

LEGAL FRAMEWORK FOR COMMUNAL WATER AND WASTEWATER SYSTEMS

Definitions

Communal Wastewater System ("CWWS')	means those parts of the Wastewater System downstream from the check/isolation valve located on each individual residential (or the three rural-residential) Lots, such communal wastewater system to be owned and operated by the IA for the benefit of each of the residential or rural-residential Lots serviced by the CWWS.
Communal Water System ("CWS')	means those parts of the Water System which are downstream from the TDC treated water network point of bulk supply (point of bulk supply anticipated to be 100mm valve located in Stagecoach Road controlling intake to the 300m ³ steel water storage tank located on proposed Lot 146), excluding pipes, valves, flow restrictors and tanks located within the boundaries of each residential Lot.
Long Term Operation and Maintenance Plan(s)	means the Plan(s) to be commissioned by the Developer from independent professional water and wastewater engineering consultant(s) prescribing the operation, maintenance, capital repairs and improvements for the CWS and CWWS.
Lot(s)	means a lot shown on the Scheme Plan.
Infrastructure Association ("IA")	means the incorporated society to be established for the purposes of owning operating and managing the CWS and CWWS as referred to in Schedule A attached.
NZTA Licence to Occupy Area	means a Licence to Occupy the land shown as Section 34 SO Plan 440217 to be granted by the New Zealand Transport Agency to the IA for the disposal of treated wastewater.
TDC Licence to Occupy Roads	means a Licence to Occupy TDC vested roading corridors to the extent that such parts of the CWS and CWWS are located on or under such roading corridors.
Wastewater System	means the privately owned and operated communal wastewater system servicing the 98 residential Lots and 3 rural-residential Lots 87, 111 and 145 including the waste disposal tanks, pumps, valves and pipework situated on each individual Lot connecting to reticulated pipework under the TDC

vested roading corridors, such pipework connecting into the private wastewater treatment plant, tanks, pumping systems, driplines and disposal fields to be located on Lots 134 and 144 and the Licence to Occupy Area.

Water System

means the privately owned and operated medium networked supply for potable water servicing the 98 residential Lots and 3 rural-residential Lots 87, 111 and 145 including storage tanks, flow restrictors, valves, meters and pipes located on each individual Lot and under TDC vested roading corridors and including the 300m³ storage tank located on proposed Lot 146.

Legal Ownership and Vesting of CWS and CWWS

1. The CWS and CWWS will be constructed, commissioned and owned initially by the Developer as referred to previously in this Application. Prior to the issuing of the Section 224 Certificate for the first stage of the development involving the residential Lots (anticipated to be Stage 3), the Developer will establish and register the IA.
2. The comprehensive constitution for the IA will be submitted to the TDC with the Section 224 Application for the first stage involving residential Lots (anticipated to be Stage 3) so that the TDC can certify that it complies with the requirements of the subdivision consent and the relevant discharge and water consents.
3. The Long-term Operation and Maintenance Plan(s) for the CWS and CWWS will be commissioned by the Developer prior to the Section 224 Application for the first stage involving residential Lots and submitted with that Application for certification as to compliance by the TDC.
4. The New Zealand Transport Agency has confirmed its agreement to grant a Licence on its usual terms for the NZTA Licence to Occupy Area for the purposes of a treated wastewater disposal field. The Developer will assign such Licence to the IA contemporaneously with the deposit of the subdivision plan for the relevant stage.
5. Those parts of the CWS and CWWS which are located under TDC vested roading corridors will be covered by a TDC Licence to Occupy Roads to be granted by the TDC in favour of the IA.
6. The Developer will transfer the CWS and CWWS, including the water storage tank site Lot 146, disposal field Lot 144, the reserve wastewater disposal field Lot 139, the TDC Licence to Occupy Roads, NZTA Licence to Occupy Area, to the IA contemporaneously with the deposit of the subdivision plan for the relevant stage and issuing of titles.

TDC Consent Notices

7. It is anticipated that the subdivision consent will require Consent Notices to be registered on the titles for the residential Lots and Lots 87, 111 and 145 recording the requirement for privately owned Water and Wastewater Systems to be installed and maintained on each residential Lot by the owner of that Lot and connected to the CWS and CWWS. It is further anticipated that the Consent Notice will record the requirement for the owner of the residential Lot to become a member of the IA.
8. A Consent Notice is anticipated over the disposal fields Lots 139 and 144 recording that these Lots must be used only for the purposes of the CWS and CWWS, stating any prescribed vegetation measures, and requiring that these lots must be held in the ownership of the IA.
9. A Consent Notice is anticipated over the water storage tank site Lot 146 recording that the Lot must only be used for the purposes of the CWS.

Land Covenants in Gross

10. The Developer will register Land Covenants in Gross in favour of the IA on each residential Lot title recording, amongst other matters, that the Lot is serviced by a private CWS and CWWS and requiring the Lot owner to install and maintain the privately held part of the Water and Wastewater Systems including storage tanks, valves, meters, flow restrictors, disposal tanks, pumping systems and pipework connections to the TDC vested pipework and the CWS and CWWS. The Land Covenants will further record that the owner will be deemed to be a member of the IA for so long as they own the relevant Lot and are required to comply with all provisions of the Constitution of the IA in relation to the CWS and CWWS.

