Matter	Discharge consent application under s 120 of the RMA to discharge treated wastewater to ground from the Kingston Wastewater Treatment Plant
Between	**Queenstown Lakes District Council** Applicant
And	**Otago Regional Council** Consent Authority

Submissions of counsel for Queenstown Lakes District Council

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MC.

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May it please the Commissioner

1 Introduction

1.1 Kingston is changing. Once an area of beachside holiday homes with a small permanent population, Kingston is now expected to become a commuter suburb as property prices drive people outwards from Queenstown.

1.2 Queenstown Lakes District Council (**QLDC**) has planned for that anticipated growth over a number of years, rezoning land for the expansion of the existing Kingston Township. While on-site disposal of wastewater was acceptable in the past with a small community, it no longer meets today's water quality standards and will not meet Kingston's future needs as it develops.

1.3 The current lack of reticulated water supply and wastewater is holding up this planned development, which does not represent best practice in terms of integrating land use and infrastructure planning.

1.4 This application for a discharge consent is one part of a suite of approvals that are required to address these infrastructure needs at Kingston.

1.5 Importantly, the overall suite of approvals will provide certainty that drinking water take is well separated from wastewater disposal and both will be moved away from residential areas and Lake Wakatipu. This is consistent with QLDC's wider objectives of moving wastewater away from high value recreational assets such as its lakes and rivers.

1.6 In terms of ensuring that the wastewater discharge is of acceptable quality, QLDC proposes a treatment train approach that sees wastewater treated (initially with an oxidation pond) and then via a mechanical treatment plant (in stage two). At all stages , wastewater will undergo primary, secondary and tertiary treatment, before being dispersed to ground where wastewater will continue to be treated through plant uptake in the Land Treatment Area (**LTA**).

1.7 The addition of the LTA to the treatment train means that it is not necessary for QLDC to treat water in the secondary treatment phase (main biological phase) to the same quality that would be required if there was no LTA. Deploying a treatment train in this way allows QLDC to prudently use its infrastructure funds when designing the first steps in the treatment process and align with general preference to discharge to land rather than direct to surface water. The expert evidence on behalf of QLDC is that this approach will appropriately avoid, remedy or mitigate any potential adverse effects on the environment.

1.8 The discharge consent application is a high quality proposal that has been thoroughly interrogated through the s 92 and hearing preparation processes and warrants the grant of consent for a term commensurate with the investment incurred and the life of the facility. QLDC asks that you approve the project for a term of 35 years, subject to conditions that are effects-based and warranted, as attached to Appendix 2 of Mr Henderson's evidence.

2 Structure of legal submissions

2.1 The s 42A Report recommends grant of consent subject to conditions. QLDC welcomes that recommendation but considers that there is room for improvement in the conditions.

2.2 QLDC is confident that the hearing process will provide an opportunity for both QLDC and Otago Regional Council (**ORC**) to work in partnership to refine the conditions in such a way as to protect the environment (ensuring that both QLDC and ORC can meet their dual obligations and functions in respect of the District's environment) and that is workable from an operational perspective. Accordingly, these legal submissions address the legal framework in which you will need to decide the application and then focus on the proposed amendments to conditions.

2.3 QLDC calls evidence from:

(a) Mr Tim Court-Patience (QLDC contract project manager);

(b) Mr Brian Elwood (environmental engineer);

(c) Dr Ruth Goldsmith (aquatic ecology); and

(d) Mr Ralph Henderson (resource management planner).

3 Principles and purpose of the RMA

3.1 ORC's consideration of this application is subject to Part 2 of the Resource Management Act 1991 (**RMA**).[1] Both ORC's reporting planner and Mr Henderson have considered the application and concluded that it is consistent with the sustainable management purpose and principles of the RMA.[2]

3.2 Sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and avoiding, remedying, or mitigating any adverse effects on the environment.

3.3 In this case, the purpose of the project is to provide for the health and safety of the Kingston Township through proper treatment and disposal of wastewater. The project is also being sized and staged to provide for anticipated growth (ie to meet the needs of future generations). Importantly, the project will enable the discharge of wastewater to be moved away from homes and Lake Wakatipu.

3.4 A key feature of the proposal is staging based on the number of connections. The increasing number of connections will signal a transition from an oxidation pond to mechanical treatment once there are more than 450 connections. This

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1 The relevant principles of when consideration of Part 2 is required, following the guidance in *RJ Davidson,* has been set out in the s 42A Report and will not be repeated here.

