

Taieri River Improvement Act 1920

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An Act to make Better Provision for the Improvement of the Waterway of the Taieri River and its Tributaries, and the Protection and Drainage of certain Land in Otago.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title

This Act may be cited as the Taieri River Improvement Act 1920.

2 Taieri River Trust District constituted

- (1) The area described in Schedule 1 hereto is hereby constituted and declared to be a special river district, to be called “The Taieri River Trust District” (hereinafter referred to as the district).
- (2) The district shall be divided into five subdivisions with the names and boundaries described in Schedule 2 hereto.

3 Taieri River Trust constituted

There shall be for the district a Trust under the name of “The Taieri River Trust” (hereinafter referred to as the Trust), consisting of 5 Commissioners, one of whom shall be elected by the ratepayers of each of the West Taieri, Momona, Snow, Lee Creek, and Lakes Subdivisions,.

Section 3 was amended by substituting, as from 1 April 1988, the figure “5” for the word “eight”, and omitting the words “and three Commissioners shall from time to time be appointed by the Minister of Public Works” pursuant to section 8 Ministry of Works and Development Abolition Act 1988 (1988 No 42).

4 Provisions of River Boards Act 1908, and Land Drainage Act 1908, incorporated

The Trust shall be deemed to be a local authority within the meaning of the River Boards Act 1908, and shall have all the powers conferred on a River Board by the said Act. The Trust shall also have all the powers of a Drainage Board constituted under the Land Drainage Act 1908, and subject to the provisions of this Act the provisions of those Acts shall apply accordingly.

5 Election of Commissioners

The first Commissioners of the Trust shall come into office on the day fixed for their election as hereinafter provided.

6 Ratepayers list

The Returning Officer shall prepare for each subdivision a ratepayers list in the manner provided by the River Boards Act 1908, except that there shall be inserted opposite the name of each ratepayer the total area of rateable land held by him within the subdivision in lieu of the value thereof.

7 Voting

- (1) At all elections and polls of ratepayers every person whose name appears on the ratepayers list shall be entitled to exercise one vote.

(2)

Subsection (2) was substituted, as from 28 June 1988, pursuant to section 208(1) Rating Powers Act 1988 (1988 No 97).

Subsection (2) was repealed, as from 1 July 2003, by section 138(1) Local Government (Rating) Act 2002 (2002 No 6). *See* section 138(2) of that Act for the savings provision that provides that the changes apply for the purpose of rating in a financial year that begins on or after 1 July 2003.

8 Rating-powers

- (1) The Trust is hereby empowered to make and levy the following rates:—

- (a) An administrative rate, over the whole of the rateable land in the district, to provide for the payment of general administrative charges that are of common interest

- to the district, but, pending a classification or classifications of the lands as herein provided, such rate may be made and levied on all the lands in the district.
- (b) Maintenance rates, over the rateable lands in any special area as defined herein, to provide for the cost of maintenance, repairs, and flood-damage to works carried out under this Act, and including the Taieri River, Waipori River and Lake embankments at present existing.
 - (c) A drainage rate, over all the rateable land on the western side of the Taieri River, to provide for the maintenance of any work or works constructed or maintained by the Western Taieri Land Drainage Board or any other extension or improvement of such work or works, but excluding the embankments mentioned in the last preceding paragraph.
 - (d) An embankment rate to provide for the maintenance and repair of the existing river-embankments and lake-embankments; but before making any such rate the Trust shall cause all the land in the district to be classified into two classes, namely:—
 - (i) Lands receiving a benefit from the embankments so as to be maintained and repaired, and such lands shall be rateable; and
 - (ii) All other lands; such lands shall not be rateable.
- (2) Before making and levying a drainage rate as provided in paragraph (c) of the preceding subsection the Trust shall cause the land to be classified into two classes, namely: (a) Lands receiving a benefit from the maintenance or improvement of such work or works, which land shall be rateable; and (b) all other lands, which shall be non-rateable.
 - (3) The administrative, maintenance, embankment and drainage rates shall be uniform and be made and levied on an acreage basis.
 - (4) For the purpose of providing the interest and other charges on any loan or loans authorized by the ratepayers to be raised for any work or works the Trust shall, by resolution which shall be published in the *Gazette*, describe the boundaries of the area to be benefited by such work or works, and shall declare the area so described to be a special area, and shall cause