Easements

11. To the extent that any part of the CWS or CWWS crosses, or is located on any land held in private ownership other than owned by the IA, private water or wastewater easements, as the case may be, in gross in favour of the IA would be registered on that land.

SCHEDULE A

Ownership of Communal Water and Wastewater System – Infrastructure Association

1. The CWS and CWWS will be held in a separate legal entity. This is anticipated to be an infrastructure association (“IA”) in the form of an incorporated society under the Incorporated Societies Act 2022.
2. The IA will have a comprehensive Constitution, registered under the legislation, which will regulate the membership and how the IA will control and manage the CWS and CWWS.
3. Broadly the Constitution of the IA will include the following:

a. Membership

Each lot owner using the CWS and CWWS will be deemed to be a member of the IA as a condition of ownership. This requirement will be secured by means of a restrictive covenant registered on the Title to the relevant lot. If deemed appropriate, this may also be included in a Consent Notice in favour of the TDC registered on the Title.

b. Developer – Controlling Member

The Developer will be defined as the Controlling Member of the IA and will have a controlling voting interest in the IA, until such time as the final Lot has been sold or the Developer gives notice to the Board that it relinquishes its position as Controlling Member, upon which the Developer will cease to be a member of the IA.

c. Objects

The objects will be framed restrictively such that the IA will be solely for the purposes of owning, managing, maintaining and operating the CWS and CWWS including maintaining the vegetation on Lots 139, 144 and the Licence to Occupy Area; ensuring compliance with the terms of all applicable water supply regulations and legislation, the applicable TDC resource consents and seeking renewals of any such consents as required prior to the expiry of the relevant consent ; ensuring that the CWS and CWWS are owned and controlled, in perpetuity, for the benefit of the members; requiring the IA to appoint an independent professional to manage the IA including the CWS and CWWS in accordance with approved CWS and CWWS Long-Term Operation and Maintenance Plan.

d. Board

The IA will be governed, as required under the legislation, by a Board (committee) (to be elected by the members) comprising a chairperson, secretary, and treasurer with up to two additional members. For such time as the Developer remains a controlling member of the IA, then the Developer will be deemed to be a member of the Board.

e. Elections/meetings/voting

The constitution will include comprehensive rules around elections of the committee, holding of meetings (both AGM and SGMs) of the members and voting rights, as required by the legislation.

f. Levies/Subscriptions

The ongoing operation, maintenance and repairs of the CWS and CWWS will be funded by annual levies on all members of the IA as determined by the Committee.

g. Capital Repairs and Replacement Fund and Operational Fund

The IA, through its Committee, will establish a capital repairs and replacement fund, to be used for major repairs, renewals and asset replacement. The IA, through its Committee, will separately establish an operational fund, to be used for day-to-day operation and maintenance of the systems. Both funds will be maintained through levies upon members of the IA.

h. CWS and CWWS Long Term Operation and Maintenance Plan

Prior to the establishment of the IA, a detailed long-term operation and maintenance plan for the CWS and CWWS will be commissioned by the Developer from a suitably qualified professional. This plan will be referred to in the Objects of the IA under the Constitution with the requirement that the IA must implement that Plan and will ensure compliance, as applicable, with all statutory and regulatory requirements imposed on the IA as a supplier of potable water.

i. External Manager

The Constitution will require the IA to appoint a professional external manager to manage the administration and performance of all obligations of the IA including the appointment of professional independent consultants to manage the CWS and CWWS in accordance with the Long Term Operation and Maintenance Plan. For such time as the Developer has a controlling interest in the IA, then the appointment of the external manager will be determined by the Developer.

j. Wastewater plant within private lots connected to the CWWS

The Constitution will require individual lot owners to agree to provide access for monitoring and maintenance of wastewater plant (on-site pumps and tanks) located within their properties, where this plant connects to the CWWS. The Constitution will require those individual lot owners to repair or replace wastewater treatment system components within their own property at their own cost, and to provide access to and indemnify the Infrastructure Association should it be required to undertake such repair or replacement due to failure or refusal by the individual lot owner.

k. Insurance

The constitution will require the IA to hold appropriate insurance for the CWS and CWWS funded through the members levies.

l. TDC Consents

The TDC consents for the development and, in particular, relating to the CWS and CWWS, will be specifically referred to in the Objects of the IA. The Constitution will require the IA to comply with those consents and ensure compliance by all members.

m. Dispute Resolution

As required under the legislation, there will be comprehensive provisions around dispute resolution.

n. Winding Up of IA/Disposal of CWS and CWWS Assets

The Constitution will provide a winding up process in accordance with the legislation. Upon any winding up, the CWS and CWWS could only be distributed to another not-for-profit entity constituted for the purposes of holding the CWS and CWWS, unless the TDC had specifically consented otherwise.