

SOUTH WAIRARAPA DISTRICT COUNCIL

15 OCTOBER 2014

AGENDA ITEM C4

COMBINED MOROA LONGWOOD WATER RACE BYLAW

Purpose of Report

To submit to Council a Statement of Proposal incorporating a new Combined Moroa Longwood Water Race Bylaw 2014(Draft) in substitution for the existing 1936 Longwood Water Race Bylaw and the existing 2008 Moroa Water Race Bylaw for approval for public consultation pursuant to Section 83 of the Local Government Act 2002.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Resolve to restart the bylaw adoption process.*
3. *Adopt the Statement of Proposal incorporating the Combined Moroa Longwood Water Race Bylaw(Draft).*
4. *Proceed to public consultation in accordance with Special Consultative Procedure processes as prescribed in Section 83 Local Government Act 2002.*

1. Introduction and Update

This draft bylaw and statement of proposal was first adopted by Council on April 23rd 2014 and publically notified on 30th April 2014. Submissions to the draft bylaw were to close on 11th June 2014.

During the submission period Council was approached by user group representatives who sought to engage Council with a range of questions and queries around the new bylaw.

Council agreed to delay the process for a period of time to allow for further public consultation as was needed and discussion with this particular group.

This list of the group's questions and officer responses is attached for Council's information (Appendix 4).

Further discussion has taken place with the user group with some areas of concern and purpose yet to be clarified. The progress report tabled 24th September is attached (Appendix 5).

Council at that time considered the matter of a public meeting as requested by the user group. Its preference is to given the passage of time since publication notification in April 2014 to restart the process which will involve re-adoption of the Statement of Proposal incorporating the Combined Moroa Longwood Water Race Bylaw(Draft) as per the recommendation.

It is intended also during the submission period to circulate to all water race ratepayers and Greytown urban residents an information brochure which will contain typical question and answers as introduced to Council by the user group.

Please note that no changes apart from a new timeline schedule have been made to the Summary Information Statement of Proposal and the Combined Moroa Longwood Water race Bylaw.

Executive Summary

The Council wishes to consolidate the two existing bylaws for the two separate Moroa and Longwood stock water race systems to provide a framework that will deliver a more consistent and effective approach to:

- a) The consideration of alternative and additional uses of the water race systems.
- b) The regulatory, policy and operating environment currently in place and potential future activities associated with Regional Policy and Development.
- c) Day to day management of the water race systems and the associated funding mechanisms.
- d) Urban areas (Greytown) associated with the water race systems

To achieve these outcomes Council has developed a new Combined Bylaw (in draft form) for consultation with its community using the Special Consultative procedures prescribed within the Local Government Act 2002.

2. Background

Section 146 of the Local Government Act 2002 (LGA02) empowers Council to make bylaws for (among other things), 'managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with water races.

The proposed Bylaw is introduced in reliance of section 145 and 146 of the LGA02. The purpose of the bylaw is defined within the bylaw itself. The bylaw establishes permitted and prohibited uses for the Moroa and Longwood water race systems.

Section 228 LGA02 also specifies a range of offences in relation to water, and the bylaw itself establishes offences for breaches.

3. Discussion

It has been established that there are levels of dis-satisfaction amongst stock water race users serviced by both systems and other affected interest groups e.g. Greytown Urban Ratepayers.

Some dissatisfaction originates from the change of land use that has occurred where for example levels of dependency on the water race systems have altered over time e.g. Life style block and small scale block development have a different requirement for a stock drinking water usage.

Other concerns have been expressed around system maintenance responsibilities i.e. some Longwood water race users feel that system maintenance should be a direct Council responsibility rather than the land owner as is accepted in the Moroa system. Apparent in-equality in rating between the two systems may account for some of this dis-satisfaction.

The new Bylaw once in place along with a revised Code of Practice intended to be applied across both systems will provide an opportunity to acknowledge differing needs and expectations, differing uses and new uses to be given full consideration.

In addition opportunities exist to review and introduce new technology to better manage the water take, the various resource consent conditions that presently apply, 'better understand water race users' needs and to rebuild the relationship between Council and the users. This will require a highly collaborative approach when for example the revised Code of Practice documentation is being developed following bylaw adoption.

It is intended that following bylaw adoption a Combined Water Race Management Committee be established along similar lines to the previous Moroa Water race Management Committee. The terms of reference for this committee and associated delegations from Council as they might occur will need to be developed in due course.

3.1 Consultation

Since the adoption of the Moroa Water Race bylaw in 2008 limited consultation during 2011 was undertaken on an individual basis with water race users seeking their view on current water race practices. Some issues as earlier identified were brought forward and it is anticipated that the consultation processes ahead will provide engagement for the tabling of these and other matters for Council's further consideration. Some indication of user concerns can be viewed in *Appendix 3 - Water Race Management Review Consultation Report (Draft) December 2011 refers.*

Council has made a resolution to publicly notify the proposed Bylaw for submissions. The special consultative procedure applies to the amendment, review, or revocation of a bylaw and will therefore need to be followed. The key procedural requirements are as follows:

Under section 89 of the LGA02 a Statement of Proposal is required, to include a draft of the Bylaw along with:

- the reasons for the proposal
- report on any relevant determinations made by the Council under section 155 of the Local Government Act 2002. The determinations that must be made under that provision are:
 - whether a bylaw is the most appropriate way of addressing the 'perceived problem';
 - whether the proposed bylaw is the most appropriate form of bylaw; and
 - whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The Statement of Proposal must be made available for public inspection at:

- the principal public office of the local authority; and
- such other places as the local authority considers necessary in order to provide all ratepayers and residents of the district with reasonable access to that statement'.

In addition, Council must prepare a Summary of the Statement of Proposal. This can be in any form determined by the Council, but must state where the Statement of Proposal can be inspected, how a copy of it can be obtained, and what the submissions period is. The Summary must be included on the agenda of a Council meeting and be 'distributed as widely as reasonably practicable', having regard to the matter involved.

- Council must also give public notice of the proposal (including where both the summary and the full proposal can be obtained) and the consultation being undertaken. As with the Summary, the public notice must include a statement of the period within which submissions on the proposal may be made. As a minimum, the public notice must be published in: 1 or more daily newspapers circulating in the region or district; or
- 1 or more other newspapers that have at least an equivalent circulation in the district to the daily newspapers circulating in that region or district; and

The time allowed for submissions must be not less than 1 month beginning with the date of the first publication of the public notice.

To meet these requirements it is proposed that:

1. The proposed Statement of Proposal and Draft Bylaw will be able to be viewed online at www.swdc.govt.nz and downloaded as a PDF, along with a submission form.
2. These documents can also be viewed at the main Council office in Martinborough and also the Featherston Library, the Martinborough Library and the Greytown Town Centre. Submission forms can be collected from these sites, and completed forms can also be submitted at any of these service sites.

3. Postal submissions should be posted to and received no later than 4.00pm Friday 14th November 2014:

Water Race Bylaw Review 2014
South Wairarapa District Council
PO Box 6
Martinborough 5741

Any person who makes a submission must be given a reasonable opportunity to be heard on request.

After the Bylaw is made, Council must give another public notice stating:

- the date on which the bylaw will come into operation; and
- that copies of the bylaw may be inspected and obtained at the office of the local authority on payment of a specified amount

3.2 Legal Implications

Both the process followed for making, and the content of, the proposed Bylaw must meet the requirements of the LGA02.

The key legal issues to be considered at this stage are set out above, in the portion of this report relating to the Consultation requirements. They relate to the decisions on:

- The distribution of the Summary and public notice;
- The length of time to be provided for submissions;
- Whether the proposed Bylaw is consistent with the New Zealand Bill of Rights Act 1990 (particularly in regards to any obligations imposed, and offences created, are concerned).

3.3 Financial Considerations

The new bylaw once adopted will give the Council the opportunity to consider its current funding policies and make changes as might be required to cater for current operational and future improvement requirements.

4. Supporting Information

4.1 Long Term Plan - Community Outcomes

4.1.1. *Healthy & Economically Secure People*

4.1.2. *Educated and Knowledgeable People*

4.1.3. *Vibrant and Strong Communities*

4.1.4. *Sustainable South Wairarapa*

The community outcomes above apply to the water supply activity prescribed in the section on Page 71 of the current Long Term Plan. The stock water races associated with the Moroa and Longwood systems are

identified as a key sub activity within the Water Supply Significant Activity Category.

5. Appendices

Appendix 1 – Summary information and Statement of Proposal

Appendix 2 – Combined Moroa Longwood Water Race Bylaw (Draft)

Appendix 3 – Water Race Management Review Consultation Report (Draft)
December 2011 Perception Planning Ltd

Appendix 4 Group's questions and officer responses

Appendix 5 The progress report tabled 24th September 2014

Contact Officer: Bill Sloan, Asset Manager, Infrastructure Services

Reviewed By: Mark Allingham, Group Manager Infrastructure & Services

Appendix 1 – Summary information Statement of Proposal



SOUTH WAIRARAPA DISTRICT COUNCIL PROPOSED BYLAW FOR LONGWOOD AND MOROA WATER RACES

SUMMARY OF INFORMATION CONTAINED IN STATEMENT OF PROPOSAL

The purpose of the proposed bylaw is to administer the Moroa and Longwood water race systems in a single document. The primary purpose of the race systems is to supply water for stock watering purposes within the system areas. The bylaw establishes both permitted and prohibited uses, details when an offence may be committed, and enables optimisation project works.

The creation of the bylaw has been drafted alongside parallel processes including:

- an engineering study that concentrates on the state of the systems and possible optimisation works,
- the resource consents required for the use of the systems,
- investigations into public/private programmes that use the water race network for improved efficiency and effectiveness of water use, and
- the Wairarapa Valley Irrigation investigations.

South Wairarapa District Council has reviewed the bulk of its bylaws and has implemented a suite of combined bylaws with Masterton District Council. This bylaw has been drafted specifically for the Moroa and Longwood race systems. The bylaw has been established as the best practicable option for specifically managing the unique problems and issues associated with the networks, including pollution threats, safety concerns, and misuse.

The bylaw is consistent with the objectives and policies of the Wairarapa Combined District Plan.

Key changes that have been made to the existing Water Race Bylaws are as follows:

- The individual Moroa and Longwood bylaws have been combined into a single document
- The bylaw is updated to be appropriate for today's issues
- The bylaw is more flexible in accommodating alternative use proposals and wider water use opportunities

The Council is interested in the opinions of the community and interested individuals and groups and invites feedback through the submission process. The full Statement of Proposal for the proposed bylaw is attached to this summary along with a submission form. It is also available for inspection, and copies may be obtained at the following Council office, libraries and online:

- SWDC Council Office, 19 Kitchener Street, Martinborough
- Featherston Library, 70-72 Fitzherbert Street, Featherston
- Greytown Library, Greytown Town Centre, 89 Main Street, Greytown
- Martinborough Library, 6 Kitchener Street (Behind the Village Café), Martinborough
- www.swdc.govt.nz/draft-water-races-bylaw-review-2014

Submissions may be made between 30 April and 11 June 2014.



SOUTH WAIRARAPA DISTRICT COUNCIL PROPOSED BYLAW FOR LONGWOOD AND MOROA WATER RACES

STATEMENT OF PROPOSAL

Contents

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1. Background and Nature of Proposal

In 2008 South Wairarapa District Council (SWDC) adopted the Moroa Water Race bylaw. A process to implement a similar intended bylaw for the Longwood Water Race was abandoned due to some procedural issues.

SWDC is proposing a new combined water race bylaw that addresses both race systems in a single document.

After reassessing all aspects of the water races, the reasons for Council's proposed directions on this are;

- A singular common bylaw is preferred
- There are significant differences between the content and status of the existing bylaws. The Longwood bylaw is significantly dated, having been adopted in 1936.
- Future opportunities and optimisation options can be examined and appropriately provided for in the document, including alternative strategies for drawing and storing water and cooperative private/public works.
- The original rationale and intended use of the water races can be revisited, which includes any use or change of use associated with the water races.
- The bylaw can be developed keeping in mind the future opportunities and potential associated activities associated with the Wairarapa Valley Irrigation project.
- Rationalisation and optimisation of the existing network flow paths.
- Ensure consistency with other bylaws, plans and documents.

2. Implementation measures

If the proposed bylaw is adopted, SWDC intends to:

- Revise the current Code of Practice to align it with the contents of the new bylaw; and,
- Re-establish a Water Race Committee to manage day to day operational matters.

3. Revocations

The Moroa Water Race Bylaw 2007 and the Featherston Longwood Water Race Bylaw 1936 will be revoked by the adoption of this new bylaw.

4. Statutory context

4.1 Section 155 of the Local Government Act 2002

Section 155 of the Local Government Act 2002 (**LGA 2002**) prescribes that before commencing the process to make a bylaw the Council must determine whether:

1. A bylaw is the most appropriate way to address the perceived problem.
2. The proposed bylaw is the most appropriate form of bylaw.
3. The proposed bylaw gives rise to any applications under the New Zealand Bill of Rights Act 1990.

4.2 Sections 156 and 83 of the Local Government Act 2002

Pursuant to Section 156 of the LGA 2002, a local authority must use the special consultative process detailed in Section 83 of the LGA 2002 when making, amending or revoking a bylaw under the Act. The prescribed process in s83, as modified by s86, has been followed. This includes the preparation of this statement of proposal and a summary of the information contained in it, and of a draft of the proposed bylaw; and the completion of all of the required assessments and of the consultation and submission process.

The Statement of Proposal and Summary of Information, along with a submission form, will be available to the public at the Council office, libraries and online at www.swdc.govt.nz/draft-water-bylaw-review-2014. It will also be directly sent to key stakeholders.

