

AKAROA/WAIREWA COMMUNITY BOARD
8 JULY 2009

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. MANAGEMENT OF TE ROTO O WAIREWA/LAKE FORSYTH

General Manager responsible:	General Manager, Strategy and Planning, DDI: 941-8281
Officer responsible:	Programme Manager Healthy Environment
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PURPOSE OF REPORT

1. The purpose of this report is for the Council to support:
 - (a) A Memorandum of Understanding (MOU) between the Christchurch City Council, the Wairewa Runanga (the Runanga), Environment Canterbury (ECan) and the Department of Conservation (DoC) to work together for the long-term benefit of Te Roto o Wairewa/ Lake Forsyth and its environs.
 - (b) A joint resource consent application from the Council and the Wairewa Runanga to ECan for the opening of Te Roto o Wairewa / Lake Forsyth.

*(Note: This item was considered by the Council on 10 September 2009, and it was resolved that the item lie on the table until receipt of the final Memorandum of Understanding and a Council workshop on the issue has been held. This workshop has been held and the final Memorandum of Understanding is **attached**.)*

EXECUTIVE SUMMARY

2. Following amalgamation of Christchurch City and Banks Peninsula District Councils, and as required by the Reserves and Other Lands Disposal Act (1955), the Council took over the responsibility of managing lake levels for Te Roto o Wairewa / Lake Forsyth in March 2006.
3. Members of the Runanga and their advisors met with Councillors on 16 July 2008 to present their vision for the future management of the lake. The Runanga's vision for the lake includes investigation into the establishment of a semi-permanent opening to the sea to reduce the current pattern of lake level peaks and troughs and to improve water quality. This would have benefits that include reduction of toxic algal blooms, possible use of the water for contact recreation and re-establishment of the eel fishery. A similar presentation was given to a group of staff from the Council, ECan and DoC on 12 November 2008. As a result the Runanga and these agencies have initiated discussions on working together on various aspects of the lake's management. There will be significant challenges in achieving the Runanga's vision, however, those aspects that align with the Council's objectives to manage lake levels and to enhance biodiversity values are supported and staff have agreed to consider practices that will meet the needs of both the Runanga and the Council.
4. Both DoC and ECan have statutory responsibilities related to the management of the lake and its surroundings and wish to be involved in greater dialogue about the future of the area. They also support the collaborative nature of the current initiative to establish agreed practices for the lake and its environs in line with the aims of the MOU.
5. Further discussions between all four parties have resulted in proposals for two initiatives at this stage, the first of which is:
 - The development of a Memorandum of Understanding between the four parties (currently being drafted).

6. The MOU aims to achieve better collaboration and coordination of effort for the organisations involved in various aspects of the management of the lake and its environs. Greater collaboration will provide improved opportunities for discussion and development of approaches to enhance the lake and its environs. This process will continue to involve the local residents and landowners that surround the lake. A joint approach to residents and landowners by all four signatories to the MOU will assist with greater integration of effort. Individual proposals and actions that result from dialogue between the signatories and the community may be developed through specific operational agreements to be developed in due course.
7. The second initiative is:
 - A joint application to ECan by the Council and Wairewa Runanga for a resource consent to open the lake. An application to renew the resource consent for the Council-operated opening of the lake is currently outstanding, however ECan have allowed the Council until September 2009 to lodge an application.
8. The current agreed protocol between the Council, the Runanga and local farmers with regard to the consideration and timing of lake openings will continue.

FINANCIAL IMPLICATIONS

9. It is considered that all of the tasks identified to date can be financed through existing budgets. The resource consent application and operations associated with the lake opening are funded from the income from Council endowment land (vested in the Council under the Reserves and Other Lands Disposal Act 1955) and will be rates neutral. Potential future costs related to possible individual operational agreements resulting from the MOU will be assessed as specific cases, as appropriate. Potential future costs related to implementation of any individual operational agreements may be addressed as part of the 2012 and future LTCCP processes.

LEGAL CONSIDERATIONS

10. The Council has responsibility for Te Roto o Wairewa / Lake Forsyth and its environs under legislation including the Local Government Act (2002) and the Resource Management Act (1991). The Reserves and Other Lands Disposal Act (1955) sets out the Council's responsibilities and powers in relation to landholding adjacent to the lake. This work is pursuant with the legislation.
11. Legal advice was sought from the Legal Services Unit in February 2009 with regard to the development of the MOU as an appropriate vehicle to promote greater coordination and cooperation of agencies with responsibility for Te Roto o Wairewa / Lake Forsyth and its environs. Advice received was that the MOU is appropriate, and further consultation with the Legal Services Unit will be carried out once the draft MOU is agreed in principle by the four parties.
12. It is the first time that the Council has entered into a joint resource consent. Legal advice was sought to ensure that this is a feasible approach. Liabilities (such as those relating to decisions over timing and extent of lake openings and other consent conditions) will be clarified through the development of an "Operational Agreement" between Wairewa Runanga and the Council, within which roles and responsibilities will be clearly defined. In order to avoid any potential for Council liability associated with the Runanga's consent, the joint consent will cover only the breaching of the shingle barrier to open the lake and will not cover the channel and groyne which have been developed by the Runanga. The application will be for two opening sites, with the advantage to the Runanga (and the Council) being that it allows for more opportunities to test the channel and groyne approach, given that the Runanga's consent limits them to just three trial attempts to open the lake.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

13. The preparation of the MOU and associated operational agreements for the management of the lake and its environs is in line with the Council's Parks, Open Spaces and Waterways Activities and Services *"to protect and enhance waterways and their margins, their ecosystems and the biodiversity they sustain; to recognise cultural relationships with indigenous biodiversity and other taonga including mahinga kai; and to promote drainage, landscape, ecology, recreation, heritage and cultural values of waterways"*. (page 136)

ALIGNMENT WITH STRATEGIES

14. The preparation of the MOU and associated operational agreements falls under the suite of Healthy Environment Strategies; in particular the Biodiversity Strategy (2008) – through improving the health of the lake and its environs and working in collaboration with key partners for this purpose. It also falls within the realm of the Surface Water Strategy (draft 2009) which signals the preparation of a “Lakes” Integrated Catchment Management Plan in the future.

