


# Unpacking the Proposed Wastewater Environmental Performance Standards

## Implications for Project Development

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A **Discussion Document** released by Taumata Arowai proposes the development of a set of Wastewater Environmental Performance Standards, under the Water Services Act. In this article, we explore the ways in which the standards will drastically change how wastewater projects are consented under the Resource Management Act, and the most significant implications for how we manage and upgrade our wastewater treatment infrastructure.

A circular inset image on the right side of the page shows a close-up of ocean waves breaking onto a sandy beach. The water is a vibrant blue-green color, and the sand is a light tan color. The image is partially obscured by the white background of the text area.

# The proposals in a nutshell

The Discussion Document does not include draft standards, and it is likely that some of the settings will change through the submission and drafting processes. Based on the information currently available:

- This first package of standards will cover: discharges to water and land, reuse of biosolids, overflows from networks and bypasses from treatment plants.
- The standards will not apply to: discharges to air, recycled treated wastewater for non-potable use, emerging contaminants such as endocrine disruptors, PFAS and heavy metals, arrangements for onsite wastewater treatment systems (such as septic tanks) or community owned and operated schemes, or WWTP discharges in close proximity<sup>1</sup> to human drinking water sources. In most respects regional councils will continue to regulate these aspects in the same way they do currently.
- For **Discharges to Water**:
  - Acceptable levels of key contaminants in the discharge would be based on the category of 'receiving environment,' with seven prescribed categories from lakes to the open ocean, each defined by their 'dilution ratio'.<sup>2</sup>
  - For 'low energy coastal' and 'open ocean' categories, the only applicable parameters would be ammonia and enterococci, with annual 90%ile limits of 20 mgN/L, 4,000 cfu/100mL, and 50 mgN/L, 40,000 cfu/100mL (respectively).
- For **Discharges to Land**, the standards would apply a risk management assessment for specific land types. This assessment would determine a risk class for the land, and set treatment requirements and application limits for total phosphorus, total nitrogen, and E.coli loading rates and concentration.<sup>3</sup>
- For **Biosolids**, the standards would provide a grading system which reflects pathogen content, metal and organic chemical contaminants, and vector attraction.<sup>4</sup> Taumata Arowai proposes to establish Permitted, Controlled, and Restricted Discretionary consenting pathways for the reuse of biosolids, depending on their categorisation grade.<sup>5</sup>
- For **Network Overflows** and **WWTP Bypasses**, the standards would:
  - Require consent to be obtained for all network overflows and bypasses, but prescribe controlled activity status for this (so that consent could not be declined).
  - Require operators to prepare Wastewater Network Risk Management Plans, and prescribe monitoring and reporting requirements.
  - Enable operators to prioritise 'addressing overflows based on the risk, impact and likelihood of overflows, within their means',<sup>6</sup> but stop short of prescribing set performance standards (e.g. in relation to contaminants, volumes, or frequency). Instead, the mitigation measures and requirements for improvement works would be set by consent authorities through consent conditions in the usual way.

<sup>1</sup> The standards won't apply if the discharge is 1,000m upstream or 100m downstream of human drinking water abstraction points in rivers, or within a 500m radius from human drinking water intakes in lakes.

<sup>2</sup> Where the 'discharge ratio' is defined as: (discharge volume + flow in the receiving environment) / discharge volume. For example, coastal areas with a dilution ratio of more than 1000 would be classed as 'open ocean', while different standards would apply to 'low energy coastal' areas with a dilution ratio from 100-999.

<sup>3</sup> Discussion Document, page 27.

<sup>4</sup> [Guidelines for the Safe Application of Biosolids to Land in New Zealand, 2003.](#)

<sup>5</sup> Depending on the current state of the network and the environmental performance to be obtained, network improvements can be very expensive and may need to occur over several years.



# Practical implications

The standards would have widely felt implications for the way in which wastewater (and wastewater infrastructure) is managed in New Zealand. We highlight some of the likely outcomes below.

## **Large Treated Wastewater Discharges to Open Ocean from Our Larger Urban Areas**

Many of New Zealand's larger urban areas are located along the coast and have existing discharges via ocean outfalls, which are likely to fall under the new standards for open ocean outfalls. Over the last 30 years significant investment has been made in wastewater treatment infrastructure for these communities, even where they discharge to open ocean environments. This investment has often been driven by extensive community group organisation and lobbying in support of environmental and recreational causes, and via often complex resource consent processes. The proposed standards for open ocean discharge imply that a much lesser degree of treatment would be required, and it appears that plant operators could amend their existing consents to match the new lower standard.

