

**AGREEMENT
FOR
DISPOSAL OF TRADE WASTE**

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DATED

PARTIES:

1. The NELSON REGIONAL SEWERAGE BUSINESS UNIT acting by and through the Nelson City Council and the Tasman District Council (“the NRSBU”)
2. **[CUSTOMER NAME]** (“the Customer”)

INTRODUCTION

- A. This Agreement is made pursuant to the Local Government Act 2002.
- B. The Nelson Regional Sewerage Business Unit has been established as a joint committee by the Nelson City and Tasman District Councils to manage and operate the sewerage scheme described in Schedule 5 to this Agreement, and has been delegated the authority to enter into all contracts on behalf of the Councils necessary for the proper operation of the said sewerage scheme.
- C. The Customer has discharged trade waste into the sewerage scheme through a connection under an existing agreement with the Councils.
- D. The parties have agreed that from the commencement date the terms and conditions that shall apply to the discharge of trade waste by the Customer shall be as set out in this agreement.

1 INTERPRETATION

- 1.1 For the purposes of this Agreement, unless the context otherwise requires, the following words and expressions have the following meanings:

Act	The Local Government Act 2002;
Actual Discharge Levels	Means the total loads and flows discharged by a contributor or contributors within any specified period, as recorded by the NRSBU through sampling and monitoring carried out pursuant to clause 8 to this agreement;
Agreement	This Agreement and all of its Schedules, and includes any variation agreed to in writing by the parties;
Applicable Financial Reporting Standard	In relation to a reporting entity and to an accounting period means a financial reporting standard approved by the Accounting Standards Review Board that applies to that reporting entity and to that accounting period;
Authorised Representative	That person who is appointed pursuant to clause 12 to act for either party under this Agreement;
Average Loads	Average 4 day Concentration (g/m ³) multiplied by volume (m ³) for the month;
BOD₅	5 Day-Biochemical Oxygen Demand;

Business Day	Any day of the week Monday to Friday inclusive;
Bylaw	The Nelson City Council Trade Waste Bylaw 2007 (214), or any amended, updated or replacement version that is to the same effect;
Capacity	The flows and loads set out in Schedule 3 hereof, as being the maximum amount of Trade Waste which the Sewerage Scheme is capable of receiving, treating or disposing of in compliance with any statutory requirement or Resource Consent;
Capital	Means the costs of assets acquired or developed (including tangible, intangible, or financial assets and any ownership interest in entities, but excluding inventories);
CAPM	Cost Allocation and Pricing Model as set out in Schedule 4 to this Agreement;
Characteristic	Any of the physical or chemical characteristics of the Trade Waste discharged to the Sewerage Scheme as set out in Schedule 2 to this Agreement;
COD	Chemical Oxygen demand;
Commencement Date	The commencement date specified in Schedule 1 to this Agreement;
Concentration	The ratio of the mass of BOD, COD, or Suspended Solids, as the case might be, to the volume of Trade Waste discharged by a Customer, expressed in g/m ³ ;
Confidential Information	<p>Includes, but is not limited to all Information pertaining to the affairs, policies, processes, costings, pricing methods, personnel, operations, finances, documentation or corporate, contractual or technical aspects of the business of the parties; any products or schemes marketed, developed or utilised or considered or that could be considered for marketing, development or utilisation by any of the parties; and any Information in any form whatsoever at any time in whole or in part that is based or derived from such Information but shall not include Information that is:</p> <ol style="list-style-type: none"> a) independently acquired or developed by the party receiving the Information without the benefit or use of any Confidential Information; b) publicly known or which becomes publicly known after the date of this Agreement other than through breach or non-performance by the party receiving the Information or its employees, agents or sub-contractors of any of their obligations under this Agreement; or c) lawfully received by the party receiving the Information from a third person not owing (directly or indirectly) any obligation of confidentiality to the party disclosing the Information.
Cost of Capital Margin	An amount expressed as a % addition to the WACC being 1.5%;

Councils	The Nelson City Council and the Tasman District Council;
Councils' Share	Means the difference between the Capacity of the Sewerage Scheme as detailed in Schedule 3 to this Agreement and the total Maximum Discharge Rights of all customers that the NRSBU contracts with for the discharge of Trade Waste into the Sewerage Scheme, determined in accordance with clause 6 of this Agreement;
Customer	Any person or legal entity who has entered into an agreement with the NRSBU to discharge Trade Waste into the Sewerage Scheme from industrial or commercial premises through a Connection to the Sewerage Scheme and includes the Customer's Authorised Representative;
Discharge Point	The discharge point specified in Schedule 1 to this Agreement being the point at which the Customer's premises connect to the Sewerage Scheme;
Event	Any 4 day period of monitoring undertaken by the NRSBU to determine Trade Waste discharges to the Sewerage Scheme, for the purpose of charging or applying penalties. In relation to Peak Flows means any single Rainfall Event;
Excess Discharge	Any loads and/or flows of trade waste discharged to the Sewerage Scheme in excess of the agreed Maximum Discharge levels set out within Schedule 2 to this agreement;
Excess Discharge Cost	The Charges applied in respect of an Excess Discharge to the Sewerage Scheme as determined pursuant to clause 9 of this Agreement;
Excluded Substances	Raw materials, products or waste containing corrosive, toxic, biocidal, radioactive, flammable or explosive materials, or any material which when mixed with the general waste stream is likely to generate toxic, flammable, explosive or corrosive materials in quantities likely to be hazardous, or any other material likely to be harmful to the Sewerage Scheme and/or the treatment processes or to be deleterious to the health and safety of NRSBU staff and agents or the public;
Expiry Date	Any expiry date specified in Schedule 1 to this Agreement;
Fixed Charge	The Charges relating to depreciation of the Sewerage Scheme plus the Optimised Depreciated Replacement Value multiplied by the Internal Rate of Return;
Force Majeure Event	Any event reasonably beyond the control of either party including but not limited to strikes, lockouts, riots, acts of war, epidemics, governmental action superimposed after the date of this Agreement, fire, flood, drought, earthquakes and other natural disasters;
Information	All business, personal, strategic and technical information or data in any form whatsoever disclosed to or received by any of the

	parties pursuant to this Agreement, and including Confidential Information;
Internal Rate of Return	The WACC plus the Cost of Capital Margin;
Maximum Discharge Right	The right to discharge Trade Waste into the Sewerage Scheme up to a maximum level for any of the Characteristics as set out in Schedule 2 to this Agreement;
Node	A group of facilities which together provide a specific form of treatment or conveyance and which because of their relationship are grouped together for the application of Charges pursuant to clause 6;
Normal Working Hours	The hours of 8.00am to 4.30pm on any business day;
NRSBU	The Nelson Regional Sewage Business Unit established as a joint committee, by the Councils in March 2000, and its Authorised Representatives;
Operation and Maintenance	The estimated or actual costs relating to the operation and maintenance of the Sewerage Scheme, and excluding depreciation;
Optimised Depreciation Replacement Value	The current gross replacement cost less allowances for physical deterioration and optimisation for obsolescence and relevant surplus capacity;
Peak Flow	The highest average flow expressed as l/s measured over a one half hour period per storm event;
Penalty Interest	The penalty rate of interest determined by the NRSBU from time to time being approximately 2.5 times the 90 day bill rate of the major trading banks calculated on a daily basis;
Premises	The premises specified in Schedule 1 to this Agreement;
Rainfall Event	An Event, which starts once 24 hours has elapsed without rain;
Relevant Standard	A standard that is defined in Schedule 6 to this Agreement;
Resource Consent	Any resource consent held by the Councils or by the NRSBU for the purposes of the operation of the Sewerage Scheme;
Sewerage Scheme	The scheme for the reception, conveyance, treatment and disposal of Trade Waste described in Schedule 5 to this Agreement, the assets of which are jointly owned by the Councils;
SS	Suspended Solids;
TKN	Total Kjeldahl Nitrogen;
TP	Total Phosphorus;
Trade Waste	The waste that may be discharged by a Customer as specified in this Agreement and as defined in the Bylaw and including sewage;

WACC	The Weighted Average Cost of Capital which is determined at the start of each year based on the average cost of debt as at 30 June of the previous year, provided it shall not exceed the 90 day bill rate as at 30 June of the major trading banks plus 3%;
Written or in Writing	Includes any email communication which is sent accompanied by a request for a delivery receipt;
Year	The financial year commencing 1 July in any year and ending 30 June in the following year;

2 TERMINATION OF ORIGINAL AGREEMENT

- 2.1 All existing contracts or agreements between the Customer and the NRSBU, or either of the Councils, in relation to the right of the Customer to discharge Trade Waste into the Sewerage Scheme, are terminated and replaced with this Agreement on its Commencement Date. Provided that such termination shall be without prejudice to the rights of either party against the other as existing up to the date of termination of the said contracts or agreements.

