

4. Statutory and policy framework

4.1 Statutory provisions

Regional councils have the following functions under the Resource Management Act 1991 (the Act):

31 *Functions of regional councils under this Act.*

Functions of regional councils under this Act

- *Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:*
 - (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:*
 - (b) the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:*
 - (c) the control of the use of land for the purpose of —*
 - (i) soil conservation:*
 - (ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:*
 - (iii) the maintenance of the quantity of water in water bodies and coastal water:*
 - (iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:*
 - (iv) the avoidance or mitigation of natural hazards:*
 - (v) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:*
 - (ca) the investigation of land for the purposes of identifying and monitoring contaminated land:*
 - (d) in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—*
 - (i) land and associated natural and physical resources:*
 - (ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:*
 - (iii) the taking, use, damming, and diversion of water:*
 - (iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:*
 - (iva) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:*

- (v) *any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:*
- (vi) *the emission of noise and the mitigation of the effects of noise:*
- (vii) *activities in relation to the surface of water:*
- (e) *the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—*
 - (i) *the setting of any maximum or minimum levels or flows of water:*
 - (ii) *the control of the range, or rate of change, of levels or flows of water:*
 - (iii) *the control of the taking or use of geothermal energy:*
- (f) *the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:*
- (fa) *if appropriate, the establishment of rules in a regional plan to allocate any of the following:*
 - (i) *the taking or use of water (other than open coastal water):*
 - (ii) *the taking or use of heat or energy from water (other than open coastal water):*
 - (iii) *the taking or use of heat or energy from the material surrounding geothermal water:*
 - (iv) *the capacity of air or water to assimilate a discharge of a contaminant:*
- (fb) *if appropriate, and in conjunction with the Minister of Conservation, —*
 - (i) *the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:*
 - (ii) *the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:*
- (g) *in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—*
 - (i) *soil conservation:*
 - (ii) *the maintenance and enhancement of the quality of water in that water body:*
 - (iii) *the maintenance of the quantity of water in that water body:*
 - (iv) *the avoidance or mitigation of natural hazards:*
- (ga) *the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:*
- (gb) *the strategic integration of infrastructure with land use through objectives, policies, and methods:*
- (h) *any other functions specified in this Act.*

- (2) *A regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control the harvesting or enhancement of aquatic organisms to avoid, remedy, or mitigate —*
- (a) *the effects on fishing and fisheries resources of occupying a coastal marine area for the purpose of aquaculture activities;*
 - (b) *the effects on fishing and fisheries resources of aquaculture activities.*
- (3) *However, a regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), or (vii) to control the harvesting or enhancement of aquatic organisms for the purpose of conserving, using, enhancing, or developing any fisheries resources controlled under the Fisheries Act 1996.*
- (4) *A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:*
- (a) *the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and*
 - (b) *nothing in paragraph (a) affects section 68(7); and*
 - (c) *the rule may allocate the resource in anticipation of the expiry of existing consents; and*
 - (d) *in allocating the resource in anticipation of the expiry of existing consents, the rule may —*
 - (i) *allocate all of the resource used for an activity to the same type of activity; or*
 - (ii) *allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and*
 - (e) *the rule may allocate the resource among competing types of activities; and*
 - (f) *the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e).*

The functions of regional councils are specified in section 30 of the Resource Management Act 1991 (RMA). This gives Gisborne District Council primary responsibility to control use and development activities for the purposes of soil conservation, maintaining or enhancing water quality, maintaining and enhancing aquatic ecosystems, maintaining water quantity, and avoiding or mitigating natural hazards. The Act also gives regional councils other environmental management functions, such as monitoring (section 35), development of regional plans (Part V), resource consents (Part VI), and enforcement (Part XII).

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined:

5(2) In this Act, "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 wellbeing and for their health and safety while –

- a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Well designed, located and maintained on-site effluent treatment systems should be capable of operating for a prolonged period of time with minimal off-site effects.

