

Lake Horowhenua - Queen Street Drain Agreement

File No.: 13/851

Purpose

The purpose of this report is to seek Council's ratification of a 1973 agreement signed by all the then Horowhenua Lake Trustees authorising the former Levin Borough Council to drain stormwater across the one-chain strip/dewatered area from the Queen Street drain to discharge into the Lake.

1. Executive Summary

- 1.1 A 1973 agreement signed by all the then Lake Trustees authorising the former Levin Borough Council to drain stormwater across the one-chain strip/dewatered area to discharge into the Lake requires endorsement and ratifying by the current Council because in 1973 this agreement was inadvertently filed away without being executed by the Levin Borough Council.
- 1.2 Minutes of the Levin Borough Council demonstrate the intent to execute this agreement.
- 1.3 To support Council's opposition to an application by Mr Phillip Taueki to dam or block the Queen Street, Levin drain. Council's solicitors is seeking to have the 1973 agreement ratified by the Horowhenua District Council.

2. Recommendation

- 2.1 That Report 13/851 on Lake Horowhenua - Queen Street Drain Agreement be received.
- 2.2 That this matter or decision be recognised as not significant in terms of s76 of the Local Government Act 2002. All Council is doing is ratifying the execution of an agreement that should have been executed 40 years ago.
- 2.3 That Council ratifies the 1973 agreement signed by all the then Horowhenua Lake Trustees authorising the former Levin Borough Council to drain stormwater across the one-chain strip/dewatered area from the Queen Street drain to discharge into the Lake
- 2.4 That the Mayor, Deputy Mayor and Chief Executive be authorised to endorse the said 1973 agreement

3. Background

- 3.1 Phillip Taueki has applied to the Maori Land court for an injunction authorising the Lake Horowhenua owners or the Lake Trustees to dam or block the Queen Street, Levin drain where it traverses the one-chain strip/dewatered area encircling Lake Horowhenua.
- 3.2 One of the grounds advanced to the Maori Land Court is that the owners have never given permission for the Queen Street drain to traverse this land.
- 3.3 Roger Downey, Todd Whitehouse Solicitors, is acting for the Horowhenua District Council in opposition to the application from Mr Taueki.
- 3.4 It is expected that the hearing for this application will be called later this year or early 2014.

Item 11.2

- 3.5 Horowhenua District Council staff have been able to locate the original 1973 agreement (mailed under separate cover) signed by all the then Lake Trustees authorising the former Levin Borough to drain stormwater across the one-chain strip/dewatered area to discharge into the Lake.
- 3.6 Minutes of the Levin Borough Council meeting held on 17 May 1971 indicate Council's intent to execute the agreement above with the following resolution (mailed under separate cover).
- 3.7 "It was then resolved that the arrangements with the Trustees be approved and that authority be given to affix the seal of the Council to the necessary documents covering the agreement."
- 3.8 Council's solicitors seek to produce this agreement to the Maori Land Court hearing. Obviously it is evidence that the then Trustees consented to the Queen Street Drain traversing their land.
- 3.9 To be admissible the document requires a certificate of confirmation from the Maori Land Court and to be confirmed the documents needs to be executed by both parties – not just the Lake Trustees.
- 3.10 It is believed the best that can be done is to have the current Council ratify the agreement so that the annexed document suitably endorsed by Council can be filed in the Maori Land Court.

4. Cost

- 4.1 Unestimated legal costs will be incurred by Council in opposing the application by Mr Taueki to the Maori Land court to dam or block the Queen Street drain.

4.1.1 Rate Impact

These legal costs will not affect the rates as set out in the 2013/2014 Annual Plan.

- 4.2 Community Well-Being
Not applicable

- 4.3 Consenting Issues
Not applicable

- 4.4 LTP Integration
Not applicable

5. Consultation

Council will be kept informed of the progress on the Maori Land Court hearing.

6. Financial Considerations

Funding for legal costs relating to Mr Taueki's application to the Maori Land Court has not been provided for in the current LTP.