3 AGREEMENT TERM

- 3.1 This Agreement was deemed to have commenced on the Commencement Date and shall expire on the Expiry Date, unless there is not one, in which case it shall continue until such time as it is varied by agreement between the parties or terminated in accordance with clause 18 of this Agreement.

4 DELEGATION OF COUNCILS' OBLIGATIONS

- 4.1 The Customer acknowledges that the Councils have delegated the authority for the management of the Sewerage Scheme for the time being to the NRSBU, and that the NRSBU may at its discretion sub-delegate or contract out the performance of its obligations under this Agreement or perform any of its obligations jointly with any other party.

5 RECEPTION, TREATMENT AND DISPOSAL OF TRADE WASTE

- 5.1 Subject to the provisions of this Agreement, the Customer may discharge into the Sewerage Scheme at the Discharge Point, for treatment and disposal, all Trade Waste produced by the Customer at the Premises but may not discharge any other substances without the express consent of the NRSBU.
- 5.2 In exercising its right under clause 5, the Customer must ensure that it complies with the Bylaw and any Resource Consent conditions notified to it by the NRSBU, and that the Characteristics do not exceed the maximum levels specified in Schedule 2 to this Agreement apart from when pre-arranged discharges under 7.3 for abnormal loads or load sharing under section 9.2 apply.
- 5.3 If either the Customer or NRSBU becomes aware of any non-compliance or any likelihood of any non-compliance with clause 5.2 that party must forthwith notify the Authorised Representative of the other party in writing of such non-compliance or potential non-compliance giving reasonable details of the nature of the non-compliance or potential non-compliance and:
- a) The Customer must, within 24 hours of written notification to the NRSBU or on receipt from the NRSBU of the notices described above:
 - I. explain in reasonable detail the reason(s) for the non-compliance or potential non-compliance;
 - II. consult with the NRSBU regarding the methods and time frames within which such non-compliance will be avoided or remedied and/or actions will be taken to ensure the effects of the non-compliance will be mitigated and, if applicable, the actions to be

taken by the Customer to ensure such non-compliance will not occur in future and the time frames within which such actions will be implemented;

III. comply with any requests from the NRSBU to take or refrain from actions in order to avoid or remedy the non-compliance or mitigate its effects.

b) Should:

I. The reasons for non-compliance or potential non-compliance and/or the remedies or actions proposed by the Customer under clause 5.3(a) above in the opinion of the NRSBU not be satisfactory; or

II. The Customer not comply with clause 5.3 within 48 hours of the delivery of the notice or receipt of the notices described above, or in the opinion of the NRSBU not make reasonable progress towards achieving compliance; or

III. The Customer not implement measures to ensure there will be no occurrence or re-occurrence of such non-compliance, or reasonable progress towards such implementation;

the NRSBU may refuse to receive all or any component of the Trade Waste from the Customer for discharge into the Sewerage Scheme and may take such action as may be required to restrict or prevent the further discharge of any Trade Waste from the Customer.

5.4 The NRSBU must, to the extent practicable and reasonable, keep the Customer informed of any variations or intended variations to its existing Resource Consents and of any procedures or processes undertaken or planned to be undertaken by the NRSBU in respect of any such variations that may impact on the provisions of this Agreement, including the variation of the terms of this Agreement.

Provided that no less than 3 months notice must be given to the Customer should the NRSBU require to vary the terms of this Agreement to ensure compliance with any Resource Consent or variation thereof.

5.5 The Customer must establish and maintain an Emergency Management Plan which will detail the Customer's procedures which the Customer must follow to minimise risk of non-compliance. The Customer must seek, consider and incorporate feedback of the NRSBU in the formulation of such Emergency Management Plan.

5.6 The NRSBU must establish and maintain an Emergency Management Plan which will detail the procedures which the NRSBU must follow to minimise risk of failure of any critical component of the Sewerage Scheme and the contingency actions to be taken in the event of any such failure. The Emergency Management Plan must be available for inspection by the Customer on request.

5.7 The NRSBU must at all times prudently manage the Sewerage System so as to provide the appropriate services for the purpose of receiving, treating and disposing of the Trade Waste discharged by the Customer under the provisions of this Agreement.

6 ANNUAL VARIATION

- 6.1 The rates of Charges, and the Maximum Discharge Rights under this Agreement, must be reviewed by the Customer and the NRSBU annually by 1 June for the following financial year.
- 6.2 The Customer must, before 1 June in every year that the contract subsists, advise the NRSBU of the maximum discharge levels which the Customer anticipates the Trade Waste discharged from its Premises will meet for the ensuing year. In the event that the Customer does not provide this advice to the NRSBU, the NRSBU may, for the purposes of this clause, adopt as the Maximum Discharge Rights for the ensuing Year values reflecting the actual Maximum Discharge Levels discharged from the Customer's Premises over the previous Year.
- 6.3 The NRSBU must maintain a CAPM to the specifications set out in Schedule 4 to this Agreement, which identifies each Node of the Sewerage Scheme and which provides for the allocation of the total Operation and Maintenance costs of the Sewerage Scheme, including the cost of the Capital employed (but excluding any costs related to the Councils' Share), among the Customers according to the use which each makes of each of the Nodes for the treatment of the Trade Waste discharged to the Sewerage Scheme, and which provides for the creation of Charges on the basis of the services provided sufficient to enable the NRSBU to recover the said costs of running the Sewerage Scheme.
- 6.4 The NRSBU may at its discretion modify the CAPM if in the opinion of the NRSBU it is necessary, to reflect changes in the configuration or operation of the Sewerage Scheme, provided however should it propose to do so it must supply a copy of the proposed changes to the Customer and receive and consider any feedback from them before implementing any such modifications.
- 6.5 Following collection of the information under clause 6.2, the NRSBU shall, using the CAPM and on the basis of its budgeted expenditure in relation to the Sewerage Scheme, assess the fees and charges payable by the Customer in respect of the Maximum Discharge Rights proposed, provided that no such fees and charges shall be levied in respect of any capacity in excess of that detailed in Schedule 3 to this Agreement.
- 6.6 Should the NRSBU determine that the total Maximum Discharge Rights of all of its customers will exceed the Capacity of the Sewerage Scheme as detailed in schedule 3 of this Agreement, it shall immediately advise the Customers who must either re-assess their requirements or invoke the provisions of clause 11.
- 6.7 The NRSBU must review Schedule 3 at least annually and shall advise the Customer in writing if it wishes to vary the Schedule.