5. Power to make a Water Race Bylaw

This section follows the LGA 2002 framework that enables Council to decide whether it is appropriate to implement a Water Race Bylaw.

The provisions that give Council the power to make a bylaw are:

- Section 145(a) and (b) of the Act, which authorise Council to make bylaws to protect the public from nuisance and to protect, promote and maintain public health and safety respectively.
- Section 146(b) (i) of the Act, which authorises Council to make bylaws on water races for specific purposes protecting them from damage, misuse, or loss.

6. Perceived problem

The Moroa and Longwood Water Race systems supply water for stock watering purposes and as such are a pivotal component of primary production activities in the district. It is imperative that Council ensures not only that the network is available, but also that the adverse effects generated by any activity are addressed. In addition, the networks should be available for enhancement measures and innovations that increase availability, efficiency and quality of water.

There are currently 2 bylaws in place, one for each of the respective networks. This is not considered the most efficient mechanism for the administration of the water races. Whilst the Moroa Bylaw is relatively recent, having been adopted in 2008, the Longwood Water Race Bylaw is significantly older, dated 1936. The Longwood document is obviously dated and has considerable gaps in terms of its information and relevance to today's environment. Having two separate bylaws also creates considerable inconsistency in the administration of the 2 water race networks.

As increasing demand is placed on water, and an anticipated reduction in its availability is recognised, there is a potential threat to the very existence of the water race networks. It is therefore crucial that appropriate management tools be put in place and applied to ensure the availability of water for stock purposes remains for both today's and tomorrow's communities.

The current bylaws have also been developed in isolation from any other initiatives or studies. This has limited the effectiveness of the current bylaw by making activities such as alternative drawing methods and onsite dam storage for a specific property prohibited. Although unintentional, the bylaws have had a constraining effect.

Pollution from stormwater outfalls, runoff from pasture, and stock within the channels are the predominant threats to the actual quality of the water resource. Whilst the Moroa bylaw addresses these issues in a reasonably robust manner, the Longwood document addresses the threats of 76 years ago. Associated with water quality, is the fact that these artificial man made water course have become valuable ecosystems in their own rights, and also significant positive contributors to the wider surface water environment in the lower Wairarapa valley catchment area.

7. Most appropriate way to address the perceived problem

A bylaw is, and historically has been, the most appropriate way of dealing with the problem of pollution, obstructions to efficiency of operation, improper use, safety, and ultimately ensuring the provision of water race networks that cross public land, and numerous private land parcels.

There are other statutory mechanisms that address single aspects of the water races but no one piece of legislation is able to provide a holistic management tool other than a bylaw. Bylaws provide a framework to prohibit unwanted activities, permit acceptable activities, and implement penalties in instances when an offence has occurred. They can also be used to create a management framework that can enable and accommodate associated water provision activities.

The Council has identified three main options for managing the water races:

1. Status Quo
2. Revoke the bylaws and rely on alternative methods
3. Revoke the existing bylaws and replace with a single revised bylaw

| Option | Advantages | Disadvantages |
|--|---|--|
| Status Quo | <ul style="list-style-type: none"> • Avoids the financial and other costs to the Council and stakeholders which are involved in the change process | <ul style="list-style-type: none"> • Inconsistencies between the 2 bylaws • Longwood bylaw is out-dated |
| Revoke the bylaws and rely on alternative measures | <ul style="list-style-type: none"> • Initially a simpler process for Council | <ul style="list-style-type: none"> • Ineffective regulatory mechanism • Any action taken could be more costly and take longer • Artificial watercourses are not adequately covered by the RMA or any other legislation. |

| | | |
|---|--|--|
| <p>Revoke the existing bylaws and replace with a single revised bylaw</p> | <ul style="list-style-type: none"> • Ease of implementation • Application of rules and penalties are in context to the issue • Provides targeted management of the specific issues pertaining to the water races • Consistency with Council Policies • Relatively cost efficient and avoids lengthy legal processes during regulatory process | <ul style="list-style-type: none"> • May give rise to confusion with regards to overlapping rules, including in terms of the hierarchy between them • Financial and other costs to the Council and stakeholders which are involved in the change process |
|---|--|--|

8. Most appropriate form of bylaw

This Water Race Bylaw clearly identifies which activities are permitted and what constitutes a breach and is therefore an offence. It also provides flexibility so that Council can consider a proposal or activity that is related to, or complementary to, the race system, and specifies criteria that any such proposal will be assessed against. As such, it represents a comprehensive tool for managing the water races, which will enable the Council to meet the current and future needs of communities for good-quality local infrastructure in a cost-effective way. The bylaw is also consistent with all of the applicable legislation, and Council's policies. In Council's view, the proposed bylaw is the most appropriate form of bylaw for managing the water races.

9. New Zealand Bill of Rights Acts 1990

Section 155(2)(b) of the LGA 2002 requires Council to determine whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (the **BORA**), and section 155(3) directs that no bylaw can be made which is inconsistent with that Act.

The BORA prescribes a series of rights and freedoms that include such matters as the right to life, avoiding torture or cruel treatment, avoiding medical or scientific experimentation, refusing medical treatment, electoral rights, freedom of thought, conscience and religion, expression, peaceful assembly, association, movement and discrimination. The Council has assessed the proposed bylaw against these rights, and does not consider any of them to be compromised by this proposed bylaw. Even if any of these rights are potentially affected, the Council considers that the proposed bylaw represents a reasonable limit in terms of section 5 of the BORA.

This bylaw will be developed in accordance with the special consultative process and as such the public will be offered full opportunity to submit and have input. All submitters who request to be heard will be extended the opportunity to do so.

10. Proposed timeline

The proposed timeline for the process is;

| Date | Action |
|----------------|---|
| 23 April 2014 | Adoption of the Statement of Proposal for the Draft Combined Moroa Longwood Water Race Bylaw 2014 |
| 30 April 2014 | Commence consultative process by publicly advertising the bylaw and inviting submissions |
| 11 June 2014 | Period for making written submissions closes at 4pm. |
| August 2014 | Hearing of submissions by Council. (Date to be confirmed) |
| September 2014 | Incorporate any necessary changes/ alterations to the bylaw/ code of practice. (Date to be confirmed) |
| October 2014 | Adoption of the Combined Moroa - Longwood Water Race Bylaw 2014. (Date to be confirmed) |
| November 2014 | Public notification on the adoption of the bylaw and the commencement date. (Date to be confirmed) |
| December 2014 | Commencement of the Combined Moroa Longwood Water Race Bylaw 2014. (Date to be confirmed) |

11. Submissions

At the Council meeting on Wednesday 23 of April 2014 the Council passed a resolution approving public consultation on the proposed Combined Moroa/Longwood Water Race Bylaw 2014 in accordance with the special consultative procedure prescribed in the LGA 2002.

The Council is interested in the opinions of the community and interested groups and invites feedback through the submission process. The Statement of Proposal and draft bylaw can be viewed online at www.swdc.govt.nz/draft-water-bylaw-review-2014 and downloaded as a PDF, along with a submission form.

The proposed bylaw can also be viewed at the main Council office in Martinborough and also the Featherston Library, the Martinborough Library and the Greytown Town Centre. Submission forms can be collected from, and returned once completed to these sites.

Please send submissions via the post to:

Draft Water Bylaw Review Submission
South Wairarapa District Council
PO Box 6
Martinborough

Or hand deliver to:

The Council Office
19 Kitchener Street
Martinborough

Submissions may also be emailed to infrastructure.team@swdc.govt.nz

Submissions close 11 June 2014

Appendix 2 – Combined Morroa Longwood Water Race Bylaw (Draft)



**SOUTH WAIRARAPA DISTRICT COUNCIL
COMBINED MOROA LONGWOOD WATER RACE BYLAW 2014**

Introduction

- A. This bylaw is made by the South Wairarapa District Council in exercise of its powers and authority vested in the Council by Sections 145 and 146(b)(i) of the Local Government Act 2002.
- B. This bylaw applies to properties in the Moroa and Longwood Water Race 'Area'. This is defined to exclude the urban properties of Greytown, though the maintenance obligation provisions contained in Section 3 of this bylaw may still apply to those properties.

Purpose

a) **RURAL**

The primary purpose of the water race system is to provide drinking water for stock. This bylaw manages the activities associated with, or in the vicinity of, the water races to ensure that a quality network is available for current and future users. Secondary uses of the water race networks are defined as conditional uses, and written approval can be granted for those activities where amenity and environmental values are not compromised.

b) **URBAN**

The purpose of water race system in urban areas is to provide continuity of service for water race users downstream in the rural areas, and as a secondary function for storm-water drainage.

1. Interpretation

1.1 Defined terms

"Area" means lands through which the Moroa and Longwood Water Races pass. The Area excludes the Greytown urban properties. The affected land is shown on the attached map.

“Authorised Officer” means any person or agent appointed by South Wairarapa District Council to be an authorised officer empowered to carry out the Council's functions for the purpose of this bylaw.

“Bylaw” means this bylaw as altered, varied or amended from time to time.

“Committee” means the Combined Management Committee formed to administer the water race systems under delegation from the Council.

“Conditional uses” are those activities or uses of the water race that are neither permitted nor prohibited, but could be undertaken to the benefit of a user or group of users with no adverse effects on the environment, water race, or other users of the race network. These uses will require Council approval under clause 2.2 of this bylaw. These uses will include (but are not limited to):

- (a) Draw off water either by gravity or pumping to a property stock watering system or
- (b) Draw off water for pasture irrigation purposes where the applicant can demonstrate that the current capacity of the water-race system will be retained and the applicant has obtained the written approval from those people that the Council considers to be affected.

“Farming purposes” means the provision of water for stock to drink.

“Owner or Occupier” means the owner or occupier of land in the Area.

“Required” means required by notice in writing on behalf of the Council.

“Stock” includes, but is not limited to, horses, sheep, dairy cows, and cattle.

“The Council” means the South Wairarapa District Council.

“Water Race” has the meaning prescribed in the Section 5(1) of the Local Government Act 2002.

2. Use of water races

Permitted uses

- 2.1 Subject to the payment of the annual charges or rates that may be determined from time to time by the Council, water may be used for stock drinking purposes by an owner or occupier.

Conditional uses

- 2.2 Conditional uses require the written approval of the committee or an authorised officer before being undertaken.

- 2.3 After receiving an application for a conditional use, it will be assessed against the following criteria:
- (i) Is the proposed activity consistent with, and not contrary to, the general purpose of the water race network and this bylaw?
 - (ii) Does the proposed activity have any potential for actual adverse effects that may negatively impact the water race or other users of the network?
 - (iii) Does the proposed activity impose any additional financial obligation on the Council?
 - (iv) Is the Council required to lead or participate in the process?
 - (v) Would the use prevent any consented water take from being exercised?
 - (vi) Is the proposed activity the continuation or expansion of an existing use established before this bylaw came into force?

Prohibited Uses

2.4 The following activities are prohibited:

- 2.4.1 Bathing or washing in a water race.
- 2.4.2 Allowing domestic fowl to stray into the water race.
- 2.4.3 Contamination of the water race by chemicals, nutrients, or by any backflow from irrigation equipment, other than with the written approval of Council as a conditional use.
- 2.4.4 Allowing any animal to be in a water race and any stock to enter the water race.
- 2.4.5 Obstructing the flow of water in the water race, including the placement of undersized culverts.
- 2.4.6 Riding, driving or leading any animals or vehicle into, across or through a water race, except at the bridges, culverts or crossing places provided by the Council or constructed with the written approval of Council as a conditional use.
- 2.4.7 Allowing any pipe or other apparatus to be in a state that water supplied from a water race is obstructed or wasted.
- 2.4.8 Permitting any person who does not pay water race rates or charges to take water from the race.
- 2.4.9 Widening or deepening any water race, or altering the course of any water race, without the written approval of the Council as a conditional use.
- 2.4.10 Removing, altering, damaging or interfering with any bank, dam, sluice, flume, bridge, gauge, meter, reservoir, pipe, or other work or thing used in supplying or distributing water from any water race.

- 2.4.11 Piping the water race without written approval of the Council as a conditional use.
- 2.4.12 Sowing, planting, or permitting to grow any tree, hedge, shrub or other plant of any kind within 5 metres from either side of a water race (in the rural area), except that:
- (a) Crops and pasture are permitted; and
 - (b) As otherwise approved by the Council as a conditional use.
- 2.4.13 Erecting any building or structures over, in or within 5 metres of either side of any water race without the written approval of the Council as a conditional use.
- 2.4.14 Altering the course of a water race without the written approval of the Council as a conditional use.

3. Maintenance

Owner and Occupier Obligations

- 3.1 Every owner or occupier of land through which a race runs (whether rural or urban, whether the race is used for stock watering purposes or not, and whether the property is rated for the use of the water or not) shall:
- 3.1.1 Keep the water race, banks, and sides of the race in good order and condition and free from all silt, weeds, vegetation of all kinds, and from all other rubbish and obstructions of all kinds at their own cost.
 - 3.1.2 Keep and maintain the sides, banks, and other earthworks of the water race in such a condition as to prevent or mitigate any overflow, leakage or waste of water.
 - 3.1.3 Allow any Council authorised person / contractor to have access to the water race for the purpose of gathering information for water quality audits of the water race.
 - 3.1.4 Allow any Council authorised person/contractor to have access (with or without machinery) to the water race for the purpose of maintaining, cleaning or improving the water race.

