

7 December 2023

[REDACTED]

Dear [REDACTED]

Official information Request: Pain Estate

I am writing to you in response to your request received 16 November for information relating to Pain Estate.

The collation of this information has taken approximately four hours. There may be more information available in our archives (hard copy records), which would require substantive collation. Our fees for substantive collation are \$38/hr. You may be able to arrange access to these records (if they exist) for your own research. Please note this would need to be supervised and conducted on site as the items are delicate and not stable enough to be removed from archives.

Please provide us with the following information in relation to the legacy / bequest by George Pain of Martinborough of his land and assets ("the Pain Estate") for the benefit of the Martinborough Community and/or the young people and children of Martinborough ("the Bequest").

NB We realise the request may be quite substantial, but we're not sure quite how substantial it will be in practice. If it is impossible to achieve within the statutory period and you need more time, then we have asterisked those requests that we would like to receive within the statutory period please. These requests are more urgent, because of the consultation deadline (5pm on 19 December) that the SWDC has set in respect of consultation on its proposals around the Pain Farm. We need the information well in advance of that deadline so that the information can be considered, and a consultation response provided in time.

The non-asterisked information could be received a reasonable time outside the statutory period, if necessary.

Ideally we would like you to provide the information requested in hard copy please, to the address at the top of this letter.

We have assessed your request under the Local Government Official Information and Meetings Act 1987 (LGOIMA). I have received information to provide the following response:

1. **A copy of the original Bequest and its beneficiaries.

The Will of the late George Pain from 1932 no longer exists. Please refer to the Supreme Court ruling from 1965 in Appendix 1.

2. **A copy of the Bequest in its current form (if different).

Please refer to Appendix 2 through to Appendix 4.

3. **Information about the entities that are currently involved in the management and administration of the Bequest for the benefit of beneficiaries. For example if the Bequest is managed by a trust, please provide details of the identity of the trustee(s), manager(s), professional adviser(s) and beneficiary/ies.

Please refer to Appendix 5: Income Distribution Policy & Appendix 6: Memorandum of Agreement (MoU) Sept23

4. **Any formal record of the relationship between those entities described in Q3 (for example the current trust deed, if any).

Please refer to court ruling information in Appendix 2-4 and MoU, Appendix 6.

5. **Information about South Wairarapa District Council's ("the Council")'s current role in administering the Bequest.

Please refer to Appendix 5: Income Distribution Policy & Appendix 6: Memorandum of Agreement (MoU) Sept23.

6. Information about the Council's decision-making process when it is deciding how to use assets that are part of the Pain Estate.

Please refer to Appendix 5: Income Distribution Policy.

7. **On occasions when the Council has dealings with the Pain Estate, what safeguards are in place to ensure that the Council acts in accordance with:

- a. the Bequest's stated purpose; and
- b. the Council's fiduciary duty to maximise the financial returns to the Martinborough Community.

Council must adhere to its policy (please refer to Appendix 5) and the Court Ruling (Appendix 1 – 4). Any decision related to Pain Farm must be made through a resolution at a Council or Community Board meeting.

8. What options have been considered for enabling and using the Pain Estate to be a directly accessible asset for the Martinborough Community? (For example has thought been given to building a community asset on the land, along with a safe access route from Martinborough township to the land.) If there is a related cost-benefit analysis of those options, please provide a copy.

See Appendix 7 Pain Farm report to MCB July 2019.

9. **The reasons why the Council decided to use a section of the Pain Estate for land disposal of waste and effluent, and what other location options were considered. What were the reasons why land on the Pain Estate were selected instead of other location options.

A partial response can be given to this in Karen Yates MCB Pain Farm report Feb 2020, see Appendix 8.

10. **Who primarily benefits from the decision to use a section of the Pain Estate for land disposal of waste and effluent:

- a. The Council?
- b. The Martinborough Community?
- c. Other?

Please refer to Appendix 5: Income Distribution Policy.

11. What alternative options were considered by the Council for use of the Pain Estate to maximise the financial returns to the community of Martinborough, including any cost-benefit analysis of the different options considered.

Options were presented to the Martinborough Community Board in the Karen Yates MCB Pain Farm report February 2020, see Appendix 8. The SWDC website will have the minutes from the meeting, see [Past Meetings – SWDC](#)

12. **The final (or most recent, if not yet final) version of a report written by Karen Yates detailing the history of the Pain Estate issue, and current issues surrounding the Pain Estate and the Bequest.

See Martinborough Community Board Reports, Appendix 7 and 8.

13. **All information relating to the Council's decision to use the Pain Estate for the purposes of waste management.

We expect these records are in our archives as the site has been used since the 1960's and would require substantive collation.

14. **All information relating to the Council's decision to use the Pain Estate for the purposes of effluent management.

We expect these records are in our archives and would require substantive collation.

15. **All information relation to the Council's future proposals for future use of the Pain Estate for the purposes of waste and/or effluent management.

Please refer to the District Plan for any information on future use of Pain Estate - [Plans - SWDC](#)

16. **Any consent from the Regional Council permitting the Pain Estate to be used for waste or effluent management.

Please see Wellington Regional Council for this information.

17. Any formal record of the Pain Estate (or parts of it) being leased to other parties since 2000. (For example if it has been leased, a copy of each lease.)

Leases are subject to privacy and commercial confidentiality and are therefore being withheld under sections 7(2)(a), 7(2)(i) and 7(2)(h) of the LGOIMA. Please refer to legislation here: <https://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122287.html>

18. **Financial information about the overall income that has been generated by the Pain Estate since the year 2000, and:

- a. How much of that income has been retained by the Council? and
- b. How much of that income has been allocated for the benefit of the Martinborough Community? and
- c. Whether there has been any residual income that has been allocated to purposes not falling under either (a) or (b) above.

All this information is publicly available in the agenda packs for the Martinborough Community Board. See [Upcoming Meetings – SWDC](#)

19. **When income generated by the Pain Estate is allocated for the benefit of the Martinborough Community, a description of the steps taken by the Council:

- a. To decide what proportion of income to allocate?
- b. To pass that income to the Martinborough Community, for example who is the money paid to, and how does that party then decide how to use the money for the benefit of the Martinborough Community?

See Appendix 5: Income Distribution Policy and the SWDC Grants Policy - [PI-FDT-001-Grants-Policy-June-23.pdf \(swdc.govt.nz\)](#)

20. A list of all projects for which income from the Pain Estate has been used for the benefit of the Martinborough Community (or sections of that community) from January 2004 to present, together with the \$ amounts allocated to each project.

All this information is available publicly through the Minutes of the Martinborough Community Board - [Upcoming Meetings – SWDC](#)

21. **Any information pertaining to health & safety concerns of use of the Pain Estate for waste or effluent management (for example affecting local waterways, or land contamination, or fire risk, or vermin risk or other identified risks to health and/or safety).

See Wastewater Application Appendix 10, from October 2011.

22. **What steps have the Council agreed to take to remediate and restore any land contamination caused to the Pain Estate by the council's use of the land for waste and/or effluent management. What standard of restoration has the Council agreed to achieve, and over what timeframe?

This is outlined in the lease agreements and includes statements noting legislative requirements and that remediation is at the cost of the leasee.

We are sending this to you via email, but if you would like to request a printed copy of the response, printing costs for hardcopies of documents can be found in the 2023-2024 Schedule of Fees and Charges: https://swdc.govt.nz/wp-content/uploads/Schedule-of-Fees-and-Charges-2023-2024_FINAL-1.pdf Postage costs will also apply. Please contact: enquiries@swdc.govt.nz to arrange printing of any documentation.

Please note that it is our policy to proactively release our responses to official information requests where possible. If this response is selected for publication on our website at <https://swdc.govt.nz/lgoima-proactive-release/>, your personal information will be removed.

You have a right to request a review by the Ombudsman on this response. Further information about this process can be found on <https://www.ombudsman.parliament.nz/what-ombudsman-can-help/complaints-about-government-agencies/how-make-complaint> or email info@ombudsman.parliament.nz

Kind Regards

A handwritten signature in grey ink, appearing to read 'Amanda Bradley'.

Amanda Bradley
General Manager, Democracy and Engagement Team

Appendices:

Appendix 1: Supreme Court Ruling

Appendix 2: Pain Farm General Information

Appendix 3: Gawith Burridge October 1999

Appendix 4: Philip Fox Opinion May 2011

Appendix 5: Income Distribution Policy

Appendix 6: Memorandum of Agreement Sept23

Appendix 7: Pain Farm to MCB July 19

Appendix 8: MCB Pain Farm Report September 2019

Appendix 9: MCB Pain Farm report Feb 2020

Appendix 10: Wastewater Application – Pain Estate – October 2011

Appendix 1: Supreme Court Ruling

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

STATEMENT OF FACTS

1. By his Will dated 24th March, 1932, the late George Pain gave to his wife a life interest in what he described as "the dwellinghouse at present occupied by me at Martinborough and also the farm of 200 acres situate at Martinborough which I am at present farming" and subject to that life interest gave devised and bequeathed "my said house property and farm of 200 acres at Martinborough to the Martinborough Town Board or Martinborough Borough Council or the local authority for the time being controlling the Township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children."
2. George Pain's widow died on 9th August, 1960, at which time the New Zealand Insurance Company Limited was the sole trustee of his estate.
3. George Pain did not at the date of his death own a "farm of 200 acres" but he did own a farm property in one block of 210 acres (being the land the subject of the present application) and a separate block of 40 acres a short distance away from the 210 acres. Both he and his trustee after his death had farmed the 210 acres, the 40 acres and land belonging to Mrs. Pain as one farm.
4. Shortly after the death of Mrs. Pain, the Trustee Company invited the Martinborough Borough Council to express its views on whether the devise included the separate 40 acre block, and the Council disclaimed any interest therein.