7 CHARGES AND TERMS OF TRADE

- 7.1 The Customer will pay the NRSBU for the reception of Trade Waste discharged from its Premises during the term of this Agreement at rates fixed by the NRSBU which are based on the Charges derived from application of the CAPM in accordance with clause 6.
- 7.2 The Charges levied shall comprise a fixed charge for the month of the invoice and a variable charge based on the Actual Discharge Levels discharged by the Customer during the previous

month, payable to the NRSBU by the 20th of the month following. For the initial monthly charge the variable charge will be based on the estimated Maximum Discharge Levels.

7.3 It is acknowledged that customers will periodically discharge wastewater that is not characteristic of normal operational loading (Cleaning and re-commissioning of on-site treatment facilities). In such instances the customer will be charged for actual additional load recorded for the period of the discharge. The customer will give notice of their intention to discharge this abnormal load to the network along with the expected duration of the discharge. This notification will be in writing to the treatment plant operator at least three working days (72 hours) in advance of the abnormal discharge. The operator will ensure that special sampling can be carried out to determine the load. Agreement for abnormal discharge will not be withheld unreasonably and will be responded to in a timely manner.

- a) Where the period of abnormal discharge is less than a 24 hour sampling cycle the load will be assumed to be applicable to the entire 24 hour sampling period.
- b) Where the abnormal discharge affects multiple sampling cycles the load will be assumed to be applicable for the full 24 hour sampling cycle for every sampling cycle affected.
- c) The additional charges will be based on the additional BOD, COD and TSS daily load over and above the monthly average daily load.

Eg. Additional charge = (kg BOD/day abnormal discharge minus "Average Load" kg BOD/day) times daily kg BOD charge.

- d) Fair and reasonable charges may be included for sampling, testing and billing.
- e) Results from testing undertaken under this situation will not be subject to Excess Discharge provisions as outlined in section 9 of the agreement.

7.4 As soon as practicable after 30 June in each year or upon earlier termination of this Agreement, the NRSBU must supply to the Customer a statement of the Operation and Maintenance costs of the Sewerage Scheme for the Financial Year gone, using Applicable Financial Reporting Standards, together with an adjustment calculation derived from using the actual Operation and Maintenance costs of running the Sewerage Scheme in the CAPM. The differences between the charges assessed at the commencement of the year using the budgeted Operations and Maintenance expenditure, and those at the end of the year using the actual Operations and Maintenance costs must, if a credit to the Customer, be paid by the NRSBU within one month, or if a debit owed by the Customer, be invoiced to the Customer who must pay the amount due to the NRSBU by the end of the month following presentation of the adjustment calculation. An electronic copy of the updated CAPM shall be provided to the Customer along with the current estimate of the design capacity of the Sewerage Scheme.

7.5 Should either party be more than 14 days late in making a payment under the provisions of this Agreement it must pay interest to the other party at the Penalty Interest Rate.

7.6 Unless expressly provided all amounts payable under this Agreement are to be increased by the amount of GST (if any) chargeable on the underlying supply or supplies made in accordance with this Agreement.

8 SAMPLING AND MONITORING

- 8.1 The NRSBU shall at the Customer's cost install, maintain and calibrate flow meters and 24 hour flow proportional composite samplers sufficient to give a continuous and accurate record of the rate and quantity of discharge of Trade Waste from the Customer's premises to the Sewerage Scheme at the Discharge Point. The meters and samplers so installed will be the property of the Customer.
- 8.2 The NRSBU shall carry out continuous flow monitoring and flow proportional sampling and testing sufficient for the purposes of the operation of this Agreement.
- 8.3 The NRSBU may carry out additional sampling and testing which it from time to time considers to be appropriate to enable it to ensure that the discharge from the Customer's premises complies with the terms of this Agreement and with the Bylaw.
- 8.4 All testing for the purpose of calculating any fees or charges or any excess discharge cost will be conducted by an independent IANZ accredited laboratory which will conduct tests in accordance with the Relevant Standard, and the results of all testing shall be made available to the Customer. An annual audit of the regular testing laboratory will be conducted by means of the NRSBU sending a duplicate set of samples from the discharge from the Customers' premises to an alternate provider.
- 8.5 Flow measurement shall:
- a) be continuous with an indicator that cannot be reset;
 - b) integrate the flows over any time period;
 - c) comply with the Relevant Standard;
 - d) be readily accessible for reading and maintenance;
 - e) be as close as practicable to the point of discharge;
 - f) utilise equipment that is calibrated at least annually or subsequent to any equipment maintenance or disturbance.
- 8.6 All records of flow and volume shall be held for a minimum of 4 years by the NRSBU and shall be available for inspection by the Customer during Normal Working Hours.
- 8.7 The NRSBU shall arrange for calibration and certification of flow measuring instrumentation by a person accredited for the purpose once upon installation and at least once a year thereafter to ensure performance within plus or minus 5% of its reading. The NRSBU will arrange a copy of the independent certification of each calibration shall be delivered to the Customer.
- 8.8 If as a result of calibration a flow meter is found to register more than plus or minus 5% in the level of discharge from the Customer's premises than the quantity of waste actually discharged, the NRSBU may make an adjustment for the variation backdated for a period at the reasonable discretion of the NRSBU but not exceeding 12 months. The Customer's variable charges shall be adjusted accordingly.

- 8.9 The Customer must at its expense provide and maintain inspection chambers, manholes or other apparatus or devices on the Premises to provide reasonable access to the Customer's sewers for sampling and inspection purposes.
- 8.10 The Customer authorises the NRSBU and its authorised officers to enter the Premises during the Customer's normal hours of operation for the purposes of verifying that the Trade Waste discharged is within the Maximum Discharge Rights as set out in Schedule 2 and for the maintenance or replacement of the equipment. Except in the case of an emergency, the NRSBU shall give prior notice of its intention to enter the Premises. While on the Premises the NRSBU and its authorised officers shall comply with health and safety and security processes and any related rules that the Customer has in place at that time.
- 8.11 Sampling shall be carried out on a continuous flow proportionate basis and all samples shall be stored in a manner and for a minimum time approved by the NRSBU.
- 8.12 Sampling, testing and analysis shall comply with the Relevant Standards specified in Schedule 6 to this Agreement.
- 8.13 Where an independent analyst or alternative laboratory fails to perform any of the functions required by this Agreement another independent analyst or alternative laboratory or authorised officer approved by NRSBU, in consultation with the Customers, may undertake those functions.
- 8.14 The NRSBU must at all times have access to all monitoring equipment relating to discharges to the Sewerage Scheme and may take samples of the Trade Waste being discharged from the Customer's premises for independent measurement and analysis. The NRSBU shall also be entitled to receive copies of all monitoring data collected by the Customer during routine monitoring of discharges to the Sewerage Scheme.

9 EXCESS DISCHARGES

- 9.1 A Customer may by arrangement with one or more other customers ("the customers"), and with the consent of the NRSBU, exceed the level of any of the Characteristics of the Trade Waste otherwise normally permitted to be discharged by the Customer under this Agreement, for a defined period provided that:
- a) The total level of any Characteristic of Trade Waste discharged by all of the customers who are party to the arrangement does not exceed the cumulative total of the levels of that Characteristic, as agreed in the contracts pertaining to those customers.
 - b) The customers who propose an excess discharge under this provision must provide to the NRSBU a clear statement of intent, five Business Days before the planned commencement of the excess discharge that:
 - I. Specifies the type and volume of waste it is proposed to discharge
 - II. Shows the agreement of all Customers who may be a party to the arrangement by the hand of the Authorised Representative of each such Customer.

- c) The NRSBU must use its best endeavours to determine the matter and advise the Customer of its decision within three working days.
- d) The planned excess discharge must not commence until the customers have the consent of the NRBSU.

9.2 Notwithstanding the provisions of clause 9.1 any two or more customers may with the express consent of the NRSBU enter into an agreement which has the effect of ensuring that the total level of any Characteristic of the combined discharges of the customers who are a party to the agreement does not exceed the cumulative total of the levels of that Characteristic as agreed in the contracts pertaining to those customers.