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the Act. Section 6 is relevant to this report:

6 Matters of national importance

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*
 - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

Section 7 is also of relevance to this report:

7 Other matters

- In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*
 - (a) kaitiakitanga:*
 - (aa) the ethic of stewardship:*
 - (b) the efficient use and development of natural and physical resources:*
 - (c) the maintenance and enhancement of amenity values:*

- (d) *intrinsic values of ecosystems:*
- (f) *maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*
- (h) *the protection of the habitat of trout and salmon:*

Section 8 (Treaty of Waitangi) is also of relevance to this Plan Change:

Section 8 Treaty of Waitangi

- *In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

The Maori environmental world view includes a presumption against resource use which results in degradation of the environment, including eco-systems. Poor management of discharges from sewage has the potential to result in environmental degradation.

A number of principles have been developed over time about the meaning, application and jurisdiction of the Treaty of Waitangi. The principles include involvement in the management and protection of natural and physical resources by Maori. In preparing plans, policies and rules these need to be checked against these principles.

The RMA controls the discharge of contaminants into the environment as follows:

15. Discharge of contaminants into environment

- (1) *No person may discharge any –*
 - (a) *Contaminant or water into water; or*
 - (b) *Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural (c) Contaminant from any industrial or trade premises into air; or*
 - (d) *Contaminant from any industrial or trade premises onto or into land – unless the discharge is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations.*
- (2) *No person may discharge any contaminant into the air, or into or onto land, from –*
 - (a) *Any place; or*
 - (b) *Any other source, whether moveable or not, –*

in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent, or regulations, or allowed by section 20A (certain existing lawful activities allowed).

- (3) *This section shall not apply to anything to which section 15A or section 15B applies.*

Discharges onto or into land that originate from on-site wastewater treatment systems come within the definition of "contaminant" in the Act. In accordance with section 15(1) of the Act, no person may discharge contaminants from on-site wastewater treatment systems into water or into or onto land in circumstances, which may result in contaminants entering water unless the discharge is allowed by a regional rule, a resource consent or a national environmental standard or other regulations.

The preparation and implementation of this part of the RPDW is the only way of avoiding the requirement that every discharge from an on-site wastewater treatment system in the Gisborne region has a discharge permit.

In the case of a plan review, unless a rule in an operative Regional Plan permits the activity, resource consent is required. To have effect both the operative and any relevant proposed plan (including proposed/reviewed plans) must permit the activity before it is allowed without a resource consent. This means that any new permitted rule in the Plan that is not supported by any permitted rules in the operative plan cannot be implemented until the reviewed plan becomes operative.

Sections 63 and 65-68

Sections 63 outlines the purpose of regional plans. Section 65 to 68 inclusive outline the matters to be considered in the preparation and change of regional plans, the matters to be considered by regional councils and what should be contained in a regional plan, including rules. A copy of these sections of the Act is included in Appendix 3.

Under section 65 of the Act, the Council has prepared a Discharges Plan to regulate discharges and hazardous substances. The purpose of the Discharges Plan is to assist Council in meeting its functions as set out in the Act. Under the Act Council is responsible for the sustainable management of the District's natural and physical resources. This includes managing the environmental effects of discharges to land.

Section 70 Rules about Discharges

- (2) *Before a regional council includes in a regional plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the regional council shall be satisfied that, having regard to:*
- (a) *The nature of the discharge and the receiving environment; and*
 - (b) *Other alternatives, including a rule requiring the observance of minimum standards of quality of the environment, – the inclusion of that rule in the plan is the most efficient and effective means of preventing or minimising those adverse effects on the environment.*

Section 70(2) of the Act places a constraint on the application of rules which require the use of the "best practicable option" (BPO). The preference is clearly for a standards based approach unless it can be demonstrated that BPO is more efficient and effective under the circumstances.

The Act defines 'Best Practicable Option' as:

"Best practicable option", in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to —

- (a) The nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
- (b) The financial implications, and the effects on the environment, of that option when compared with other options; and*
- (c) The current state of technical knowledge and the likelihood that the option can be successfully applied.*

This Plan adopts a Best Practical Option ('BPO') approach, and sets standards for the design of wastewater treatment and disposal. If an on-site wastewater treatment system complies with these standards, the discharge of wastewater is considered to be a Permitted activity.

On-site disposal of wastewater is characterised by a large number of small discharges (diffuse discharges). These diffuse discharges produce cumulative effects when in certain proximity to one another.