2 BoE HENDERSON, Ralph, paragraphs 10.1-10.7; and s 42A Report, page 37.

is an example of managing the use, development and protection of resources *at a rate* that enables economic and social wellbeing as it ensures that the initial costs are commensurate with the number of properties serviced.

3.5 There are also two s 6 matters of national importance that are directly relevant to this application:

(a) The preservation of the natural character of lakes and their margins, and the protection of them from inappropriate subdivision, use, and development is recognised and provided for by moving wastewater away from Lake Wakatipu.

(b) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga has been recognised and provided for through the proposal to discharge to land in a way that is not expected to have adverse effects on surface, ground or lake water.

3.6 In my submission, the application is also appropriate from a s 7 perspective:

(a) The discharge consent is a key component in the proposal to provide a reticulated network to service anticipated growth in Kingston. This can be viewed as QLDC meeting its statutory obligations to provide sanitation services in its district but this is also a manifestation of the ethic of stewardship that QLDC exercises over the District.

(b) The staged approach and the addition of the LTA to the treatment train (which will reduces the amount of treatment required before discharge to land) also makes for the efficient use and development of natural and physical resources.

(c) The proposed conditions are designed to ensure the maintenance and enhancement of the quality of the environment, particularly with regard to the contaminant of most concern, nitrogen.

3.7 QLDC has consulted with and obtained written approvals from iwi. This takes into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) as required under s 8 of the RMA, particularly the principles of partnership and participation.

4 Section 104 matters

Section 104(1)(a) – Effects

4.1 ORC is required to consider any actual and potential effects on the environment of allowing the activity.

4.2 The effects on the environment have been canvassed in detail in the evidence of Mr Ellwood, Dr Goldsmith and Mr Henderson. It is not intended to repeat that here, except to note that there is agreement between QLDC's experts and the reporting planner that the proposal (as mitigated by conditions) will avoid, remedy or mitigate potential adverse effects on the environment.

4.3 However, there is one category of effects that does require further comment – the potential cumulative effects of nitrogen loading.

4.4 Throughout the lengthy processing of the application there has been some concern from the ORC officers regarding the cumulative effects in the catchment of the proposed discharge in combination with the existing septic tanks.

4.5 As will be further explained in Mr Ellwood's evidence, QLDC has adopted a nitrogen mass balance calculation condition where the current level of nitrogen leaching into the catchment (and consequently Lake Wakatipu) will not be exceeded.

4.6 The s 42A Report considers that this adequately addresses the potential cumulative effects.[3]

4.7 The proposed contaminant limits have been specifically tailored for this application to account for the uncertainty around the timing of development at Kingston. Condition 16 sets out water quality limits for when the number of connections is below 450 or greater than 450. Importantly, condition 18 provides an environmental bottom line, limiting the total nitrogen loading of the LTA to 450 Kg N/ha/yr hectare per year. This applies regardless of what is happening with development scenarios at Kingston and it is Mr Elwood and Dr Goldsmith's evidence that it will protect the environment from adverse effects.

4.8 The s 42A Report (and the submitters) also recognised that the proposal is better than allowing the status quo of on-site disposal to continue as the community grows. Individual on-site wastewater systems for any new lot that meets regional plan requirements are a permitted activity and the relevant permitted activity rule does not specify any treatment limits. ORC does not have the ability to control the treatment from a permitted activity wastewater discharge.[4] This scenario could lead to adverse cumulative effects that are greater than the proposed single point discharge, where ORC has the ability to control the level of treatment through the conditions of consent.

4.9 While it is correct that under the current regional plan rules ORC has little ability to control such discharges, ORC does have the ability to improve the overall management of catchment water quality by changing its regional plan. For example, ORC could amend the permitted activity standard so that it does have control over the quality of single point discharges or, at the other end of the control spectrum, make such an activity prohibited where there is ability to connect to a reticulated system, enabling on-site disposal of wastewater to be phased out.

4.10 As discussed in Mr Court-Patience's evidence, there are also a number of levers that QLDC can pull to encourage or require connection to the new system, which can assist to manage cumulative effects:

(a) QLDC is hopeful that given the high value placed by the community on recreational assets such as Lake Wakatipu and the known risks of aging septic tank systems, many landowners will voluntarily connect to the reticulated system when it is available.

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3 Section 42A report, page 18.