9.3 If the customer discharges any Trade Waste into the Sewerage Scheme which has Characteristics in excess of the maximum levels set out in Schedule 2, or which otherwise does not comply with this Agreement or the Bylaw, the NRSBU may recover from the Customer all costs, losses and expenses incurred by the NRSBU as a result of the excess or non-compliant discharge including without limitation any costs incurred as a result of the Capacity of the Sewerage Scheme being exceeded. Any amount which the NRSBU may recover from the Customer pursuant to this clause shall be excluded from the costs of operating the Sewerage Scheme for the purposes of the calculation of any charges under clause 7 this Agreement.

9.4 In addition to any charges which may be levied in accordance with clause 9.3, any Customer who discharges Trade Waste to the Sewerage Scheme which has Characteristics in excess of the maximum levels set out in Schedule 2 must pay the charges set out in clause 9.5 for the excess discharge. Provided that no Excess Discharge Costs will be payable under this clause in respect of any Excess Discharges arranged pursuant to clause 9.1 hereof.

Where any arrangement has been entered into pursuant to clause 9.1 or 9.2 and the total discharge to the sewerage scheme from the customers who are a party to that agreement in respect of any Characteristic, exceeds the cumulative total of the levels of that Characteristic as agreed in the contracts pertaining to those customers, Excess Discharge Costs will be payable in accordance with clause 9.5 by those customers who are a party to the agreement in proportion to the amount by which the level of that Characteristic in the contract to discharge pertaining to each such customer is exceeded.

9.5 Excess Discharge Costs

Subject to Clauses 9.1 - 9.4 of this Agreement, should the customers during any event, discharge to the Sewerage Scheme any characteristic of Trade Waste, in excess of the level for such Characteristic specified in Schedule 2, the customers must pay Excess Discharge Costs on the following basis:

BOD

Level	Breach	Excess Discharge Costs
1	First exceedance of Customer's authorised discharge	Warning
2	Three or more excess discharges of up to 300 Kg above Customer's authorised discharge	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU
3	Discharge in excess of 300 Kg above Customer's authorised discharge, after initial warning	\$30,000
4	Discharge in excess of 600 Kg above Customer's authorised discharge, after initial warning	\$60,000
5	Discharge in excess of 1,200 Kg above Customer's authorised discharge, after initial warning	\$100,000
6	Three or more excess discharges in any one financial year in levels 3, 4 or 5	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU

COD

Level	Breach	Excess Discharge Costs
1	First exceedance of Customer's authorised discharge	Warning
2	Three or more excess discharges of up to 600 Kg above Customer's authorised discharge	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU
3	Discharge in excess of 600 Kg above Customer's authorised discharge, after initial warning	\$10,000
4	Discharge in excess of 1,200 Kg above Customer's authorised discharge, after initial warning	\$20,000
5	Discharge in excess of 2,400 Kg above Customer's authorised discharge, after initial warning	\$30,000
6	Three or more excess discharges in any one financial year in levels 3, 4 or 5	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU

Suspended Solids

Level	Breach	Excess Discharge Costs
1	First exceedance of Customer's authorised discharge	Warning
2	Three or more excess discharges of up to 300 Kg above Customer's authorised discharge	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU
3	Discharge in excess of 300 Kg above Customer's authorised discharge, after initial warning	\$20,000
4	Discharge in excess of 600 Kg above Customer's authorised discharge, after initial warning	\$40,000
5	Discharge in excess of 1,200 Kg above Customer's authorised discharge, after initial warning	\$70,000
6	Three or more excess discharges in any one financial year in levels 3, 4 or 5	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU

Peak Flows

Level	Breach	Excess Discharge Costs
1	First exceedance of Customer's authorised limit	Warning
2	Exceeding limit of Peak Flow by up to 50l/s, averaged over half an hour, for three events in any one year	\$5,000 for the third breach
3	Exceeding the limit of Peak Flow by between 10 and 20% and 50l/s, averaged over half an hour, for an event, after initial warning	\$10,000
4	Exceeding the limit of Peak Flow by greater than 20% and 50l/s, averaged over half an hour, for an event, after initial warning	\$30,000
5	Any overflow arising from non compliance in excess of the foregoing provisions	The relevant penalty as tabled plus the costs suffered by the NRSBU as a direct result of the exceedance
6	Three or more excess discharges in any one financial year in levels 2,3, 4 or 5	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU

Peak Month Daily Average Flow

Level	Breach	Excess Discharge Costs
1	First exceedance of Customer's authorised limit.	Warning
2	Exceeding limit of peak month daily flow by up to 500m ³ /day on any 2 months in any one financial year	\$5,000 for the second breach

3	Exceeding the limit by between 10 and 20% and 500m ³ /day for any month, after initial warning	\$10,000
4	Exceeding the limit by more than 20% and 500m ³ /day, after initial warning	\$30,000
5	Any overflow arising from non compliance in excess of the foregoing provisions.	The relevant penalty as tabled plus the costs suffered by the NRSBU as a direct result.
6	Three or more excess discharges in any one financial year in levels 2,3, 4 or 5	Compulsory increase of capacity for the next 12 months contract period equal to the average level of 3 worst excess discharges or such lesser amount as determined by the NRSBU

9.6 The Excess Discharge Costs are payable by the Customer within 20 days of the receipt of notice of Excess Discharge Costs issued by the NRSBU to the Authorised Representative.

9.7 Where there are a number of exceedences during an Event Excess Discharge Costs will only be applied in respect of the highest cost parameter. Notwithstanding this, for the purposes of determining whether any compulsory increase in capacity is to be applied (as provided for by level 6 for all characteristics or level 2 for BOD, COD and Suspended Solids in the above tables), the maximum exceedence in each event, in respect of each Characteristic where an exceedence was recorded, shall be counted.

10 EXCLUDED SUBSTANCES

10.1 The Customer must not discharge any Excluded Substances to the Sewerage Scheme and must take all reasonable steps to prevent Excluded Substances entering the Sewerage Scheme as a result of leakage, spillage or other mishap.

10.2 Without restricting the general nature of the previous paragraph the Customer must not discharge any prohibited trade waste as defined in the Bylaw applying in respect of the Premises.

10.3 The Customer must not discharge any substance, chemical or component of waste into the Sewerage Scheme not previously disclosed to the NRSBU in the process by which the NRSBU granted the Customer its discharge right, including any substance, chemical or component of waste which the NRSBU considers likely to damage or in any way hinder or upset the efficient operation of the Sewerage Scheme.

11 MANAGING CAPACITY OF THE SEWERAGE SCHEME

11.1 Any unused Capacity will be offered to the current customers before it is offered to any new customer. Should a customer require the use of the Sewerage Scheme beyond the current Capacity the provisions that follow shall apply:

- a) Any new customer whose discharge to the Sewerage Scheme necessitates an upgrade to the Sewerage Scheme, or any customer, whose increased discharge to the Sewerage Scheme necessitates any upgrade to the Sewerage Scheme and who has agreed to such upgrade in writing, must pay either the capital costs of carrying out that upgrade or the

charges in relation to the Capital required for that upgrade and must meet the variable charges relating to such upgrade, calculated as a separate Node according to the principles and processes detailed in the CAPM.

- b) The NRSBU covenants that every other customer discharging into the Sewerage Scheme shall pay fees and charges calculated at no better terms than provided to the customer, unless agreed otherwise by consensus of all existing customers.
- c) Provided that nothing in the foregoing clause shall prevent the NRSBU from initiating any upgrade or alteration to any part of the Sewerage Scheme which it considers necessary to ensure that the Sewerage Scheme continues to operate in accordance with any applicable Resource Consent or to avoid or reduce the risk of failure of any such part.
- d) Provided that prior to initiating any such work to upgrade the Sewerage Scheme pursuant to this subclause or subclause (a) above, the NRSBU shall consult with the Customer and give due consideration to their comments on the proposal or to any alternative arrangement.