to be made a classification of the benefits to be derived by each property within such special area. In such classification there shall be specified the amount to be paid by the owner or occupier of each property, and such amount shall be deemed to be a special annual-recurring rate within the meaning of the Local Authorities Loans Act 1956, and shall be payable at such intervals as the Trust by resolution determines, and shall be levied year by year without further proceeding by the Trust until the loan in respect of which the classification is made is fully paid off. Such rates on each property shall be made in the ratio of the individual benefit to the total estimated benefits in such special area. After adoption by the Trust and before entering upon any scheme of improvement in or for the benefit of any district as defined in this subsection the lands shall be classified as herein provided.

- (5) Every classification shall be dealt with by the Trust, and every person who thinks himself aggrieved thereby may appeal against the same in the manner provided by the River Boards Act 1908.
- (6) All appeals against any classification shall be decided by a District Court Judge sitting with two assessors, one of whom shall be appointed by the Trust and the other by the Minister of Public Works.
- (7) Every classification list, when signed by the Trust in case there is no appeal, and when signed by the District Court Judge and assessors after any appeal, shall for the purpose of any proceedings for the recovery of rates payable under this Act be conclusive evidence of the liability of the owner or occupier for the time being of the property described therein; and every such list shall remain in force until another is made under the provisions of this Act.
- (8) The Trust shall cause separate accounts to be kept for all administrative, maintenance, embankment drainage, and special rates made and levied.
- (9) After all classifications have been completed all the moneys paid as administrative rates in respect of lands classified as land not receiving any benefit shall be refunded.

- (10) With respect to that part of the district which lies on the east side of the river between the Allanton Bridge and the steel traffic-bridge at Henley the following provisions shall apply:—
- (a) The lands therein shall be exempt from rating under this Act.
 - (b) The Trust shall have the control of the river and the power to remove from the river-bed all willows and other obstructions.
 - (c) Subject to the approval of the Engineer-in-Chief of the Public Works Department, the Trust may cut down or remove all willows from the lands in the said part of the district, and the owners of such lands shall not erect any protective works without the consent of the said Engineer-in-Chief.
 - (d) Nothing herein contained shall be deemed to interfere with the right of the owners of such lands to access to the river or the use of the waters thereof.

Para (d) of subsection (1) was inserted, as from 22 December 1921, by section 6 Taieri River Improvement Amendment Act 1921 (1921 No 9(L)).

The reference to the Local Bodies' Loans Act 1926 was substituted, as from 1 October 1926, for a reference to the Local Bodies' Loans Act 1913 pursuant to section 126(1) Local Bodies' Loans Act 1926 (1926 No 14). That Act was in turn substituted, as from 1 April 1957, pursuant to section 135(1) Local Authorities Loans Act 1956 (1956 No 63).

The words "District Court Judge" were substituted for the words "Stipendiary Magistrate" and "Magistrate", as from 1 April 1980, pursuant to section 18(2) District Courts Amendment Act 1979 (1979 No 125).

9 Trust may borrow money by way of overdraft

[Repealed]

Section 9 was repealed, as from 30 January 1922, by section 27 Finance Act 1922 (1922 No 51).

10 Special loans

Before raising a special loan the consent thereto of the ratepayers in the district affected shall be obtained in the manner provided by the Local Authorities Loans Act 1956.

The reference to the Local Bodies' Loans Act 1926 was substituted, as from 1 October 1926, for a reference to the Local Bodies' Loans Act 1913 pursuant to section 126(1) Local Bodies' Loans Act 1926 (1926 No 14). That Act was

in turn substituted, as from 1 April 1957, pursuant to section 135(1) Local Authorities Loans Act 1956 (1956 No 63).