7. Legal

There are no legal considerations.

8. Next Steps

Once endorsed by Council the Agreement will be forwarded to Council's solicitors before submitting with the Maori Land Court.

Attachments

As the attachments are not readable electronically hard copies are available from Horowhenua District Council Service Centre, 126 Oxford Street, Levin, Foxton Service Centre/Library, Clyde Street, Foxton, Shannon Service Centre/Library, Plimmer Terrace, Shannon and Te Takere/Library, Bath Street, Levin

Attachments



No.	Title
A	Agreement between Lake Trustees and Levin Borough Council (<i>Under Separate Cover</i>)
B	Minutes Levin Borough Council meeting 17 May 1971 (<i>Under Separate Cover</i>)

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

Signatories

Author(s)	David Clapperton Chief Executive	
Approved by	David Clapperton Chief Executive	

He Kotuku Rerenga Tahī - The Lake Horowhenua Accord

Vision

Lake Horowhenua; *he taonga tukuiho; he taonga mo te katoa mo te katoa*; (A treasure handed down from our ancestors for the enjoyment of all).

The whakatauki (proverb): *He Kotuku Rerenga Tahī* (A white Heron's flight is seen but once) best describes the overarching purpose of coming together to resolve, once and for all, the condition of Lake Horowhenua.

Background

Five parties representing the Muaupoko owner, community interests and statutory bodies have agreed to work together to provide leadership; to halt the degradation and put in place remedial measures that will begin to return Lake Horowhenua to a taonga (treasure), that holds pride of place in the Horowhenua community. The five parties are the:

Lake Horowhenua Trust;
Lake Domain Board;
Horowhenua District Council;
Horizons Regional Council; and,
Department of Conservation

Relationship Principles

The relationship between the owner and other parties should be based on the following principles:

Whakapapa (relationships);
Kotahitanga (unity);
Kaitiakitanga (custodianship);
Wairuatanga (spirituality);
Rangatiratanga (ownership);
Manaakitanga (hospitality); and,
Ukaipotanga (nurturing)

Acknowledgements

Signatories to: He Kotuku Rerenga Tahī:

Acknowledge the special legal status of the Trust, and of all beneficial owners of Lake Horowhenua and their cultural interests in respect of the current and ongoing management of the condition of the Lake in their collective role as Kaitiaki;

Agree the need to recover, protect and enhance the legal interests and cultural values and practices of the owners and Muaupoko Iwi in respect of Lake Horowhenua and its environs;

Commit to the recovery of Lake Horowhenua for the recreational and leisure enjoyment of the communities of Horowhenua; and,

Agree to work together collaboratively to develop appropriate instruments for the attainment of the goals: including best governance and management practice that may draw from recent experiences; (for example the Waikato-Tainui River Settlement 2008 and the Manawatu Accord).

Objectives of: He Kotuku Rerenga Tahī

The objectives of the parties to: He Kotuku Rerenga Tahī are to:

- Return Lake Horowhenua as a source of pride for all people of Horowhenua;
- Enhance the social, recreational, cultural and environmental aspects of Lake Horowhenua in a fiscally responsible manner that will be acceptable to the community of Horowhenua;
- Rehabilitate and protect the health of Lake Horowhenua for future generations; and,

Consider how to respond to the key issues, management goals and eleven guiding action points set out below.

Proposed Actions

Any agreed actions shall not derogate from the legal interests of the beneficial owners of Lake Horowhenua and cultural best practice as determined by them.