CONSULTATION FULFILMENT

15. The progress of this work has been informed by debate and discussion with the Wairewa Runanga, staff of the Department of Conservation, Environment Canterbury, local landowners and residents. Consultation with all parties will continue as part of the MOU process.

STAFF RECOMMENDATION

It is recommended that the Council give their support to the approach being taken, namely:

- (a) Entering into a Memorandum of Understanding to achieve better coordination and collaboration between the four parties (Wairewa Runanga, the Council, Environment Canterbury and Department of Conservation) relating to the long-term management of the lake and its environs.
- (b) Lodging a joint resource consent application shared by the Council and Wairewa Runanga for the opening of the lake.

BOARD CONSIDERATION

The Board felt that the proposal for a Memorandum of Understanding was a significant and positive step forward in trying to achieve a healthy lake, where the parties involved might have different priorities, but all wanted to achieve the same outcome.

Board members did feel that there was a need for this process to have a direct link back to the community and that this could be achieved through the Community Board. Members felt that a strong link with the community was paramount, as it was acknowledged that the lake is important to the Runanga, but is also important to everyone else in the community.

Other issues the Board noted were public access to the lake and the inclusion of the lake surrounds in any considerations. Staff were asked to make amendments to the Draft MOU to reflect the Board's comments.

BOARD RECOMMENDATION

The Board recommended that the staff recommendation be adopted.

The Board **recommended** that the following amendments be made to the Draft MOU before its consideration by the Council:

Clause 7 - Anticipated Matters

- 7.1 - Amend bullet point 7 to read - Recreation use of the lake *and its surroundings*.
- 7.1 - Amend bullet point 9 to read - Collaboration with *the local community and* other interested parties as opportunities arise.
- 7.1 - Insert an additional bullet point - *Public facilities and access points*.

Clause 10 - MOU Delivery and Monitoring

- 10.2 - insert an additional bullet point - Akaroa/Wairewa Community Board member (or delegated substitute).

Note: These matters have been addressed in the Memorandum of Understanding attached to this report.

BACKGROUND (THE ISSUES)

16. Te Roto o Wairewa is the only customary lake in the South Island - it is unique to Ngai Tahu. Wairewa Runanga is one of the eighteen Ngai Tahu Papatipu Rūnanga as described in the first schedule of the Ngai Tahu Settlement Act and the traditional Kaitiaki (guardian) of Te Roto o Wairewa/ Lake Forsyth. The lake and its environs were famous for its mahinga kai, but this has declined partly because of beach processes closing the lake to the sea. Wairewa Runanga is committed to rehabilitating the lake to support significant levels of fish and other species once again. The management of water levels is fundamental to success. In the words of the Chair of Wairewa Runanga: *"The Wairewa Runanga position is clear and they have invested considerable time and money to identify and begin testing a potentially workable bio-engineering solution to improve the health of the lake, turning it from a liability to an asset"*.
17. It is nevertheless an area of significant biodiversity: Te Roto o Wairewa / Lake Forsyth is among the top 15 wading bird sites in New Zealand for migratory birds and the main wintering site for the endangered Southern Crested Grebe. Control of lake levels is important to allow exposure of the mud flats at the head of the lake at key times and to prevent long term inundation of the endangered sea holly population on the lake shore. Catchment-wide management of sediment and nutrients entering the lake is desirable to achieve better water quality. There are populations of Nationally Endangered spotted skinks at Birdlings Flat. The area around the lake also provides some of the largest remaining coastal shrubland communities in Canterbury; suitable habitat for lizards which are generally in decline throughout New Zealand.
18. There are a number of organisations and agencies which have responsibilities to manage and promote the environmental and economic health of the area. The Council holds a 90 hectare reserve adjacent to the lake as endowment land pursuant to Section 21(4)(b) of the Reserves and Other Lands Disposal Act (1955). Income from leasing this land provides funding for managing the lake levels with opening of the lake to the sea when levels reach an agreed trigger point. The Council's Biodiversity Strategy (2008) recognises Te Roto o Wairewa / Lake Forsyth as a site of significance both locally and nationally. The Council works closely with ECan and DoC and local communities to safeguard the area's biodiversity importance. The development of the MOU will create new opportunities to achieve further joint goals.
19. The Department of Conservation has responsibility for administering and implementing the provisions of the Conservation Act 1987, Reserves Act 1977, Wildlife Act 1953 and associated amendments and regulations. The bed of the lake is defined as Conservation Area under part 3 of the Conservation Act and is managed through the Department's Mahaanui Area Office in Christchurch.
20. Environment Canterbury has the statutory responsibilities of managing the land, air and water quality in Canterbury, including the Wairewa area. This is achieved through managing resource consents, setting rules in plans around activities affecting the environment, investigating and monitoring environmental variables, and working with stakeholders and community to achieve environmental aims. Legislation enabling these responsibilities includes the Resource Management Act (1991) and the Local Government Act (2002).