11 General powers of Trust

The Trust shall have full power to do all such things as may in its opinion be necessary to effectively cope with the drainage and the flooding of the district, either from the surface water or by floods and freshes in the Waipori and Taieri Rivers or any of their tributaries.

12 Particular powers of Trust

- (1) In particular, and without restricting the general powers hereby given, the Trust may—
 - (a) Erect or make any dam or reservoir in, about, or across the Taieri or Waipori Rivers or any of their tributaries:
 - (b) Enter upon any land within the district, divert any drain, stream, or river, and close up any outlet or inlet to or from the same, without payment of any compensation for loss of riparian or other water rights:
 - (c) Divert, raise, lower, or alter roads, bridges, and culverts where in the opinion of the Trust they interfere with the proper discharge of flood-waters.
- (2) The Trust may exercise the powers hereby conferred at any part of the rivers aforesaid, whether within or outside the district.

13 Trust to approve of proposed works

All proposals by any person or body for any drain or drains to empty into the rivers or into any drain or drains under the control of the Trust, and all plans for locks, tide-gates, bridges, ferries, or wharves, shall be submitted to and approved by the Trust before being carried out.

14 Obstruction of flow of flood-waters

It shall not be competent for any person to do or erect anything that will obstruct, or will be likely to obstruct, the free flow of flood-waters over any land within the district, unless with the written consent of the Trust.

15 Penalty for damage to Trust's property

Every drain, tidal or flood gate, or box or valve or levee, or other appliance, constructed or maintained by the Trust shall be deemed to be the property of the Trust; and any person doing any act whereby any such drain, gate, box, levee, or appliance may be damaged or its efficiency impaired, or doing any work or thing in contravention of this Act, shall be liable to a penalty not exceeding one thousand dollars.

The words "one thousand dollars" were substituted, as from 10 July 1967, for the words "five hundred pounds" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

16 By-laws

The Trust may from time to time make by-laws concerning the taking or diverting of water from any drain within the district, and may by any such by-laws prescribe a fine not exceeding one hundred dollars for any breach thereof.

The words "one hundred dollars" were substituted, as from 10 July 1967, for the words "fifty pounds" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

17 Trust to keep hydrological records

It shall be the duty of the Trust to take all necessary observations and keep records that will assist in the study of the hydrology of the Rivers Taieri or Waipori, or any of their tributaries, changes in their regimen, heights and duration of floods, rainfalls, or any other information that will be of service to the Trust.

18 Trust may purchase land

- (1) In lieu of paying compensation to the owner or occupier of any land that may be damaged or injuriously affected by any work carried out under the provisions of this Act, the Trust is hereby empowered to purchase any such land.
- (2) If the owner of any such land and the Trust cannot agree as to the price to be paid for such land, the dispute shall be referred to the determination and award of two arbitrators or their umpire pursuant to, and so as to have all the incidents and consequences of an arbitration under, the Arbitration Act 1996.

- (3) The Trust shall have the power to lease or to sell, convey, and transfer any lands (other than endowments) belonging to it.

The reference to the Arbitration Act 1996 was substituted, as from 1 July 1997, for a reference to the Arbitration Act 1908, pursuant to section 18 Arbitration Act 1996 (1996 No 99).

19 Endowment

- (1) The beds of Lakes Waihola, Waipori, and Tatawai are hereby vested in the Trust as an endowment.
- (2) The Trust shall in respect of the bed of the said lakes be deemed to have been declared a leasing authority within the meaning of the Public Bodies Leases Act 1969.
- (3) Any revenue derived from the endowment shall be applied by the Trust towards the interest and other charges on any loan or loans raised for the purpose of improving the waterway of the Waipori River and extension of the Contour Channel and channels through the said lakes.

The reference to the Public Bodies Leases Act 1969 in subsection (1) was substituted, as from 1 January 1970, for a reference to the Public Bodies' Leases Act 1908 by section 28(1) Public Bodies Leases Act 1969 (1969 No 141).