4 Section 42A report, page 18.

(b) QLDC could also exercise its powers under s 459 of the Local Government Act 1974 to require landowners to connect to a reticulated system (provided that it is within 30 metres of a property boundary or 60 metres of a dwelling).

(c) There are also covenants on newer titles of the existing Kingston Township specifically requiring connection to the reticulated systems once available.[5]

4.11 In my submission, the proposed conditions will appropriately avoid, remedy or mitigate cumulative effects and this is supported by the evidence on behalf of QLDC and the conclusions reached in the s 42A Report. The levers that ORC and QLDC can pull to encourage or require connection to the reticulated system are further mechanisms that can help manage the demand for these reticulated services and the timing of transition.

Section 104(1)(ab) – Off setting

4.12 ORC is required to consider any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.[6]

4.13 QLDC is not proposing any offsetting or environmental compensation measures that need to be considered under this section of the RMA. The application, will however, enable the decommissioning of existing aging on-site wastewater infrastructure in Kingston, and allow new and existing development to be serviced by a modern reticulated network and treatment system. This is a significant positive effect of the proposal that needs to be given due weight as part of the assessment of effects under s 104(1)(a) but it is not an offsetting proposal under s 104(1)(ab).

Section 104(1)(b) – Planning and policy framework

4.14 ORC is required to consider any relevant provisions of a national environmental standard, other regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan.

4.15 The relevant planning instruments have been well canvassed in Mr Henderson's evidence. It is noted that both Mr Henderson and the reporting planner agree that the proposal is appropriate from a planning and policy framework perspective.

Section 104(1)(c) – Other matters

4.16 The s 42A Report states that there are no other matters that are relevant and reasonably necessary to determine the application.[7] Mr Henderson has identified the content of the Kai Tahu ki Otago Natural Resource Management

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5 In any event, there is nothing in the sample of covenants that have been reviewed that would preclude QLDC exercising its general powers under the LGA 1974 but these serve the additional function of having put the landowners on notice of this future requirement.

6 RMA, s 104(1)(ab).

7 Section 42A Report, page 38.

Plan (2005) and Te Tangi a Tauira as a relevant matter and notes that QLDC has consulted with both Aukaha and Te Ahi a Maui Incorporated. who represent papatipu Rūnaka in Otago and Southland, and that both parties have provided affected party approval.[8]

Permitted baseline

4.17 Section 104(2) relates to Council's discretion to apply the permitted baseline. Mr Henderson and ORC's reporting officer agree that there is technically no permitted baseline given that the permitted activity standard relates to entirely domestic effluent whereas here around ten percent of the wastewater is expected to come from commercial premises.

4.18 However, there are different types of permitted activities that have comparable effects on water quality being, agricultural use and the alternative scenario of building out of the township with individual septic systems. The effects of these alternative land uses are discussed in the evidence on behalf QLDC, to demonstrate that use of the LTA is a positive environmental outcome.

Other s 104 considerations

4.19 For completeness, the following sections are not relevant to this application:

(a) s 104(2A), which relates to renewal of existing consents;

(b) ss 104(2B) and 104(2C), which relate to the Marine and Coastal Area (Takutai Moana) Act 2011;

(c) s 104(2D), which relates to because wastewater environmental standards that have yet to be set under the Water Services Act 2021;

(d) s 104(3), which relates to trade competition issues and written approvals.

4.20 There is also no dispute that the application is a discretionary activity so s 104(5) is not relevant here. Similarly, sections ss 104(6) and (7), which relate to declining an application if there is inadequate information to determine it, are not relevant here given that the proposal has been the subject of a number of detailed technical reports from both the applicant's witnesses and ORC's experts.

5 Section 105 matters

5.1 Section 105 applies because it is an application for a discharge consent. It requires you to consider the nature and sensitivity of the receiving environment, the reasons for the proposed choice and possible alternative methods of discharge.

5.2 The nature of the discharge is domestic effluent (with up to 10 percent coming from commercial premises). The specific characteristics of the discharge are discussed in Mr Ellwood's evidence and Dr Goldsmith addresses the sensitivity of the receiving environment.

8 BoE HENDERSON, Ralph, paragraph 7.194.

5.3 In my submission, QLDC's choice of a treatment train including land treatment, located away from homes and the Lake is a good environmental outcome given the nature of the discharge and the sensitivity of the receiving environment.