12 AUTHORISED REPRESENTATIVES

- 12.1 Each party must maintain an Authorised Representative to act for it under this Agreement. The first Authorised Representatives for each party are set out in Schedule 1. A party may appoint an alternate Authorised Representative or replace an Authorised Representative at any time, by written notice to the other party.

13 INTERRUPTION OF SERVICES

- 13.1 The NRSBU may, for the purpose of altering, repairing, replacing or maintaining any part of the Sewerage Scheme or to comply with any statutory or other legal requirement, interrupt the operations of the Sewerage Scheme and as a result require the Customer to cease discharges into the Sewerage Scheme for any specified period of time.
- 13.2 If it is reasonably practicable for the NRSBU to give notice of its intention to interrupt operations and it is practicable to consult with the Customer at the time the need for repairs, alterations, replacement or maintenance becomes known or is made known to the NRSBU, the NRSBU shall consult with the Customer with a view to minimising the disturbance to the business of the Customer. The NRSBU shall not be liable for any cost or losses incurred by the Customer in complying with clause 13.1.
- 13.3 The NRSBU shall notify the Customer as early as practicable of the need for repairs, alterations, replacement or maintenance.
- 13.4 The NRSBU shall use all reasonable endeavours to minimise the period of interruption to the operation of the Customer.
- 13.5 Notwithstanding any other provision of this Agreement, if in the opinion of the NRSBU there exists an immediate danger to any persons, machinery, equipment or other plant or property of whatever kind or to the Sewerage Scheme, or there is an immediate requirement to interrupt the operations in order for the NRSBU to comply with any statutory or other legal requirement, the

NRSBU may immediately interrupt the operations and require the Customer to cease discharging into the Sewerage Scheme and shall as soon as practicable inform the Customer of the reasons for the interruption in writing.

14 FORCE MAJEURE

14.1 Neither party will be liable for any act, omission, or failure to fulfil its obligations under this Agreement if such act, omission or failure arises from a Force Majeure Event provided that the parties shall still be obliged to comply with its obligations under clause 19 notwithstanding the occurrence of a Force Majeure Event. The party unable to fulfil its obligations due to a Force Majeure Event must:

- a) immediately notify the other in writing and provide full information concerning the Force Majeure Event including an estimate of the time likely to be required to overcome the event; and
- b) use its best endeavours to overcome the event and minimise the loss to the other party; and
- c) continue to perform its obligations as far as practicable.

15 DISPUTE RESOLUTION

15.1 If a difference arises between the parties concerning the construction or performance of this Agreement, or their rights and obligations under it, the parties must enter into negotiations amicably and in good faith in an endeavour to resolve the difference. Either party may initiate negotiations by giving written notice to the other. Within 3 Business Days of either party giving notice, the parties must start negotiations to endeavour to resolve the difference.

16 MEDIATION

16.1 If the parties have been unable to resolve the difference within 10 working days of the giving of the written notice referred to in clause 15.1, either party may invoke a mediation process as follows:

16.2 Mediation Notice: Either party may by written notice (the "mediation notice") to the other party require that the dispute be referred to mediation. A mediation notice must set out the nature of the dispute, but need not detail the background or the party's position in relation to the dispute.

16.3 Obligation to Resolve Remains: A mediation notice must not derogate from the obligation of the parties to seek resolution of the dispute by consultation and negotiation.

16.4 Appointment of Mediator: The parties must in good faith endeavour to agree upon and appoint a person as mediator to consult with the parties and assist the parties to reach Agreement in respect of the dispute.

16.5 Mediation to Settle Procedures: If a mediator is appointed, he or she shall, in consultation with the parties, set a timetable and the procedures to be adopted and meeting places during the mediation. The decision of the mediator on any such timetabling and procedural matters shall be binding on the parties.

- 16.6 Parties to Endeavour to Reach Resolution in Good Faith: The parties must attend all meetings called by the mediator and at such meetings must conduct their negotiations in good faith, and must use their best endeavours to reach an agreed solution. The parties may, if they wish, have the assistance of legal counsel. All mediation proceedings must be conducted on a “without prejudice” basis in that nothing that transpires or is said during the course of the negotiations (other than any settlement or supplementary written Agreement between the parties) is intended to or shall in any way affect the rights or prejudice the position of the parties. For example (without limiting the generality of the foregoing):
- a) any opinion given, report produced and terms of settlement proposed or recommended by the mediator or either party must not be disclosed to any adjudicator, arbitrator or court; and
 - b) the fact that information of whatsoever nature was made available to the mediator does not mean that privilege or confidentiality is waived or any subsequent adjudication, arbitration or legal proceedings; and
 - c) the fact that the accuracy of information or the validity or meaning of documents was not challenged during the mediation does not preclude challenge in subsequent adjudication, arbitration or litigation or other legal proceedings.
- 16.8 Mediator has no Power of Decision: The mediator shall have no power of decision on any matters other than time tabling and procedural matters.
- 16.9 Costs are to be Borne Equally: All costs incurred in respect of the mediation, including the mediator’s fees and incidental expenses (but not any legal fees or other costs incurred by either party), must be borne equally by the parties, who shall be jointly and severally liable to the mediator in respect of them. These benefits to the mediator are intended to be enforceable by the mediator in terms of Section 4 of the Agreements (Privity) Act 1982.

17 ARBITRATION

- 17.1 If any dispute is not resolved by written agreement between the two parties upon the expiration of 20 Business Days from the date upon which the mediation notice was given (irrespective of whether or not the parties agreed on the appointed mediator) or within a longer period agreed on by the parties, the parties must submit the dispute to arbitration in accordance with the Arbitration Act 1996. Any party may commence the arbitration by giving a written notice to the other stating the subject matter and details of the dispute, and that party’s desire to have the dispute referred to arbitration.
- 17.2 Any dispute between the parties in connection with the operation of this Agreement that cannot be resolved between the parties shall be determined by an arbitrator in New Zealand appointed by the Arbitrators and Mediators Institute of New Zealand Inc. The costs of arbitration, excluding legal costs incurred by either party shall be equally shared. The decision of the arbitrator shall be final and binding.
- 17.3 Nothing in this Agreement:

- a) prevents either party enforcing its rights in relation to this Agreement by applying at any time for an interim injunction in any court of competent jurisdiction;
- b) prevents either party enforcing its rights in relation to this Agreement by issuing a proceeding in any court of competent jurisdiction if the dispute remains unresolved by the disputes procedures described above.

18 TERMINATION

18.1 This Agreement shall terminate immediately upon notice in writing by NRSBU to the customer on the happening of one or more of the following events:

- a) The Customer ceases carrying on business excluding, for the avoidance of doubt, seasonal closures of the Premises.
- b) The Customer goes into liquidation or if a receiver or statutory manager has been appointed in respect of it or any material part of its assets.
- c) The Customer enters into any compromise with its creditors within the meaning of Part XIV of the Companies Act 1993.
- d) The Customer becomes or is presumed to be unable to pay its debts as they fall due within the meaning of section 287 of the Companies Act 1993.
- e) The Customer has failed to comply with a notice given by the NRSBU specifying a breach of this Agreement by the Customer which is capable of remedy, and requiring that the Customer remedy that breach within 14 days after receipt of that notice.
- f) The Customer gives no less than 6 months written notice to the NRSBU that it wishes to terminate the Agreement.
- g) The Expiry Date of any fixed term as recorded in Schedule 1 is reached.
- h) The parties negotiate a new written Agreement.

18.2 Termination of this Agreement shall be without prejudice to any liability of either party to the other in respect of a breach of this Agreement occurring prior to such termination.