20 Native fishing-rights

- (1) In respect to any Native fishing-rights over Lake Tatawai which may exist at the date of the passing of this Act the Trust shall pay to any Native or Natives who can establish the fact that he or they have, within one year before the passing of this Act, made any substantial use of the lake such sum of money as may be agreed upon between the Trust and such Native or Natives.
- (2) In the event of the Trust and any Native or Natives being unable to agree upon a sum to be paid as aforesaid the dispute shall be determined by an arbitration as hereinbefore provided.
- (3) All claims against the Trust under subsection one of this section shall be made within six months of the date of the coming into operation of this Act, and thereafter, and upon payment of any claim agreed upon or determined as aforesaid, the rights of all Natives shall cease for ever.

21 Western Taieri Land Drainage Board abolished

- (1) The Western Taieri Land Drainage Board (hereinafter referred to as the Board) constituted under section three of the Taieri Land Drainage Act 1910, is hereby dissolved as from the date of the commencement of this Act, and the Western Taieri Land Drainage District is hereby abolished as from that date.
- (2) All the loans heretofore raised by the Board are hereby declared to have been legally raised, and all rates made as security for such loans are declared to have been legally made.
- (3) On the dissolution of the said Board all its property shall, subject to the next succeeding subsection, become the property of the Trust, and all the liabilities and engagements of the Board shall become liabilities and engagements of the Trust, and all proceedings and actions pending by or against the Board may be carried on and prosecuted by or against the Trust, and all rates payable to the Board shall be paid to the Trust. Where the Board levied and collected special rates already made by the Board or by any of the old Boards as defined in the Taieri Land Drainage Act 1907, as security for past loans, and for loans apportioned to the Board in the manner provided by subsection one of section four of the Taieri Land Drainage Act 1910, the Trust shall collect the same on the acreage basis of the classification in force on the coming into operation of this Act, which classification shall continue in force for the purpose of levying and collecting the said special rates until the loans in respect of which they are made shall be paid off.
- (4) The Trust shall cause a valuation to be made of all the saleable assets of the Board, and shall credit the General Account of the Board with the amount of such valuation.
- (5) If after such amount has been so placed to the credit of the General Account there remains a credit balance in the account, then such credit balance shall be applied to one of the interest accounts in respect to one of the loans of the Board.
- (6) If, on the other hand, there is still a debit balance in the account, the Trust is hereby empowered to make and levy a separate rate, on the basis of the classification in force at the time of the coming into operation of this Act, of such an

amount per acre as will produce a sum sufficient to liquidate such debit balance.

22 Commissioners to vacate office, and property to vest in Taieri County Council

- (1) On the coming into operation of this Act the Commissioners appointed under section six of the Taieri Land Drainage Act 1910, shall go out of office, and all their property shall be vested in the Taieri County Council, and all the liabilities and engagements of the Commissioners shall become liabilities and engagements of the Taieri County Council, and all rates payable to the Commissioners shall be paid to the Taieri County Council, and all proceedings and actions pending by or against the Commissioners may be carried on and prosecuted by or against the Taieri County Council. The liabilities of the Commissioners, whether for loans or otherwise, shall remain the same charge upon the area of land heretofore rated as if the Commissioners had not been dissolved; and the Taieri County Council shall continue to levy and collect the same special rates made as security for loans and other special rates only within the area over which they were originally levied by the Commissioners in order to liquidate all liabilities of the Commissioners.
- (2) The Taieri County Council shall have and may exercise in respect of the Silverstream all the powers conferred upon the said Commissioners by the said section six of the Taieri Land Drainage Act 1910, and also all the powers of a River Board under the River Boards Act 1908.

23 Repeals

The Taieri Land Drainage Act 1910, the Taieri Land Drainage Act 1912, the Western Taieri Land Drainage Board Enabling Act 1913, the Taieri Land Drainage Amendment Act 1914, and the Western Taieri Land Drainage Act 1917, are hereby repealed.