Moving to lower treatment standards could have significant implications in terms of the social license afforded to treatment plant operators within these urban areas.

Regional councils would not be able to require better performance than defined by the standards, even where this is already being achieved by the infrastructure in place at the time. This would leave decisions to voluntarily treat wastewater to higher standards with the treatment facility operators (perhaps in response to community pressure).

## **Smaller Urban Areas will be the 'Squeezed Middle' – Having to make the Greatest Improvements**

The carve out for existing 'small' wastewater plants at cBOD<sub>5</sub><sup>6</sup> load of <85kg p/day is effectively a proxy for plants serving less than 1000 people.<sup>7</sup>

New Zealand has over 150 urban areas with a population between 1,000 and 9,999. Many of these are served by oxidation pond systems discharging to inland waterways or land.

The proposed new standards will likely impact these urban areas the most significantly, owing to:

- The level of capital and operating expenditure required to upgrade the relatively basic pond system to meet the new standards, especially for nitrogen and phosphorus limits.
- The (still) relatively low population available to support this expenditure, which will create affordability challenges, even with the formation of new CCO entities to deliver amalgamated services.
- The often-unplanned environmental impact from disposing of newly created sludge to landfill, given it is often uneconomic to beneficially use biosolids from plants of this size.

On the other hand, the new standards (and when developed, infrastructure design solutions) will provide an opportunity for "one size fits all" solutions that offer economies of scale, and at least will provide certainty for these communities as they plan upgrades.

## **Addressing Cumulative Effects**

In practical terms, multiple wastewater treatment plants within a district can discharge to the same water body. The new standards stipulate 'end of pipe' effluent quality requirements, rather than limits for the receiving environment. In some instances, even where there is medium or high dilution at

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6 Depending on the current state of the network and the environmental performance to be obtained, network improvements can be very expensive and may need to occur over several years.

7 Given the average person produces around 80-85grams p/day, and there may also be industrial or trade waste sources.

one point of discharge, there is the potential for cumulative effects on waterways where discharges are reasonably close together.

This issue is likely to be raised through submissions on the Discussion Document, and there may be scope to allow regional councils to consider the actual level of dilution achieved from the combined discharges into a single water body.

### **The Standards will not apply to Private Networks or Treatment Plants**

Private wastewater treatment infrastructure, such as septic tanks and small wastewater treatment facilities often found on lifestyle properties, are excluded from the proposed standards.<sup>8</sup>

There are many current instances where multiple properties have a more than minor impact on the receiving environment, owing to the low levels of treatment often achieved by these systems, where properties utilising private systems are clustered. Even if these private networks were to be included in the standards, they would clearly fall under the category of small wastewater treatment plants. Setting standards for new privately owned wastewater treatment plants could be a pragmatic way to raise performance through District Plan rules and bylaws, and allow for progressive improvements as private systems are installed or replaced.

### **A New Approach to Managing Overflows and Bypasses**

In many regions overflows are either treated as a prohibited activity (so consent cannot be sought), or as emergency works under section 330 of the Resource Management Act. The Discussion Document suggests that this just hides the problem, and 'is not a long-term solution'.

Controlled activity status, and (it seems) a guaranteed 35-year consent term will be welcome news to network operators who are already grappling with network discharge consent processes, as consents for these activities are difficult to obtain for several reasons.<sup>9</sup>



In other areas the standards will require a step-change, signalling that network discharges cannot be ignored or treated as emergency works, and could instead be treated as unlawful discharges and the subject of enforcement action by regional councils.

Finally, the fact that the standards will not prescribe contaminant or discharge volume/frequency limits suggests these consenting processes will remain somewhat fraught (despite the controlled activity status), with difficult decisions to be made at the local level regarding the extent of environmental improvement required, the cost of achieving it, and the timeframes for doing so.

### **A More Limited Role for Regional Councils**

It is likely intended that where standards are provided and met, regional councils could not impose more stringent or additional conditions regarding the same parameters (e.g. a mean enterococci limit, in addition to the 90%ile limit provided). On the other hand, it is intended that in other areas regional councils would be able to regulate aspects of activities to which the standards do not apply, such as air discharges and PFAS, in the same way they do now.