18.3 Notwithstanding termination of the Agreement the NRSBU shall be entitled to refuse to receive all or any component of the Trade Waste that it considers unsuitable for discharge to the Sewerage Scheme.

18.4 The provisions of clauses 18.2 and 18.3 shall survive the termination of this Agreement.

19.0 CONFIDENTIALITY

19.1 Each party will keep in confidence and protect Confidential Information from disclosure to third parties and restrict its use in accordance with this Agreement, except as required by law.

19.2 A party shall not be in breach of this clause in circumstances where it is legally compelled to disclose the other party's Confidential Information.

- 19.3 Confidential Information must not be copied, in whole or in part, except when essential for correcting, generating or modifying Confidential Information for a party's authorised use in accordance with this Agreement.
- 19.4 Each party will inform its employees, agents and any sub-contractors engaged for the purposes of this Agreement of its obligations under this section and instruct them so as to ensure such obligations are met.
- 19.5 The provisions of this clause will survive termination or cancellation of this Agreement.

20 NOTICES

- 20.1 Any written notice required to be given pursuant to this Agreement shall (without limitation) be deemed validly given if:
- a) delivered by hand or sent by facsimile transmission (provided that the sender's facsimile machine confirms transmission to the intended recipient) to the intended recipient's physical address or facsimile number as set out below (or to such other physical address or facsimile number as the intended recipient shall notify to the other party by written notice from time to time); and
 - b) signed by the duly authorised representative of the party giving that notice.
- 20.2 For the purposes of this Agreement any notice transmitted by facsimile or delivered after 5.00 pm on a Business Day, or at any time on a non Business Day, shall be deemed received at 9.00 am on the next Business Day.

21 PARTIAL INVALIDITY

- 21.1 If any provision in this Agreement is held to be illegal under any enactment or rule of law such provision shall, to that extent, be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

22 NO WAIVER

- 22.1 No waiver of any breach or failure to enforce any provision of this Agreement at any time by either party shall in any way limit or waive the right of such party to subsequently enforce and compel strict compliance with the provisions of this Agreement.

23 COSTS

- 23.1 Each party must bear its own costs and expenses incurred in connection with the preparation and implementation of this Agreement.

24 SET OFF

- 24.1 Neither party shall be entitled to exercise any rights of set off in respect of any amount which is owing to the other party under this Agreement.

25 GOVERNING LAW AND JURISDICTION

25.1 This Agreement is governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.

26 FURTHER ASSURANCES

26.1 Each party must make all applications, do all things and execute all documents reasonably required in order to give effect to the provisions and intent of this Agreement.

27 REMEDIES

27.1 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law.

28 ASSIGNMENT

28.1 Neither party shall be entitled to assign any of its rights or obligations under this Agreement without the written consent of the other.

SIGNED for and on behalf of)
the Nelson Regional Sewerage)
Business Unit)
by its Authorised Signatory)
)

Signature Date

Witness Signature

Position

Full Name

Address

Occupation

SIGNED for and on behalf of)
[Customer])
by its *[Authorised Signatory]*)
[Print Name])
)

Signature Date

Witness Signature

Position

Full Name

Address

Occupation

SCHEDULE 1

1. **Commencement Date:** ____/____/____
2. **Expiry Date:** ____/____/____
3. **Premises:** The land and buildings situated at [_____] Road [_____] the customer carries out the business of [_____]
4. **Discharge Point:** _____
5. **Customer Contact for the receipt of notices**

Name : _____

Designation: _____

Contact Details: _____
6. **Authorised Representative**

Name : _____

Designation: _____

Contact Details: _____
7. **NRSBU Contact for the receipt of notices**

Name : _____

Designation: _____

Contact Details: _____
8. **Special Conditions**

SCHEDULE 2

CONTRACTED MAXIMUM DISCHARGE LEVELS

Characteristic	Maximum Level	
	Maximum Customer	Group (Refer Clause 9)
Peak Monthly Flow	[] m ³ /day	
Peak flow being the maximum half hourly average flow rate	[] l/s	
Biological Oxygen Demand (BOD ₅) being the peak two consecutive day average BOD ₅	[] kg/day	
Chemical Oxygen Demand (COD) being the peak two consecutive day average COD	[] kg/day	
Total Suspended Solids (TSS) being the peak two consecutive day average TSS	[] kg/day	
Total Kjeldahl Nitrogen (TKN) being the peak daily total	[] kg/day	
Total Phosphorus (TP) being the peak daily total	[] kg/day	

- NOTE:**
1. The Treatment Plant is not currently designed to treat nutrients, therefore, when such a facility is required all Customers will contribute to the cost of the upgrade in proportion to their peak use. The above figure for TKN and TP are to keep track of use for future design purposes and are not an allocation of quota.
 2. It should be noted that the Contracted Maximum Discharge Levels above relate to the capacity of the Sewerage Treatment Plant on Bells Island and the NRSBU will be under no obligation to accept any flows from any customer which individually or in conjunction with the flows from any other customer, or customers, exceeds the capacity of any pumping station through which such flows must pass to reach the Sewerage Treatment Plant.

SCHEDULE 3

A - CURRENT CAPACITIES

Sum of Contributor Loads as at 30 April 2007

		Peak Flow	Avg Flow	BOD ₅	COD	TSS	TN	TP
		l/s	m ³ /day	kg/day	kg/day	kg/day	kg/day	kg/day
1	Pump stations, pipes and biofilters	865						
2	Screens	1,420						
3	Primary clarifier Aeration basin Clarifier Ponds/outfall	1,508	24,890	12,410	27,262	11,970	1,360	243
4	Biosolids							
5	Nutrient removal						1,360	
6	General							

		Peak Flow	Avg Flow	BOD	COD	TSS	TKN	TP
		l/s	m ³ /day	kg/day	kg/day	kg/day	kg/day	kg/day
	Design Flows and Loads and per DBo contract	950	17,142	7,947*	15,894*	9,477*	750*	230*

* - 2 day average

NOTE: The treatment plant is not currently designed to treat nutrients, therefore, when such a facility is required all Customers will contribute to the cost of the upgrade in proportion to their peak use. The above figure for TKN and TP are to keep track of use for future design purposes and are not an allocation of quota.

SCHEDULE 3

B – DESIGN CAPACITIES AFTER COMMISSIONING OF NEW PLANT

Bells Island Process Capacities

		Peak Flow	Avg Flow	BOD₅	COD	TSS	TN	TP
		l/s	m ³ /day	kg/day	kg/day	kg/day	kg/day	kg/day
1	Pump stations, pipes and biofilters							
2	Screens							
3	Primary clarifier Aeration basin Clarifier Ponds/outfall							
4	Biosolids							
5	Nutrient removal							
6	General							

		Peak Flow	Avg Flow	BOD	COD	TSS	TKN	TP
		l/s	m ³ /day	kg/day	kg/day	kg/day	kg/day	kg/day
	Design Flows and Loads and per DBo contract							

* - 2 day average

NOTE: The treatment plant is not currently designed to treat nutrients, therefore, when such a facility is required all Customers will contribute to the cost of the upgrade in proportion to their peak use. The above figure for TKN and TP are to keep track of use for future design purposes and are not an allocation of quota.

SCHEDULE 4

COST ALLOCATION PRICING MODEL

1 GENERAL

- 1.1 The CAPM shall be constructed and maintained by the NRSBU as a spreadsheet in a currently supported version of the software. All calculations in the model must be visible to and traceable by the Customer.
- 1.2 To the maximum practical extent possible the datasheets in the CAPM will be treated as databases and contain as few formulae as possible. The pricing worksheet is to be annotated to identify the sources of data and is to contain the majority of the formulas required to calculate the prices from the data contained in the datasheets.