5. The Trustee Company was anxious to terminate the estate's farming operations, and dispose of the stock and therefore gave the Council possession of the 240 acre block, but did not then execute a transfer. It subsequently sold the 40 acre block.
6. The 240 acres was leased for a term of 24 years at a rental (for the first 7 years) of £1155 per annum.
7. In March 1965 the Trustee Company transferred the 240 acres to the Council subject to the said lease.
8. The Council had, in 1964, on advice of Counsel, decided to apply to the Court under Part III of The Charitable Trusts Act 1957 to approve a scheme in relation to the devised land, but it was considered advisable to defer the application until the land had actually been transferred to the Council.
9. The trust income received to date, and the expenditure thereout are as follows:-

<u>Receipts</u>		<u>Payments</u>	
Rents	5610.12. 6	Mortgage principal	4082. 0. 0
Interest	147. 0. 7	Interest	553.16. 0
Timber Royalty	190. 6. 6	Repairs & Maintenance	109.11. 0
		Advertising	11. 8. 9
		Legal expenses	223. 5.10
		Grant to Baths	259. 0.11
		Balance Cr.	708. 9. 1
	<u>£5947.19. 7</u>		<u>£5947.19. 7</u>

10. The Government Capital value of the land (as at 1st December, 1960) is £13,770.

Revaluation
£16325

SUBMISSIONS

11. The Council has been advised -
 - (a) That the words of the testator's Will "and I particularly desire that the said property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children" do not create a trust.
 - (b) That the earlier words "to the intent that the said property should be held on behalf of the inhabitants of Martinborough" create a valid charitable trust,
 - and (c) That because the purpose of the trust is uncertain a scheme for carrying it out should be settled under Part III of the Charitable Trusts Act 1957.
12. In framing the proposed scheme the Council has been influenced by the following considerations -

(a) It is considered impracticable or inexpedient to carry out the testator's precatory wish that the property should be made available as a sports ground and children's playground for the reasons that the property is some distance outside the Borough boundary and is a useful farm unit; The Council already owns 35 acres of parks and reserves within the Borough which are far from fully developed or in a high state of maintenance; The Council has no funds with which to develop the trust land as a sports ground or playground.

(b) The precatory wish of the testator in favour of sports grounds and children's playgrounds can best be attained by retaining the property as an endowment and using the revenue therefrom for the development of these amenities within the Borough.

(c) Martinborough is a small township with a population of approximately 1500 and is not growing fast. When a Town Planning Scheme was first prepared in 1958, the estimates for future population were

1962	-	1450
1967	-	1630
1977	-	1880

Present indications are that these forecasts may not be realised.

(d) The total rate revenue is only £13,500 approximately and very limited amounts are available for expenditure on the reserves in the Borough.

(e) Recreational amenities existing on such reserves in the Borough include -

- a. Public swimming baths - the only one in the borough, and extensively used by school children learning to swim.
- b. Camping ground.
- c. Rugby, Association Football, Cricket, Hockey and Softball grounds.

A Queen Carnival has just been held to raise funds for a chlorination plant and other improvements at the baths. The Rugby Football Club, at its own expense, is erecting dressing sheds and conveniences on the football ground. Apart from these matters all the reserves mentioned are far from fully developed, or even well maintained. There is no children's

playground in the Borough, though the Council has set aside a site for development as such.

SCHEME

13. The scheme which the Council submits for approval is that the income of the trust lands should be used -
- (a) In payment of the costs of the preparation and approval of the scheme including the costs of the Attorney-General.
 - (b) In maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time to time decide.

DATED this 8th day of November , 1965.

THE COMMON SEAL OF THE MAYOR COUNCILLORS
AND CITIZENS OF THE BOROUGH OF MARTINBOROUGH
was hereto affixed in the presence of:-

(L.S.)

"S.H. Ussher"
..... Mayor

"A.H. Green"
..... Town Clerk

IN THE SUPREME COURT OF NEW ZEALAND
WELLINGTON DISTRICT
(HASTINGS DISTRICT)

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAUL deceased.

STATEMENT OF FACTS, SUBMISSIONS AND
CONCLUSIONS.

GAVITH, HEILD & LAING,
SOLICITORS,

HASTINGSBOROUGH

G.N&L.
DEEDS No.
M/79/17

IN THE SUPREME COURT OF NEW ZEALAND
WELLINGTON DISTRICT
(MASTERTON REGISTRY)

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

FRIDAY THE 11TH DAY OF FEBRUARY, 1966.

BEFORE THE HONOURABLE MR. JUSTICE MCGREGOR

UPON READING the notice of motion of the Martinborough Borough Council dated the 22nd day of November, 1965, the Statement of Facts, Submissions and Scheme dated the 8th day of November, 1965, the Report of the Attorney-General on the said scheme, and the affidavits of ALAN HENRY GREENE and DENNIS WILLIAM NEILD filed herein, AND UPON HEARING MR. BARTON of Counsel on behalf of the Martinborough Borough Council and MR. CAIN of Counsel on behalf of the Attorney-General THIS COURT HEREBY ORDERS that the Scheme dated the 8th day of November, 1965, filed herein by the Martinborough Borough Council under Part III of the above-mentioned Act relating to a devise under the Will of the above-named GEORGE PAIN deceased be and the same is hereby approved AND HEREBY FURTHER ORDERS that the costs of the Martinborough Borough Council fixed at £84 together with disbursements and the costs of the Attorney-General fixed at £21 be paid out of the accumulated income of the fund.

By the Court



REGISTRAR

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

ORDER APPROVING SCHEME

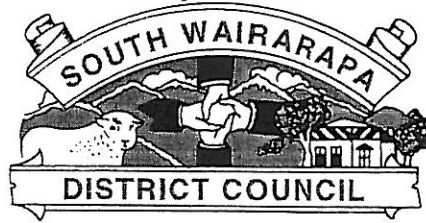
GAVITH, NEILD & LAING,
SOLICITORS,

MARTINBOROUGH

G.N&L.
DEEDS No.
M 179/18

Appendix 2: Pain Farm General Information

South Wairarapa District Council



PAIN FARM

1. The Pain farm estate, located on the Pirinoa Road, is comprised of 84.9839 hectares (210 acres) on which is located the homestead, 1.782 hectares and the Martinborough landfill, 7.465 hectares.
2. The property was bequeathed to the former Martinborough Borough Council (now the South Wairarapa District Council) in a Will made in 1932. George Pain died in 1937 and his wife held a life interest in the property until her death in 1960. The Council then came into possession of the property.
3. The terms of the Will could not be implemented in full by the Council hence a "scheme" to vary its terms was approved by the Supreme Court (now the High Court) on 11 February 1966.
4. The key portions of the Supreme Court Order dated 11 February 1966 read:

"...that the income of the trust lands should be used ... in maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide".
5. The former Martinborough Borough Council no longer exists. By virtue of the 1989 Local Government Reorganisation Order all the powers, functions, assets and authorities of the former Borough Council are now vested in the South Wairarapa District Council.
6. The District Council owns the land as a trustee, and the terms of the trust are the terms contained in the Will of the late George Pain as varied by the provisions of the Court Order dated 11 February 1966. The Council must operate within the terms of the two documents and particularly within the terms of the Court Order which effectively modified and overrode the provisions of the Will.
7. The approval of the High Court would first be required should the Council wish to again vary the terms or to sell all or part of the property.

6 April 2005

Appendix 3: Gawith Burridge October 1999

13 OCT 1999

Facsimile 06-378-2847
Internet: <http://gawith.co.nz>
Email: legal@gawith.co.nz
1st Floor NZ Post Building Queen St
PO Box 454 DX PA89005
MASTERTON NEW ZEALAND

12 October 1999

General Manager
South Wairarapa District Council
Box 6
MARTINBOROUGH

Attention: Mr Lett

Dear John

PAIN FARM

In response to your enquiry it is correct that an application to the Supreme Court was made, by the Martinborough Borough Council, in 1965. On the 11th February 1966 an order was made by the Court approving the scheme that had been submitted.

I will enclose a photocopy of the order of the Court and also a photocopy setting out the Particulars of the Scheme. As you will see the Court approved the use of the income from the Trust lands, firstly in payment of costs etc, relating to the application itself and secondly, for the following purpose -

"in maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time-to-time decide". This wording is of course identical to the wording quoted in your e-mail to us.

As the successor to the previous Martinborough Borough Council, the South Wairarapa District Council may. I imagine, use the income from the Pain farm property for exactly the same purposes as set out in the particulars of Scheme. I am not sure whether the facilities on which the money can be spent should be limited to those facilities in the area of the previous Martinborough Borough, or whether on the other hand money could be spent further afield - for example in Featherston or Greytown. You have not asked for any advice on this point, and I am simply flagging that as a possible question that might arise.

It will be noted that the approval granted by the Court relates to the spending of income. There is no provision for the spending of capital or for the realisation of any Pain farm assets by way of sale or otherwise. Some years ago a proposal was floated which would have involved the sale of at least some of the Pain farm property but I believe that proposal did not proceed further.

I believe that your Council will maintain a separate Pain farm account, within its body of accounts and that all income received and all expenditure from that income will be accounted for and properly recorded in those separate and individual accounts.

You may wish to consider filing this letter and the copies of the documents enclosed, in your permanent deeds filing system, in case reference to the question might be required again in the future.

Please let me know should anything further be needed.

Yours faithfully

GAWITH BURRIDGE

Per



R G Hall

E-mail: richard@gawith.co.nz

G:\0000\Justine\LETTERS\jkmlettPain.doc/2

Encl.

DRAFT FORM OF ADVERTISEMENT

IN THE MATTER of The Charitable

Trusts Act 1957 Part III

AND

IN THE MATTER of the Estate of

GEORGE PAIN deceased.

The Martinborough Borough Council hereby gives notice that application has been made to the Supreme Court of New Zealand at Masterton for the approval under Part III of The Charitable Trusts Act 1957 of the Scheme particulars of which are set out hereunder for the administration of charitable trust being a devise to the said Council under the Will of the above-named George Pain of a property of 210 acres situated on the Lower Valley Road.

The date proposed for the hearing of the application by the Court is the *11th February 1966 and the hearing will take place at the Supreme Court at Wellington at 10 am.*

Any person desiring to oppose the Scheme must give written notice of his intention to do so to the Registrar, Supreme Court, Masterton, to the Martinborough Borough Council, Cork Street, Martinborough, and to the Attorney-General, Crown Law Office, Wellington, not less than 7 clear days before the ~~said~~ *above mentioned* date of hearing.

PARTICULARS OF SCHEME

That the income of the trust lands should be used:-

- (a) In payment of the costs of the preparation and approval of the Scheme including the costs of the Attorney-General.
- (b) In maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time to time decide.

Appendix 4: Philip Fox Opinion May 2011

Our ref: 0508208

24 May 2011

Dr Jack Dowds
Chief Executive Officer
South Wairarapa District Council
By email

Mark Allingham
Group Manager Infrastructure Services
South Wairarapa District Council
By email

Dear Jack and Mark

Pain Farm

- 1 Following our meeting with you on 21 March 2011, you asked us to advise you on the process and ability for the South Wairarapa District Council (**the Council**) to use the Pain Farm income for projects located outside the geographical area of what was the former Martinborough Borough.
- 2 You have also sought our advice on whether an area of the Pain Farm may be used for the disposal of treated effluent. In particular, you have asked what legal processes the Council would need to go through in order to use Pain Farm for this purpose.
- 3 We outline below our advice in respect of these two issues below.