5.4 Mr Court Patience's evidence discusses the alternatives considered by QLDC[9] and the various technical treatment options have been discussed in Mr Henderson's evidence .[10] In summary, QLDC has chosen land treatment over surface water discharge because it has less cultural effects and the proposed cut and carry operation provides an opportunity to remove nitrogen from the catchment. Alternative locations and various technical treatment options and treatment levels were considered. The option selected retains flexibility as to the type of mechanical treatment but requires the discharge to meet quality standards, makes use of the opportunity to use treatment area to further treat the discharge, and enables a staged response in order to respond to the needs of the Kingston community as it grows.

6 Conditions

6.1 While the s 42A Report recommends grant of consent, QLDC is concerned that there are a number of conditions that are repetitive, unclear, ultra vires, likely to be unworkable in practice, or seem to have misunderstood how the treatment train is designed to ensure protection of the environment.

6.2 Attached as **Appendix 2** to Mr Henderson's evidence, is the s 42A Report version of conditions marked up to show the amendments proposed by QLDC.

6.3 The technical reason reasons for those amendments are discussed in the evidence of Mr Ellwood and Dr Goldsmith and will not be repeated in these legal submissions.

6.4 There are, however, a number of conditions that are problematic from a legal perspective.

Condition 1 is unclear

6.5 Condition 1 states that the application must be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Consent Authority as consent number RM 20.164. It then lists documents that have been submitted at different stages in the process and states that if there is any inconsistencies between the above information and the conditions of the consent, the conditions of this consent will prevail.

6.6 While such conditions are common practice, there is potential for them to be problematic or not accurately reflect the evolution of the proposal if they are not carefully worded.

6.7 In *Royal Forest and Bird Protection Society v Gisborne District Council*,[11] the Court agreed in principle with the general approach to extracting additional consent conditions from the application as otherwise the basis on which the

9 BOE COURT-PATIENCE Tim, section 7.

10 BOE HENDERSON, Ralph 8.3-8.6.

11 *Royal Forest and Bird Protection Society v Gisborne District Council* [2013] NZRMA 336 at [14].

consent was granted tends not to be well documented or understood. As the reference document for consent holders, Council officers and others with an interest, it is particularly important that a consent be clear on its face and as self-contained as possible.

6.8 The Environment Court recently gave guidance on such conditions in its further interim decision in *Summerset Villages (Lower Hutt) Limited*.[12]

6.9 In the Court's first interim decision the Court had stated that such a condition "should be clear on what the proposal is and how it is to be carried out, not simply list all the documentation that was involved in the application process".[13]

6.10 Summerset responded by including more documents in the list and a preamble that recorded key components of the proposal. However, the Court was not satisfied by this stating:[14]

> The difficulty with listing everything is that many of the documents referred to have limited relevance to the requirements in the conditions given the evolution of the proposal, including through the hearing process. **We consider that there needs to be one coherent, accessible and readily understandable package of consent documents reflecting the approved proposal as applied for but as varied or evolved during the consent and hearing process.**
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> [Emphasis added].

6.11 In this case, there is overlap between condition 1 and 3 (as condition 3 states that the key components of the wastewater treatment and LTA must be consistent with those described in the application, as shown in the attached plant schematic drawing). This has potential to create confusion as to which documents need to be complied with. Further, condition 1 does not reference the applicant's evidence, which is the most concise statement of the application to date and consolidates the information from a number of sources into one place, resolving any apparent contradictions.

6.12 QLDC's preference would be for condition 1 to be deleted given that such a condition does not change the legal position that an application for resource consent includes all information submitted as part of that application and including any amendments to the proposal that limits the scope of the application. However, if ORC wishes to retain such a condition, QLDC seeks that it be amended to:

(a) state the key components of the proposal; and

(b) include reference to the applicant's evidence and explain that if there is anything inconsistent with the evidence in the earlier documents they are superseded by the evidence.

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12 *Summerset Villages (Lower Hutt) Limited v Hutt City Council (No. 2)* [2020] NZEnvC 114.

13 *Summerset Villages (Lower Hutt) Limited v Hutt City Council* [2020] NZEnvC 31 at [216].

14 *Summerset Villages (Lower Hutt) Limited v Hutt City Council (No. 2)* [2020] NZEnvC 114 at [21].