Removal of Debris

3.2 After cleaning a water race or clearing or removing any debris from a water race or from the banks or sides of a race, the owner or occupier of the land is to, without delay, at their own cost and expense, remove any and all clearings and cleanings and other obstructions from both sides of the race in such a manner and to such a distance from the race as may be necessary to both:

3.2.1 Prevent the materials from re-entering the race; and

3.2.2 To allow access to the race by any plant and machinery necessary to clean the race.

Failure to Repair or Clean the Race and Failure to Renew Existing Damaged or Undersized Culverts

3.3 If the owner or occupier fails, neglects or refuses to comply with any provision of this bylaw after having been required to do so in writing by the Council or an authorised Council officer within the specified time, the Council may enter onto the land and, using its employees, servants, contractors, or any other persons and any plant that may be deemed to be necessary by Council, make good such failure, neglect or refusal.

3.4 The Council may charge the owner or occupier with the cost and expense of the work incurred in exercising its powers under clause 3.3 of this bylaw.

4. Functions of Council

4.1 The Council does not undertake or guarantee the provision of water in any water race.

4.2 The Council is not responsible or liable to any person or corporate body for the total or partial failure of any water supply or the quality of the water supplied (where water quality may have been compromised by any means).'

4.3 The Council may allow water to enter the water race through the Greytown Storm Water system and Battersea Drainage Scheme.

4.4 The Council may impose further restrictions in regard of water race fencing.

4.5 The Council may, at its own discretion, grant an extra supply of water from the water race for special purposes, including fire fighting, or for purposes not otherwise authorised by this bylaw, at a cost to be established and recovered by the Council at the time of any application.

4.6 The Council may under powers given to it under the Local Government (Rating) Act 2002 and the Local Government Act 2002 establish, vary, alter, reduce, increase or remove charges and rates for the provision of the water race system.

4.7 The Council may impose restrictions on the draw off of water from time to time.

5. Breaches of This Bylaw

5.1 Any person commits a breach of this bylaw who:

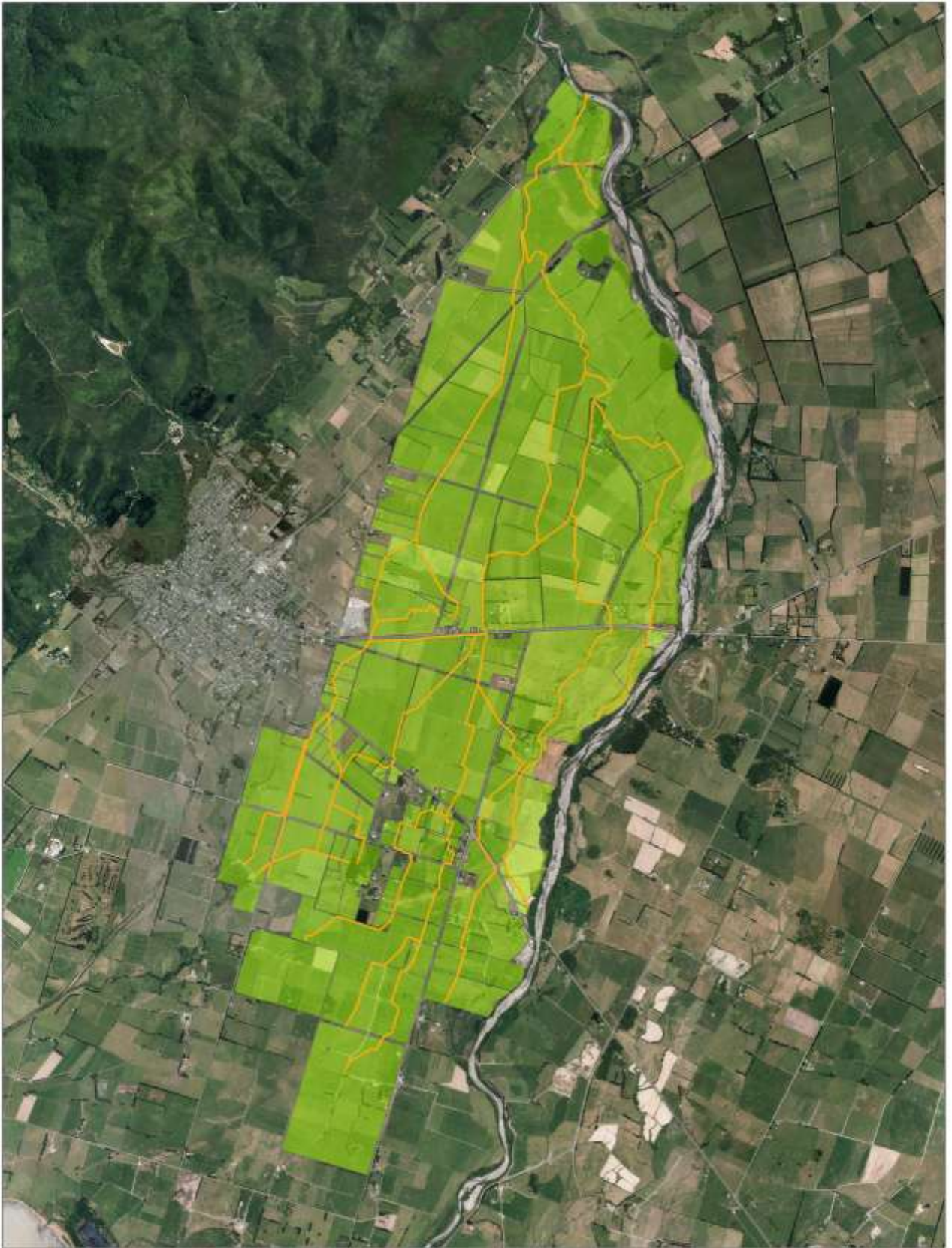
5.1.1 Defaults in payment of any rate or charge imposed on their land in respect of the supply of water from a water race; or

5.1.2 Breaches any obligations in clause 3 of this bylaw; or

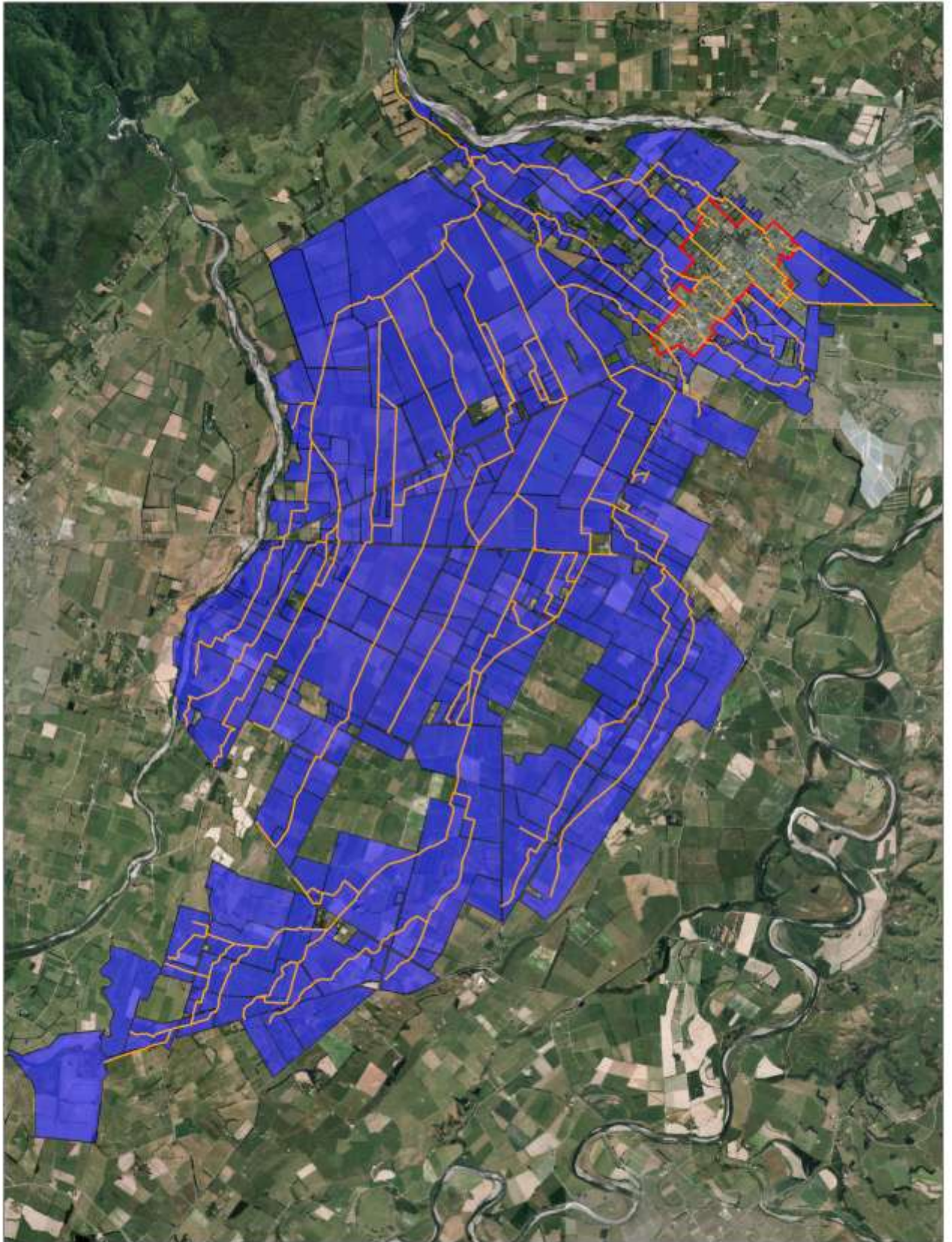
5.1.3 Fails to do or perform any act, or thing, that he or she is required to do by these bylaws; or

5.1.4 Engages in any prohibited activity specified in clause 2.4; or

5.1.5 Fails to comply with any terms and conditions of this bylaw.



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|--|------------------------|---|---|--|---|
| | <p>DNM: 27/03/2014</p> | <p>Legend</p> <ul style="list-style-type: none"> Longwood Water Race Serviced Properties | <p>Longwood Water Race Serviced Area</p> | <p><small>DISCLAIMER: The Council, Council and South West Coast District Councils accept no responsibility for access or any other problem or loss of income received by any individual or company or entity, arising or any other information provided or the fact. THE COUNCILS do not provide interpretation of the information or advice or take any liability or other information. Our own independent and appropriate professional advice should be sought. The information displayed on this map is for general information only and does not constitute an offer of any service or product.</small></p> | <p>Scale = 1:20,000 Drawn By: J. White</p> |
|--|------------------------|---|---|--|---|



Legend
■ Serviced Properties
— Water Race Main
NAME
 Greyfriar Urban Zone

Moroa Water Race Serviced Area

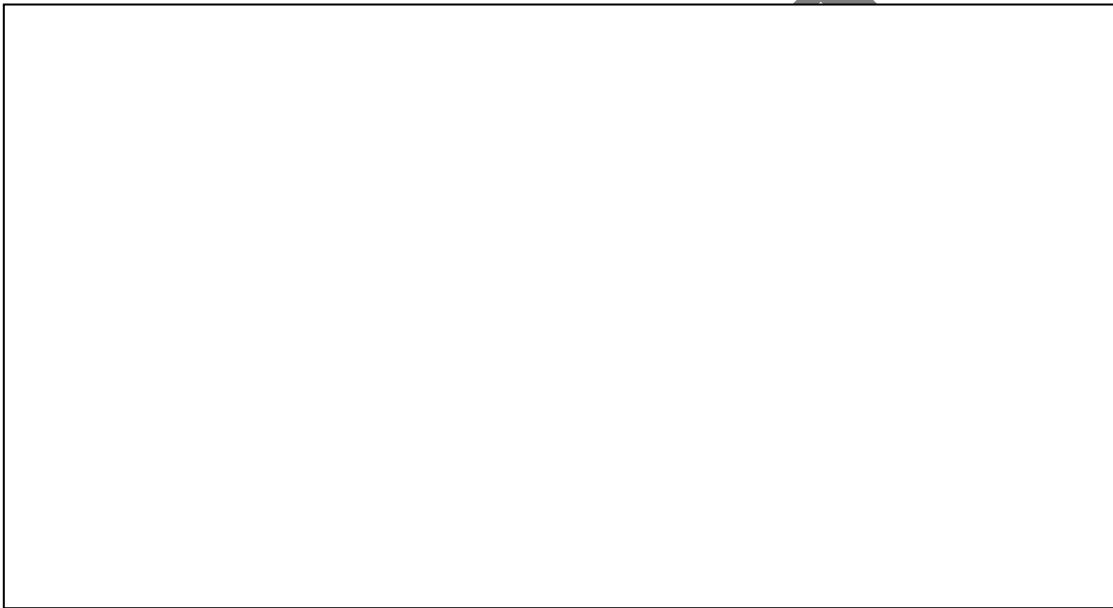
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**Appendix 3 – Water Race
Management Review
Consultation Report (Draft)
December 2011, Perception
Planning Ltd**

**South Wairarapa District Council:
Water Race Management Review
Consultation Report**



September 2014

Disclaimer:

This document has been prepared using information and data that is sourced from external documents and information from third parties. Where possible, we have attempted to verify the accuracy of this material but accept no responsibility or liability for any inaccuracies or omissions from that material that may affect the accuracy of the assessment or recommendations made in this report. It should not be construed that we have conducted an audit of any of the information used in this report or any of the individuals, companies or organisations consulted during the course of preparing the document.

We reserve the right, but are under no obligation, to revise or amend our report if any additional information (particularly as regards the assumptions we have relied upon) which exists on the date of our report, but was not drawn to our attention during its preparation, subsequently comes to light.

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DRAFT

Report prepared by:

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Date:

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1 Background

1.1 The Water Race Network

The South Wairarapa District contains two water races, the Longwood Water Race and the Moroa Water Race. The water races were first built in the mid to late 1800s, with the purpose of providing a reliable water supply for stock in areas where there was no direct access to natural water bodies. This remains their principle purpose today, and a considerable number of farms and individuals rely, in many cases completely, on the water race network for stock water.