Review of Council files

- 4 We have reviewed the documentation on Council's files in relation to Pain Farm. The Will of George Pain is not on the Council's files. We contacted Gawith Burrige (who previously acted for the Council on various issues relating to this property), who could not locate a copy of the Will in their files either.
- 5 We rely on the documents in the Council's file and the earlier Court proceedings.

Background

6 We understand that:

6.1 The Will of the late George Pain was made in 1932. The bequest of Pain Farm to the Martinborough Borough Council came into effect on the death of his widow in August 1960. The relevant direction in the Will read as follows:

... my said house property and farm of [210] acres at Martinborough to the Martinborough Town Board of Martinborough Borough Council or the local authority for the time being controlling the township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sportsground for the residents of Martinborough and as a playground for the children.

6.2 George Pain died in 1937 and the Will came into effect, giving his wife a life interest in Pain Farm. George Pain's widow died on 9 August 1960, at which time the New Zealand Insurance Company was the sole trustee of his estate.

6.3 In March 1965, Pain Farm was transferred to the Martinborough Borough Council subject to an existing 21 year lease. As the terms of the will were uncertain, the Martinborough Borough Council submitted a scheme for approval to the Supreme Court for the income of the trust under Part III of the Charitable Trusts Act 1957. We understand that the focus was on the income from the lease of the farm land, as the Council did not required the land to be used as a sportsground or a playground.

6.4 The Supreme Court subsequently approved a scheme, under the provisions of the Charitable Trust Act 1957 on 11 February 1966. The material portion of the Court order directed:

... That the income of the Trust lands should be used ... in maintaining and improving the borough's parks, sportsgrounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide.

'Borough' reference

7 You have asked us to consider whether the Council can use the Pain Farm income for projects located outside the geographical area of what was the former Martinborough Borough. Specifically, we have considered whether the Court order requires the income to be spent on facilities owned by the Council and situated within the area of the former Martinborough Borough or requires the income to be spent within the geographical area of the Martinborough Borough.

8 We outline below the relevant legislative provisions that have informed our view.

9 In accordance with section 2 of the Municipal Corporations Act 1954 (MCA):

Borough means a borough constituted under this Act, or thereby deemed to be so constituted; and includes a city:

Borough Council includes a City Council:

Corporation means the Corporation of a borough or of a town district, as the case may be:

[Council] means a City Council, Borough Council, or Town Council; and includes the Auckland Regional Authority, the Christchurch Drainage Board, the Christchurch Transport Board, the Dunedin Drainage and Sewerage Board, the Hutt Valley Drainage Board, the North Shore Drainage Board, the Dunedin Ocean Beach Domain Board, **[[the Rotorua Area Electricity Authority, the Lyttelton Harbour Board, [the Wellington Regional Water Board, and the Tauranga Electric Power Board]]]:**

- 10 In accordance with section 4 of the MCA, to be classified as a 'borough' required a certain area and population:

Section 4 Constitution of boroughs

With respect to the constitution of boroughs the following provision shall apply:

(a) Every borough existing at the commencement of this Act shall be deemed to be constituted a borough under this Act:

...

(c) **Any part of New Zealand comprising in a continuous area not more than 9 square miles, and having no points distant more than 6 miles from one another, and having a population of not less than 1,500, may be constituted a borough** in manner provided by this Act:

Provided that no such area may be constituted a borough **unless it has an average density of population of not less than or person to the acre:**

(d) A borough that is situated within the boundaries of a county shall be deemed not to form part thereof:

(e) A borough may, subject to the provisions of this Act, be either undivided or divided into not more than five wards:

(f) Every ward of a borough shall contain a population of not less than 1,000

(g) The wards of boroughs existing at the commencement of this Act are hereby declared to be wards under this Act.

- 11 In accordance with section 5 of the MCA, the 'Borough Council' was created by the inhabitants of a particular geographical area:

5 Incorporation of boroughs

(1) The inhabitants of every borough shall, under the name of "The Mayor, Councillors, and Citizens of the Borough of [Name of borough]", be a body corporate, with perpetual succession and a common seal; with power for the Council by special order to alter and change the seal; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, disposing of, and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(2) In the case of cities the word "City" shall be substituted for the word "Borough" in the corporate name.

- 12 The Local Government Act 1974 (**LGA74**) was enacted in order to:

consolidate and amend the law relating to the **reorganisation of the districts** and functions of local authorities... and to make provision for

the **establishment of united councils, regional councils, district councils**, district community councils, and community councils, [and to consolidate and **amend the Municipal Corporations Act 1954...**]

- 13 The MCA was repealed, as from 1 April 1980, by section 9(1) of the Local Government Amendment Act 1979 (1979 No 59). The definition of 'Borough' and 'Borough Council' were repealed, as from 6 June 1989, by section 2(16) Local Government Amendment Act (No 2) 1989 (1989 No 29).
- 14 In accordance with the LGA74, all of the Martinborough Borough Council powers, functions and authorities are vested in the Council. As you will be aware, the LGA74 has been repealed and replaced by the Local Government Act 2002 (**LGA02**).
- 15 The Supreme Court order directs that:
- ... the income of the Trust lands should be used ... in maintaining and improving the **borough's parks, sportsgrounds, camping ground, swimming baths ...**
- [our emphasis added]**

Our interpretation

- 16 In our view, 'borough' in the context of this order refers to the geographical area as opposed to the Martinborough Borough the legal entity.
- 17 Paragraph 12 of the Council's submissions (dated 8 November 1965) that were filed when the scheme was submitted for approval stated that:
- 17.1 It was impracticable or inexpedient to carry out George Pain's precatory wish that Pain Farm should be made available as a sports ground and children's playground for the reasons that the property is some distance outside the Borough boundary and is a useful farm unit. The Council already owns 35 acres of parks and reserves within the Borough which were far from fully developed or in a high state of maintenance. The Council has no funds with which to develop the trust land as a sports ground or playground.
- 17.2 The precatory wish of George Pain in favour of sports grounds and children's playgrounds can best be attained by retaining the property as an endowment and using the revenue therefrom for the **development of those amenities within the Borough.**
- [Our emphasis added]**
- 17.3 Recreational amenities existing on such reserves in the Borough include:
- 17.3.1 Public swimming baths - the only one in the Borough, and extensively used by school children learning to swim;
- 17.3.2 Camping ground;
- 17.3.3 Rugby, association football, cricket, hockey and softball grounds.

17.3.4 Children's Playground

- 18 The order of the Supreme Court dated 11 February 1966 endorsed the Council's statement of facts, submissions and scheme. As outlined in paragraph 17.2, the Council submitted that the property should be retained as an endowment and the revenue should be used for 'the development of those amenities within the Borough'.
- 19 Therefore, in our opinion the spending of the income is not limited to maintaining and improving Council owned facilities within Martinborough, but is rather a focus on any public parks, sportsgrounds, camping ground, swimming baths et cetera within the Martinborough area.

Spending of income

- 20 We are aware the Council may like to spend income from the trust on community facilities located outside the boundaries of the former Martinborough borough but within the current Martinborough town boundaries.
- 21 We understand there is a future possibility that the Council may like to spend income from the trust on a golf course, and a school. The golf course is owned by the Council and the school is not owned by the Council but which has a cricket pitch that is used by the community and needs some upgrading and improvement. We are aware that these facilities are within the Martinborough town but the golf course is not within the boundaries of the former Martinborough borough. We consider that although these sporting facilities are outside what was considered the old borough boundary and not directly owned by the Council, if the Council wishes these not to be omitted from funding from the trust, then it must be established these facilities are primarily for the residents of Martinborough and the Martinborough District.
- 22 The order provides the Council with the discretion to choose which facilities to spend the income of the trust, however the order does confirm that the spending of the trust income is on facilities within Martinborough. Despite the Council being reorganised in accordance with the LGA74 and now responsible for governing Featherston, Greytown and Martinborough, it does not by default mean that income from the trust can be spent outside the area the money was intended to be spent on.
- 23 However, we consider that provided the income is applied towards the same purposes and public access can be obtained to the facilities by the residents of Martinborough the Council can spend the income within the Martinborough town. In our view, the geographical constraint does not prevent spending money on the Martinborough golf course, and the lack of ownership of the school does not prevent expenditure of that public facility.

Where to from here?

- 24 Our opinion on the flexibility available to the Council for this proposed expenditure recognises that an arguable case exists in support of this interpretation. However, our opinion provides no certainty that a Court would reach the same conclusion. If greater certainty is sought then the Council has 2 options.
- 25 The Council could seek an order from the High Court, similar to the order sought by the Council in 1966. That would seek to provide the Council with further flexibility to

spend the income from the trust i.e. proposing to the Court that the income from the trust is spent on facilities outside the former Martinborough borough, or community facilities not owned by the Council but still community facilities that Martinborough residents can use. There would be Court costs associated with this process as appropriate and satisfactory evidence would need to be produced.

- 26 The other option available to the Council would be to notify the residents of Martinborough of Council's intention to spend the income of the trust on community facilities outside the former Martinborough Borough but within the Martinborough Town. The Council can then assess what opposition (if any) there would be to using the income in this way. This option simply provides an insight as to potential opposition, rather than any interpretation certainty.

Area of Pain Farm for the disposal of treated effluent

- 27 You have asked us to consider whether the Council could use an area of Pain Farm for the disposal of treated effluent. As outlined above George Pain envisaged Pain Farm:

...should as far as possible be made available as a sportsground for the residents of Martinborough and as a playground for the children.

- 28 The Court order only approved a scheme in relation to income generated from the Pain Farm. The Court did not consider how the land should or should not be developed. However, the Council cannot regard itself as the absolute owner of the land to do with it as it pleases because the land is held as a Trust. We consider the Council owns the land as a trustee, and the terms of the Trust are the terms contained in the Will as varied by the provisions of the Court order.
- 29 In our view, the Council is not at liberty to undertake activities in respect of the income farm unless those activities are permitted by the terms of the Will and/or Court order. Similarly, the land constitutes the capital of the Trust and utilising a portion of Pain Farm to dispose of human effluent would not be consistent with the purpose for which it was gifted to the Council i.e. to be available as a sportsground/playground. The Court has a duty to ensure that the scheme proposed follows the wishes of the settler as closely as possible. To use a portion of Pain Farm to dispose of human effluent the Council will need to prepare a scheme to vary the mode of administering the trust in accordance with the Charitable Trusts Act 1957 (CTA).
- 30 Every proposed scheme must be laid before the Attorney-General (AG) together with full information as to all the facts upon which is it proposed to vary the Will/current scheme, with copies of the necessary documents to explain the proposed scheme. The AG may remit a proposed scheme to the Council for consideration of any amendments the AG may suggest. After a report of the AG on a proposed scheme, the Council may apply to the Court for approval of the scheme reported on. The proposed scheme must be publicly advertised before it is considered by the Court. Any person desiring to oppose a scheme must give written notice of that intention at least 7 days before the hearing of the application for approval of the scheme by the Court.