Condition 3(a)(i) is ultra vires

6.13 Condition 3(a)(i) in the s 42A Report provides that:

> Grease traps must be installed at the outlets of all restaurants, cafés and commercial food producing facilities connecting to the wastewater treatment system;

6.14 The power to impose conditions under s 108 of the RMA is constrained by the requirements for validity of conditions, including that the condition must fairly and reasonably relate to the development authorised by the consent to which the condition is attached.[15]

6.15 In relation to condition 3(a)(i), QLDC can control the quality of the treated wastewater discharged to land. However, the quality of the effluent produced from private commercial premises is not within the scope of to QLDC's application to discharge treated wastewater to land nor is it within QLDC's power to comply with this condition as it relies on actions by private individuals.

6.16 Accordingly, the condition is ultra vires and QLDC seeks that this condition be deleted.

Conditions 10(a) and 27(a) go beyond council officers' powers of certification

6.17 It is important that certification conditions do not go so far as to confer an arbitral status on the consent authority. This was considered by the Court of Appeal in *Turner v Allison*.[16] The Court of Appeal held that a condition that provided that any dispute over satisfaction with conditions was to be settled by the local authority's planner "whose decision shall be final and binding on the parties" was invalid as it gave the planner the power of an arbiter. In respect of other conditions that delegated to the planner decisions relating to the placement of the building, external appearance of the supermarket, planting and landscaping matters, the Court held that the local authority's planner would set standards using her own skill and judgement and evaluate the proposal against those standards. These conditions did not purport to confer an arbitral status or a judicial function.[17]

6.18 It is not necessary to settle every detail of the conditions imposed on a resource consent before it is granted.[18] In fact, it has long been established that resource consents can be granted subject to conditions that require detailed elements of the activity authorised to be provided after the grant of consent and certified by the delegate of the consent authority.[19]

6.19 The High Court has recently confirmed that conditions requiring certification of detailed engineering plans were valid in *Aspros v Wellington City Council*.[20]

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15 *Newbury DC v Secretary of State for the Environmen*t [1981] AC 578*,* confirmed as being of general application in New Zealand in *Housing NZ Ltd v Waitakere CC* [2001] NZRMA 202 (CA).

16 *Turner v Allison* [1971] NZLR 833 at 857.

17 *Turner v Allison* [1971] NZLR 833 at 856.

18 *Turner v Allison* [1971] NZLR 833 (CA) at 857 lines 16-18.

19 *Turner v Allison* [1971] NZLR 833 (CA) at 856-857 lines 45-54.

20 *Aspros v Wellington City Council* [2019] NZHC 1684, where the engineering plans in question related to earthworks.

6.20 The Court made the following observations:

> [116] Various conditions of consent allow for the approval of the design and the construction of earthworks to be provided later, on the basis that they be designed by a professional engineer. I consider the plaintiffs' allegation that the Council has unlawfully delegated its judicial functions is misplaced here. Although the Council has asked a third party to complete the design requirements and standards on the assumption that the adverse effects of what will ultimately be designed will comply with the objectives, policies and requirements of the plan, this is the function of the resource consent assessment process.
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> [117] I accept the Council's submissions that a consent authority is not required to settle every detail of the condition imposed. A condition may leave the certifying details to a delegate, using that person's skill and expertise, but a council cannot delegate the making of substantive or arbitrative decisions. The Council submits the conditions are all of the former nature. These are known as "certifier" conditions, which have been held to be lawful.[21]
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> [118] In *Turner v Allison*, the Court of Appeal distinguished between "certifier" conditions, meaning those where the delegated task is to set a standard using expert skill and judgment, and "arbiter" conditions, meaning those where the delegated task purports to confer upon the delegate the powers of an arbitrator and so goes beyond the power of the delegator to impose such conditions.[22] Richmond J found that the consent conditions imposed by the Council in that case, which were to be carried out to standards set by the delegate by reference to her own skill and experience, did not confer upon her arbitral status or a judicial function.
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> [199] I consider the same analysis applies here. The approval of the design and the earthworks engineering plan falls within a skill and experience function and are not delegated arbitral or judicial functions.

6.21 In the *Summerset* first interim decision, the Environment Court commented that:[23]

> As a general principle it is important that the **conditions of a consent set out the outcomes required and how these outcomes are to be achieved**. Management plans provide a way to identify what steps are to be taken to ensure that clear, certain and enforceable outcomes contained in conditions of consent are achieved. They are not a substitute for conditions locking in the standards that are to be met to ensure environmental effects are kept within an acceptable level.
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> [Emphasis added].