To develop a Rule defining a minimum standard for the on-site treatment of wastewater is possible, but to monitor the impact of individual systems for compliance with that standard would be impractical and uneconomical. It would also be impractical to insist that all property owners provide an environmental impact assessment and ongoing monitoring programme for their system, if it is of a standard design. The option is still available for Council to require environmental impact assessment and monitoring for individual non-standard designs assessed through the resource consent process.

The efficiencies and capabilities of standard design systems and the expected environmental impacts from using these systems under usual site constraints are well documented. On this basis, it can be determined whether the standard design is the best practicable option for a particular site based on site constraints and the level of environmental protection the standard design system can offer.

New and alternative technologies for effective wastewater treatment and disposal are constantly being developed and will be incorporated into a consideration of best practicable options for a site. This allows the innovation of new technologies to be considered as alternative options for certain sites to protect specific environments. The cost of some new technologies are in proportion to the benefits of the environmental protection required for specific areas for the region. Research and education about alternative and new technologies is essential to ensure the best practicable option can be chosen for a site, and ensure that the cost and benefit of new and alternative technologies are understood and accepted.

Section 79 Review of Policy Statements and Plans

- (1) Every regional council shall commence a full review of its regional policy statement, and each of its regional plans, not later than 10 years after the statement or plan became operative.*
- (2) Every territorial authority shall commence a full review of its district plan not later than 10 years after the plan became operative.*

- (3) *If, after reviewing a policy statement or plan under this section, a regional council or territorial authority considers –*
- (a) *That the statement or plan requires change or replacement, it shall change or replace the statement or plan in the manner set out in Schedule 1 and this Part:*
 - (b) *That the statement or plan can remain without change or replacement, it shall publicly notify that statement or plan as if it were a proposed policy statement or plan in the manner set out in Schedule 1 and this Part.*
- (4) *When a regional council or territorial authority is reviewing a policy statement or plan, it shall review all sections of, and all changes to, the policy statement or plan regardless of when those sections or changes became operative.*
- (5) *A policy statement or plan shall not cease to be operative by virtue of being due for review or while it is being reviewed.*
- (6) *The obligations of each regional council and territorial authority under this section are in addition to its duty to monitor under section 35.*

Section 79 of the Act sets out the statutory requirements relating to the review of policy statements and plans. Under section 79(1) a regional plan must be reviewed no later than ten years from the date on which the plan becomes operative. Section 79 follows on from section 35(2) of the Act, which requires Gisborne District Council to monitor the suitability and effectiveness of plans. This document relates to a Plan Review and associated Plan Change.

Section 86B When rules in proposed plans and changes have legal effect

- (1) *A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1, except if—*
- (a) *subsection (3) applies; or*
 - (b) *the Environment Court, in accordance with section 86D, orders the rule to have legal effect from a different date (being the date specified in the court order); or*
 - (c) *the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with clause 20 of Schedule 1.*
- (2) *However, subsection (1)(c) applies only if—*
- (a) *the local authority makes the decision before publicly notifying the proposed plan under clause 5 of Schedule 1; and*
 - (b) *the public notification includes the decision; and*
 - (c) *the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with section 86C).*

- (3) A rule in a proposed plan has immediate legal effect if the rule—
- (a) protects or relates to water, air, or soil (for soil conservation); or
 - (b) protects areas of significant indigenous vegetation; or
 - (c) protects areas of significant habitats of indigenous fauna; or
 - (d) protects historic heritage; or
 - (e) provides for or relates to an aquaculture management area.
- (4) For the purposes of subsection (2)(c), a decision is **rescinded** if—
- (a) the local authority publicly notifies that the decision is rescinded; and
 - (b) the public notice includes a statement of the decision to which it relates and the date on which the decision was made.
- (5) For the purposes of subsection (3), **immediate legal effect** means legal effect on and from the date on which the proposed plan containing the rule is publicly notified under clause 5 of Schedule 1.
- (6) A rule in a change to a plan proposed by a person under Part 2 of Schedule 1 that provides for or relates to an aquaculture management area and that has been accepted by the local authority under clause 25(2)(b) of Schedule 1 has legal effect on and from the date the change is publicly notified under clause 26(b) of that schedule.