- 31 As outlined above at paragraph 17.2, the Council submitted to the Supreme Court that Pain Farm be retained by the Council as an endowment. Other documentation we have reviewed considers Pain Farm is held on trust. In accordance with section 140 of the LGA02 there are restrictions on disposal of 'endowment property'. We also note that section 140(2) states:
- This section and section 141 apply to the property or part of a property vested in a local authority as a trust or as an endowment.
- 32 As the Council does not intend to dispose of Pain Farm or part of Pain Farm we have not considered the restrictions on disposal in the LGA02. Whether Pain Farm is held by the Council on trust or as an endowment, the Council is still required to obtain a Court Order as the purpose for which the Council proposes to use a portion of the land is not consistent with the terms of the Will/Court order.
- 33 As we discussed with you, there are a number of unknown variables i.e. whether this proposal would impact on the income and value of the land, whether the land is suitable for the disposal of human effluent, whether there are any iwi related issues. A number of these matters can be dealt with through the Resource Management Act 1991 (RMA) process. It would be useful for Council to explore these matters before consulting with the public to ensure the proposal would be viable at Pain Farm.
- 34 The Council should consult the public as 'landowner' of Pain Farm on its proposal to change the use of the land. In our view, the Council should obtain a Court order before applying for resource consent for the proposal. In this case the Council as 'landowner' should consult with the public. The Council needs to highlight to the community that consultation on this matter with the public does not restrict the public rights to submit through the subsequent RMA process.
- 35 We trust this advice sufficiently answers your queries. Please do not hesitate to contact us if you have any queries.

Yours sincerely

Stephen Quinn

Partner

Direct +64 4 474 3217

stephen.quinn@dlapf.com

Appendix 5: Income Distribution Policy

DRAFT PAIN FARM TRUST LANDS INCOME DISTRIBUTION POLICY

1. Rational

The Martinborough Community Board under the guidance of Council has a governance role of the Pain Farm Trust Lands and the recommendation of the expenditure of the income. There has been a widespread lack of understanding of the bequest and how the funds can be spent. This policy will be reviewed in accordance with SWDC requirements.

2. Purpose

- To provide guidelines for the distribution of funds from the income from the various leases of the Pain Farm Trust Lands.
- To allow greater efficiencies, understanding and transparency and give direction how and where the funds can be expended.

3. Guidelines

3.1 Administration

1. The Council shall recover fair and reasonable administration costs.
2. The Council will ensure that all leases, the land, homestead and cottage and Landfill /Transfer station will be reviewed and the intent of the bequeath and High Court judgment be complied with.
3. Council will advertise where the funds have been expended annually.

3.2 Repairs and Maintenance

1. A fund of \$40,000 will be set aside for repairs and maintenance of the property and buildings, if expensed at any one time the amount will be accrued by \$10,000 amount per year until the fund is replenished.

3.3 Funding Distribution

1. The Community Board with the guidance of Council will ensure that the Council's Martinborough Parks and Reserves will have priority over available funds and will be expended as directed by the High Court's Judgement in 1966. It is recommended that the funds are spent on capital equipment/facilities.

2. Funds may be spent purchasing and funding capital sporting equipment and facilities where it will benefit the residents of Martinborough Community and with the support and guidance of Council.
3. Applications for funding community sporting (2. Above) equipment/amenities will be called for annually and will not exceed \$25,000 and if the funds are available.
4. All expenditure above \$35,000 will be subjected to the SWDC Annual Plan.
5. Any funding distribution must be of benefit to the residents of Martinborough; this removes the confines of any town boundary as a sporting facility, club or reserve may be located on the outskirts of the town yet be a Martinborough amenity.
6. The Community Board may wish to accumulate funds for a specific project or raise a loan using some of the income; this will be permitted under Council guidance.

4. Background

George Pain, known as Tiny Pain or Hura Rorere (king of the road) born 1847 Wellington died 1937. A "pioneer" shepherd/farmworker, hawker, hotelier, storekeeper, landlord, run-holder/farmer and wool baron.

George Pain in 1932 made a will bequeathing the 210 acre property known as the Pain Farm to the then Borough Council (now the SWDC) with this wife having a life interest. In 1960 Mrs Pain died and the land was handed to the Martinborough Borough Council. The land that was bequeathed

'to be held on behalf of the inhabitants of Martinborough and he particularly desired that the property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children.'

In 1965 due to the practicality, uncertainty (the farm being held in a 21 year lease), location and the Borough Council already having a number of under utilised reserves, resolved to apply to the Supreme Court for a judgement on a scheme for the use of the income from the Pain Farm.

Under provisions of the Charitable Trust Act 1957 in February 1966 the Court directed:

"That the income from the Trust Lands should be used, in maintaining and improving the borough's parks, sports grounds, camping ground, swimming baths, providing equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide."

\$150,000
\$300,000
\$40k maintenance

Appendix 6: Memorandum of Agreement Sept23

Memorandum of Agreement

Between the South Wairarapa District Council (SWDC) & the Martinborough Community Board (MCB)

This document guides the working relationship between SWDC officers and the MCB while the current Pain Farm policy and procedures are worked through and updated. It cannot contradict or replace current key documents.

SWDC officers and the MCB will work together positively and productively, to build trust, and improve transparency.

SWDC officers will communicate clearly and regularly with the MCB with updates on progress or any delays, issues, or roadblocks experienced in addressing these requests.

The CEO will maintain an overview of the progress and the Chair of the MCB will ensure that requests for additional work by SWDC officers, not covered by this agreement are made through the CEO.

Agree to the roles and responsibilities in this MoA and that they are incorporated, where appropriate, in any new policy. Which are in the interim described as:

- 1. Council are the trustees of Pain Farm**
- 2. Martinborough community is the beneficiary of Pain Farm**
- 3. MCB is the governor of Pain Farm**

SWDC will work to clarify and provide understanding to MCB on the following:

- financial reporting;
- the available funds for grant-making for the benefit of the Martinborough community;
- incomes sources to Pain Farm, these are expected to include the Transfer Station, Homestead, Cottage and Farm Land;
- a full list of contracts and leases they hold with anniversaries of commencement dates;
- the process for setting the annual budget for Pain Farm in the long-term and annual plan; budgets to ensure that the MCB has visibility of any significant changes or amendments;
- a transparent process for setting fair and reasonable cost recovery and overheads;
- the value of expenditure (if any) that would need to be considered by the MCB;
- the type of decisions and processes to be considered by the MCB for recommendation to Council.

Review of this agreement will occur in December 2023.



Interim Chief Executive,
South Wairarapa District Council

Chair,
Martinborough Community Board

Appendix 7: Pain Farm to MCB July 19

MARTINBOROUGH COMMUNITY BOARD

18 JULY 2019

AGENDA ITEM 6.6

PAIN FARM REPORT FOR THE PERIOD ENDING 18 JULY 2019

Purpose of Report

To provide Community Board members with the latest Pain Farm report from farm consultant Richard Moore, and to respond to questions raised by the Board.

Recommendations

Officers recommend that the Community Board:

1. *Receives the Pain Farm Report for the period ending 18 July 2019.*
2. *Bring the Pain Farm home and cottage up to a standard that SWDC would be proud of, with SWDC officers to start the quote process; or*
3. *Investigate whether selling the home and cottage and surrounding land designated to the Pain Farm house is feasible.*
4. *Recommends to Council that Pain Farm Estate fund up to \$5,000 for the repair of damaged water pipes and troughs on a cost share basis with the Pain Farm lessee.*
5. *Recommends to Council that Pain Farm Estate fund the Pain Estate Tender and Lease Agreement, which includes the inspection of Pain Estate report dated 7 May 2019 at a cost of \$6,281 plus GST.*

1. Background

The accompanying report (Appendix 1) is from Richard Moore, who is contracted by the Council to conduct a review of the lessee's farm prior to the signing of the new lease.

2. Discussion

2.1 The Farm

SWDC has now entered a new lease with Oliver Smith of Unison Bideford limited with a 3-year lease dated 1st of May 2019 and ends on the 30th day of April 2022. With no right of renewal. Lease per year is \$66,000.00 per year. This farm condition will be monitored on a 6-monthly basis.

After a walk over with SWDC, Mr Smith is happy to cut back some of the shelter belts to allow more light onto the paddocks at his cost. A verbal agreement has been reached with Mr Smith that SWDC will have a share

cost on the water reticulation to resolve this matter once and for all around the damaged pipe work and trough issue. Cost discussed with Mr Smith should be no more than \$5000.00 to SWDC. Accompanying history of Unison Bideford Limited (Appendix 2).

2.2 The Farmhouse and Cottage

On-going maintenance of the Farm house needs to be managed as no maintenance has been carried for some time.

On May the 10th 2019 SWDC completed a house inspection with the tenants. The farm house exterior is desperately in need exterior painting, the roof leaks in four places into the hall way. There are external rotten weather boards that need replacing also. Most sash windows are not able to be opened due to the sash weights becoming rotten and snapped. In one area the tenants have a window taped up to stop the draught. The farmhouse tenants have raised concerns about cold and damp in the house in winter. The original heating and ventilation design for the house relied on five fireplaces (kitchen, dining room, lounge and two bedrooms), along with bottom and top-opening sash windows. The chimneys and fireplaces in the bedrooms on the south side of the house have been decommissioned; the remaining three fireplaces have modern wood burners installed and require yearly sweeping. The house has ceiling insulation, but apparently it hasn't been possible to get under the floor to place insulation there – this will be investigated, as in a house of this age and style it should be possible to get under it. The cottage at the rear of the property is rented out on a permanent basis on a subletting agreement with the main house tenant, this also requires maintenance as rotten weather boards have fallen off exposing the internal lining. We have also had electrical issues in the cottage which we have had repaired but further upgrading is required. It is proposed to investigate the likely value and cost of a heat recovery system for the house – this is not just for the comfort of the tenants, but also for the long-term preservation of the building itself.

Outbuildings are falling over due to age or doors are rotting. A lot of trees require arborist work to remove them from the main power feed lines also. The driveway requires work and reforming due to potholes and no maintenance. Gardens are in average condition

The homestead and cottage are in general disrepair and requires a considerable amount of money on it to bring it up to a good standard.

2.3 Recommendations (Options)

1. Bring the Pain Farm home and cottage up to a standard that SWDC would be proud of, with SWDC officers to start the quote process.
2. Investigate whether selling the home and cottage and surrounding land designated to the Pain Farm house is feasible.