6.22 In light of the legal position set out above there are two conditions that are particularly problematic in the s 42A Report and ought to be deleted.

6.23 Condition 10(a) states:

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21 *Turner v Allison* [1971] NZLR 833 (CA) at 855-857; and *Olsen v Auckland City Council* [1998] NZRMA 66 (HC) at 70.

22 *Turner v Allison* [1971] NZLR 833 (CA) at 855-857.

23 *Summerset Villages (Lower Hutt) Limited v Hutt City Council* [2020] NZEnvC 31 at [156].

> Within one month of collecting all baseline monitoring data in accordance with Condition 9 (a), a report of the results and an interpretation of the results must be prepared and submitted to the Consent Authority. The report must be prepared by a suitably qualified and experienced person. The report must propose appropriate trigger levels and the trigger levels must be approved by the Consent Authority.

6.24 This is quite different from the situation in *Aspros* where approving engineering plans was within the skill and experience level of the delegate. Here, in the absence of any guidance as to what the purpose of the trigger level is (or indeed which contaminants require trigger levels) determining the appropriate trigger level goes beyond what a council officer could reasonably be expected to determine. Rather, this would involve considering which contaminants need trigger levels, the environmental effects and risks of different trigger levels for each contaminant. This assessment is more properly a function of the resource consent process and exercise of a judicial function.

6.25 The condition as drafted in the s 42A Report is therefore problematic. However, QLDC's expert witnesses consider that the condition can be improved to specify the purpose of trigger limits and guidance a to how those could be determined.

6.26 Condition 27 states:

> The report required by Condition 26 must be certified by the Consent Authority and identify if there is a need to implement additional methods or improvements to the wastewater treatment and disposal system. All recommendations specified in the report and within scope of the consent must be implemented.

6.27 Again, a council officer is not in a position to be able to certify whether additional methods or improvements are needed. There is also no guidance as to what might be the trigger for such measures. The ability to effectively amend the consent in this way would make the conditions vague and uncertain.

Condition 33 is unnecessary

6.28 Condition 33 provides that "[a]ll recommendations specified in the audit report and within scope of the consent must be implemented to ensure the efficient and safe operation of the wastewater treatment system and disposal field."

6.29 Again, requiring recommendations to be implemented in this way would make the consent uncertain. If the audit report shows issues then the appropriate course of action is for ORC to review the consent pursuant to ss 128 and 129 of the RMA, as provided for by condition 39[24] of the proposed conditions.

[24] Condition 39 in the s42A Report version, condition 37 in Appendix 2 of Mr Henderson's evidence.

7 Duration of consent

7.1 If you reach the conclusion that the consent should be granted you will also need to consider the duration of the consent.[25] In my submission the advantages of granting a longer duration consent outweigh the disadvantages:

(a) QLDC is seeking consent to discharge treated wastewater from a future wastewater treatment plant, the operation of which would produce a discharge. Complying with the conditions of consent will require investment in systems, processes and human resources; and as described in Mr. Court-Patience's evidence, the ultimate development scenario may take some time Therefore, a longer term consent will give QLDC the confidence to invest in those systems and resources knowing that the entire regime and requirements will not fundamentally change at the end of a short duration consent.

(b) In this case the cumulative effects of the discharge in combination with existing sewage discharges are likely to decrease over time as more of the existing township joins the reticulated system and existing on-site systems are decommissioned.

(c) Granting a longer term consent does not mean that there has been a failure by the ORC to manage discharges in its region. Rather, this is managed upfront by the robust conditions of consent offered by the application and by the review condition (Condition 30), which operate as an important safeguard for the ORC if a longer term consent is granted.

7.2 Accordingly, QLDC remains of the view that a 35 year consent term is warranted.

8 Conclusions

8.1 The discharge consent will enable a key component of safe wastewater services for Kingston. The proposed discharge (as managed via conditions) will not generate adverse effects on the environment, is consistent with Part 2 of the RMA, and is appropriate in light of the applicable planning and policy framework.

8.2 QLDC seeks that ORC grant the discharge consent on the terms and conditions set out in **Appendix 2** to Mr Henderson's evidence.

Date: 23 December 2022

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[25] The legal principles for considering the appropriate duration of consent have been set out in section 9.6 at p 40 of the s 42A Report and so will not be repeated in these submissions.