AND

Section 86D Environment Court may order rule to have legal effect from date other than standard date

- (1) In this section, **rule** means a rule—
- (a) in a proposed plan or change; and
 - (b) that is not a rule of a type described in section 86B(3)(a) to (e) or (6).
- (2) A local authority may apply before or after the proposed plan is publicly notified under clause 5 of Schedule 1 to the Environment Court for a rule to have legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.
- (3) If the court grants the application, the order must specify the date from which the rule is to have legal effect, being a date no earlier than the later of—
- (a) the date that the proposed plan is publicly notified; and
 - (b) the date of the court order.

Staff considered the possibility of delaying the date when the Proposed Plan Change has effect until the date of the hearing decision, in case changes are made to the Rules through the submissions process; and in the event no changes are made, there is a greater lead in time for compliance with mandatory inspection and cleaning.

However this is not possible because section 86D does not provide for the Environment Court to make such an order for Rules that protect or relate to water, air, or soil (for soil conservation) (section 86B3(a)). The Proposed Rules in the Plan protect and relate to water, air and soil.

It is possible to control time frames for compliance within the Rules and the time frame for compliance with inspection and cleaning requirements is within five years of the date that this plan becomes operative.

Schedule 1 of the Resource Management Act 1991

Schedule 1 of the Act contains the procedures for preparation, change and review of Regional Plans. The Schedule is in two parts: the contents of Part I are of general application; those in Part II apply to changes to plans that are not initiated by the local authority. Part III relates to the Incorporation of documents by reference in plans and proposed plans.

This plan review has been prepared in accordance with Schedule 1 of the RMA and Parts I and III apply.

Summary

Part III of the Resource Management Act 1991 describes the duties and restrictions under the Act, which includes section 15 (discharges to the environment). GDC also has responsibility under Section 30(1)(f) of the Act to control discharges of contaminants into or onto land, water and discharges of water into water. In some cases, the discharge of wastewater from on-site wastewater systems in the Gisborne District is a Permitted activity, provided all of the general conditions of a permitted activity rule can be met.

Where Council has regional rules to manage a discharge to the environment, it assesses the risk of the activity relative to its main responsibilities under section 30 of the Act. Regional Councils can only write Permitted activity rule conditions to avoid, remedy or mitigate adverse effects on soil conservation values, water quality, water quantity, natural hazards, and aquatic vegetation and habitats.

Where a discharge from an on-site wastewater treatment system cannot meet the requirements of a permitted activity rule, it will default to a Discretionary activity and require a resource consent from GDC. Where the discharge from an on-site wastewater treatment system requires a resource consent under this plan, the activity will be assessed in accordance with this Plan.

GDC considers that the actual and potential environmental impacts identified in this report are sufficiently serious to warrant the development of objectives, policies, rules and other methods of implementation to control contamination caused by the discharge of wastewater from on-site wastewater treatment systems. GDC is required to fulfil its responsibilities under sections 15 and 30(1)(f) of the Act, namely to control specific, identified sources of contaminants which are having a measurable adverse effect on the environment.

4.2 National, Coastal and Regional Policy Statements

Section 67(3) of the Act requires that a Regional Plan give effect to any national policy statement (NPS), any New Zealand coastal policy statement (NZCPS) and to the regional policy statement (RPS).

National Policy Statement

A National Policy Statement for Freshwater Management was gazetted on 12 May 2011. The National Policy Statement: Freshwater Management 2011 contains objectives, policies and methods for water quality and integrated resource management that are relevant to this plan change. A copy of the relevant parts of the NPS is included in Appendix 3.

Policy A3 of the NPS requires that conditions be placed on discharge permits to achieve water quality limits and targets that are to be set by regional councils and also the adoption of the best practicable option to prevent or minimise adverse effects of contaminants on freshwater bodies. The latter is a similar requirement to section 70(2) of the Act. The NPS also has objectives and policies in Section C promoting the improvement of the integrated management of freshwater, eco-systems and the coastal environment as impacted by of the use of land and objectives and policies providing for the role and interests of tangata whenua (Section D). The reviewed RPDW incorporates the requirements of the NPS for freshwater management.