Activity	Actions
Key Issues	<ul style="list-style-type: none"> 1] Poor water quality; 2] Sources of nutrients and contamination and other causes of adverse effects to the health of the Lake 3] Cyanobacteria blooms; 4] Excessive lake weed; 5] High turbidity and sediment inputs; 6] Declining fishery; 7] Pest fish, and, 8] Confusing and overlapping responsibilities.
Management Goals	<ul style="list-style-type: none"> 1] To maintain or enhance the fishery in the lake and its subsidiaries; 2] To reduce or eliminate the occurrence of nuisance Cyanobacteria; 3] To limit and manage nutrient input into the Lake from all sources 4] To improve the water quality of the lake, for example from hypertrophic to super trophic or eutrophic; 5] To reduce abundance of aquatic macrophytes in the lake; and, 6] To consider more efficient and effective management/decision making processes around the lake and to empower beneficial owners and Muaupoko to more effectively participate in the management of the Lake 7] To regularly communicate to beneficial owners the state of the Lake
Management Actions	<ul style="list-style-type: none"> 1] Enhance monitoring; 2] Public education - including lake report cards; 3] Farm environmental plans; 4] Boat treatment and weed containment; 5] Storm-water diversion [treatment] - spill drain; 6] Remove sediment inputs 7] Riparian enhancement - Lake; 8] Riparian enhancement - streams; 9] Lake weed harvesting; 10] Pest fish management - including enhanced predation; 11] Fish pass at the weir; 12] Lake level management; and 13] Build the capacity of the Lake Horowhenua Trust to more effectively contribute to the management of the lake. 14] To develop a cultural monitoring programme based on Muaupoko values and indicators. 15] Build the capacity of beneficial owners and Muaupoko to participate and engage in the management of the Lake.

Commitments

The signatories to: He Kotuku Rerenga Tahī, agree to work together in a cohesive manner, to ensure progress towards stated goals is achieved.

The parties will ensure that management actions are practical, affordable and culturally appropriate, and that they can be implemented individually, or in combination, to achieve the objectives of the Accord.

The parties, in acknowledging the Trust's duties and responsibilities owed to beneficial owners, also acknowledge that the Trust will be responsible for communicating with and seeking the approval of beneficial owners to any proposed management plan. The parties will also take steps to assist beneficial owners as priority stakeholders to fully engage and participate in the restoration and ongoing maintenance and enhancement of the health of the Lake and to exercise their role as Kaitiaki.

The parties acknowledge that education through the preparation of regular reports on milestones that have been achieved will be important to the wider public understanding and support for the management and operational processes under this Accord.

The signatories agree to meet at least four times each year to consider progress towards their stated goals.

At their first meeting the signatories will agree on the reporting model and frequency of communication to formalize progress reports. Signatories are also to agree by resolution at the beginning of each calendar year, the appointment of representatives to attend the quarterly meetings. Representatives are to be delegated the power to act except that the Trust shall first consult with and seek authorization from, beneficial owners in relation to the finalisation and/or implementation of any management plan before the Trust representative can act.

Signed by

Lake Horowhenua Trustees

Lake Domain Board

Department of Conservation

Horizons Regional Council

Horowhenua District Council

19 May 2011

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Dear David

SUBMISSION ON HOROWHENUA DISTRICT COUNCIL'S DRAFT EXCEPTIONS ANNUAL PLAN 2011-2012

Thank you for the opportunity to comment on your Draft Exceptions Annual Plan. This response is presented in the spirit of local government working collaboratively.

In general, Horizons Regional Council (Horizons) supports the Horowhenua District Council's overall direction.

District Plan Review

Horizons will continue to participate in the Horowhenua District Plan Review as Council works through the review process.

Manawatu River

Horizons thanks Horowhenua District Council for its support and contribution to the development of the Manawatu River Leaders' Accord and Action Plan. We support Council's commitments to improving water quality in the Manawatu River, in particular moves towards upgrading wastewater discharges.

Infrastructure

Wastewater

We support the forthcoming strategic review of wastewater systems in the District. Horizons would welcome any requests to participate in this review should the opportunity arise.

We note that the Draft Annual Plan continues the progressive development of the Levin Wastewater Treatment Plant, in particular land acquisition. We support the consistency of purpose in Horowhenua District Council working towards this goal, and urge you to continue these improvements.