2 VERSION CONTROL

- 2.1 A worksheet named "Version Control" shall be used to record the version of the CAPM and the changes that have been made to the previous version to arrive at the current version. The version control spreadsheet shall record the name of the author for the current version and the date of the current version.

3 ASSET VALUATION WORKSHEET

- 3.1 The worksheet named "Asset Valuation" shall identify all the facilities in the Sewerage Scheme and allocate them to six nodes as follows:

Node	Facility
1	Pump Stations /Pipes/ Biofilters
2	Screens
3	Primary Clarifier Aeration Basin Clarifier Ponds/Outfall
4	Biosolids
5	Nutrient Removal
6	General

- 3.2 In future other Nodes or facilities may be added or removed to reflect changes in the treatment plant. The Asset Valuation shall show for each Node the facilities allocated to it. For each facility the optimised depreciated replacement value (ODRV) and the depreciation calculation must be shown. The total ODRV and depreciation for each Node will also be calculated. A revaluation of the facilities must be undertaken by an independent registered valuer at not more than five yearly intervals in accordance with international financial reporting standards.

4 OPERATIONS AND MAINTENANCE

- 4.1 A worksheet named "Operations and Maintenance" worksheet shall detail the annual operations and maintenance costs and allocate them to the facilities.

5 CUSTOMER DISCHARGE LEVELS

5.1 Contracted Discharge Levels

5.2 A worksheet named “Customer Loads” shall contain the table of Contracted discharge levels for the purpose of allocating the costs of capital. This table will also show the design capacity for each of the characteristics, which must be reviewed annually. These are:

<u>Characteristic</u>	<u>Definition</u>
Peak monthly flow (m ³ /day)	– a value which the average daily flow for any month should not exceed
Peak flow (l/s)	– the maximum half hourly average flow
BOD ₅ (kg/day)	– the peak 2 consecutive day average biological oxygen demand
COD (kg/day)	– the peak 2 consecutive day average chemical oxygen demand
SS (kg/day)	– the peak 2 consecutive day average suspended solids
TKN (kg/day)	– the rolling 12 month average total kjeldahl nitrogen
TP (kg/day)	– the rolling 12 month average total phosphorous

5.3 Projected Average Discharge Levels

5.4 The Customer Loads shall also contain the projected annual average discharge levels for the purpose of calculating provisional prices to recover the operating and maintenance costs. These will be based on the previous year’s actual discharge levels unless these were unusual or a customer has notified a change.

6 ALLOCATION

6.1 A worksheet named “Allocation” shall allocate costs to customers using two elements. The first element is the allocation proportions which show the relative importance of each of the characteristics for the capital, or operations and maintenance costs of each facility. The second element is the customer’s share of the total discharge level (or process capacity in the case of capital) for each of the characteristics.

6.2 Capital Cost Allocation

6.3 For capital, the allocation proportions estimate the relative contribution of each characteristic to the design requirements of each facility. The capital costs for each facility are apportioned to each customer according to their proportion of the process capacity for each characteristic, multiplied by the allocation proportions for each characteristic. The capital costs for each facility are defined as the depreciation for the facility plus the optimised depreciated replacement value for that facility multiplied by the cost of capital. If the sum of the contracted maximum discharge levels is not equal to the process capacity for any of the characteristics, this will result in an under or over recovery which is indicated by a non-zero result in the owner’s share*. The capital costs for the general node/facility are allocated based on the sum of the capital costs for the other nodes for a customer, divided by the total capital costs required. This ensures that the general costs are always 100% recovered.

* Note: Although the model may indicate the possibility of an over recovery the NRSBU agrees that no charges will be levied in respect of any capacity which the scheme might have over that for which the customers have contracted (refer clause 6.5)

6.4 Operations and Maintenance Cost Allocation

6.5 For operations and maintenance, the allocation proportions estimate the relative contribution of each characteristic to the ongoing operations and maintenance of each facility. The operations and maintenance costs for each facility are apportioned to each customer according to their proportion of the total average discharge level for the year for each characteristic, multiplied by the allocation proportions for each characteristic.

6.6 The average loads for the year are calculated as follows:

The annual average flow (m³/day) is the total flow for the year divided by the number of days in the year.

The peak flow (l/s) is the average of each of the 12 months' peak half hourly flows for the year.

There are four flow proportional samples taken on consecutive days each month for each customer for measuring BOD₅, COD and SS concentrations. Each of these concentrations is multiplied by the customer flow for that day to give the load for that day in kg/day. The average load for each of BOD₅, COD and SS is the average of the 48 loads for the year.

There is one flow proportional sample taken each month for each customer for measuring TKN and TP concentrations. Each of these concentrations is multiplied by the customer flow for the month and divided by the number of days in the month to give the daily average load for that month in kg/day. The average load for each of TKN and TP is the average of the 12 loads for the year.

6.7 Because the actual discharge levels and actual operations and maintenance expenditure are not known until the end of the year, the projected average discharge levels and the operations and maintenance budget are used to calculate provisional prices for the year for each of the characteristics. The provisional prices are multiplied by the actual results from the previous month to provide a provisional monthly operations and maintenance charge. At the end of the financial year, actual costs and actual discharge levels will be used to provide a washup for unders and overs on a node by node basis for operations and maintenance costs only. The actual costs will be for the year ended 30 June, while the actual discharge levels will be for the year ended 31 May.

6.8 The model allows for allocation of specific Nodes to only those customers who use those Nodes. This currently applies to screens which are not required by industrial contributors and the separate allocation of pumping facilities for Mapua. Nodes created by future upgrades may be allocated to one or more customers based on who triggers or requests or requires the upgrade.

SCHEDULE 5

SEWERAGE SCHEME DESCRIPTION

The Nelson Regional Sewerage Scheme (NRSS) was commissioned in 1983 and comprises rising mains, four pump stations, a sewage treatment plant and biosolids application facility. The layout of the Sewerage Scheme, showing the location of the Sewerage Treatment Plant (STP), pump stations and pipes is shown in Figure 1.