3. Appendices

Appendix 1 – Richard Moore report of Pain Farm 7th of May 2019

Appendix 2 – Unison Bideford Limited

Appendix 3 – Pain Farm Income and Expenditure Report

Contact Officer: Bryce Neems, Amenities Manager

Reviewed By: Mark Allingham, Group Manager Infrastructure Services

Appendix 1 – Richard Moore report of Pain Farm 7th May 2019

7 May 2019

Ref: RFM232

South Wairarapa District Council
PO Box 6

MARTINBOROUGH 5741

Attention – Jennie Mitchell
Email – jennie.mitchell@swdc.govt.nz

Bryce Neems
Email – Bryce.neems@swdc.govt.nz

Oliver Smith
697 Carters Line
CARTERTON

Dear Madam / Sirs

RE: PAIN FARM CONDITION REPORT

On the 2nd of May 2019 I confirm I inspected the subject property with the new Lessee Mr Oliver Smith for the purpose of conducting a property condition report as at Lease commencement.

This report outlines a description of the land, main property improvements and their condition, with supporting photos.

Yours faithfully

WAIRARAPA PROPERTY CONSULTANTS LTD



R F G MOORE
B.C.M. (AgriBus) MPINZ ANZIV
Registered Valuer

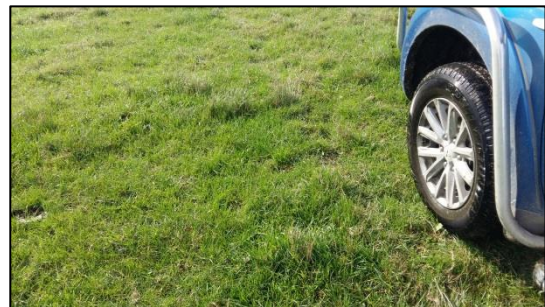
1 PAIN FARM CONDITION REPORT

1.1 Pastures

Most of the property was in permanent pasture which was in average to below average condition and appeared to be older pastures which would benefit from development and regrassing. It is also noted that many paddocks were subject to pugging damage.

Two paddocks were in brassica crop, one of which appeared to be an average crop and the second was a poor crop comprising approximately half struck crop and balance of pasture. It is difficult to decipher whether this has been established as a new pasture or as a new crop paddock. In summary this paddock will require either regrassing or recropping. There is one further paddock which appears to have regrowth barley or oats with grass over sown. This paddock will also require regrassing or recropping in the next appropriate season.

Weeds noted include Mayweed and Mallow.



1.2 Fencing

All fencing comprises conventional type post wire and batten fences of older and variable condition. Most lines are serviceable, however deferred maintenance is required to some broken posts and rails, broken or missing battens and restraining of wires. There is not electrical reticulation throughout the block.

There are numerous gates which are not swinging freely. Some gudgeons require replacement. Gates are generally in below average condition, many gates have been bent and some netting gates have holes in them. Flood gates have been poorly maintained.





1.3 Water

Stock water is supplied via town supply. It is noted the water reticulation pipes are very small by modern standards. Some trough heads were missing and most troughs either required moving or metalling around the base due to significant stock damage surrounding the troughs. Water is shared with the Pain Farm house and there is no separate metre for the supply.

1.4 Shelter

The shelter belts are mature and will require ongoing maintenance from fallen branches. We would not anticipate these will require trimming within the three year lease term.



2 IMPROVEMENTS

2.1 Cattle Yards

Cattle yards were in good serviceable condition, there were minimal broken rails and all gates were swinging the functional.



2.2 Sheep Yards

These were found in poor condition, approximately half of the yards require full replacement, and all old timber gates either require complete refurbishment or replacement.



3 FERTILITY

Mr Smith has commissioned Greg McLeod of Ravensdown to carry out soil testing of the property.

These results show Olsen P levels which are above optimal predominantly being higher than 35, and pH levels which are slightly below optimal.

Within clause 3.11.2 of the lease agreement, this states the Lessee may apply lime at a rate of 1250 kilograms per hectare rather than applying super phosphate. Based on the soil tests I consider this would be appropriate in any one year of the three year lease term.

Appendix 2 – Unison Bideford Limited

APPENDIX 2 – OLIVER SMITH TENDER**Pain Farm Lease (South Wairarapa District Council) Tender from Unison (Bideford) Ltd:**
Principal-Oliver Smith

Our intention, on all our lease properties (At present we have 19 properties around the Wairarapa from Mikimiki to Kaiwaiwai) is to farm faithfully and strive to enhance the properties. We operate in a spirit of co-operation and goodwill with all our lessors.

Clearly the visibility of the Pain Farm Block necessitates particular attention to detail and best practice at all times of the year, especially during winter. Based on the area of 75.7369ha at 248 Lake Ferry Road, Martinborough we propose to pay \$871/ha per annum. Excluding GST this is an annual rental of \$66,000.00. The preferred lease commencement date is May 1 2019.

Observations from our inspection of the property are as follows:

- The majority of fences are of high quality
- Sheepyards require significant reconstruction
- Water troughs have not been maintained resulting in either large leakages or simply not working.
- A number of gates require to be swung
- 3 paddocks are in average quality crops/poor grass resowing attempts.
- Mayweed becoming an issue throughout pasture all over farm.
- ARL were employed to analyse soil samples taken during our inspection. Results showed that the pH and P levels were good but with some paddocks falling short on pH. K levels were very low (we assume there has been inadequate replenishment after baleage harvested)

Lessee undertakes to take the following action required:

- We will include capital K with renovation of pasture in feed crop fertiliser.
- The addition of capital L line:

5 tonne lime per hectare @20 @ \$55	\$8800
2 tonne lime per hectare @20 @ \$55	\$2200
- Infrastructure - Rebuild the front half of sheepyards area, repair minor damage to cattleyards and loadout facility. Repair various areas of fencelines, shift 6 troughs and repair, ensure all gates swinging. We estimate this will require a total of 80 hours work including hireage of a tractor and materials (\$8000)
- A bit of TLC on feed crops/new grass and replanting in order to bring the paddocks into production by spring/start to renovate all pastures that all include pugging damage.
- Mayweed painstakingly pulled three times over December to April in an attempt to prevent further spreading with the sowing of new grasses.

General Stock policy:

- We are budgeting a total of 40000 lambs / hoggets to CMP this coming financial year.
- Fatten lambs/ hoggets from 33kg to 50kg April 1 to November 15*
- Combined with feed crops to renovate pasture/either mechanically top or R2yo steers in the late spring/summer period.

About Unison Bideford Ltd:

We pride ourselves on the observation, maintenance and appearances being kept to a high standard- and moving quickly to eliminate problems.

Timeliness is paramount.

Nutrient budgeting programs (Overseer) in place and adhered to. (Not required yet by GWRC)

Strong lines of communication adhered to.

Lessors preferences with regard to stock and appearances adhered to.

We have a staff member living in Greytown whose job description would include the daily observation of this property as well as ones presently at Greytown and Kaiwairai. Personally I am 20 minutes away.

Health and Safety program coordinated by On Farm Safety.

Public liability Insurance 2M

Referees: Chris Garland-Baker and Associates; David Borman -a present lessor; Allan Newman-Enumerate.

Access can be provided to the 19 properties we run for inspection if desired.

We have moved from 90ha in 2014 to 535ha in 2019 in a linear fashion. Our systems are growing in line with this. These are being built/fine-tuned in line with the growth.

CRS, Farmax, FarmIQ, and Jobdone are all used daily to enhance our efficiency and communication.

This is combined with Overseer on a regular basis.

- Planned for this coming year is further development of our business model with a governance team to be created
- marketing program with website developed
- increased staff levels (from our present team of 3 to 4 as well as an existing data entry person and 2 casual fencers).

Yours sincerely

Oliver Smith
0272777960
olus@xtra.co.nz
697 Carters Line, RD 7,
East Taratahi.

 (B.4.19)

Appendix 3 – Pain Farm Income and Expenditure Report

PAIN FARM					
MONTHLY FINANCIAL STATEMENTS					
AS AT 28 JUNE 2019					
<u>STATEMENT OF FINANCIAL PERFORMANCE</u>					
<u>INCOME</u>					
<u>Rent Received</u>					
	Moore		15,600.00		
	Moran		52,173.90		
	SWDC Land Fill Lease		6,451.10		
	Smith rental/hire		4,234.26		
				78,459.26	
<u>Interest Received</u>					
	Other		4,910.90		
				4,910.90	
Total Income					\$ 83,370.16

EXPENDITURE					
Operating Expenses					
	Consultants				
9/05/2019	Wairarapa Property Consultants Tender/Lease		6,281.00		
				6,281.00	
	General Expenses				
14/12/2018	Cricket Pitch Considine Park		2,116.00		
31/03/2019	Times Age Advertising March 19		98.00		
				2,214.00	
	Legal Expenses				
3/05/2019	Gawith Burrige Pain Estate Lease		745.22		
				745.22	
	Repairs & Maintenance				
24/08/2018	AP Rentokil Initia Pest, insects, rodents etc		249.60		
30/09/2018	AP Cotter & Steven Septic fault Pain Farm Tanks low		92.00		
8/11/2018	AP Cotter & Steven Pain Estate septic fault		150.00		
27/11/2018	AP Rentokil Initia Pest control 1/12/18-28/02/19		249.60		
26/02/2019	AP Rentokil Initia Pest control 01/03/19-31/05/19		259.59		
1/03/2019	AP Cotter & Steven Septic tank red light		292.00		
11/04/2019	AP Mitre 10 Smoke Alarms		278.01		
25/04/2019	AP BMT Plumbing Li ANZAC Day Callout - burst water mai		508.99		
24/05/2019	AP Rentokil Initia Pest Management 1/6/2019 - 31/8/2019		259.59		
				2,339.38	
	Grounds Maintenance				
31/01/2019	Water Mart Septic System Service		147.00		
				147.00	
	Repairs & Maintenance (Buildings)				
27/07/2018	AP City Care C1199/70 Property Parks & Reserves		43.02		
10/08/2018	AP Roger Smith Con Repairs to doors, chimnney, roof, ber		507.73		
29/08/2018	AP City Care C1199/71 Property P & R Mgment		248.61		
11/09/2018	AP Roger Smith Con Pain Frm chim		36.37		
17/05/2019	AP Cotter & Steven Pain Farm Fuse Board Repair		283.34		
				1,119.07	
	***Rates & Rent Payable				
	Rates		7,040.99		
	Rates repaid by tenants		-		
				7,040.99	
	Corporate Services				
	Allocation		16,316.62		
				16,316.62	
	In-House Prof Services				
	Allocation		5,325.72		
				5,325.72	
	Depreciation		-		
				-	
	Insurance		2,025.64		
				2,025.64	
Total Expenditure				\$	43,554.64
Total Surplus/(Deficit)				\$	39,815.52

<u>STATEMENT OF ACCUMULATED FUNDS</u>				
Opening Balance 99596971		01-Jul-2018		\$ 146,244.19
Total Surplus / (Deficit) Year To Date				\$ 39,815.52
Grant to Waihinga Playground committed by Council - Playground				\$ (200,000.00)
Commitments to Waihinga Centre not yet spent				\$ 200,000.00
Closing Balance		28-Jun-2019		<u>\$ 186,059.71</u>

Appendix 8: MCB Pain Farm Report September 2019

MARTINBOROUGH COMMUNITY BOARD

27 FEBRUARY 2020

AGENDA ITEM 8.1

PAIN FARM

Purpose of report

To update the Martinborough Community Board (Board) on Pain Farm and to provide options for the long-term future of the Pain Farm homestead, cottage and surrounding land.