The Longwood Water Race is a system located to the south of Featherston. It takes water from the Tauherenikau River at a rate of 250 litres per second. The Moroa Water Race is a more extensive network, taking water at a rate of 400 litres per second from the Waiohine River, and extending through urban Greytown to supply rural land to the south and south west of Greytown. Combined, the Longwood and Moroa Water Races total over 300km in length and serve well over 500 landowners in the District.

1.2 Historic Management Arrangements

In 2008, the 1973 Bylaw for the Moroa Water Race was replaced with a new bylaw, under a bylaw review process required by the 2002 Local Government Act. An attempt at the same time to review and replace the 1936 Bylaw for the Longwood Water Race failed for a number of reasons, and the process was halted. In addition to the rules and regulation framework established by the two bylaws, a joint management committee also oversaw the management and operation of the Moroa and Longwood water races. This committee was very active during the 1980s and early 1990s, but started to become less so during the late nineties. By the early 2000s the Committee had become defunct.

In its prime, the Committee managed its own budget, collected from the water race rate paid by every rural landowner with a section of water race running through his or her property. The budget paid for a full-time overseer of the water race network, who was responsible for carrying out routine, planned and unscheduled maintenance of the race.

1.3 Current Management Arrangements

Today, only the Moroa Water Race is regulated by means of a bylaw, introduced in 2008. The Longwood Water Race functions without a bylaw, attempts to review and replace the 1936 bylaw having failed in 2007-8. Alongside the bylaw structure, SWDC have also developed a Code of Practice, which is in place for both the Longwood and Moroa water races. The purpose of the Code is to provide advice and guidance to water race users in order to minimise:

- The wastage of water from the Moroa and Longwood water races;
- The input of contaminants from various farming and land activities to these races;
- Other adverse environmental impacts from the race systems and their associated operation.

The Code is a voluntary document and intended to compliment the bylaw and/or provide users with advice to allow them and the environment to “continue to receive the benefits of access to the race waters” (CoP p. 1). A copy of the Code of Practice is included in Appendix X of this report.

Every rural landowner with a section of water running through his or her property pays a water race rate to SWDC. The rate is calculated on land value. The budget required for the system for any given year is divided by the total land value of all serviced property, giving a '\$n.nnn' rate in the dollar which is then applied to the individual land values for each serviced property. The rate collected yearly is spent on physical works and is also used to cover compliance (resource consent) costs.

1.4 The Water Race Management Review

South Wairarapa District Council (SWDC) initiated the Water Race Management Review in late October 2011 to review the management and governance of the Moroa and Longwood water races. A key prompt for the review stemmed from the fact that in 2008, an attempt to introduce a new bylaw for the Longwood Water Race (as required by the Local Government Act 2002) was, for a number of reasons, unsuccessful. The 1936 Bylaw for the Longwood Water Race has therefore lapsed, and the race is managed and operated without the benefit of a current and up-to-date bylaw.

The purpose of the review was to ensure appropriate engagement with the water race network users and other interested parties to better understand the issues, problems and opportunities that may exist with respect to water race management and governance.

The overarching objectives of the review are broadly as follows:

- To maintain and, where necessary, improve community buy-in and cooperation in respect of water race management;
- To ensure the regulatory framework for the water races is appropriate and robust;
- To ensure Council is able to meet its legal responsibilities, particularly in terms of resource management; and
- To ensure that the management of the water races is effective and cost efficient.

A Consultation Plan was developed to support the Water Race Management Review, and it is appended to this report (Appendix X). The Consultation Plan set out a staged consultation process (the Consultation Programme), with the preliminary stages focussed on gathering information and knowledge from the community of interest on the water races.

This report describes the outcomes of the initial, early stage consultation with water race users of both the Longwood and Moroa water races, as set out in Stage 2, Task 4 of the Consultation Programme.

2 Process

The Consultation Plan provides a process by which two key outcomes can be achieved:

- Secure representative input to develop a robust regulatory and management framework for the Longwood Water Race, ensuring stakeholder opinions and views are transparently and openly considered; and
- Provide opportunities for *all* water race stakeholders to be involved in the broader discussion on how the water race systems should be managed in the long-term.

Water race ownership and management can, for a variety of reasons, be an emotive issue for users. For example, in many cases, farms dependent on livestock are only commercially viable because of the existence of the race. For others, the race network and the water it conveys represent an important ecological and environmental asset, and a key element in the water cycle of the District. For all water race ratepayers, the water race network represents a financial and maintenance responsibility (some would describe it as a 'burden'). With particular respect to the Longwood Water Race, the failed attempts to introduce a new bylaw in 2008 had left a number of stakeholders on that race feeling marginalised and frustrated with Council.

It was acknowledged in the Consultation Plan that early stage consultation with all water race users, but particularly those on the Longwood Water Race, would therefore require sensitive management. The early stage consultation was based on one-on-one meetings or focus group sessions tailored for limited numbers (up to 10 participants), with both methods using a pro forma questionnaire approach to structure discussions. The focus on individual and small group consultation initially was to ensure that the subtleties of individual uses and expectations could be identified, which can be difficult to achieve through a broader group forum.

2.1 Water User Identification and Initial Communication

SWDC initiated the consultation process by firstly identifying all water race users on the Longwood and Moroa water races (including water race users within the urban Greytown area) and then writing to each of them. The letters were tailored to each of the groups of users – Longwood Water Race users, Moroa Water Race users (rural), Moroa Water Race users (urban) and special interest groups and organisations (such as DOC, Fish and Game, Federated Farmers etc.). In summary, the aims of the letters was to:

- Raise awareness of the Council's consideration of introducing a new bylaw for the Longwood Water Race to support the management and operation of this resource;
- Clearly state when people will be able get involved in the consultation to comment on the proposals, and participate in focus group sessions; and
- Outline the next steps in the review process (including adherence to Local Government Act [date] requirements for consultation).

The letters invited respondents to express their interest in becoming involved in the early stage consultation. The letter stated that the early stage consultation was to be held on a one-on-one or small group interview formats, using a pro forma questionnaire to guide the discussions.

An example of each of the letters is included in Appendix X of this report.

2.2 Pro Forma Questionnaire

In developing the questionnaire, the aims were as follows:

- To ensure a consistent approach with all respondents;
- To ensure basic data was secured from all respondents for analytical purposes; and
- To ensure that each of SWDC's high level objectives in respect of the Water Race Management Review were addressed in discussion with respondents.

A copy of the pro forma questionnaire is included in Appendix X of this report.

3 Response Rate

Letters were issued to the stakeholders identified on [date].

- 25 responses were received.
- 16 separate interviews were held during the period 19th October and the 4th November 2011, involving 27 individuals.
- 2 respondents provided completed questionnaires, without an interview.
- At the time of writing, 7 respondents who had expressed an interest in being involved in early stage consultation had not confirmed a meeting date or responded to the questionnaire.

Of the respondents:

- XX were users of the Moroa Water Race;
- XX were users of the Longwood Water Race; and
- XX were users of both the Longwood and the Moroa Water Race.

The pro forma questionnaire, a copy of the Moroa Water Race Bylaw and the Code of Practice for both the Moroa and Longwood Water Races were made available prior to the meetings.

In each meeting, notes were taken by the interviewer, with the respondents' permission. The notes of each meeting are available in Appendix X of this report.

4 Water Race User Opinions

4.1 Water Race Use (Questions 1 and 2)

"Do you actively use your water race?"

"Are you completely reliant on the water race for stock water, or do you have other sources of water available?"

Of the water race users interviewed, three distinct groups can be identified:

- Those that are completely reliant on the water race as a source of stock water;
- Those that are partially reliant on the water race as a source of stock water; and
- Those that have no need of the water race as a source of stock water.

Each of these groups is discussed in more detail below.

4.1.1 'Completely Reliant' Users

Users who defined themselves as completely reliant on the water race were typically farmers operating on a commercial scale. A number of respondents in this group used the phrase, "no race, no farm," to convey the degree to which their operations were dependent on the water race for survival. However, at least two respondents owned small lifestyle blocks on which they raised a modest number of livestock and were also completely reliant on the race for stock

water (and one respondent had purchased the land on the basis that the water race was available).

4.1.2 'Partially Reliant' Users

Users who could be defined as 'partially reliant' on the water race network for stock water were largely commercial farmers who had alternative sources of water available, usually bore water. Also represented in this category were smaller landholders, such as lifestyle block owners, who raised small numbers of stock and again were able to source water for stock from bores or harvested rain water.

4.1.3 'Non-users'

'Non-users' are perhaps the most complex group, in terms of make-up and characteristics. Non-users include those respondents who own small blocks of land (generally identified as lifestyle blocks) [provide range] and did not own or manage any stock that would make use of the race water. Within this group, the water race was often associated with aesthetic or environmental values, which is discussed in more detail in section X.X below.

A key sub-set of non-users were those who were unable or unwilling to utilise the race typically because of a combination of the poor location of the water race (in relation to areas for stock holding, or in respect of sources of power for pumping, for example) and the limited length of race available within their property (making it difficult to access sufficiently). In some instances, this combination of factors had arisen through subdivision of former large farms into smaller blocks and lifestyle blocks. For example, a respondent on the Moroa Water Race had formerly owned and farmed over 300 ha which had been served by the water race. In 2000, around 285ha of that land was sold off and converted into lifestyle blocks, and the respondent was left with approximately 100m of water race in a far corner of their section. Whilst the respondent did maintain some cattle for commercial sale, the small strip of water race within the property was too impractical to utilise – it could not be gravity fed to troughs within the site, and there was no immediate source of power available near the race to enable pumping to troughs. For these respondents, the water race was seen as something of a burden both in terms of cost of maintenance and the cost of the annual rate.

Another sub-set of non-users are those running small-scale rural commercial operations not dependent on raising livestock, for example, olive growers, or lifestylers with low numbers of stock who had chosen to utilise alternative sources of water for that stock. The land-holdings of this group have typically arisen through subdivision of larger farms, and include stretches of water race that are often not insubstantial and centrally located within serviceable paddocks. The attitudes towards the race of these respondents varied quite widely, and whilst the sample size is too small to make a definitive statement on the possible reasons behind these different attitudes, comparing two examples, one from Longwood and another from Moroa, may provide some indication.

Longwood example – the property in question is a lifestyle property, approximately 1.5ha in area. The property's road frontage (roughly 60m in length) is bounded by the Longwood race. The respondents were of the opinion that the water race is on Council land, and therefore is the Council's responsibility. However, they pay a water rate of just over \$400 per annum. Whilst they keep a couple of horses, they do not use the race for stock water. The water race is in poor condition, looks untidy, is inadequately fenced and feeds into a culvert the respondents consider

too small for the high flows sometimes experienced. This opinion is reinforced by the fact that in 2010 the water race flooded onto their property and ruined a quantity of hay the respondents had planned to sell to a neighbouring farmer. The respondents' overwhelming attitude towards the race was that they were being 'ripped off', an outlook that was exacerbated by the respondent saying that they found the Council to be disorganised and unhelpful when approached for advice and information.

Moroa example – *the property is run as a 4.9ha commercial olive grove with approximately 150m of the Moroa Race running across the property. The respondents did not keep any stock. The respondents seemed quite clear on their responsibilities with respect to maintenance of the race, and whilst they had no practical need for the race (indeed, they stated that if the race 'disappeared' they would not be 'heartbroken'), they considered they received value for money in terms of the race rate. They valued the race for its aesthetic qualities, its potential to attract native wildlife, and that it may have value if they came to sell in the future. The race had overtopped in the respondents' property in the recent past, but they acknowledged this was most likely due to a lack of appropriate maintenance.*

Both sets of respondents identified in the examples above have access to useable lengths of water race, but differ significantly in terms of their sense of responsibility and 'ownership' of the race.

4.2 Water Quality (Question 3)

"What is your opinion of the quality of the water that runs through your part of the water race?"

4.2.1 Water Quality and Impact on Palatability to Stock

For many of those interviewed that are heavy users of the water races for stock water, one of the day-to-day litmus tests for water quality appeared to be whether their stock drink the water, and most respondents in this category stated that their stock very rarely refuse the water.

Some Longwood respondents reported specific pollution incidents from a single source (identified by these respondents as a known and repeat source) as having a considerable detrimental impact on water quality to the extent that stock would refuse to drink the water. There was a sense of frustration expressed by respondents reporting this issue to councils (both district and regional) as they considered that little had been done to address the problem in any permanent way.

4.2.2 Pollution 'Events' and Water Quality

Outside of the issue of the acceptability of the water for stock, respondents painted a mixed picture of water quality. One Moroa water race user, located near the head of the race network, considered that water quality was poorer today than it was twenty years ago, whilst another farmer located on the mid-section of the network considered that the water passing through his property was better today than forty years ago. Interestingly, both users could point to specific reasons for the decline or otherwise of water quality, which suggests that the water race can be sensitive to localised events that in some cases retain a 'local' character and range. The farmer who reported a decline in water quality blamed deforestation of the higher land above the race water intake as contributing to increased sedimentation in the river and thus the water race itself. The mid-section farmer could point to a specific event – the closure of a dairy factory

upstream of his farm – as the point from which water quality improved through his section of the race.

During the discussion on water quality, a small number of users made it clear that they considered it part of their responsibility to ensure that water race water leaving their property be in no worse condition, and if possible in a better condition, than when it arrived. This concept and practice of maintaining a good quality resource was also associated with opinions and views on maintenance and management practices, for example the recognition that fencing plays an important role in maintaining the integrity of the resource.