New Zealand Coastal Policy Statement 2008 (NZCPS)

The NZCPS contains policies associated with the enhancement of water quality where the quality of water in the coastal environment has deteriorated; and policies associated with the management of sewage discharges in the coastal environment. Policies 21 and 23 are the most relevant to this project and are included in Appendix 3. These policies require that water in the coastal environment is protected from discharges of contaminants, namely through not allowing the discharge of human sewage directly to water and only allowing the discharge of treated human sewage to water in certain circumstances. The revised RPDW implements the NZCPS.

Regional Policy Statement

The RPDW must be consistent with the Gisborne District Regional Policy Statement (RPS). Chapter 8 of the RPS contains regional objectives, policies and methods relating to issues arising from discharges of contaminants.

Policies 8.5 and 8.6 are particularly relevant to this Plan change:

- 8.5 Point and non-point discharges of liquid waste can adversely affect the environment.*
- 8.6 A large portion of the region does not have access to a reticulated sewage system. The effects, especially localised and cumulative, of individuals disposing of their own domestic waste can be adverse.*

The relevance of these is that they seek to reduce contamination of surface water and reduce threat to human health and the environment from the collection and disposal of liquid waste. They also seek to maintain or enhance water quality. There are also higher level objectives, policies and methods relating to achieving the integrated management and monitoring of resources and the protection of water bodies and coastal environment throughout the RPS.

The objectives, policies and methods within the RPS have been incorporated into the amended Chapter 1, Chapter 7 and Appendices of the RPDW.

4.3 Other Regional Plans

Gisborne District Council has other Regional Plans that relate to matters addressed in the Proposed Plan. Integration between Regional Plans will be important in terms of overall efficiency and effectiveness. The other relevant regional plans are:

- Part Operative Combined Regional Land and District Plan (although not primarily intended to control discharges of contaminants from on-site wastewater treatment systems onto or into land, this regional plan will control other activities that can affect water quality and requires that certain activities to be provided with on-site wastewater systems, where they are not serviced by reticulation. This Plan is the document that controls subdivision and section sizes).
- Operative Regional Air Quality Management Plan (some discharges of on-site effluent have aspects affecting air quality, such as odour).
- Proposed Regional Coastal Environment Plan (the Coastal Plan contains objectives, policies and methods relating to coastal areas landward of Mean High Water Springs, which are implemented to some degree by provisions in the Discharges Plan).

4.4 Other Statutory and Non-Statutory documents

National environmental standards

The RMA provides for Government to prepare national environmental standards. Plans must implement any requirements of National Environmental Standards (NES). The Ministry for the Environment formally stated its intention not to progress with the Proposed National Environmental Standard for On-Site Wastewater Systems in December 2010. The Ministry stated that the proposed NES would potentially create inefficient and essentially ineffective regulation at the national level as there was no guarantee of any significant level of health and/or environmental benefits.

The NES for Sources of Human Drinking Water is relevant to the Discharges Plan. The purpose of this NES is to reduce the risk of contaminating human drinking water sources (e.g. rivers and groundwater). It does this by:

- Requiring that councils do not grant discharges and water permits which would allow drinking water sources to be polluted to the extent where the existing treatment method cannot then make the water safe to drink; and
- By not allowing permitted activities in regional plans that will result in a similar deterioration in the quality of drinking water sources.

However, the provisions apply only to activities that may affect the quality of a registered drinking water supply providing 501 people or more with drinking water for 60 or more calendar days in a year. There would be a very limited number of potential discharges in the Gisborne District that would be affected by these standards.

New provisions will be written into the Plan ensuring that discharges are sufficiently clear of drinking water supplies in accordance with the NES.

Other legislation

There are a number of pieces of legislation relevant to this Plan Change. Gisborne District Council is a Unitary Authority, meaning that it carries out the all functions of a regional and territorial authority within the same jurisdictional boundary.

Building Act 2004

The Building Act 2004 is administered the Ministry of Internal Affairs. It covers health issues related to construction and design to ensure buildings and structures are safe and sanitary. On-site wastewater systems are considered to be part of the building under the Building Act, where no reticulated sewage recovery system is available. The purposes of the Building Act 2004 are intended to be achieved through a building code, formed by regulation (Section 400).