Recommendations

Officers recommend that the Board:

1. *Receives the Pain Farm report.*
2. *Reports to the Council on the maintenance undertaken at Pain Farm since July 2019 and associated expenditure.*
3. *Recommends to the Council the preferred approach for the long-term future of the Pain Farm homestead, cottage and surrounds.*

1. Background

At the extraordinary meeting of 19 September 2019, the Board received an officer's report on the history of the Pain Farm estate and responses to earlier requests for information about the estate. The report also outlined five options for the long-term future of the Pain Farm homestead, cottage and surrounding land (see Appendix 1 for the options, analysis and recommendation to the Board). The Board deferred a decision regarding the long-term future of Pain Farm for consideration by the incoming Board.

At the 5 December 2019 meeting the incoming Board requested officers add an additional sixth option that considers the future leasing of the farm, cottage and homestead together. The Board requested a report on these options with a consultation plan that seeks community feedback and provides an opportunity for the community to identify additional options as part of the consultation.

2. Discussion

2.1 Update on maintenance work

Since the extraordinary meeting in September 2019, the following maintenance work has been completed or is currently underway:

- Trees cleared away from powerlines
- Energysmart insulation compliance for the homestead and cottage
- Chemical wash of the homestead exterior
- Remetalled the driveway
- Inspected electrics in the homestead
- Replaced the septic tank motor and filters
- Temporary repairs to the homestead roof
- Plumbing in the cottage bathroom
- Exterior cladding on cottage
- Exterior painting on homestead

The following work is to be completed:

- Tank to be emptied and refiltered due to continuing alarm issues
- Sash window repair in the homestead
- Rewiring and electrical work in the cottage
- Roof repairs on homestead

As noted by the Board at the December 2019 meeting, the Council will continue to undertake a maintenance and repair programme to bring Pain Farm to a standard that meets current rental tenancy requirements. The completion of work is dependent on access to the properties and the availability of tradespersons. Officers will report to the Board with a maintenance schedule for the homestead, cottage and surrounding land once further information on the future of the properties has been received.

2.2 Update on expenditure

The income and expenditure report for the period 1 July 2019 to 31 January 2020 is included at Appendix 2.

Officers recommend that the Board reports to the Council on the maintenance undertaken at Pain Farm since July 2019 and associated expenditure, in line with the Pain Farm Income Distribution Policy and Board delegations.

2.3 Review of overhead cost allocation model

At the extraordinary meeting in September 2019, the Board resolved (MCB 2019/70):

- 4 That Council review the overhead cost allocation model for the Pain Farm.
5. That following this review, that Council consider whether any overhead allocations for the last three years should be credited back to the Pain Farm account.

Officers are undertaking a review of the overhead cost allocation model as part of the development of the Council's Annual Plan 2020/21. Officers will consider the application of the model to Pain Farm as part of that review and report back to the Board in due course.

2.4 Options for the long-term future of the homestead, cottage and surrounds

The six options previously identified are incorporated into the four options below.

Option 1 – maintain current rental arrangements

The homestead, cottage and surrounding land is subject to a residential tenancy agreement until 16 May 2020. The lease is with the tenant in the homestead who sublets the cottage.

Under this option, the homestead would be re-let at the end of the existing tenancy on the same basis. That is to say that the agreement is to let both the homestead and cottage and the tenant can sublet the cottage for residential purposes and/or run it as a holiday let business. The Council would retain responsibility for maintaining the homestead and cottage and surrounding gardens and associated costs would continue to be met through the Pain Farm income. The Council would implement a maintenance schedule for the properties and report to the Board on a regular basis. Market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough. The rental for both properties together is likely to be less than the combined total (\$785) because the homestead tenant would have to bear the risk of the cottage being unoccupied for some of the time.

To implement this option, the Council would need to obtain a market assessment on rent and there could be costs for legal advice and the tenancy process.

Option 2 – separately rent the cottage for residential purposes

This option is similar to option 1 except that at the end of the existing tenancy, the Council would rent the homestead and cottage for residential purposes under separate tenancy agreements. As indicated above, market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough.

To implement this option, the Council would need to obtain a market assessment on rent and there could be costs for legal advice and the tenancy process.

Option 3 – lease the farm, homestead and cottage together

Under this option, the homestead, cottage and surrounds would be rented at the end of the existing tenancy as under option 1 or 2 above. The tenancy/ies would expire on the 30 April 2022 to align with the expiry of the lease for the farm.

It is anticipated that work to design the pipeline and irrigation system to discharge treated wastewater to land at Pain Farm will then commence. If some or all of the farm can be leased while work is ongoing, the option to lease the homestead, cottage and farm together would be tendered. Note that the pipeline and irrigation system is consented to be operational no later than 31 December 2030.

To implement this option, the Council would need to obtain a market assessment on rent and there would be costs for legal advice and the tendering process.

Option 4 - consult the Martinborough community on options for the future

Under this option, officers would work with members of the Board to develop an engagement plan to seek community input into the long-term future of the homestead, cottage and surrounds at Pain Farm. The engagement plan would be reported back to the Board and Council for approval prior to consultation being carried out.

Ideas for engagement with the community include:

- an online and paper survey outlining the history and legal issues associated with the bequest of the estate along with potential options for the future, as follows;
 - a. retain the homestead, cottage and surrounds;
 - b. renovate the homestead, cottage and surrounds to provide for a superior holiday let / wedding venue;
 - c. restore and maintain the homestead and gardens as heritage assets;
 - d. sell the homestead, cottage and surrounds;
 - e. other ideas the community may have.
- promotion of the survey online and through print media;
- community meetings;
- drop-in sessions at the library and/or Council offices.

To implement this option, the Board should nominate up to two members to work with officers to draft the background information, survey and engagement plan and report back to the Board on the plan and associated costs. There would be costs for the paper survey and promotion through print media. Further costs may accrue depending on the preferred option identified by the community.

Note that due to the expiry of the existing residential lease in May 2020, the Board would also need to indicate its preference for tenancy arrangements as detailed in options 1, 2 and 3.

2.5 Recommendations for the long-term future of the homestead, cottage and surrounds

Officers do not recommend option 1. If the homestead, cottage and surrounds are to be retained, option 2 is preferred over option 1 as it maximises residential rental income to the Council and provides greater control over the tenancy of the cottage, thereby reducing risk.

The Board should consider the options outlined in paragraph 2.4 above and recommend the preferred approach to the Council.

2.6 Pain Farm revenue

At the December 2019 meeting, the Board asked officers to report on opportunities to maximise the revenue of the Pain Farm by looking at options for different land use. Officers will report on this at a future meeting.

2.7 Consultation

Consultation with the Martinborough community will be carried out should the Board and Council prefer option 4 identified in paragraph 2.4 above.

2.8 Legal implications

There are no legal implications associated with the decisions outlined in this report. Legal advice may be needed depending on the preferred option.

2.9 Financial considerations

The financial implications of each option have been identified in paragraph 2.4 above.

3. Conclusion

Officers recommend that the Board:

- reports to the Council on maintenance undertaken at Pain Farm and associated expenditure as outlined in paragraph 2.2 above; and
- recommends to the Council the preferred approach for the long-term future of the Pain Farm homestead, cottage and surrounds as outlined in paragraph 2.5 above.

Contact Officer: Karen Yates, Policy and Property Coordinator

Reviewed By: Bryce Neems, Amenities and Solid Waste Manager

Appendix 1 – Options for the future of the Pain Farm homestead, cottage and surrounding land

Excerpt from the report to the Martinborough Community Board extraordinary meeting, 19 September 2019

Option 1 – maintain current rental arrangements

Under this option, the repairs and maintenance to bring the properties up to an acceptable standard for rental purposes (identified above) would be completed. The exterior painting of the homestead and cottage should then be undertaken as budget allows. The homestead would be re-let at the end of the existing tenancy on the same basis. That is to say that the agreement is to let both the homestead and cottage and the tenant can sublet the cottage for residential purposes and/or run it as a holiday let business. The Council would retain responsibility for maintaining the homestead and cottage and surrounding gardens. The Council would implement a maintenance schedule for the properties and report to the Board on a regular basis. Market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough. The rental for both properties together is likely to be less than the combined total (\$785) because the homestead tenant would have to bear the risk of the cottage being unoccupied for some of the time.

No further work is necessary to scope this option. To implement this option, the Council would need to obtain a market assessment on rent following the completion of work and there could be costs for legal advice and the tenancy process.

Option 2 – separately rent the cottage for residential purposes

This option is similar to option 1 except that at the end of the existing tenancy, the Council would rent the homestead and cottage for residential purposes under separate tenancy agreements. As indicated above, market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough.

No further work is necessary to scope this option. To implement this option, the Council would need to obtain a market assessment on rent following the completion of work and there could be costs for legal advice and the tenancy process.

Option 3 – superior holiday let / wedding venue

Under this option, the homestead, cottage and gardens could be brought up to a higher standard of decoration and amenity with a view to operating Pain Farm as a

superior holiday let / wedding venue. This could be managed by specialised property services or tendered as a business opportunity.

The Council would need to assess the viability of this option by obtaining quotes for additional work, likely rental income and occupancy rates. In addition to the costs to undertake the work, there would be costs for legal advice and the tendering process. As this option is a change to the existing use, public consultation to determine support is recommended. In accordance with the Pain Farm Income Distribution Policy, expenditure over \$35,000 would be subject to the annual plan process so would need to be included and approved in the 2020/21 annual plan.

Option 4 — restore and maintain the homestead and gardens as heritage assets

Under this option, the homestead and gardens could be fully restored and maintained as heritage assets to protect the investment for the long term. Entry fees could be charged for visitors. The cottage could be let for reduced rental to a supervisor. Consideration could also be given to registering the homestead as a heritage item on the New Zealand Heritage List and/or as a heritage item in the Wairarapa Combined District Plan.