4.2.3 Aquatic Biodiversity as an Indicator of Water Quality

Some respondents discussed the abundance of wildlife in the water race as an indicator of water quality. Many respondents, whilst they considered that on the whole the water 'looked fine' and was palatable to stock, reported a decline in the abundance and variety of some aquatic species, such as eels, koura, and small fish species. One Longwood water race user reported that frogs used to be plentiful in his stretch of race, but that in recent years these had all but disappeared.

One Moroa user, who noted that eels and trout had dwindled over the past 50 years, considered that the increasing use of mechanical methods to clean the race, as opposed to an increase in pollution, had contributed to the decline in aquatic biodiversity; habitats were too frequently destroyed to allow populations of aquatic species to develop a robust foothold and survive cleaning events.

4.2.4 The Impact of Race Flow on Water Quality

Many respondents, particularly heavy users of the water race resource, commented on the direct correlation between water flow and water quality. One group of Longwood users consider that the reduced take from the Tauherenikau River for the Longwood Race (as per the terms and conditions of the most recent water take resource consent) had reduced the flow through the race, which in turn has resulted in more invasive weed choking the race and an overall reduction in water quality. Low flows were also considered to be significant factors in the silting up of the water race (particularly the Longwood), which in turn impairs water quality.

One group of Longwood Water Race users considered that Council lacked the in-house knowledge to ensure that the race flows were well regulated. One user in particular, who reported having years of working knowledge of the race, considered that the Council should be more willing to engage with long-term users in order to gain and share the knowledge needed to ensure the Longwood race provided good quality, free-flowing water to key users.

4.3 Maintenance and Management Issues (Questions 4 and 5)

“What, if any, on-site maintenance or management problems do you encounter with respect to your water race?”

“If you encounter on-site maintenance or management issues, how do you routinely deal with them?”

“Are there some recurring or on going on-site maintenance or management issues that could be solved on a more permanent basis? If so, how?”

Generally, Moroa Water Race respondents are very aware of their maintenance obligations under the bylaw, particularly large-scale commercial farmers who generally appear to approach maintenance in a systematic and organised manner. Many respondents referred to the letter received from SWDC around October/November each year reminding them of their maintenance obligations and requirements [suggest example of this letter as Appendix?] in discussion on this topic.

Longwood Water Race users tended to be less sure of where their and the Council's responsibilities lay in respect of maintenance and management of race sections. To some degree, these sentiments are bound up with attitudes around issues such as value for money, and the broader topic of the user group's relationship with the Council (discussed in sections X.X and X.X below).

4.3.1 Types of Maintenance and Management Issues

Respondents from both water races reported the following common maintenance and management issues and problems:

- Channel bank damage from stock (where the race is unfenced);
- Choking of the channel by invasive aquatic weeds, and weed accumulation on the banks of the race;
- Algal build-up (particularly during low-flow events);
- Sediment build-up affecting flow and quality (again, influenced by low flow events);
- Accumulation of rubbish, e.g. black plastic from baleage, and some 'urban' rubbish;
- Flooding, often arising from combination of factors listed above;
- Low or nil water flows (during the summer months).

Some users were keen to stress that many of these issues were caused by, or at least exacerbated by, poor maintenance practices upstream. For example, the silting up of the race within one property may be caused by stock accessing the race in a neighbouring property further up stream. One Longwood Water Race user who experienced this type of problem was quite certain that if stock were fenced from the race in the neighbouring upstream farm, the problem of silting of the respondent's stretch would be solved on a more permanent basis.

4.3.2 Solutions to Common Maintenance and Management Issues

A common response of Moroa Water Race users to the question as to how they dealt with routine maintenance and management issues was to call upon the services of Pope and Gray (a Greytown-based contracting business), considered by all respondents who used them to be very knowledgeable of the Moroa Race network, responsive and highly reliable. Respondents with small lengths of race reported that they tackled the maintenance themselves, typically on an annual basis, in accordance with the Council's annual direction regarding upkeep and servicing. Some respondents spray weeds as a matter of course as part of their maintenance regime, though other respondents are apprehensive about the use of sprays given their potential adverse effects on water quality and race ecology.

Longwood Water Race respondents were less likely to respond positively to the issue of routine maintenance and management than Moroa Water Race users. Where generally Moroa Water Race users were accepting of the fact that they both paid a water rate and paid for annual maintenance, some Longwood users were of the view that the water race rate should entitle them to Council-funded annual race cleaning.

However, discussions on this topic with some Longwood Water Race users also revealed an antipathy towards Council's ability – either directly or via contractors - to undertake routine maintenance of the race network. This sentiment appeared to stem from a period when a particular contractor held the maintenance contract for the Longwood race and, in the words of one respondent, “wrecked it” through a combination of incompetence and lack of knowledge of the complexity of the system. This group of users had developed a distinct ‘do-it-yourself’ approach towards the maintenance and management of their stretches of race.

Associated with this sentiment was the view that Council had not only lost institutional knowledge of the water race network over the years (tangentially associated with the demise of the management committee) but was perceived as unwilling to engage with local users to improve and incorporate local knowledge to improve both the service delivered to rate payers and the physical water race infrastructure.

During the discussions on routine maintenance issues, some respondents were quite candid about the costs associated with such work. One Moroa user, operating a substantial farm that contains around 7km of race, could expect an annual maintenance bill of around \$2,000. In referring to maintenance costs in a discussion on value for money, this respondent was keen to stress that he paid “a lot over and above the rate”. But, he acknowledged that there are upfront and more ‘hidden’ costs associated with any system. He was not certain that maintaining a water trough system would be any cheaper than maintaining the water race.

For respondents with smaller stretches of race, the cost of maintenance was not as onerous, but was still a topic of interest for many respondents. Whilst the sample size is too small to make a more definitive statement, conversations with some race rate payers who did not use the race for stock water voiced more disgruntlement with the maintenance obligations than those who either actively used the race, or who could strongly identify the race with ecological or environmental values.

4.3.3 The Question of Fencing

Fencing off stock from direct water race access is identified in the Code of Practice for the Moroa and Longwood Races as one of the means by which wastage and pollution of the water race resource can be reduced. The Code identifies water contamination as potentially arising from factors such as:

- Stock wading into races;
- Contamination from drainage ditches and pipes from, for example, dairy sheds, directly entering the water races;
- Runoff from areas where stock driving races intersect with water races;
- Sediment being generated by vehicle and stock crossings passing through water races;
- Contaminants from general land drainage (e.g. nutrients from stock faeces and fertilisers entering the races; sediment runoff)
- Sediment, weed or herbicides entering the race from race cleaning activities; and
- Fertiliser application being undertaken too close to the race.

In conversation with respondents, water wastage was not linked directly to issues of fencing; however, some respondents referred to the role of fencing in minimising pollution. The issue of wastage was typically raised by respondents who questioned or were curious as to the

efficiency of the race network as a whole to convey water through the dryer areas of the district, and this is discussed in more detail in section X.X below.

Respondents' attitudes towards fencing ranged widely, but several key trends of response emerged:

- Total opposition – typically on the basis that the water races are there for stock water. A common question from those in total opposition to fencing was “How can stock access the water if the race is fenced off?”
- Partial opposition – similar arguments to the ‘total opposition’ group were often raised, but the respondents that fell into this category could also appreciate the value, in terms of water quality and bank maintenance, of fencing. Respondents in this category were likely to indicate that they were still unclear as to what type of fencing solution would best meet their needs, requirements and budget.
- Adoption – this was the smallest category of respondents. However, these respondents tended to be very enthusiastic about the merits of fencing. For example, one large scale commercial farmer on the Moroa race described how fencing had reduced his overall maintenance burden and cost. Prior to fencing, he generally had to clean his race two or three times a year. Fencing had reduced this to twice a year or less. He also compliments fencing with weed spraying (using a non-residual spray) and has seen his maintenance burden reduce even further to once every three years.

Some in the ‘partial opposition’ group reflected on the fact that there was little information or assistance available at a local level to help water race users decide which type of fencing system might best meet the requirements of the Code/bylaw and the needs and budget of the respondent. It was suggested by at least one respondent that those landowners who had successfully implemented fencing systems be used as ‘best practice’ examples, and showcased in a document like the Code of Practice. This is explored in more detail in section 4.7 below and the Recommendations section of this report.

4.4 Values (Question 6)

“What values do you associate with the water race?”

The vast majority of the respondents interviewed identified the water race with agricultural values. This was a particularly prevalent attitude amongst those that were solely or largely reliant on the water race for stock water. Those respondents who did not use the water race as an agricultural resource were more likely to identify the water race with environmental or ecological qualities first, and agricultural values second.

Nevertheless, it was clear that almost all respondents, regardless of their use of the race or the land, could appreciate that the water race network had developed environmental or ecological values, such as providing habitat for eels, koura and some fish species, for example.

Several respondents made the observation that the water race network had been established principally to supply stock with water, and that any ecological or environmental functions or values had arisen ‘accidentally’. Some respondents who made this observation also held the view that valuing the water race network for its ecological and environmental values had the potential to interfere with, or overtake, the networks’ function as a source of stock water. For example, some respondents considered there was a palpable tension between the policy aims

and objectives of the Regional Council in respect of maintaining water quality of the races (e.g. fencing water races to keep out stock, advice on riparian planting), and the fundamental purpose of a water race - to provide access to stock water.

4.5 Opinion of the Moroa Water Race Bylaw (Question 7)

“Do you consider the Moroa Water Race Bylaw to be an appropriate means of managing the water race resource?”

The majority of Moroa Water Race respondents were aware of the bylaw, although there was one exception to this. A minority of respondents reported what could be termed a neutral attitude towards the current bylaw. A larger proportion felt that a bylaw, or similar mechanism, was useful. It:

- Created a level playing field amongst users;
- It provided a clear code of conduct for all users;
- Enabled the consequences of non-compliance to be set out clearly for all users.

However, several respondents drew attention to the fact that in order for the bylaw to be effective, all users had to ‘play the game’, and ‘do their bit’. Essentially, water race management and maintenance was often seen to be only as effective as poorest performer on the race. This is a response echoed in discussions around issues of maintenance, as reported in section 4.3.1 above.

Negative comments on the bylaw included:

- It is stacked in favour of the Council;
- It is draconian in tone and stance;
- The bylaw (or its implementation) is ‘toothless’;
- Some advice in the bylaw contradicts that from Regional Council, e.g. on this issue of riparian planting and its role in maintaining water quality;
- It is narrow minded in terms of how water quality and quantity can be maintained – does not readily allow for ‘blue sky’ thinking for the problems and issues faced;
- As a document it is not engaging.

Some respondents also provided suggestions as to how the bylaw could be improved to encourage more positive participation in and promotion of good practice, or how supporting mechanisms could be developed or enhanced to compliment the bylaw. These included:

- Establishing a ‘peer group’ of farmers to promote the bylaw and Code of Practice (see discussion on the Code of Practice below) to encourage positive change within the farming community to issues such as fencing;
- Use the Code of Practice to showcase good practice;
- The Council to more actively engage with the water race community to absorb good practice and local knowledge, and create a ‘knowledge sharing’ atmosphere and environment.

Several respondents from the Moroa race commented that, during the time of the now defunct water race committee, the implementation of the bylaw appeared to be more successful. Respondents commented on how the Committee, whilst not ‘perfect’, had access to engineering

expertise, provided oversight of the Council's maintenance contract, and ensured a more systematic or strategic approach to management and maintenance. Since contracting out the maintenance of the race network, whilst maintenance under that contract was still performed to a very high standard, it was more 'ad hoc' or piecemeal in manner, relying more on users to highlight problems within the network, than on a 'top-down' systematic, strategic approach to maintenance. Hence the view expressed by some users that maintenance today was more reactive than proactive in nature.

4.6 Appropriateness of a Bylaw for the Longwood Water Race (Question 8)

"A bylaw is being considered to assist in the long term management of the Longwood Water Race. Do you consider that an appropriate means of water race management?"

Whilst there was no outright hostility towards the idea of a bylaw for the Longwood race, there was a distinct sense that the use of the Moroa Bylaw as a blueprint for a future Longwood bylaw was not wholly appropriate. The Moroa bylaw was, to some, 'too blunt an instrument' with which to address the individual characteristics and requirements of the Longwood water race and its users. In particular, any bylaw for the Longwood Race would need to:

- Recognise and protect the historic uses of the water race, such as those parts of the race which were designed to feed historic gardens and water features (such as those at the Longwood House property on Longwood Road, and Fernside on SH2);
- Enable and encourage flexible and innovative approaches to maintaining water quantity and flow, e.g. accept and allow for the view that fencing is not the only solution to the issue of water quality, and recognise that the use of settling ponds and strategic planting can perform as useful a role;
- Eradicate the contradictions that exist between the bylaw model and GW best practice and advice.

One respondent considered that a bylaw for Longwood would help achieve a level playing field across the user-ship, but was concerned that it would result in the Council taking a more authoritarian attitude towards the users. This respondent was keen to stress that in his view open, honest and straightforward communication by Council with users was key to ensuring a smooth transition to a bylaw and its successful implementation.

4.7 The Code of Practice (Questions 9 – 11)

"Are you aware of the Code of Practice for the Longwood and Moroa water races?"

"If yes, have you found the Code helpful in your management and understanding of the race?"

"What other issues or factors do you think the Code could cover?"

The Code of Practice is a voluntary code applicable to both water races. All respondents were sent a copy of the Code of Practice prior to the interview. The vast majority of respondents, however, were unaware of the Code of Practice prior to having it sent to them as part of the consultation process.

Of those that had read the Code by the time of the interview, opinions were mixed as to whether it was a valuable guide to water race management. Some considered it contained some useful tips and advice. Some respondents considered the Code could be redesigned to be a more

effective communication, education and information dissemination tool. For example, some farming respondents considered the Code could be used to publicise 'good news' stories, illustrate positive role models within the farming community, and demonstrate examples of practical solutions to common issues or problems, for example the use, role and type of fencing appropriate along water races; best practice mechanical cleaning methods; examples of bylaw-compliant planting.