24 Commencement

This Act shall come into operation on the day fixed by the Governor-General for the first election of members of the

Board hereby constituted, but all things necessary for such first election may, notwithstanding this section, be done in anticipation thereof.

25 Approval of Minister of Public Works required before certain work commencement

It shall not be lawful for any local authority or other public body, or any person, to construct protective works on the east side of the Taieri River between the West Taieri Traffic-bridge and the Allanton Traffic-bridge of such a nature as to interfere with the flow of the water in the river, except with the approval of the Otago Catchment Board.

The words "Otago Catchment Board" were substituted, as from 1 April 1988, for the words "Minister of Public Works" pursuant to section 8 Ministry of Works and Development Abolition Act 1988 (1988 No 42).

26 Railways lands safeguarded

It shall not be lawful for the Trust, or any local authority or other public body, or any person, to execute any work upon or affecting any railway land in any part of the district except with the previous consent and approval in writing of the Minister of Railways, who may impose such conditions for the protection and safety of the railways as he may think fit.

Schedule 1

Boundaries of the taieri river trust district

COMMENCING at the centre of the Taieri River at the West Taieri Traffic-bridge; thence by the centre of the said river to the western boundary of the Township of Allanton; thence along the south-western boundary of the Township of Allanton to the Main South Road; thence by the Main South Road to the steel Traffic-bridge at Henley; thence along the Main South Road to the south-western side of the Township of Waihola; thence along the boundary of the said township to the shore of Lake Waihola; thence along the southern, western, and northern shores of the said lake to the south-eastern corner of Block XVI, Waihola District; thence by the southern and western sides of the said block to the north-east corner of Block XVII; thence

along the northern boundary of said block to its north-western corner; thence in a south-western direction along the boundary of said Block XVII, Clarendon District; thence along the south side of said Section 5 to the road-line bounding that section; thence along the said road to Berwick; thence by the right bank of the Waipori River up to a point immediately opposite the north-western corner of Section 1 of 37, Block II, Maungatua District; thence across the river and along the north-western and north-eastern boundaries of said Section 1 of 37, and along the south-eastern boundary of same to Section 43; thence along the north-eastern boundary of Sections 43, 1 of 39, 1 of 11, and 1 of 9 of said Block II to the main road Berwick to Outram; thence along the Berwick-Outram Road to its intersection with the Woodside Road at the north-east corner of Section 1, Block IV, West Taieri District; thence by Woodside Road to Woodside; thence by Woodside-Outram Road to the western boundary of River Section 38, West Taieri; thence along the western and northern boundaries of said Section 38 to the Taieri River; thence along the river to the West Taieri Bridge, and across the bridge to the point of commencement: excluding the Township of Waiholā and Government railways, the Township of Outram, Outram Extension, and River Section 38, West Taieri.

Schedule 2

Boundaries of subdivisions of the Taieri River Trust District

West Taieri subdivisions

COMMENCING at the centre of the river at the West Taieri Traffic-bridge thence down the centre of the Taieri River to the Mosgiel-Outram Railway; thence south-westerly along the said railway to the south-east corner of Section 1, Block I, West Taieri South District; thence along the road on south-east side of Blocks I, II, and III to the south-west corner of Section 6, Block III, West Taieri Survey District; thence north-west along the road on the south-west side of side Block III to the Main Berwick-Outram Road; thence along the said road to its intersection with the Woodside Road at the north-east corner of Section 1, Block IV, West Taieri District; thence by Woodside Road to Woodside; thence by Woodside-Outram Road to western

boundary of River Section 38, West Taieri; thence along the western and northern boundaries of the said Section 38 to the Taieri River; thence along the river to the West Taieri Bridge, and across bridge to the point of commencement: excluding Government railways, the Township of Outram, Outram Extension, and River Section 38, West Taieri.