To scope this option, the Council would need in the first instance to commission a heritage architect to assess the heritage value of Pain Farm and to determine the restoration work to be undertaken. An assessment and conservation plan is estimated to be at least \$8,000. The renovation work would then be costed. In addition to the costs to undertake the work, there would be costs for legal advice and the tendering/tenancy processes. Given the change in use and likely scale of costs, public consultation to determine support would be required.

Option 5 — sell the homestead, cottage and surrounding land

Under this option, the Council could subdivide the estate and sell the homestead, cottage and surrounding land. The proceeds would be applied for purposes consistent with the bequest.

To scope this option, the Council would need to obtain a valuation for the property, planning advice for subdivision and legal advice on the process and options available for sale and use of proceeds. Implementation costs include planning and legal advice and court fees. Given the change in use and associated legal processes, public consultation to determine support would be required prior to any action being taken to sell.

3. Analysis and recommendation

Officers recommend Option 2. This option requires no further scoping and is low capital outlay relative to options 3 to 5. The income available for distribution would be at an acceptable level taking into account the operational costs for the property. Active management and improved reporting to the Board will ensure Board oversight of the integrity of the estate, consistent with the Board's delegations and Pain Farm Income Distribution Policy.

Option 2 is preferred over option 1 as it maximises residential rental income to the Council and provides greater control over the tenancy of the cottage, thereby reducing risk.

Option 3 may be a viable option in that the long term income may outweigh the capital outlay to bring the property up to a higher standard and ongoing operating costs. It would add to the accommodation pool in Martinborough which is in line with Council's focus on tourism. However, on top of the cost for additional work, this option would require increased internal resource to contract manage. It is also arguable that this option is outside what should be Council's core activities.

Option 4 would, subject to heritage assessment, recognise the heritage values and significance of the property in Martinborough's social history and protect the property from inappropriate development and use. It would also contribute to the Council's tourism focus by providing additional visitor interest. However, costs to scope and implement this option are likely to be significant. In addition, costs to maintain a heritage standard of condition, combined with the reduced income, could constitute a charge on the estate funds, contrary to the purpose of the bequest.

Option 5 is likely to bring the greatest financial return for the bequest taking into account the general increase in property values and costs to maintain the buildings as they age. It also reduces the risks and costs to Council arising from the need to manage the property and tenancies. However, this option has not been supported by the community in the past and the strength of feeling at the July 2019 Board meeting would suggest this has not changed.

Note that officers' recommendation for option 2 is based on the available information at this time. Should circumstances change significantly, such as the costs of maintenance, condition of the buildings or value of the property, this recommendation may need to be revisited in the future.

If the Board supports officers' recommendation for option 2, officers will arrange for the outstanding work on the roof of the homestead and the exterior cladding on the cottage to be undertaken as a priority. Once this work has been completed, officers recommend the exterior painting of the homestead be undertaken subject to any remaining budget and funding approval.

If the Board wishes to investigate options 3 to 5, or any other option, officers can carry out further assessment and obtain quotes for work for the Board's consideration in the new triennium. Alternatively, officers can obtain a quote for an independent party to assess options.

Appendix 2 – Income and expenditure report

PAIN FARM			
AS AT 31 JANUARY 2020			
<u>STATEMENT OF FINANCIAL PERFORMANCE</u>			
<u>INCOME</u>			
<u>Rent Received</u>			
	Moore	9,300.00	
	SWDC Land Fill Lease	6,451.10	
	Smith rental/hire	27,500.00	43,251.10
<u>Interest Received</u>			
	Other	5,628.31	
			5,628.31
Total Income			\$ 48,879.41
<u>EXPENDITURE</u>			
<u>Operating Expenses</u>			
<u>General Expenses</u>			
25/09/2019	Cotter & Stevens Septic Tank repairs	134.55	
31/03/2019	Cotter & Stevens Fixed Blown Fuse in Homestead	500.62	
			635.17
<u>Repairs & Maintenance</u>			
30/07/2019	AP Pope & Gray Con Pain Farm - deliver 40mm Base Course	323.26	
7/08/2019	AP BMT Plumbing Li Pain Farm - Check hot water issues	101.72	
16/08/2019	AP EnergySmart Insulation Cottage 248 Lake Ferry Road	659.6	
27/08/2019	AP Rentokil Initia Pest Control 1/9/2019 to 30/11/2019 Pain Farm	259.59	
11/09/2019	Pain Farm Unison(Bideford) Water issues	5000	
21/08/2019	AP W Roper Ltd No hot water in Pain Estate Cottage	171.8	
3/10/2019	AP Wash Rite Waira Low Pressure House Wash	1870	
22/10/2019	AP GT Enviro Septic System Installation	1350	
30/10/2019	AP Cotter & Steven Septic Tank blocked filters	117	
26/11/2019	AP Rentokil Initia Service period 01/12/19 - 29/02/19	259.59	
23/12/2019	AP BMT Plumbing Li Leaking Waterpipe, Wastepipe & Cistern	661.53	
10/01/2020	AP BMT Plumbing Li Pain Farm Cottage replace wastepipes	493.2	
1/12/2019	AP Cotter & Steven Pain Farm - Septic Pump Replacement	432.11	
27/12/2019	AP Cotter & Steven Spectic Tank Alarm Activated	427.8	
			12,127.20
<u>Grounds Maintenance</u>			
31/01/2019	AP treescape 248 lake Ferry Road -clear service line	2,040.00	
			2,040.00
<u>Repairs & Maintenance (Buildings)</u>			
2/07/2019	AP Mitre 10 Pain Farm	1,690.59	
10/11/2019	Roger Smith Con Suply Materials for Bathroom wall	3,903.22	
			5,593.81
<u>***Rates & Rent Payable</u>			
	Rates	7,304.71	
			7,304.71
<u>Corporate Services</u>			
	Allocation	11,612.62	
			11,612.62
<u>In-House Prof Services</u>			
	Allocation	4,252.75	
			4,252.75
<u>Insurance</u>			
		2,241.96	
			2,241.96
Total Expenditure			\$ 45,808.22
Total Surplus/(Deficit)			\$ 3,071.19
<u>STATEMENT OF ACCUMULATED FUNDS</u>			
Opening Balance 99596971		01-Jul-2019	\$ 188,888.91
Total Surplus / (Deficit) Year To Date			\$ 3,071.19
Closing Balance		31-Jan-2020	\$ 191,960.10

Appendix 9: MCB Pain Farm report Feb 2020

MARTINBOROUGH COMMUNITY BOARD

19 SEPTEMBER 2019

AGENDA ITEM 4.1

PAIN FARM

Purpose of Report

To respond to issues raised by the Martinborough Community Board (Board) and requests for information in response to the Pain Farm Report received at the Board meeting of 18 July 2019.

Recommendations

Officers recommend that the Board resolve that:

1. *The Pain Farm homestead, cottage and surrounding land be retained by the Council and:*
 - a. *at the end of the current tenancy agreement, the homestead and cottage be rented out for residential purposes under separate tenancy agreements;*
 - b. *officers report to the Board with a maintenance schedule for the homestead, cottage and surrounding land; and*
 - c. *officers report to the Board on a six-monthly basis on the maintenance completed and condition of the homestead, cottage, surrounding land, and farm.*
2. *The repairs and maintenance work to bring the homestead and cottage up to an acceptable standard for rental purposes be undertaken as a matter of priority.*
3. *The exterior painting of the homestead be undertaken as the next priority and that the Board recommends Council approves up to \$30,000 for this work on top of available budgets.*

1. Background

At the meeting held on 18 July 2019, the Martinborough Community Board received an officer's report on the condition of the farm, homestead and cottage at Pain Farm. The report identified work that needed to be undertaken on the homestead and cottage and an option to investigate the feasibility of selling these dwellings and the surrounding land (1.78 hectares).

Five members of the public addressed the Board and asked questions about Pain Farm and the officer's report. Questions were subsequently received from two members of the public who were unable to speak to the Board due to timing constraints. A further question relating to the farm's water supply was asked at the Council meeting of 7 August 2019. The questions are itemised at Appendix 1 and are addressed throughout this report and appendices, except those directed at the Community Board for response.

The Board resolved the following (MCB 2019/41):

1. To receive the Pain Farm Report.
2. To recommend to Council that Pain Farm Estate fund up to \$5,000 for the repair of damaged water pipes and troughs on a cost share basis with the Pain Farm lessee on the proviso that effort is made to recoup costs from the previous lessee.
3. Recommends to Council that Pain Farm Estate fund the Pain Estate Tender and Lease Agreement, which includes the inspection of Pain Estate report dated 7 May 2019 at a cost of \$6,281 plus GST.
4. That Officers seek a full assessment of the House and Cottage and obtain two quotes, one to restore the buildings to a suitable standard for rental purposes, the other to undertake a full restoration to secure the property for the long term.
5. That Officers report back to MCB answering all questions raised by both the Community Board and all speakers today.
6. Report to the Community Board once the quotes have been received for maintenance work with options and analysis outlining the implications for the long-term financial position of the Pain Estate and suggested priorities for undertaking the work.
7. That up to \$40,000 be made available immediately for urgent maintenance work to be undertaken.
8. Note for the record that once full information is available from the reports outlined above, it is highly likely that Council will need to undertake a full consultation process with the Martinborough Community on the options available for Pain Farm Estate.

The Board's resolutions were not reported to the Council meeting of 7 August 2019 in order that the Board could further consider the issues relating to Pain Farm and make recommendations to Council following this report.

2. Discussion

2.1 Pain Farm estate

Pain Farm estate on Lake Ferry Road, Martinborough includes a livestock farm of 75.74 hectares and a homestead, cottage and surrounding land on 1.78 hectares. It is also the site of the Martinborough landfill (7.47 hectares). The property is 84.99 hectares in total. A map of the property is attached at Appendix 2.

The estate is connected to the town water supply. It is not uncommon across the district for farms to be connected to the town supply. There are two water meters for the farm supply and one water meter for the homestead and cottage. All three meters have standard residential back flow protection.

The farm is leased to 30 April 2022 for a rent of \$66,000 per year and there is no right of renewal. The Council's 35 year resource consent for staged discharge of treated wastewater to land commenced in April 2016. Stage 2 of the consent includes the incorporation of the discharge of treated wastewater to land at Pain Farm. A pipeline to transfer the treated wastewater to Pain Farm from the current wastewater treatment plant and oxidation ponds will need to be constructed and the pipeline and irrigation system is consented to be operational no later than 31 December 2030.

The homestead, cottage and surrounding land is subject to a residential tenancy agreement until 16 May 2020. The lease is with the tenant in the homestead who sublets the cottage.