In view of the overflows into Lake Horowhenua from the Levin wastewater system which have occurred periodically, Horizons supports Council's ongoing commitment to improving sewage reticulation in Levin, which will reduce

Kairanga

Marton

Palmerston North

Taihape

Taumarunui

Wanganui

Woodville

2 June

3:50 pm

groundwater and stormwater intrusion into this system. We note however, that the funding for Levin wastewater reticulation renewals has been reduced from the amount set in the LTCCP. We encourage you to maintain a high level of commitment to this work.

Horizons looks forward to continuing to work with Council, to progress unresolved resource consent applications for wastewater discharges. There have been to date some significant delays with the Shannon and Waitarere wastewater treatment plants. We are particularly concerned with progress on the Shannon resource consent because the matter is still before the courts. Accordingly we urge Council to give this consent application the priority it deserves. In relation to Foxton communities sewage discharges we remind the District Council that it obtained a short-term consent with key milestones to be met. This consent will expire in the short term and requires the Council to have completed a significant assessment exercise to more effectively manage its discharges. Horizons is committed to working with the District Council to look at options.

Solid waste

It is pleasing to report that the closed landfill has been recapped in accordance with the reviewed consent conditions and a management plan for its care is in place.

Stormwater

We note that on page 32 there is a comment that provision for resource consents to discharge stormwater has ~~been deleted~~ (repeating the same comment in the 2010-11 Annual Plan). We take this opportunity to point out that discharges of stormwater from urban centres and some other areas may still require resource consent in future.


Environmental Protection

Horizons has a policy of charging for the actual and reasonable costs of compliance monitoring, where these costs exceed the charges invoiced annually in February under s36 RMA. The policy is for all resource consents which of course includes Horowhenua District Council consents. We bring this to your attention so that you are able to plan for these costs.

Horizons wishes to be heard in relation to its submission. We would prefer to attend the hearings on 2 June 2011.

Please contact Richard Munneke, Policy and Consents Manager, on freephone 0508 800 800 if you wish to follow up any of the matters presented in the submission.

Yours sincerely



Bruce Gordon
CHAIRMAN

that the following disputes have arisen between the Union and the Council:-

- (a) What additional payment is required to compensate the beef slaughtermen for the extra work involved in the implementation of the Meat Regulations effective since reaching agreement on the present award?
- (b) What additional payment is required to compensate the mutton slaughtermen for the extra work involved in the implementation of the Meat Regulations effective since reaching agreement on the present award?
- (c) What additional payment is required to compensate the pig slaughtermen for the extra work involved in the implementation of the Meat Regulations effective since reaching agreement on the present award?
- (d) What additional payment shall be made to labourers in the pig team required to singe heads? Are they entitled to slaughtermen's rate whilst performing this slaughterman's work?
- (e) What compensation should slaughtermen receive when less than the standard number of slaughtermen and more than the maximum number of learners are employed in a team? Where more than the maximum number of learners are employed should a sum equal to the difference in rates for those in excess of the number be paid into a pool and shared by the learners?

It was expected that a meeting would be arranged by the Conciliation Commissioner in the near future.

WORKS COMMITTEE REPORT

2473

1. The Committee reported that it met the Trustees of the Horowhenua Lake to discuss the construction of a pipe line through the one chain strip and the dewatered area controlled by the Trustees adjoining the Horowhenua Lake. After the proposal had been outlined by the Committee the Trustees agreed that the Council's proposals were in order subject to certain safeguards in respect of trade wastes etc. which may pollute the Lake. The Committee gave the Trustees an assurance that it would not permit any water passing through the stormwater drain to be polluted in this manner and the Trustees then indicated that they would be prepared to sign the agreement prepared by the Council provided that it included those safeguards. It was then resolved that the arrangements with the Trustees be approved and that authority be given to affix the seal of the Council to the necessary documents covering the agreement.

TOWN PLANNING COMMITTEE REPORT

2474

1. Use of property at 29 Roosevelt Street. The Committee reported having received further complaints from Mrs M.M. Mitchell, 27A Roosevelt Street, supported by letters from other persons concerning the use of the property at 29 Roosevelt Street owned by Mrs Hillman. The Committee reported having considered a detailed report on this matter