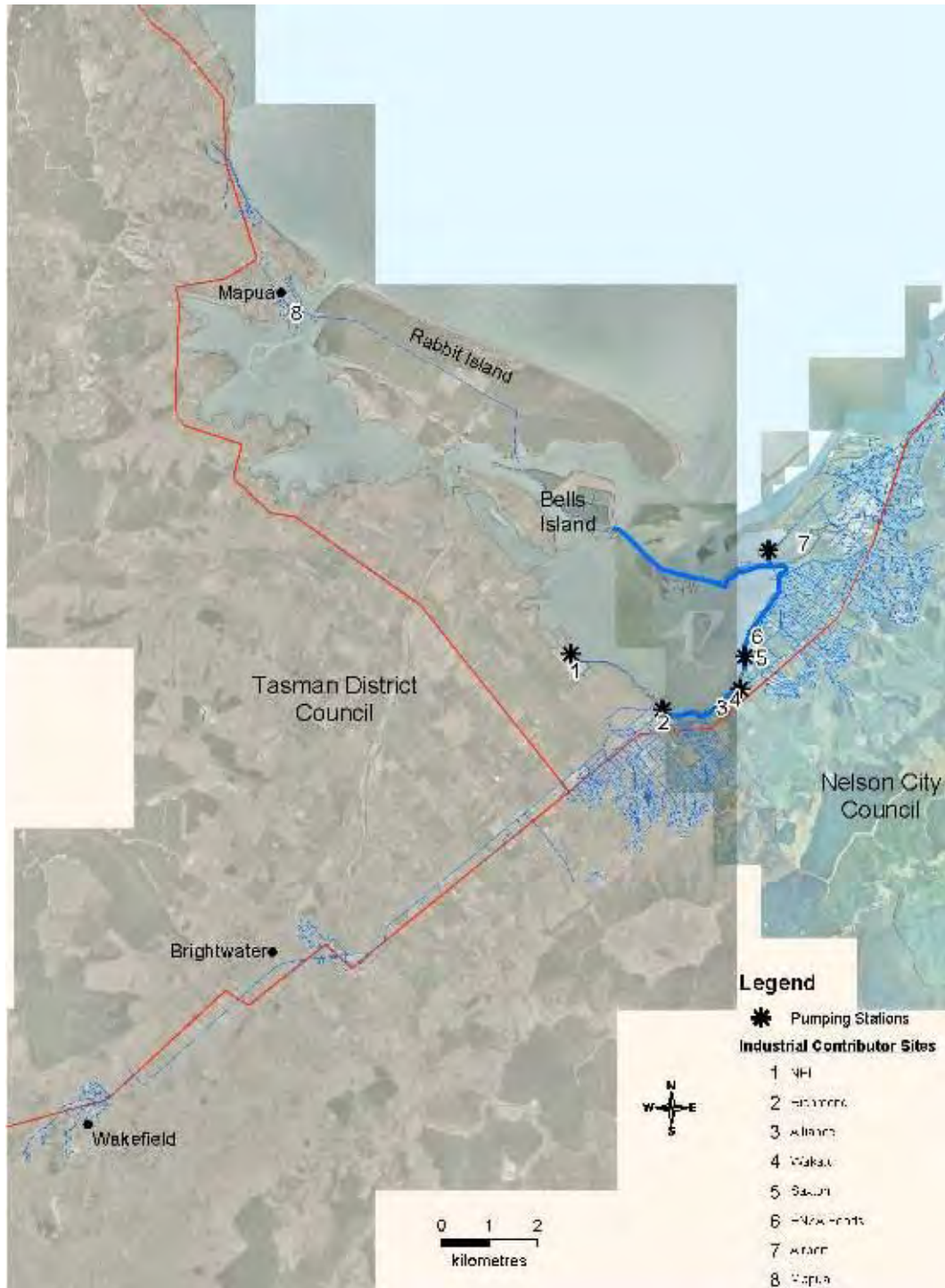


Figure 1: Nelson Regional Sewerage Scheme

The rising mains range in size from 150mm to 600mm diameter. Originally constructed from asbestos cement the pipeline has now been replaced with HDPE pipe except for the line between Monaco and Bells Island, which is constructed from concrete and has HDPE across the two major channels.

There are three major pump stations each with two variable speed drive (VSD) pumps, with alternative duty, as well as a third, larger pump on standby for peak flows. A fourth, smaller pump station is located at the Wakatu Industrial site.

The STP (Figure 2) is located on Bells Island, Waimea Inlet. Treated effluent is discharged into the inlet on the outgoing tide. Stabilised sludge (biosolids) is beneficially applied to forests on Rabbit Island and other places. The treatment plant consists of an aeration basin, clarifier, and an Autothermal Thermophilic Aerobic Digestion (ATAD) plant that treats captured solids to produce biosolids. A system of pumps and pipelines transfers biosolids to Rabbit Island. The oxidation pond system on Bells Island consists of three facultative ponds in parallel and two maturation ponds in series. Effluent from the last maturation pond is discharged into the Waimea Inlet via a 120 metre outfall pipeline and diffuser.

The STP treats municipal wastes (mainly domestic sewage) from:

- Nelson City (Stoke and Tahuna);
- Tasman District (Richmond, Waimea Basin, Mapua); and

Industrial wastewater from:

- Alliance Group Ltd;
- ENZAFoods; and
- Nelson Pine Industries.

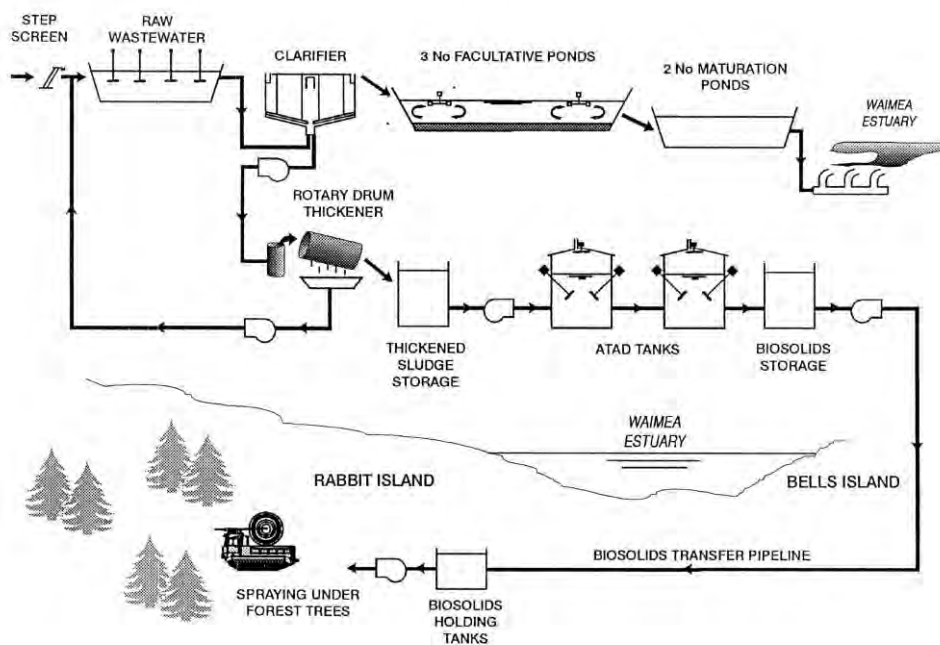


Figure 2: Schematic Diagram of the Treatment Plant on Bells Island and Biosolids Application Facility on Rabbit Island.

SCHEDULE 6

RELEVANT STANDARDS

- Sampling Procedure
- As provided for within this clause or clause 8, or where not specified in this agreement as specified by an IANZ accredited laboratory such as Cawthron.
- The method of testing must follow procedures as specified in the most current edition of APHA, Standard Methods for the Examination of Water and Wastewater. Appropriate sample containers with preservatives as required, are to be supplied by the laboratory.
- All samples must be received at the laboratory on the same day of collection. If not able to be delivered within 2 hours of collection then samples should be chilled to 4°C until delivered.
- Flow proportioned composite sampling should not exceed a 24 hour period. These samples should be kept chilled to 4°C throughout the sampling period and delivered to the laboratory within 4 hours of the end of sampling. Flow proportioned composite samples must be thoroughly mixed prior to sub sampling into laboratory supplied bottles.
- Monitoring Analysis
- Biochemical Oxygen Demand (g/m3) APHA 21st Edn 5210 B
 - Chemical Oxygen Demand (g/m3) APHA 21st Edn 5220 D
 - Total Nitrogen (g/m3) APHA 20th Edn 4500 NC
 - Total Phosphorous (g/m3) APHA 21st Edn 4500 P A, B(Mod), G
 - Total Suspended Solids (g/m3) APHA 21st Edn 2540 D
- Flow meters
- Electronic calibration, as specified by the Supplier
- Instrumentation
- Calibration as specified by Supplier
- Monitoring Methodology:
- The NRSBU Operations and Maintenance contractor will establish a continuous 4 day per month monitoring schedule in relation to each customer at the beginning of the year. This schedule is to ensure that representative sampling is undertaken over the year of all the days of the week.
 - It is the responsibility of the NRSBU Operations and Maintenance contractor to monitor the customer loads and flows in accordance with the relevant standards.
 - The customers note that in terms of its Trade Waste bylaws the Nelson City Council carries out an annual monitoring and analysis of heavy metals and other trade waste elements.
 - The NRSBU Operations and Maintenance contractor will carry out all monitoring in accordance with standards which provide guidelines in respect of the sampling procedure, the storage of samples and the monitoring procedures.