

## **Report 00.181**

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Report to the Rural Services and Wairarapa Committee and the Environment Committee  
from Kirsten Forsyth, Policy Advisor, Resource Policy

### **On-site Sewage: Discussions with Territorial Authorities for transferring powers**

#### **1. Purpose**

To inform the Committee about the work on transferring the Council's powers for on-site sewage treatment and disposal to territorial authorities under section 33 of the Resource Management Act 1991.

#### **2. Background**

The Regional Plan for Discharges to Land commits the Council to:

“Transfer powers to territorial authorities under s.33 of the Act, to complement territorial authority responsibilities for on-site sewage treatment and disposal under other legislation. Although transferring powers is the Regional Council's preferred option, implementation of this method will be negotiated on a case-by-case basis with territorial authorities concerned.”

Territorial authorities have responsibilities for on-site sewage systems under the Building Act 1991 and Health Act 1956. They already take some responsibility for administering Rules 6 and 7 in the Regional Plan for Discharges to Land that allow discharges of sewage on-site as a permitted activity. However, this is not a formal arrangement.

The Council recognised the advantages of formalising this arrangement during preparation of the Regional Plan for Discharges to Land. The principal advantage of doing so is that the customers will be dealing with one agency, who will have the power to check compliance with the regional rules or issue a discharge permit at same time as they check compliance with the Building Code.

### 3. Progress

Council staff have had meetings with each of the territorial authorities in the Region. We met with Carterton District Council and South Wairarapa District Council at the end of last year, and with the six other territorial authorities in February this year. The purpose was to:

- (a) see if the staff from each territorial authority were receptive to the proposal to have the powers transferred to them; and
- (b) discuss the procedures each territorial authority uses for on-site sewage disposal when they receive applications to subdivide land, to change an existing land use, and to build a new house; and
- (c) discuss whether they feel they have sufficient technical expertise to assess applications for on-site sewage systems; and
- (d) discuss the contents of a technical guide prepared by Wellington Regional Council staff (together with Hawke's Bay Regional Council, horizons.mw, and Ian Gunn, a consulting engineer) for the design and maintenance of on-site sewage systems; and
- (e) discuss the need for, and contents of, a booklet or series of brochures to educate homeowners about the management of on-site sewage treatment and disposal systems. This is a parallel project being done in accordance with method 6.2.1 of the Regional Plan for Discharges to Land.

All councils are very supportive of the Regional Council's parallel project of preparing brochures or booklets for homeowners. They are also supportive of having a technical guide to help them assess on-site sewage proposals. The Guide is an important part of the project to transfer power because, before any transfer takes place, both authorities must agree that the transfer is desirable for reasons including technical expertise.

All councils are open to negotiating a transfer of powers for on-site sewage systems. The proposal being discussed is to transfer the Regional Council's function to control discharges of greywater and sewage to land, up to some agreed maximum volume.

The Wairarapa councils are keen to discuss the proposal as a group, and feel this will help them with their objective to improve consistency between the three councils over all of their work. Carterton had some reservations about taking on a transfer because they feel they may not have an adequate level of in-house expertise. South Wairarapa had reservations about the level of costs a transfer may impose on them.

Of the western councils, Kapiti Coast, Porirua, Hutt City and Upper Hutt would like answers to some specific questions about what they would be taking on, but were comfortable with the proposal in principle. Wellington City are uncommitted until they know more about what they would be taking on.

Wellington Regional Council staff will meet with territorial authority staff from the western Region on Tuesday 28 March. The purpose of this joint meeting is to finalise the technical guide, and to discuss the sorts of terms and conditions that a transfer of powers will contain. A similar meeting will be held with the Wairarapa councils in April.

#### 4. **Where to from here?**

Once some draft terms and conditions of the transfer of power have been agreed in principle between council staff, the Resource Management Act requires us to serve notice on the Minister for the Environment of our intention to transfer the power. The Council must then place notice of that proposal before a meeting of the Council, and give public notice of the proposal. We must then follow the special consultative process of submissions and hearings prescribed in the Local Government Act.

#### 5. **Communications**

The matter is the subject of on-going discussions with territorial authorities. As noted above, public notice will be given once the proposal enters the formal process.

#### 6. **Conclusions**

The merits of transferring our powers and functions for discharges of sewage on-site are recognised by all territorial authorities in the Region. All are willing to talk about the proposal. Steps to formalise a transfer with territorial authorities who are satisfied with the proposal can be taken once some draft terms and conditions have been agreed in principle. After that, the statutory processes set down in the Resource Management Act and Local Government Act can be initiated. In the meantime, very good progress has been made towards educating homeowners about on-site sewage systems, and agreement is being reached on a technical guide to help territorial authority staff.

#### 7. **Recommendation**

*That the report be received and the comments noted.*

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716A. Special consultative procedure—

- (1) Where this Act or any other Act requires a local authority to adopt the special consultative procedure in relation to any proposal (being an intention to act or a draft plan or policy), that local authority—
  - (a) Shall place notice of that proposal before a meeting of the local authority; and
  - (b) Shall give public notice, and such specific notice as the local authority considers appropriate, of the proposal; and
  - (c) Shall, in every notice given under paragraph (b) of this subsection, specify a period within which persons interested in the proposal may make submissions on the proposal to—
    - (i) The local authority; or
    - (ii) A community board; or
    - (iii) A committee of the local authority or community board; and
  - (d) Shall ensure that any person who makes written submissions on the proposal within the period specified in the notice given under paragraph (b) of this subsection is given a reasonable opportunity to be heard by the body to which the submissions are made; and
  - (e) Shall ensure that, except as otherwise provided by Part VII of the Local Government Official Information and Meetings Act 1987, every meeting at which the submissions are heard or at which the local authority, community board, or committee deliberates on the proposal is open to the public; and
  - (f) Shall make all written submissions on the proposal available to the public unless there is in law some good reason why it should not do so; and
  - (g) Shall ensure that the final decision in relation to the proposal is made at a meeting of the local authority.
- (2) The period specified pursuant to subsection (1)(c) of this section—
  - (a) Shall be not less than one month; and
  - (b) Unless the local authority otherwise directs, shall not be more than 3 months.]

Section 33 of the Resource Management Act requires that before any local authority transfers any power to another public authority, the local authority must use the special consultative procedure specified in section 716A of the Local Government Act 1974. Before using that special consultative procedure, the local authority must serve notice on the Minister of its proposal to transfer the function, power, or duty. In addition, both authorities must agree that the transfer is desirable on all of the following grounds:

- (i) The authority to which the transfer is made represents the appropriate community of interest relating to the exercise or performance of the function, power, or duty:
- (ii) Efficiency;
- (iii) Technical or special capability or expertise.