to community and mana whenua aspirations (that may have less regulatory backing than before).

26 The current consenting system provides a high level of opportunity for mana whenua and communities to provide input into consenting processes and decision-making as affected parties. Although not yet totally clear, the DCC is concerned the proposals may reduce the opportunity for mana whenua and communities to participate in consenting processes. This may have an impact on the DCC in the way it can uphold Te Taki Haruru (the DCC Māori Strategic Framework) in regard to mana whenua involvement in decision-making, and the sustainability and active protection of the environment. Taumata Arowai has stressed, as a mitigation, that local government water service providers will still have obligations to involve Māori and local communities in decision-making when determining where and how to discharge wastewater.

27 The DCC has been working hard to improve its partnership with mana whenua, including in relation to future planning for three waters activities, and supports councils involving mana whenua early in wastewater-related decision-making. However, the DCC would **recommend** that Taumata Arowai designs the standards in a way that retains an appropriate level of opportunity for mana whenua and community input at the consenting stage. This would act as a backstop to help to ensure that appropriate controls are identified and put in place to manage effects on mana whenua and community values.

28 It is yet not fully clear to the DCC how consenting wastewater discharge activities would work in practice under the proposed regime. For example, the discussion document reveals that the proposed standard for discharges to water would cover a limited range of matters, focused on discharge quality limits for seven common contaminants and associated discharge quality compliance monitoring and reporting requirements. It appears this would mean that the

service provider could be required to seek two consents for the same discharge activity in parallel:

a) one consent with a 35-year term relating to matters covered by the standard (ie limits, and monitoring and reporting requirements, related to the seven contaminants); and

b) another consent with a term determined by the consent authority relating to matters not covered by the standard (eg discharge quality limits and monitoring and reporting for different contaminants, and environmental monitoring requirements).

29 If this is the case, the DCC considers that the standards-based approach is unlikely to achieve the intended efficiency and cost-saving benefits for service providers and communities at the consenting stage.

30 Current discharge consents for the DCC's two largest WWTPs, for example, contain discharge quality limits for an extensive range of contaminants as well as substantial environmental monitoring requirements. Assuming many of these requirements would still be considered justifiable by the consent authority in future, it is currently difficult to see how the consenting process for these WWTPs would be simplified by the standards currently proposed.

31 The DCC **recommends** that Taumata Arowai carefully considers how consenting wastewater discharges will work under the standards-based approach and makes appropriate improvements to the proposals to address the issues raised. In particular, the proposals should be revised so that the consenting system appropriately:

a) recognises established resource management policy positions developed by regional councils in conversation with mana whenua and communities; and

b) ensures all aspects of a specific wastewater discharge activity can be dealt with via a single consent.

Proposed standard for discharges to water – specific comments

32 The DCC supports, in principle, the proposal for 35-year consents to be issued for discharges that comply with the standards. This would provide certainty for long-term infrastructure planning. However, the DCC **recommends** that the standards also provide for drivers for continuous improvement to be built into long-term consents, as well as triggers for review of the standards (and, subsequently, discharge consents) based on advances in wastewater management technology and/or best practice.

33 As indicated in paragraphs 28-31 above, the DCC is concerned that the list of contaminants covered by the discharge to water standard is very short. In addition, the seven-way categorization of receiving waterbodies based primarily on dilution is blunt. While the DCC would defer to other submissions drawing on technical expertise in environmental sciences on these matters, the DCC is **recommends** that Taumata Arowai revises the proposed standard so that it:

a) includes discharge quality limits for a more comprehensive list of contaminants;

b) provides for a more nuanced categorization of the receiving waterbody that takes a wider range of considerations than dilution into account (for example, existing water

quality in the waterbody, effects of the discharge on the uses and values of the waterbody, and cumulative effects of other discharge activities in the same waterbody);

c) provides direction for setting environmental monitoring requirements; and

d) considers the influent quality (ie the nature of discharges coming into the WWTP) when determining contaminants to be controlled via a resource consent.

34 The DCC would also **recommend** that a discharge to water standard revised in accordance with the recommendations in paragraph 33 establishes WWTP discharges to water as a controlled activity, with the matters raised in paragraph 33 informing a comprehensive list of matters of control.

Proposed standard for discharges to land – specific comments

35 The DCC supports the establishment of a standardised framework for regulating WWTP discharges to land. The DCC submits the framework should be as enabling as practicable. This would support consistency with the established policy preference in Otago for discharges to land.

36 In principle, the DCC would **recommend** that a discharge to land standard establishes WWTP discharges to water as a controlled activity, with the standard providing a comprehensive list of matters of control.

37 The DCC supports, in principle, the proposal for 35-year consents to be issued for discharges that comply with the standards. As noted for the proposed standard for discharges to water above, this would provide certainty for long-term infrastructure planning. However, the DCC **recommends** that the standards also provide for drivers for continuous improvement to be built into long-term consents, as well as triggers for review of the standards (and, subsequently, consents) based on advances in technology and/or best practice.