Momona subdivision

Commencing at the centre of the Taieri River at the Mosgiel-Outram Railway-bridge; thence down the centre of the Taieri River to Allanton; thence across to left bank of river, and along the said river to the western boundary of the Township of Allanton; thence along the south-western boundary of the Township of Allanton to the Main South Road; thence south-west along that road to River Section 12, Taieri District; thence by north-east boundary of said Section 12 and boundary produced to the road forming the east boundary of the Momona Settlement; thence along the said road in a northerly direction to Section 45, Block III, Maungatua Survey District; thence north-easterly along the said road to opposite the eastern corner of Section 43, Block III, Maungatua Survey District; thence north-westerly along the road fronting Sections 35 and 36, Block III, Maungatua Survey District; thence along the road fronting Sections 36 and 37 of said block and district to the south-east corner of Section 56, same block and district; thence along road-line on south boundary of said Section 56 and the western boundaries of Sections 56, 57, 58, and 59, same block and district, to the road-line which is the south boundary of the West Taieri Subdivision to the place of commencement; excluding Government railways.

Snow subdivisions

Commencing at the intersection of the roads to the west of Section 12, Block III, Taieri Survey District; thence along the western boundaries of West Taieri and Momona Subdivisions to the Main South Road; thence south-west along that road to River Section 5, Taieri Survey District; thence by north-east boundary of said Section 5 to centre of the Taieri River; thence down the centre of that river to the south-west corner of Section 44, Block IV, Maungatua Survey District; thence along boundary between Sections 43 and

44, Block IV, said survey district, and this line prolonged to the south-east boundary of Section 38, said block and district; thence south-westerly and north-westerly along the boundary of said Section 38; thence north-westerly along boundaries between Sections 25, 20, and 7 on the one side, and Sections 24, 21, and 6 respectively on the other side, to Lee Creek; thence along Lee Creek and Road to the south-eastern boundary of Section 3, Block IV, Maungatua Survey District; thence south-westerly along the boundary of said Section 3, and north-westerly along the boundary between Sections 3 and 4, said block and district; thence south-westerly and north-westerly along boundary of Section 12, Block I, Maungatua, to the Outram-Berwick Road; and thence along the said road to the place of commencement: excluding Government railways.

Lee Creek subdivision

Commencing at a point on the Outram-Berwick Road at the north-west corner of Section 12, Block I, Maungatua Survey District; thence along the south-western boundary of Snow Subdivision to the Main South Road; thence along that road to Section 50, Block IV, Otokia; and thence by north-east boundary of said Section 50, and by right line to south-east corner of Section 78, Block VI, Maungatua District, and by north-east boundary of said Block VI, Maungatua District, and Section 10, Block II, Maungatua District, to the Outram-Berwick Road; and thence along the said road to the place of commencement: excluding Government railways.

Lakes subdivision.

Commencing at the north-east corner of Section 10, Block II, Maungatua District, on the Berwick-Outram Road; thence south-east by Lee Creek Subdivision to Main South Road; thence by the Main South Road to the steel traffic-bridge at Henley; thence along the Main South Road to the south-western side of the Township of Waihola; thence along the boundary of the said township to the shore of Lake Waihola; thence along the southern, western, and northern shores of the said lake to the south-eastern corner of Block XVI, Waihola District; thence by the southern and western sides of said block to the north-east corner of Block XVII; thence along the northern boundary of said block to its north-western corner; thence in a south-

western direction along the boundary of said block to the south-eastern corner of Section 5, Block VII, Clarendon District; thence along the south side of said Section 5 to the road-line bounding that section; thence along the said road to Berwick; thence by the right bank of the Waipori River up to a point immediately opposite the north-western corner of Section 1 of 37, Block II, Maungatua District; thence across the river, and along the north-western and north-eastern boundaries of said Section 1 of 37, and along south-eastern boundary of same to Section 43; thence along the north-eastern boundary of Sections 43, 1 of 39, 1 of 11, and 1 of 9 of said Block II to the Main Road, Berwick to Outram; thence along the Berwick-Outram Road to the point of commencement: excluding Township of Waihola and Government railways.