However, that distinction may not always be clear. For example, the Discussion Document states that the standards will not apply to heavy metals, but also suggests that controls on Total Nitrogen will be used to regulate heavy metals. In developing the final standards, it will be crucial to provide certainty around when, and the extent to which, regional councils can impose additional performance standards through consent conditions.

It appears that substantial regional council input will still be required for discharges to land (in reviewing how the qualitative assessments under the risk framework have been applied), and in setting the targets for overflows and bypasses.

8 Discussion Document, page 8.

9 Some of the challenges are highlighted in our article "[Managing stormwater and wastewater network discharges – challenges in the consenting space](#)," Water Journal May/June 2023, May 1, 2023.

# What the Standards Mean for RMA Processes – Changes Under the Local Government (Water Services) Bill

While Environmental Performance Standards are already recognised under the RMA, the Local Government (Water Services) Bill will further streamline RMA consenting processes and allow the wastewater standards (and also the equivalent stormwater environmental performance standards, once developed) to override existing RMA plans.

In particular, the Bill proposes that:

- Standards can set the activity status for wastewater projects, providing greater certainty of outcome (e.g. controlled activity status through the standards would mean consent cannot be declined, and the regional council must instead focus on conditions).
- Regional councils would have to implement settings from the standards in consent conditions and cannot include any conditions which are any more or less restrictive (meaning Councils would remain free to impose conditions on matters not provided for e.g. discharges to air).<sup>10</sup>
- If an application complies with or meets the requirements<sup>11</sup> of the standards, then:
  - Normal RMA restrictions on granting discharge consents under sections 105 and 107 would not apply<sup>12</sup> (which means less need to consider alternatives, or to avoid certain kinds of effects in the receiving environment); and
  - Consents would have to be granted for a period of 35 years.<sup>13</sup>

The Bill would amend the RMA so that standards coming into force (or being amended) would trigger a review of existing resource consent conditions regulated by the standards (at the discretion of the consent authority).<sup>14</sup> Depending on an individual consent's current conditions, this may mean either lifting performance or amending consents to match the new lower standard.

Finally, the Bill sets up a transitional process in the RMA so that any 'soon to expire' consents will instead expire two years after the Bill commences as an Act,<sup>15</sup> to give operators time to consider the standards in their future upgrades and applications. The Bill and Discussion Document do not appear to contemplate a similar grace period for network overflows, which will be occurring without consent in most instances.

The Discussion Document also proposes that, in the future, the ability to rely on expired consents after a replacement application has been lodged will be capped at 2 years (it is currently unlimited).<sup>16</sup> This could have far-reaching consequences for Councils operating under expired or soon-to-expire consents who have not adequately planned for substantial upgrades. The ability to raise funding, especially for the high number of moderately sized urban areas (1,000 – 10,000 people) could be very challenging without substantial affordability implications for those communities, even with the local Water Done Well reforms implemented.

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10 Clause 273 of the Bill amends RMA s 104(2D)(a) and (b) and adds new section 104(2DA).

11 It remains to be seen if these settings will apply in all parts of the standards; for example, the Discussion Document proposes to apply controlled activity status to bypasses and network overflows, but to otherwise leave decisions in the hands of regional councils.

12 Clauses 274 and 275 of the Bill amend RMA ss 105 and 107.

13 Clause 277 of the Bill amends s 123 of the RMA. Again it is not clear if this 35 year timeframe would apply to all activities covered by WEPS in all cases.

14 Clause 279 of the Bill inserts s 128(1)(bc).

15 Clause 280 of the Bill inserts RMA ss 139B – 139D.

16 Discussion Document at page 40. See also clause 278 of the Bill. The Discussion Document proposes that this new 2 year deadline would not apply in the first five years following the WEPS being made.

## Next Steps

Submissions on the Discussion Document are due to Taumata Arowai on **24 April 2025**. The first set of standards are expected to be in place by August 2025,<sup>17</sup> shortly after the Bill itself is passed.

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<sup>17</sup> See Local Water Done Well: [Local Government \(Water Services\) Bill factsheet \(December 2024\)](#), [Wastewater and stormwater environment performance standards](#), at p 6.