Some respondents felt that it was probably more useful for lifestyle block owners who needed to be educated about basic maintenance procedures in order to ensure that active users of the race were not disadvantaged by poor maintenance or ignorance.

4.8 The Role of a Committee for Water Race Governance (Question 12)

*"Would you favour the re-establishment of a committee for the management of the water race(s)?
What benefits do you think such a committee would bring?"*

Opinions were mixed as to the value of a committee to oversee the management of the water race network, and a respondent's previous involvement in the now defunct committee was not a reliable indicator as to whether that respondent considered it appropriate to revitalise the committee system today.

For those respondents that had had direct experience of the committee system in the past there was certainly a sense conveyed that, in its hey-day particularly, it had assisted in:

- Maintaining positive relationships between users and the Council;
- Maintaining a clear 'chain of command' or 'chain of communication' between the governance and management of the race network;
- Maintaining the Council's store of 'in-house' knowledge of the race network; and
- Ensuring an efficient and strategic approach to maintenance.

Correspondingly, these respondents were more likely to consider that these values had been lost or significantly eroded since the demise of the committee, and that the loss of these values was to the detriment of the management of the system overall. As discussed in section X.X, some respondents who could remember the Committee system considered that governance and management of the race network was more effective during that time.

Yet, when asked whether a committee today would be of value to the overall management of the network, views tended towards the negative, with the opinions similar to the following being voiced:

- Committees were today perceived as unfashionable methods of engagement and communication;
- Recruitment on to committees was difficult – most people are too busy to participate;
- Lack of incentives to participation; and
- Committees could become overrun by vested interest and not be representative.

This is not to say that there was no support among respondents for a committee, or some type of governance structure, to be put in place to assist in the management of the water races and address issues of accountability and strategic direction. For a significant number of respondents, from both race systems, user engagement is considered an essential requirement

in any governance or oversight structure in the future. Respondents indicated that Council has to be ready and willing to incorporate local knowledge within its structure, and be prepared to take a collaborative approach with the water race community to ensure its appropriate management in the future.

4.9 Value for Money (Questions 13 and 14)

“Do you consider that you receive value for money for the water race rate you pay?”

“If your answer is no, in what way(s) could value for money be achieved?”

There emerged a clear difference of opinion regarding value for money associated with the water race resource, depending on whether the respondent was a user of the Longwood Race or the Moroa Race. In its most basic terms, Moroa Water Race users were more likely to give a positive response to this question than users of the Longwood race.

Several commercial users of the resource on the Moroa measured current value for money in terms of what it would cost to source stock water if the water race were not available. For example, one farmer on the Moroa estimated the capital cost of developing an alternative supply of stock water at his farm (by means of bores and pumps) at around \$300,000. This respondent felt that his annual water race rate of \$3,000 was therefore entirely reasonable, even after taking into account annual costs incurred to maintain the race.

One significant factor in the perception of greater value for money among the users of the Moroa Water Race was the responsiveness, expertise and knowledge of the contractor undertaking maintenance of the race. Water race users who used the Council’s contractor reported, more or less universally, an excellent, reliable and cost effective service from Pope and Gray.

Longwood users were far less likely to respond positively to the question of value for money. Some felt ‘ripped off’, and others openly wondered how their water race rate was being spent, given that water race users also had to pay for the maintenance of the race. Associated with this question of value for money was that many Longwood respondents were less clear on their role and responsibility with respect to race maintenance. The sense from some is that maintenance should be Council-funded. However, as responses to the questions regarding maintenance of the Longwood race reveal (Questions 4-6), there is some ambivalence within the Longwood race community as to whether SWDC or its contractors have the knowledge and skills to carry out effective maintenance. There are some respondents – particularly those through which the race passed through or contributed to historic heritage – that were strongly opposed to the Council or its contractors carrying out maintenance work.

4.10 On going Engagement (Question 15)

“Would you be interested in attending larger public meetings or forums in the near future to consider any of the issues we have discussed?”

Most respondents wanted to be kept informed of the Council’s plans and proposals around water race management. Many considered on going collaboration and discussion between water race users and the Council as absolutely fundamental to the effective and efficient management of the water race networks as an agricultural resource.

For certain respondents on the Longwood Water Race, improving the relationship with users was identified as a priority, and necessary before the drafting or implementation of a bylaw or similar mechanism for managing the race. Better communication between Council and users was seen as being the key to the future success of the water race resource.

4.11 Other Issues

4.11.1 Impact of Change in Land Use

The emergence of the 'lifestyle block' during the last 10-20 years was cited as a significant factor in the problems or issues facing the management of water races, both at an individual landowner level and in terms of the network as a whole. Subdivision of large farms has resulted in the fragmentation of the network, and this fragmentation was identified by many respondents as contributing to issues of maintenance, water quality and water flow. Indeed, one Longwood respondent considered that the conversion of large farms to lifestyle blocks had had a bigger impact on water quality and quantity than conversion of land from sheep to dairy farming.

Several respondents during interviews drew correlations between a fall in the quality of the management of the race network and the decline of the influence of the Committee system. It is perhaps not 'accidental' that this correlation also coincides with the rise of lifestyle subdivision, fragmenting the ownership of the network, and thereby the number of users. However, in terms of a broad assessment of changes in the perceived and actual effectiveness of Council administered management of the race network, these possible correlations provide an interesting starting point for further discussion and thinking on the impact of conversion of land to lifestyle blocks at Council and stakeholder level.

4.11.2 Water Races - An Outmoded Technology?

A small number of respondents, typically large scale commercial farmers, openly questioned whether the water race network – a nineteenth century solution to water availability – was appropriate to meet the needs and requirements not only of modern farming, but also of the wider environment and community. There was a strong suspicion raised by one large-scale commercial farmer that whilst undoubtedly an historic engineering achievement, the water race network was today inherently inefficient. The infrastructure was old, had been subject to decades of maintenance which may have eroded water-holding capacity, and in many cases the channels served properties that no longer required the resource.

Another commercial farmer, who was wholly reliant on the race to water stock, also considered that Council should contemplate a whole-scale review of water race ownership and management in order to improve the efficient use of the network. He was conscious that, predominantly through subdivision of farm land to lifestyle blocks, the water race network had become increasingly fragmented and was serving many properties which no longer needed it. Alternative models of management, such as user pays, could ensure that the water resource was appropriately valued, and indeed could even increase the rateable value of the water overall.

It was not uncommon for respondents in this group to have undertaken significant investment on their properties to improve the efficiency of use of race water within their farms, through, for example, the rationalisation of paddocks and associated installation of pumps and troughs to improve water supply, and the culverting sections of race to decrease loss of water through evapotranspiration and decrease the maintenance burden.

5 Conclusions and Recommendations

This section focuses on providing conclusions and recommendations related to issues around the existing and future relationships between Council and water race users, and explores ways in which these relationships might be improved in the short and long term for the benefit of management and maintenance of the water race network as a whole.

The consultation exercise did reveal the views and opinions of respondents regarding water quality, quantity and flow, and these have been reported in the sections above. This report does not, however, seek to draw conclusions or make specific recommendations as to how some of these issues may be explored in more detail or eventually resolved. For the purposes of this report, these are considered more operational issues, which Council can deal with by means of existing and future operational structures and mechanisms.

5.1 Short Term

5.1.1 Improve Relationships with Longwood Water Race Users

It was clear from the consultation with Longwood Water Race users that they perceive a degree of estrangement from the Council when it comes to the use and management of the water race. (This could also be inferred from the fact that more Moroa Water Race users were willing to engage in this early stage consultation than Longwood Water Race users.) The lack of a positive relationship between Council and the Longwood Water Race users would appear to contribute to this group of users being more negative about key issues such as Council's ability to maintain the race, value for money, and development of a bylaw to help manage the race than respondents from the Moroa Water Race.

However, regardless of which race respondents were engaged with, most respondents valued good communication with Council, and saw a high quality, positive, and two-way relationship with Council as being key to the future of the water races.

In the short term, it is advisable that Council address the poor relationship that would appear to exist between Council and the Longwood Water Race users. Indeed, given the comments received from respondents regarding the perceived relationship between the Council and the user group, and the apparent lack of faith this user group has in Council's ability to effectively manage the water race resource, Council should consider, in the first instance, delaying embarking on the Longwood Water Race Bylaw process (as outlined in the Consultation Plan) until some further small group consultation has taken place between key Council officers and Longwood Water Race users. This process could be started with further engagement by Council staff with those users who were willing to engage in the early stage consultation of the water race management review early in 2012. This will reinforce the message that Council have listened to users, and are willing to continue to listen before making any further decisions on the future of the management of the race network.

5.1.2 Continue to Foster Relationships (Moroa and Longwood Water Races)

Relationship building between Councils and users will be an on going and long term endeavour. Building on the existing good relationship with Moroa Water Race users will likely bring long term benefits to the Council and the user group, consolidating trust, and encouraging a platform from which knowledge can be shared and options for the future management of the races can be discussed. Once initiated, relationship building with Longwood users will similarly contribute

to building trust between all parties and creating a more positive and proactive environment within which Council and users can effectively collaborate, share information and explore the benefits and opportunities of the race network.

Means for Council to assist in achieving on going relationship building could include:

- Use the refreshed website to highlight the topic as one of importance to Council, including providing easy access to Council-held information, codes of practice, etc;
- Undertake forum-style discussions with Moroa Water Race users exploring issues raised in the early stage consultation;
- Hold discussions with all users on how oversight of water race management can be improved – for example, explore the pros and cons of a committee structure; discuss the potential of a water race users user-group;
- Undertake a ‘walk-through’ of the water races, to meet the users and explore first hand the issues they face;
- Seek out and become involved in existing groups in the District and within the region that are already involved in the topic of water use and quality.

5.1.3 Transparency regarding Rates Calculation and Spend

The consultation exercise indicated that Moroa Water Race users were more likely to consider they received value for money for the water race rate they paid. Longwood Water Race rate payers tended to consider they did not receive value for money for their race rate, and they also questioned what the race rate was spent on. Transparent communication from Council about how the race rate is calculated, and how it is spent would be beneficial to all users in the long term. A more informed user group would be more able to positively and usefully contribute to any future discussions on how the water races are funded, should the Council consider a review of this area of race management. Council could adopt a range of means to promote transparency, for example:

- Develop and publish (via the SWDC website, for example) a water race rate calculator;
- Provide users with a costed summary of works undertaken during the previous financial year;
- Communicate more directly with users on future planned maintenance and costs associated with that maintenance.

5.1.4 Review the Code of Practice

Currently, the Code of Practice would appear to be little known amongst users. However, a number of respondents, once made aware of the Code, considered that it had some value as an educational or communication tool. A number of alterations could be made to the Code to make it more attractive to users, more useable, and more relevant, for example:

- The Code could be amended to direct specific information to particular user groups, e.g. lifestylers, commercial farmers, non-users. For example, more detailed fencing information and examples for farmers or lifestylers with stock;
- The Code could be amended to be visually more appealing – use of photographs, figures, ‘real-life’ examples of best practice, etc.;
- Consider altering the format – from a Word style document to a colour leaflet or pamphlet;

- Raise its profile by using the website;
- Consider holding Code of Practice workshops aimed at specific user groups. These workshops could actively employ the skills, knowledge and local profile of water race users who have knowledge in this area, or who are known to the Council to be doing a good job.
- Integrate advice from Greater Wellington on best practice for waterway management and encourage Greater Wellington's field staff to promote the Code of Practice as part of their interaction with landowners.

5.1.5 Greater Use of the Web

The Council's website has recently be re-vamped, and is part of the Council's drive to become 'the best little Council in New Zealand'. It could be used to great effect to raise the profile of the water race network as an asset in the District, and provide a 'one stop shop' for all users seeking information or a means to contact the Council:

- Utilise the web to keep information on water races up to date and fresh;
- Target information to particular groups (as with the Code – lifestylers, farmers etc)
- Provide a 'suggestions box' or 'comments' area on the web for users to share knowledge or concerns.

5.2 Medium to Long Term

5.2.1 Continue to Build Effective Relationships

As discussed in 6.1.1 and 6.1.2 above, the task of improving the relationship between Council and its water race users is long term. The Consultation Plan makes specific reference to the need to ensure that ideas for the future management of the water race network as a whole can be aired, discussed and shared between users and Council. Some recommendations to maintain momentum include:

- Look to joining forces across the region, e.g. with Carterton and Masterton districts, both of which are custodians of significant water race networks.
- Actively seek to learn from best practice elsewhere in NZ (e.g. Canterbury) through field trips, site visits and exchanges;
- Consider the implementation of local or region-wide a user group(s).

5.2.2 Improve Communication to Property Buyers

A number of respondents, predominantly lifestyle block owners, indicated that they knew very little about the responsibilities associated with owning land through which a water race runs. Lack of knowledge often contributed to a sense of disenfranchisement from Council and Council processes in respect of water races; eroded a users sense of value for money; and led to confusion regarding responsibilities in respect of maintenance and management of the race.

The following recommendations may assist to address this issue:

- The Land Information Memorandum (LIM) documents could be used more effectively to communicate the role of the water race networks, the presence of the bylaw structure and Code of Practice to manage the network, the rating mechanism for water race owners, and the general maintenance and management responsibilities;

- Local real estate agents could be educated on water races, and on where advice can be sought from Council. Real estate agents could also be provided with copies of the re-vamped Code to pass on to their clients.