Proposed standard for overflows and bypasses – specific comments

38 The DCC supports the proposal to regulate wastewater overflows and bypasses as a controlled activity under the Resource Management Act 1991. The DCC acknowledges that wastewater overflows and bypasses are inconsistent with community and mana whenua values, but also recognises that overflows and bypasses – in times of significant heavy rainfall or asset failure – are a reality of wastewater system operation in Dunedin, throughout New Zealand, and around the world.

39 The DCC supports the proposal to increase the visibility of wastewater overflows through standardised monitoring and reporting requirements as a driver for continuous improvement. The DCC has previously advocated in regional policy and plan-making processes for consenting pathways that would authorise wastewater overflows and provide regulators with the ability to drive improvements through consent conditions.

40 The DCC supports the proposal to require the development of Wastewater Network Risk Management Plans (WNRMP). However, the DCC would like to better understand the intended relationship between the WNRMP and a controlled activity resource consent issued for wastewater overflows and bypasses. Is the intention for the service provider to prepare a WNRMP before the consent application, and for the risk assessment and improvement plan

set out in the WNRMP to drive the consent authority's development of consent conditions? Or would the requirement to prepare the WNRMP (presumably within a specified timeframe) be activated via the condition of a resource consent issued for wastewater overflows and bypasses? The DCC recommends **Taumata Arowai** defines the role and timing for the WNRMP in the standard for overflows and bypasses.

41 The DCC notes that the discussion document does not propose a standard consent-term for overflows and bypasses. The DCC considers a 35-year consent term would provide certainty for long-term infrastructure planning and **recommends** Taumata Arowai includes this in the next iteration of the standard. However, the DCC also **recommends** that the standard also provides for drivers for continuous improvement to be built into long-term consents for overflows and bypasses, informed by the risk-based improvement programme set out in the operator's WNRMP.

42 The DCC supports, in principle, the proposed risk-based approach to overflow and bypass monitoring and reporting. However, the DCC's review of the discussion document identified matters that need to be clarified as the proposed standard is further developed. The matters identified include those listed below.

a) *Mapping of overflows*: the DCC **recommends** the standard specifies the likelihood threshold for mapping network overflow points to ensure mapping is done consistently across New Zealand. The DCC suggests Average Recurrence Interval (ARI) could be a useful way to set the threshold (for example, the standard could require mapping of all overflows expected to occur at a 1-in-X year ARI). The DCC notes that a map of overflows expected to occur at a 1-in-2 year ARI would likely look very different to a map of overflows expected to occur at a 1-in-10 year ARI.

b) *Risk matrix*: the DCC understands overflow and bypass monitoring and reporting requirements would be determined based on risk (as assessed by the service provider in the WNRMP). The DCC considers risk must be assessed consistently across the country to enable benchmarking. The DCC **recommends** the standard prescribes the risk matrix to be applied in WNRMPs, and that the matrix should include standardised definitions of likelihood and consequence. In assessing likelihood, subjective terms such as 'often' should be excluded and a quantitative threshold such as ARI should be applied.

c) *Wastewater network modelling*: the DCC considers WNRMPs would need to be informed by wastewater network modelling. The DCC **recommends** the standard specifies the level of wastewater network model expected (for example, Level 1 – Strategic or Level 2 – Catchment, based on Water New Zealand Wastewater Network Modelling Guidelines 2017).

d) *Monitoring requirements*: the DCC **recommends** the standard defines the matters to be monitored for different types and risk levels of overflows and bypasses. Matters to consider include flow or level or volume, as well as duration of the overflow/bypass and rainfall intensity prior to and/or during the overflow/bypass event.

43 The DCC supports the proposed two-tier reporting requirements for overflows and bypasses, split by 'first response' and 'follow up' reporting. The DCC **recommends** the standards specify minimum information requirements for both types of reporting.

44 The DCC **recommends** that Taumata Arowai considers the feasibility and benefits of including a wastewater network containment standard within the standard for overflows and bypasses. For example, a containment standard could set a threshold based on ARI under which there should be no overflows. This would contribute to achieving a nationally consistent minimum level of wastewater network performance.

45 The DCC **recommends** the standard for overflows and bypasses applies to new constructed overflows as well as existing overflows. This would enable service providers to obtain consent in scenarios where the service provider has determined that a new controlled overflow to a waterway, for example, would reduce or eliminate known instances of uncontrolled wastewater flooding to roads and property elsewhere in the network during heavy wet weather. In these sorts of scenarios, the provision of a new controlled overflow may reduce the provider's overall overflow risk profile.

46 The DCC **recommends** Taumata Arowai revises the definitions of 'overflows' and 'bypasses' to address scenarios where hydraulic retention time in a pond(s)-based WWTP is shorter than design due to high inflow resulting from heavy rainfall. This is not physically a bypass as such but is similar (in terms of outcomes) to bypassing part of the treatment process at a more complex WWTP due to high inflow.

Conclusion

47 The DCC thanks Taumata Arowai once again for the opportunity to make a submission on the proposed wastewater environmental performance standards.

48 The DCC would welcome an opportunity to speak to this submission at any hearings held. The DCC would also welcome the opportunity to collaborate with Taumata Arowai and other interested parties more directly as the next phase of the development of draft standards progresses.

Kā mihi

Jules Radich
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