The day-to-day administration of the Building Act 2004 lies with local authorities who are required to ensure that all building work complies with the Building Act before issuing a building consent (section 51). Staff who assess applications for building and plumbing and drainage consents also need to establish whether any associated proposals for on-site wastewater treatment are consistent with the RPDLW. The Act covers health issues related to construction and design to ensure buildings and structures are safe and sanitary. The Building Act can help to prevent problems associated with the management of wastewater from arising.

Health Act 1956

The Ministry of Health administers the Health Act 1956, which in regard to on-site wastewater treatment is concerned primarily with the avoidance of risks to human health. Territorial authorities are also bound by the Health Act to ensure that no conditions injurious to health and public nuisance arise from the management and treatment of on-site wastewater. The general powers and duties of local authorities in respect to public health are listed in section 23 of the Health Act. The Health Act gives territorial authorities a duty to “improve, promote and protect” public health. Local authorities must also provide sanitary works, which includes infrastructure for the disposal of sewage (section 25). The Act requires the territorial authority to ensure that no conditions injurious to health and public nuisance arise from the management and treatment of on-site effluent (section 29). Councils have wide powers to establish bylaws to control the handling and storage of noxious substances, including septage. Dwelling houses must have adequate provisions for and suitable appliances for the disposal of effuse water in a sanitary manner (section 39).

The Health Act is largely retrospective in the context of wastewater management, as it deals with problems that have already occurred, for example the failure of on-site wastewater treatment systems and the consequent contamination of water resources. It is complementary to the RMA which focuses on the health of the environment, which includes human health.

Local Government Act 2002

This Act is administered by the Ministry of Internal Affairs. Part 8 of the Local Government Act 2002 gives territorial authorities the power to establish general bylaws for the purposes of protecting the public from nuisance and protecting, promoting, and maintaining public health and safety (section 145). Territorial authorities may also make specific bylaws for the purposes of regulating on-site wastewater disposal systems (section 146).

A council may not make a bylaw under this Act that purports to have the effect of requiring a building to achieve performance criteria additional to, or more restrictive than, those specified in the Building Act 2004 or the building code (section 152). A special consultative procedure must be followed for making a bylaw under this Act (section 86).

On-site Wastewater Guidelines

Gisborne District Council published a set of guidelines entitled 'Guidelines for On-site Wastewater Treatment and Disposal in the Gisborne District' in April 2002 and they are being reviewed as part of this project to improve the management and environmental performance of on-site wastewater systems. The guidelines have been updated and improved with additional technical material, site assessment requirements, approved assessor criteria and additional design advice. The *Guidelines for On-site Wastewater Management 2011* ("Guidelines") will be incorporated into the Discharges Plan and be notified alongside Proposed Plan Change 1.

Cultural Considerations

Sections 6, 7 and 8 of the Resource Management Act 1991 make specific provisions for Maori traditional and cultural matters to be addressed. This plan seeks to recognise and provide for cultural interests in water quality.

Traditionally, Maori disposed of human waste 'through-land'. It is believed that all wastes should be returned to Papatuanuku (the land) who is the agent of purification, rather than disposing to water (including where the waste has been treated). Water is regarded as representing life force (mauri). Any impact on the mauri of water has an impact on the mauri of those resources associated with water and the ability to use those resources. Water, both in freshwater and coastal environments, is a current and potential source of food (kai moana, mahinga kai). The ecology of a water body is also of concern to Maori. Water is also a spiritual resource for Maori. In summary, degradation of water quality due to the discharge of human effluent adversely affects both the physical and cultural resources of Maori.

Land-based treatment systems are seen as a viable alternative to discharge into water, and the use and development of land based treatment systems should be promoted provided that they are appropriately managed. Wastewater from tanks should be prevented from entering ground or surface water to avoid cultural offence. Systems should be adequately designed taking into account the specific site characteristics to prevent this from occurring. This Plan Change seeks to address these concerns by improving the treatment, storage and disposal of human and domestic waste.

Pre-consultation for this review has been broad and has not specifically targeted iwi, however iwi will have an opportunity to express their views as part of the formal consultation process for this Review.