

Amended by Act. 1924, No. 51.

New Zealand.

ANALYSIS

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1920, No. 20.—*Local and Personal.*

Title. 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.

[11th November, 1920.]

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

Short Title.

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

Taieri River Trust District constituted.

2. (1.) The area described in the First Schedule 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).

Taieri River Trust constituted.

(2.) The district shall be divided into five subdivisions with the names and boundaries described in the Second Schedule hereto.

3. There shall be for the district a Trust under the name of "The Taieri River Trust" (hereinafter referred to as the Trust), consisting of eight Commissioners, one of whom shall be elected by the ratepayers of each of the West Taieri, Momona, Snow, Lee

Creek, and Lakes Subdivisions, and three Commissioners shall from time to time be appointed by the Minister of Public Works.

4. 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.

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

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

Election of Commissioners.

6. 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.

Ratepayers list.

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

Voting.

(2.) Those occupiers who, in accordance with the classification of lands made as hereinafter provided, are so classed as to pay no rates shall not, so long as such classification is in force, be entitled to any vote.

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

Rating-powers.

(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 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, but excluding the embankments mentioned in the last preceding paragraph.

(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.

Classification of land.

(3.) The administrative, maintenance, 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 Bodies' Loans Act, 1913, 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.

Appeals.

(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 Stipendiary Magistrate 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 Magistrate 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.

Separate accounts
to be kept.

(8.) The Trust shall cause separate accounts to be kept for all administrative, maintenance, drainage, and special rates made and levied.

(9.) After the classifications have been completed all moneys paid as administration or maintenance 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 Board 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 Chief Engineer of the Public Works Department, the Board 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 Chief Engineer.
- (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.

9. (1.) The Trust may in anticipation of its ordinary revenue from time to time borrow moneys from the bank by way of overdraft.

Trust may borrow money by way of overdraft.

(2.) The amount of such overdraft shall not at any time exceed the total amount of the receipts of the Trust during the preceding financial year, exclusive of any moneys borrowed or moneys received from special rates or separate rates.

(3.) It shall not be lawful for the Trust to borrow moneys under this section, or to enter into any engagements or contracts, whereby the total liabilities of the Trust (exclusive of all loans lawfully raised and debentures lawfully issued) at the end of any financial year exceed the ordinary income of the Trust for that year.

REPEALED by section twenty seven of Act, 1922, No. 51.

(4.) The limitation of the Trust's power to borrow fixed by this section shall not be interpreted to affect the right of any bank to be repaid any moneys advanced in good faith to the Trust by the bank.

10. 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 Bodies' Loans Act, 1913.

Special loans.

11. 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 Tairi Rivers or any of their tributaries.

General powers of Trust.

12. (1.) In particular, and without restricting the general powers hereby given, the Trust may—

Particular powers of Trust.

(a.) Erect or make any dam or reservoir in, about, or across the Tairi 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. 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.

Trust to approve of proposed works.

14. 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.

Obstruction of flow of flood-waters.

15. 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 five hundred pounds.

Penalty for damage to Trust's property.

By-laws.

16. 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 fifty pounds for any breach thereof.

Trust to keep hydrological records.

17. 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.

Trust may purchase land.

18. (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, 1908.

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

Endowment.

19. (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, 1908.

(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.

Native fishing-rights.

20. (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.

Western Taieri Land Drainage Board abolished.

21. (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.

Assets and
liabilities of Board.

(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. (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.

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

(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. The Taieri Land Drainage Act, 1910, the Taieri Land Drainage Act, 1912, the Western Taieri Land Drainage Board

Repeals.

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

Commencement.

24. 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.

Approval of Minister of Public Works required before certain work commenced.

25. 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 Minister of Public Works.

Railway lands safeguarded.

26. 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.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

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 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 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 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 Waihola and Government railways, the Township of Outram, Outram Extension, and River Section 38, West Taieri.

SECOND SCHEDULE.

BOUNDARIES OF SUBDIVISIONS OF THE TAIERI RIVER TRUST DISTRICT.

West Taieri Subdivision.

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 Survey 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 said 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; thence along the south boundary of the said West Taieri Subdivision to the place of commencement: excluding Government railways.

Snow Subdivision.

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.

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.