5.2.3 Examine the Role and Impact of Lifestyle Subdivision on Water Race Management

The consultation exercise indicated that there are possible links between the increase in lifestyle subdivision and the increase in some types of maintenance issues and problems. It was also suggested that subdivision of farmland into smaller lifestyle blocks has fragmented the network, and increased the proportion of non-users on the water race.

- Undertake some further research through further interviews with water race users, examination and analysis of subdivision data and race rates database, and comparison with other similar Districts to tease out patterns, correlations, to improve resource and land use management in the future;
- Explore possible links with other Council docs, e.g. the District Plan;
- Build a body of knowledge within Council that enables broad thinking about the impact of lifestyle subdivision on rural resources.

5.2.4 Integration with Current Strategic Thinking Initiatives

There is the potential to incorporate the future management of the water races into the strategic direction regarding water that the Council has been considering with the development of a Water Strategy for the District.

5.2.5 Encourage, and be open to, Blue Sky Thinking

Discussion with some respondents indicated that there is an appetite to think 'outside of the box' with respect to the water race network. These ideas tended to stem from considerations of water efficiency, and a suggestion that the water resource within the race was not being used as efficiently as it could be.

Whilst not all of the 'big ideas' some members of the community hold might be feasible or relevant to the District's circumstances today, maintaining a relationship with such users, and being open to their ideas, may assist the Council in tackling some of the infrastructural, environmental and resource management issues it could face in the future. Some of the 'blue sky' ideas include:

- Undertaking an in-depth scientific and engineering study of the efficiency of the water race network, exploring topics such as the relationships between water take from the river sources, water take by stock (including an examination of the impact of stocking rates on water use), and water loss through poor infrastructure, ground water, evapotranspiration etc. Such a study would enable Council to explore options and make decisions on the future of the management and maintenance of the water race network from a considered and fully informed position. The Council could commence with a pilot study based on the Longwood Water Race.
- Actively consider the role of more ambitious irrigation schemes and networks on water use and allocation in the District, and on the future of the water race infrastructure specifically;
- Consider a greater use of telemetry technology to manage the water take and flows through the race – modernise the system and users' approach to it;

- Rationalise the water race system – determine more exactly who really needs the resource, and structure the system so that it serves those individuals/businesses;
- Consider the adoption of a ‘user pays’ approach – more fair, more equitable, and will encourage efficient use of water throughout the system;
- Consider opening up the use of the water race for purposes such as irrigation (more realistic a proposition once active and non-active users have been identified).

DRAFT

Appendix 4 – Group's questions and officer responses

Moroa Longwood Water Race Bylaw 2014.

Q+A For South Wairarapa District Council.

Introduction:

Following the approval by SWDC of the Moroa Water Race Bylaw 2007 in July 2008 the Council distributed on the 1st October 2008, to all Ratepayers copies of a new (Draft) Longwood Water Race Bylaw 2008.

On 31st October the Mayor advised individual Ratepayers that SWDC would be withdrawing the draft and commencing the process again.

In September 2011 SWDC engaged Perception Planning to undertake a Water Race Review. Ms Lucy Cooper conducted the research and interviews in Oct 2011. The Report was not published or distributed to the stake holders involved

Comment [b1]: Correct. The document at the time was in draft form and technically remains the same today

Then on 30th April 2014 the SWDC called for submissions on the new Draft Moroa Longwood Water Race Bylaw 2014 submissions to close June 11th

Following a meeting with concerned Ratepayers the Council agreed to accept written questions from the Water race action group and then :

“ Council will consider these questions, provide answers and then circulate to all water race ratepayers for their information”.

The June 11th date “Has been put on hold for a period of time.”

The following document contains -the initial questions to SWDC from the Water Races User Group.

The Water Ratepayers Action group is an informal grouping of Rate-paying properties in the Moroa & Longwood Area.

Specific Concerns:

The draft combined Moroa Longwood Water Race Bylaw 2014 states;

Purpose

The primary purpose of the water race system is to provide drinking water for stock.

In Section 2.1 Permitted Uses it states water may be used for stock drinking purposes.

It is clear that the water is for stock. Correct, however there are other secondary uses contemplated as conditional uses e.g. irrigation and drawing water off for a farm reticulated trough system (stock

Comment [b2]: No further comment required here?

Then under prohibited uses

2.4.4 allowing any animal to be in a water race and any stock to enter the water race. This is not a new provision. Note that the current bylaw 2008 states the same thing more or less Ref: Clause 2.3

Comment [b3]: There has been some reference to the definition of an animal, the word stock is inclusive of but not limited to " as per the definitions

There is no recommendations from SWDC as to how stock are to be prevented from entering the water race. This would be a matter that a COP (Code of Practice) would address in more detail e.g. drinking bays, electric fence control etc

How are the stock to drink from the water race, without entering it, under 2.4.4 ? As above COP would address this matter.

What happens if the amount of water in the water race is not enough to pump or a consent has been declined by SWDC for pumping as a conditional use? The user would need to have a contingency arrangement in place as the Council does not guarantee uninterrupted supply see Clauses 4.1 and 4.2. If a consent to pump is not approved, the land owner will need to consider other options

Comment [b4]: Text change

Related Questions:

1 Under 2.4.4 how would SWDC recommend that animals or stock should be kept from entering the water race? As above.

2 If stock cannot access the water in the water race for drinking under 2.4.4. or if Landowners decline to use the water Race because it is too difficult or costly, will landowners still be charged a water rate? Yes because the service is available.

How does the new draft bylaw ensure the availability of water for stock purposes (drinking water) remains for" today's and tomorrow's communities and does not lead to the water races demise"? It doesn't pretend to. Council cannot guarantee perpetuity of availability and use because there are national and regional water use policy and initiatives current and in the future, over which the Council may have no control hence there are no guarantees over the longevity or otherwise of the water race systems.

3 Clause 2.4.12 Does this clause include all existing trees hedges, shrubs or other plants of any kind within 5 meters of a water Race in the rural area and they also must be removed? Yes it does (including permitting to grow) except as allowed under a conditional use approval. More aimed at the so planting of new vegetation excepting crops and pasture

Comment [b5]: There is no reference to or intention around the removal of existing vegetation within the 5m margin.

Question from a concerned farmer

"What is protected if chemicals and machines are used to clear weed.

Is this sustainable farming"? Council's understanding is that machine and hand cleaning are the methods for water race upkeep. No opinion on the sustainability question

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Comment [b6]: No further comment

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Why 5 meters (See below explanation regarding -MDC Bylaw, Moroa 2007 Bylaw, Longwood 1936 Bylaw) on both sides of the water race but not measured from the centre as it was in 1936? The common sense answer is that a 5.0metres clear width minimum is considered to provide sufficient working width for machinery engaged in water race cleaning. HOWEVER the current Moroa bylaw suggests 5metres one side and 1 metre on the other side. Council would consider further discussion on this point.

Comment [b7]: Firstly the margin is more easily measured from the side of the water race than the centre. Secondly Council would welcome submissions on the question of margin width and how appropriate it is today.

Why does this clause not include the Urban Greytown Area?
Because machine access is not necessarily required for cleaning purposes. In another sense the Combined District Plan requires resource consent for a building or structure within 5 metres either side of a water body. A water race is considered to be such and resource consent is required for both urban and rural property if encroachment is contemplated.

Comment [b8]: The Greytown Urban Area is specifically excluded as per provision B in the introduction to the Bylaw excepting for the maintenance obligations contained in Section 3.

Will all Olive growers, Woodlot -Owners, Existing Historical Gardens-, require approval of SWDC conditional use to retain existing gardens and Trees? No, Council would not seek retrospective approval

What charges will be involved in applying for Conditional Use? To be decided by Council and the future management committee who will administer the bylaw and the COP

Comment [b9]: Submission welcome on the question of fees and charges

4 Under clause 2.4.13 Does this also mean all existing buildings and or other structures that are within 5m of the water race must also to be removed? No

Under the new -Bylaw is a fence considered to be a structure? No

Comment [b10]: If you think it should please submit and advise why

What happens in the situation where the Water Race is within 5 meters of a Boundary Fence. Will the neighbouring property, which does not pay Water Rates or have access to the water Race be required to remove the Boundary Fence and erect a new fence 5 meters back from the Water race within their property? No, why should they, if the 5metre corridor for maintenance and access is already available

Comment [b11]: Does this answer the question?

What compensation are landowners to be paid for the extended area that Council is going to control (5 meters either side of the water race).? The extended area could be re-considered as above but compensation is not available either way

Comment [b12]: Council is not "extending" any area beyond what the current bylaw requires

5 Clause 2.4.8 and 3.1.

Prohibits any person accessing -water if they don't pay water rates. Correct

Then 3.1 "Every owner or occupier of land through which a race runs(... whether the property is rated for water use of the water or not).

Comment [b13]: 3.1 and the subsections are more about mtce requirements and access rights for Council irrespective of race usage and rating matters

Who are the parties that may -have the Race on their land but don't pay water rates. Is that Churches, Schools etc? yes and all of urban Greytown

Comment [b14]: Not aware of any schools, churches in the rural areas serviced by water races

Under the new Bylaw if a landowner agrees to not use the Water Race can they apply for a Rate deferment, provided they keep the race clean? As per 3.1? No, this would be difficult to administer and enforce.

6 Clauses 2.4.9 and 2.4.14
Prohibited Uses.

2.4.9 Widening or deepening any water race or altering the course of any water race without the written approval of the Council as a conditional use.

2.4.14 Altering the course of any water race without the written approval of the Council as a conditional use.

If the Bylaw includes 2.4.9 why does the SWDC require 2.4.14? This is may be duplication however Council will need to check further

Comment [b15]: Cl 2.4.14 is a duplication and will be removed from the bylaw

7 Functions of Council

Clauses 4.1 & 4.2 " Council can not guarantee the supply of water to the water races and is not responsible or liable for the total or partial failure of the water supply?"

The SWDC is charging rates for a service it will not guarantee. Correct. No different to a public water supply or other like utility service e.g. energy or telecoms services supplier

Water Race users there for have no legal recourse if SWDC fails to deliver Drinking Water for Stock Purposes? Correct, however best efforts will always be applied to maintain service levels

Is its Councils expectation that ratepayers would be expected to provide an alternative supply at short notice? Not necessarily an expectation of Council, but would be prudent stock management practice.

Clause 4.3 The water entering from the Greytown storm water and from the Battersea Drainage scheme.

This provision is a carryover from the previous bylaw and is a status quo matter

Animals and stock are farmed and located in both areas should they not also be excluded from the Water Race catchment or included under the new 2014 Moroa & Longwood Bylaw? Question not clear

Comment [b16]: We thought that both the Greytown Urban Area and the Battersea Drainage scheme are separate entities.... Missed the point?

The same would apply to the Greytown Urban area which includes animals and Trees?

Comment [b17]: You have referred to water quality issues especially the impact of urban run off and pollutant load. The existing consents require that we monitor water quality throughout the water race systems and report the data to GWRC

4.4 What are the further restrictions regarding fencing of the water race that Council may in This is the only clause where there is any statement that the SWDC wants the Water races to Is that the long term goal of the new bylaw? Yes as it always implied and is consistent with the Water Accord and the future Regional Water Policy requirements

Comment [b18]: We understand the draft Regional Water Policy will be specific about this point

4.5 Will the Council -grant an extra supply of water (except in emergency) without first gain approval of the ratepayer located on the water race, or a water race committee if it existed? Yes

Comment [b19]: I would expect that the land owner concerned would be prior notified in such cases.

3.1.3 & 3.1.4 As these are working farms are Council staff not required to request permission from the landowner before entering a private property? If you are referring to Council staff and contractors yes that is the preferred and expected practice

Are SWDC staff permitted to ignore OSH requirements? No

General Concerns on process;

1

With Reference to the Masterton DC Consolidated Bylaw 2012.

Part Ten Water Races. This particular bylaw is specific to the two water race systems managed by Masterton and specifically excluded from the common suite of bylaws to come into force on 1st September 2014

Formatted: Superscript

MDC Consolidated Bylaws 2012 comprising parts 1 to 18 were adopted at the MD Council Meeting held Wednesday 14th August 2013

They include in the Sub-title;

“The Consolidated Bylaws 2012 came into force throughout the Masterton and South Wairarapa Districts on 1st September 2013.

This suite of bylaws is referred to in the SWDC Summary of Information for Moroa & Longwood

Comment [b20]: This is a passing and context setting reference to previous bylaw adoption in this case, the joint adoption of a suite of standard bylaws

Question:

The SWDC decided after the September 2013 agreement with MDC to redraft the Moroa & Longwood Bylaws so that they were different to the suite already adopted by MDC & SWDC in 2013 and Moroa 2007.

Why did SWDC not support the standard regional agreement in Sept 2013 which they were already a party to? Because water race bylaws were currently in place in the SWDC District

Why was the MDC 2012 joint Bylaw not circulated to SWD Rate payers? It was publically notified and available to those who were interested,

Was Wellington Regional Council and Fonterra involved in these Joint discussions, if not why not? Not Known

What is the cost to ratepayers for SWDC to revisit the already agreed regional Bylaw?

Comment [b21]: The regional bylaw as referred to was NOT agreed to in respect of water races. “already agreed” assumption is incorrect

It is apparent that a number of the conditions for the MDC Bylaws 2013 agreed to by SWDC have been changed again in the new SWDC 2014 Draft Bylaw and from the existing Moroa 2007 Bylaw. The MDC

bylaw was never the point of reference. The point of reference and starting point has always been and remains the current Moroa Water Race Bylaw

Comment [b22]: Again Council didn't agree to or discuss for that matter any condition relating to another Council's bylaw.

For example;

MDC Clause 6.4.1 R

...5 meters from either side of a water race..

