


### 13. TE ROTO O WAIREWA/LAKE FORSYTH RESOURCE CONSENT APPLICATION



<b>General Manager responsible:</b>	General Manager Strategy & Planning, DDI 941-8281
<b>Officer responsible:</b>	Programme Manager – Healthy Environment
<b>Author:</b>	Jenny Ridgen, Programme Manager - Healthy Environment

#### PURPOSE OF REPORT

1. The purpose of this report is to:
  - (a) Advise the Council that the Wairewa Runanga have indicated that they may not wish to enter into a joint application to open Te Roto o Wairewa/Lake Forsyth; and
  - (b) Seek the Council's support to lodge an application solely in the name of Christchurch City Council if agreement cannot be reached on a joint application.

#### EXECUTIVE SUMMARY

2. At the 12 November 2009 meeting of Christchurch City Council it was resolved that the Council give its support to "lodging a joint resource consent application shared by the Council and Wairewa Runanga for the opening of the lake."
3. At a meeting on 31 November 2009 representatives of the Runanga expressed strong concerns that in their view the proposed application for opening the lake reinforces the status quo, particularly if this application was for a 35 year period (the maximum period under the Resource Management Act). To progress the new approach to lake management, they are seeking to have the consent application cover the installation of a bund across the lower end of the lake, in addition to opening of the lake.
4. Council staff are concerned that the current lake opening activity is not covered by a resource consent, this situation has existed for an extended length of time and leaves the Council open to enforcement proceedings. This concern has been reinforced by legal advice that a consent should be sought with some urgency.
5. At least three extensions for lodging the consent have already been approved by Environment Canterbury. The current extension period expires on 31 March 2010.
6. Council staff are supportive of investigating the bund proposal, but concerned that significant hydrological and environmental investigations will be required to support a resource consent application for this work. The investigations required will take time and Council staff recommend that the consent for the bund be dealt with as a separate consent, thus allowing for the lake opening consent application to proceed without delay.
7. The granting of a resource consent to open the lake would place the Council in a sound legal position. It would also benefit the Runanga in their efforts to test channel openings at the cliff end of the beach by eliminating the restriction on the number of openings allowed at this site.
8. Council staff support an application for a 35 year period as it is envisaged that this consent will continue to be required into the future as a back-up option. Should the bund proceed and the proposed new approach for lake management be successful the consent may become redundant, however it is seen as a prudent use of resources to apply for the maximum period.
9. A joint application may still be possible if the Runanga can be reassured that the Council is firm in its support for the proposed new approach. A letter of intent has been proposed to confirm that, if the funding bid for \$100,000 in the 2010 - 11 Annual Plan is successful, this will be used for hydrological and environmental investigations and to pursue the required resource consents for a bund across the lower lake.
10. In the eventuality that the Runanga do not wish to be a joint applicant this report seeks the Council's support to apply for a resource consent solely in the name of Christchurch City Council.

## **FINANCIAL IMPLICATIONS**

11. The cost of applying for a resource consent for opening the lake will be funded from income from Council endowment land (vested in the Council under the Reserves and Other Lands Disposal Act 1955) and will be rates neutral.

## **LEGAL CONSIDERATIONS**

12. The Council has responsibility for Te Roto o Wairewa/Lake Forsyth and its environs under legislation including the Local Government Act (2002), the Resource Management Act (1991), and the Reserves and Other Lands Disposal Act (1955).
13. Pursuant to the Resource Management Act (1991) and Environment Canterbury's planning requirements, a resource consent is required to open the lake for the purpose of managing lake levels to alleviate the threat of flooding of the adjacent land and settlement.
14. Legal advice confirms that a joint application for a resource consent is possible and that, if a joint consent is pursued, an "Operational Agreement" should be drawn up between the Runanga and the Council to set out the roles and responsibilities of the two parties, the arrangements for lake opening events and where liabilities would lie with regard to compliance with consent conditions.
15. In order to avoid any potential for Council liability associated with the Runanga's existing resource consent, the consent will cover only the breaching of the shingle barrier to open the lake at two sites (mid-beach and at the cliff end), and will not cover the channel and groyne which have been developed by the Runanga.

## **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

16. The application for a resource consent for the management of lake levels is in line with the strategic directions set out in Council's Waterways and Land Drainage Activity Management Plan: *"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"*.

## **ALIGNMENT WITH STRATEGIES**

17. Management of Te Roto o Wairewa/Lake Forsyth contributes to the outcomes of the Council's Biodiversity Strategy (2008) and Surface Water Strategy (2009). The Surface Water Strategy signals the future preparation of a "Lakes" Integrated Catchment Management Plan.

## **CONSULTATION FULFILMENT**

18. Council staff have met with representatives of Wairewa Runanga, Environment Canterbury and the Department of Conservation to discuss issues associated with the lake's management on a number of occasions in 2009 and the Runanga presented their vision for the future management of the lake to a Council workshop in October 2009. The views of local landowners and residents have also been sought.
19. Proposals for a Memorandum of Understanding (MoU) and a joint resource consent were supported by the Akaroa/Wairewa Community Board (8 July 2009) and the Council (12 November 2009).
20. At a meeting between Council staff and the proposed MoU parties on 30 November 2009, Runanga representatives advised that they have difficulty with an application that only concerns the lake opening sites. They also believe that the 35 year period for the consent signals an acceptance of the current approach for opening the lake. They indicated that they would not wish to be a joint applicant unless the application also covered the instalment of a bund across the lower end of the lake. The Runanga agreed to provide a written scoping report on what the proposed bund would involve.

21. Subsequent informal discussions have explored the idea of a “letter of intent” to confirm Council’s desire to proceed with investigations on the hydrological and environmental impacts of a bund. Should this be acceptable to the Runanga, it is still possible that agreement could be reached and a joint application lodged.

**STAFF RECOMMENDATION**

It is recommended that:

- (a) Council staff continue to work with Wairewa Runanga to reach agreement on a joint application; and
- (b) If written agreement cannot be reached with Wairewa Runanga prior to 31 March 2010, the Council lodge a resource consent application for the opening of Te Roto o Wairewa/ Lake Forsyth solely in the name of Christchurch City Council.