SWDC 2007 Moroa 2.3.19

..5 meters from the centre of water race on one side and one meter from the edge of water race on the other side (nearest to the property boundary)..

SWDC 2014 Draft 2.4.12

..5 meters from either side of a water race (In the Rural Area)..

..or permitting to grow any Tree, hedge, shrub or other plant...except crops and pasture...(B) ..or approved by Council ..

Longwood 1936 Bylaw 9 (a)

..other noxious weeds growing .. a distance of 9 feet from the middle line of any water Race.

Section 3 1936.

Nothing in this Bylaw shall render any person liable to destroy any live hedge .. orchard .. vineyard which is not actually interfering with the flow of water ...

If there is logic in a single Bylaw for the region as agreed in 2013 why is SWDC now pursuing the new Moroa & Longwood Bylaw?

Comment [b23]: Yes there may be some logic in adopting common requirements for water races but a stronger case existed at the time for other common bylaws quite unrelated to water races

Why change the Conditions of the agreed MDC Bylaw now in 2014 ? See above

Comment [b24]: SWDC did not agree to or even consider the MDC document!

Have these revised changes taken into account the WRC and Carterton DC situation with regard Draft expected in September?

Comment [b25]: Yes in relation to stock GWRC have foreshadowed policy changes. Carterton DC situation is not known to us

What is the urgency for this revision in 2014 when the whole issue has been on hold since 2007? Council wished to update the bylaw to cater for changing needs

Refer Para 6 Perceived problem in the summary of information.

“having 2 separate bylaws also creates considerable inconsistency in the administration “..

Agreed so why not one for the region?

MDC, Carterton, SWDC and WRC. in consultation with Fonterra. Some consultation under way already in regard of a common approach. No agreement made to move forward

Comment [b26]: As above, the discussion has only just been initiated

Urban Rural split:

Greytown urban area is to be excluded from all the conditions of Section 1& 2, why?

Comment [b27]:

Was it the intent of the new bylaw to impose a Urban Rural split?

Comment [b28]: Stock watering not a relevant activity in the urban area obviously however maintenance responsibility is common to all property carrying a water race conduit

Was Urban Greytown excluded because of concern for the existing gardens and Trees in Greytown? If so what protection is given to existing Rural Gardens?

Comment [b29]: No it was to acknowledge the difference between urban and rural values relative to the water race system

What consideration will be given to existing Historic Gardens such as Fernside & Longwood with 100 year History and the 150 year old Tauherenikau Race Course grounds and Trees?

Comment [b30]: None contemplated should there be??? Submission

Was it the intention of SWDC under this bylaw that animals , including dogs, in Urban Greytown should have unfettered access to the Moroa Water Race but , in the Rural area animals , including working farm dogs would be excluded?

Comment [b31]: No intention either way again please submit if this is a matter of concern

Trees and Scrubs (including existing Olive Trees) will be excluded within 5 meters of the Rural Water Race but not the Greytown Urban area?

Comment [b32]: Yes in the rural area unless oermitted as a conditional use

What will the cost be to growers to obtain a Council consent to retain existing Trees and scrubs

Comment [b33]: As a conditional use I would expect only a nominal fee

2

Water Rates;

Comment [b34]: This information is still be put together

The Rateable Value of Moroa Water Race Land and Longwood Water Race land is as a % of Land Value .

Moroa Properties are rated at 0.000442% that is \$442 per \$1mil Land Value
Longwood Properties are rated at 0.001861 % that is \$1,861 per \$1mil land Value.

SWDC have suggest this difference of 420 % is because Longwood has less ratepayers and costs more to maintain.

The group requests copies of the audited accounts for both Water Races for the last 3 years in order to confirm the SWDC's position.

Under the new Bylaw it is assumed there will be savings in operating the 2 Water Races under the same conditions and Bylaws.

The Group requests draft budgets explaining how these saving will be made and how the new Rating System will be managed.

Will both areas be rated at the same rate as a set % of Land Value?

3

General drafting concerns Summary of information:

Water Race Committee:

New Water Race Committee for combined Moroa & Longwood Water race:

There is a recommendation in the Summary Information to Re-establish a Water Race Committee.

Why was this not part of the Draft 2014 Bylaw ? Legal advice

Comment [b35]: The advice was that it was sufficient to reference in the SOP only, however a submission around this would be appropriate

Why not define now the conditions under which the committee will be elected, Funded, Report powers. Better managed at the back end of the process

Comment [b36]: Confirm the earlier comment as a more expedient way of dealing with this level of detail

Why revisit the topic again when the SWDC wants agreement now? ?????

Why was the old Water Race Committee disbanded.? ?????

Comment [b37]: Not known

What happened or did not happen that caused the demise of the WR Committee? Not known

Item 6

Perceived problem;

The Longwood Bylaw

'What are the gaps in terms of its information and relevance to today's environment

Comment [b38]: There may be more relevance yesterday to today at Longwood however the 1936 bylaw document is an outdated document

How does the draft bylaw ensure that the availability of water for stock purposes remains for

"today's and tomorrow's communities "when stock cannot have access to the water? It doesn't and

doesn't exclude stock either subject to certain arrangements

Comment [b39]: And also ensures statutory availability of stock water, managing any future threat to the long term viability of the WR network

Are there new systems being put in-place to monitor water flow and quality? Will be a new co
requirement at some considerable cost to the WR Ratepayers.

How does the Moroa & Longwood Bylaw address the pollution issues in a reasonably robust manner if its main function ,providing stocking drinking water, no longer exists?

Comment [b40]: The principal function remains, what is different is how the resource is managed in a sustainable manner

In the Statement of Proposal under (6) Perceived Problem “ it is not considered the most efficient mechanism of administrating the water races with 2 By Laws.”

Comment [b41]: Does that statement speak for itself. Again, submit if you think differently

However the SWDC has declined to agree with the single MDC 2013 Bylaw.
Would that have been a better option?

Comment [b42]: See earlier comments

If and when SWDC amalgamates with Masterton and Carterton, there will 3 Bylaws and the new WRC review.

Is it not more logical to wait until the amalgamation and the WRC review starting in Sept 2014.

Any further discussion should also include Fonterra, Federated Farmers and other interested

Comment [b43]: Submission please

4

Historical concerns:

The Water Race map distributed with the 2014 Bylaw document would date from around 2012-13. A number of the original branches of the Water Races have been changed or diverted since the water races were first constructed.

The Water Races are defined by Heritage NZ (was Historic Places NZ) as Historic archaeological sites

“An archaeological site is defined in the Heritage New Zealand Pouhere Taonga Act 2014 as any place in New Zealand (including buildings, structures or shipwrecks) that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.”

Is it the Council intention to retain the historical significance and Structure of the Water Race Systems? [Submission](#)

What measures will SWDC take to restore and maintain the original structure of the Race? [Submission](#)

Will the Council act to ensure that any Water Races that have alterations or modifications made to them without consent, will be restored to their original condition? [Submission](#)

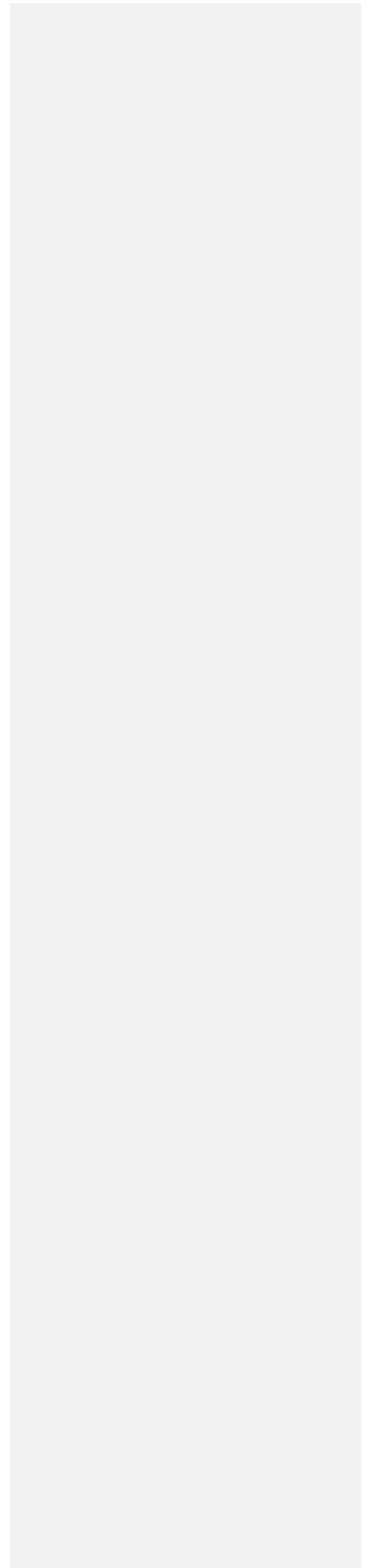
Signed:

**Garrick Emms
Jim Hedley
Brian Weatherstone**

Supported by:

45 Moroa & Longwood Water Race Ratepayers.

**July
2014**



**Appendix 5 – The progress
report tabled 24 September
2014**

New Combined Water Race Bylaw Consultation and Adoption

Progress Report September 2014

1. Original Process Time Table

The table below was extracted from the Statement of Proposal. The first two process steps were completed.

Proposed Timeline

The proposed timeline for the process is;

| Date | Action |
|----------------|--|
| 23 April 2014 | <i>Adoption of the Statement of Proposal for the Draft Combined Moroa Longwood Water Race Bylaw 2014</i> |
| 30 April 2014 | <i>Commence consultative process by publicly advertising the bylaw and inviting submissions</i> |
| 11 June 2014 | Period for making written submissions closes at 4pm. |
| August 2014 | Hearing of submissions by Council. (Date to be confirmed) |
| September 2014 | Incorporate any necessary changes/ alterations to the bylaw/ code of practice. (Date to be confirmed) |
| October 2014 | Adoption of the Combined Moroa - Longwood Water Race Bylaw 2014. (Date to be confirmed) |
| November 2014 | Public notification on the adoption of the bylaw and the commencement date. (Date to be confirmed) |
| December 2014 | Commencement of the Combined Moroa Longwood Water Race Bylaw 2014. (Date to be confirmed) |

2. Subsequent Actions

During the submission period representations were received from a group of water race ratepayers who had informally met on 25th May 2014 and advised that:

*The 40 + people present voted unanimously that the SWDC should be asked to call a public meeting, as you agreed in Oct 2008,
“between affected landowners and Council where the purpose of the proposed bylaw will be explained and questions or concerns discussed.”*

In addition the meeting recommended that progress on the proposed new 2014 Bylaw be put on hold until September 2014 when the Wellington Regional Council will release its new Draft Regional Plan. The group understands that the WRC Draft Plan and the SWDC Bylaw are separate documents but

they address the same issues of Regional Water flow, Fencing and water quality. Ratepayers attending the meeting felt strongly that to avoid problems in the future, there should be no conflict between the Regional Plan for WRC and the SWDC Water Race Bylaw.

The meeting supported the recommendation that a small representative group of affected ratepayers meet with Council in order to discuss concerns about the new Bylaw, timing of the WRC Regional Plan and timing for a public meeting.

Group representatives then met with Council officers and the Mayor on June 5th 2014 to discuss matters further.

Outcomes:

- *The group represented by Messrs Hedley , Emms, Weatherston and Kempton could together submit a series of questions around their concerns , perceived anomalies etc, in regards to the proposed bylaw back to Council as soon as that can be done. Council would also like some ideas around the structure and delegations of the management committee that will be formed to deliver basic management functions of the two water race systems.*
- *Council will consider these questions, provide answers and then circulate to all water race ratepayers for their information and will advise that the submission period closure date 11th June 2014 has been put on hold for a period of time, to allow for further public consultation as might be required. This might be by way of a public meeting and/or further information mail outs to water race ratepayers.*
- *Council officers would attend a meeting of water race users to discuss the responses previously circulated and try and respond to any new questions.*
- *At this meeting a “consultative” group of a range of users could be organised to assist council consider submissions.*
- *At the meeting an agreed date for the closing of submissions will be set.*
- *Council will advertise shortly confirming the extension of time being considered for submissions to the Draft Water Race Bylaw through the LGA Section 83 special consultative procedure process.*

Following this meeting Council publically advertised on 11th June 2014 that because of the level of interest expressed by water race ratepayers the process would be placed in abeyance for a period of time to allow for further public consultation as required.

We advised that any submissions received would be retained for further consideration when the special consultative process was resumed and this would be the subject of further public notices.

On 10th July Council received a detailed list of questions and concerns from the group representatives.

The questions and queries were responded to and the group representatives met with officers on 14th August 2014 to discuss matters further. There were a number of concerns expressed at the meeting including:

- Prevention of stock access to the water race
- Race corridor width and restriction around planting etc
- Disconnect with the MDC water race bylaw and draft Regional Plan
- The rating structure around the two systems
- Defining the role of the management committee
- Developing a code of practice now and not subsequently as officers had advised

Officers again re-addressed the questions that had been raised and responded in due course. On 19th September, the group advised that they felt there was little progress being made and re-iterated a lot of their earlier concerns.

They have requested a public meeting, the main purpose being for Council to explain why they are pushing the revised bylaw. Other points included: no response in regard to working with other Councils to standardise a new bylaw and concerns around a single water race levy spread across both water race systems; and restriction of stock access to the races when this is the very reason for the races existence.

3. Future Actions

A number of submission shave been received so far comprising:

- | | |
|----|------------|
| 3 | Neutral |
| 4 | In support |
| 10 | Against |

There is a measure of resistance to the new bylaw proposals across a range of fronts and Council needs to confirm that the process continues; the first step being the convening of a public meeting, then the circulation of additional material to all water race ratepayers and the public notification of a closure date for additional submissions.

24 September 2014