The homestead and cottage were built between 1890—1910. Although the homestead and cottage are considered by many to be local heritage assets, the dwellings are not listed on the New Zealand Heritage List pursuant to section 65 of the Heritage New Zealand Pouhere Taonga Act 2014 and are not heritage items for the purposes of the Wairarapa Combined District Plan.

2.2 History of Pain Farm bequest

Pain Farm was bequeathed to the former Martinborough Borough Council by George Pain in a will dated 24 March 1932 with his wife holding a life interest. The Council is unable to locate the original or a copy of the will but the relevant direction in the will is as follows:

... my said house property and farm of [210] acres at Martinborough to the Martinborough Town Board of Martinborough Borough Council or the local authority for the time being controlling the township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sportsground for the residents of Martinborough and as a playground for the children.

George Pain's widow died on 9 August 1960 at which time the New Zealand Insurance Company was the sole trustee of his estate.

In March 1965 Pain Farm was transferred to the Martinborough Borough Council subject to an existing 21 year lease. However, the Council did not require the land to be used as a sportsground and children's playground and considered the property to be "a useful farm unit". The Council considered George Pain's wish in favour of a sportsground and children's playground could best be attained by retaining the property as an endowment and using the revenue for the development of those amenities within the borough. The Council therefore submitted a scheme for the approval of the Supreme Court under Part III of the Charitable Trusts Act 1957 for the use of the income of the trust.

On 11 February 1966 the Supreme Court (now the High Court) approved the following scheme:

... That the income of the trust lands should be used ...in maintaining and improving the Borough's parks, sportsgrounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time to time decide.

The application to the High Court and order is attached at Appendix 3. As the scheme states the purpose for which income from the land should be used, an application must be made to the High Court if it is proposed to dispose of the capital by sale or otherwise, or to use income for alternative purposes. The requirements of sections 140 and 141 of the Local Government Act 2002 regarding the disposal of property vested in trust may also apply. These provisions require the approval of the Minister of Local Government to use property or income from the property for different purposes, or to sell the property. Property can only be sold if certain conditions are met, including that the proceeds must be used in a way that is consistent with the vesting.

2.3 Previous inquiries to clarify and/or amend the status or terms

2.3.1. 1981 to 1984

In 1981 the lease of the farm and dwellings became due for renewal. The Council investigated the status of the property and the steps necessary to sell the homestead, cottage and surrounding 2.5 hectares of land. The Local Government Act 1974 provisions in force at that time required that any proceeds of sale of land must be invested in the purchase of other land. As there was no substitute property the Council wished to purchase, the Council proposed to invest the proceeds of sale on interest bearing deposit and to apply the income in accordance with the terms of the High Court order. The approval of the High Court would have been necessary to do this. It is understood that public consultation was carried out and sale was not supported. Subsequently, the leases between the farm and dwellings were divided and the homestead was renovated.

2.3.2. 1994

In February 1994 the Council received correspondence advising landowners of general interest to buy land in the Martinborough-Lake Ferry Road area for viticulture purposes. An investigation into the suitability of the land for viticulture was undertaken and the conclusion was that the land was not suitable due to poor drainage.

2.3.3. 2004 Working Party

In February 2004 a Working Party was established by the Council to consider what action, if any, was required regarding the administration and application of funding arising from the income of Pain Farm. The Working Party was comprised of three Councillors, three members of the Martinborough Community Board and the Mayor.

The Working Party considered that:

- The scheme needed greater flexibility;
- A definition of “Martinborough residents” would be required;
- The criteria for projects to benefit should be broadened;
- Rent paid by the landfill should be reviewed;
- Maintenance of the homestead had to be provided for;
- Public understanding of the bequest was not good;
- Consultation with the public would be required before considering taking a case to the High Court; and
- A flyer for public consultation needed to give examples of how some funding was spent and instances for where it could not.

A flyer surveying residents in the Martinborough area sought responses to three proposals which were:

- (a) should the bequest continue in its current form; or
- (b) should the terms [be] changed to be more flexible; or
- (c) other ideas.

Responses were 94 in favour of the status quo (a), 31 in favour of (b), plus many varying comments under (c). The Working Party recommended that the present status and administration of the Pain bequest remain unchanged; and that Council officers obtain a legal opinion to clarify the legal status of the assets and a definition of the area of benefit from the bequest. The minutes of the meetings of the Working Party in February and September 2004 are attached at Appendix 4.

Legal advice was obtained confirming the status and terms of the trust and a document was produced to provide guidance for Council when making decisions with regard to Pain Farm funding (attached at Appendix 5).

2.3.4. 2014

At their 31 March 2014 meeting the Martinborough Community Board considered a report that sought approval in principle to review the Pain Farm bequest (attached at Appendix 6). The report noted that there had been discussion around the relevance of

the 1966 order of the High Court and its applicability to the current and future needs of the Martinborough Community. The Board recommended to Council that the bequest be reviewed and Council approved the recommendation at its meeting of 23 April 2014. No further action was taken.

2.4 Financial information for Pain Farm

The Council operates an identifiable Pain Farm account which is used for the collection of rent from the homestead, farm and landfill and for the payment of outgoings and project funding in line with the bequest. The income and expenditure (summarised by type of expenditure) for the financial years 2009—2019 is attached at Appendix 7. The operating budgets for financial years 2018/19 and 2019/20 are attached at Appendix 8.

2.4.1. Pain Farm Income Distribution Policy

The Pain Farm Income Distribution Policy provides guidance for the distribution of income (attached at Appendix 9). The Policy was adopted by Council on 4 April 2012 following public consultation and an amended Policy adopted on 26 August 2015. The Policy is currently being reviewed and will be considered by the Council in late 2019/early 2020.

The Policy clarifies that any funding distribution must be for the benefit of the residents of Martinborough which means that a sporting facility, club or reserve may be located outside the town boundary, on the outskirts of the township.

2.4.2. Corporate services and professional services expenditure

The income and expenditure summary identifies “Corporate Services” and “In-house Professional Services” as expenditure items. The Council allocates a proportion of its overheads – the costs of running the Council – across all significant activities within the organisation, including the administration of Pain Farm. The expenditure items in the summary are for the personnel, operating and finance costs for running the Council’s Corporate Services and Infrastructure groups within Council. The allocation of operating and finance costs to Pain Farm is calculated as a percentage of total operating and finance costs and the allocation of personnel costs as a percentage of staff time spent on administration activities.

2.4.3. Maintenance expenditure

The income and expenditure summary identifies expenditure for maintenance on the grounds and buildings at Pain Farm.

Note that the Income Distribution Policy requires that \$40,000 be reserved for repairs and maintenance of the property and buildings. If this reserve is expensed at any one time the amount will be accrued by \$10,000 per year until the fund is replenished. Note also that any expenditure over \$35,000 is subject to the Annual Plan process.

2.4.4. Project funding

The income and expenditure summary identifies the distributions for project funding.

Project funding has been allocated over the period of the summary to the following:

- Martinborough swimming pool: concrete levelling, fibreglassing the paddling pool, picnic tables, pool covers, air blower and inflatables;
- the purchase and installation of the flying fox at the playground;
- Martinborough Square management plan and power box upgrade;
- development plans for Centennial and Considine Park;
- cricket pitch covers at Considine Park;
- a contribution for replacing two turfs and installing lights at the Tennis Club; and
- contributions to the Waihinga Centre and playground.

There were three funding distributions to the Waihinga Centre and playground. At the 10 June 2013 meeting the Board discussed the proposal to contribute funds to the Martinborough Town Hall refurbishment and agreed that a donation would meet the requirements of the Pain Farm [Income Distribution Policy]. The Board recommended that a grant be made from the Pain Farm Estate for \$50,000 in the 13/14 year and \$50,000 in the 14/15 year. At the meeting of 30 May 2016 the Board recommended in its Annual Plan Supplementary Submission 2016 that \$200,000 be allocated to develop and implement the Waihinga Centre playground plan. The total \$300,000 project funding is included in the attached income and expenditure summary in the 2016/17 financial year. Note that as these distributions have been approved and committed to the Waihinga Centre and playground projects, they cannot be remitted. Any unspent funds from the Pain Farm distribution to the playground project will be retained for future allocation to the playground.

In addition, income from Pain Farm has met the loan repayments for a \$150,000 upgrade to the swimming pool between 1997 and the 2015/16 financial year (see attached resolution to raise the loan at Appendix 10).

2.5 Maintenance

2.5.1. Pain Farm

In 2011 the Board appointed a supervisor to carry out periodic reviews of the condition of the farm and business practices under the lease and to report to the Board. Reports covered, for example, fertilisation application and history, maintenance of fencing, yards and grounds, and the farmer's plans for cropping and turning over land. The contract with the supervisor was discontinued at the end of 2017. The farm was inspected on 7 May 2019 prior to the signing of the new lease. The new lessee has undertaken at their own cost to cut back some of the shelter belts, install new sheep yards, and repair all the external fences, damaged water pipes and troughs. The Board recommended at the July 2019 meeting to contribute up to \$5,000 for the water reticulation work and approval for this funding will be sought from Council in the new triennium. The farm condition will be monitored on a six monthly basis by the Amenities Manager who will contract with professional farming services if required, subject to Board approval.

2.5.2. Pain Farm homestead and cottage

A review of Council records indicates that significant restoration to the homestead was carried out in the mid 1980s following public consultation on the sale of the homestead and cottage. In addition, some refurbishment was carried out in 2009/2010 prior to a lease renewal; the chimneys were decommissioned and fireplaces made sound in 2012; and ongoing problems with the septic tank were resolved in 2017. Minor periodic maintenance of the homestead and cottage has been undertaken as indicated in the income and expenditure summary.

However, the Council acknowledges that the standard of service for the maintenance of the homestead and cottage has been unsatisfactory for some time. There has been insufficient staff resources to actively manage the maintenance of the homestead and cottage outside of lease renewals. Specifically, there has been no formal maintenance schedule for the homestead and cottage and there have been infrequent inspections reported to the Board since 2010. Consequently the July 2019 report has concluded that the homestead and cottage are in general disrepair and require significant funding to bring them up to a good standard.

The Council has recognised that property services within Council have been under-resourced and has employed a temporary Property Coordinator with a view to recruiting to a permanent role in the coming months. The Property Coordinator's responsibilities will include maintenance programming and regulatory compliance.

The Council has commenced urgent maintenance work on the homestead and cottage, in accordance with the Board's recommendation to release \$40,000 for such work. Although this recommendation is subject to approval by Council, there is sufficient funding in the Pain Farm maintenance budget; there is \$36,395¹ for maintenance carried over from 2018/19 together with \$9,771 in the 2019/20 budget, totalling \$46,166 available from the maintenance budget. In addition, \$53,550 capex funding for the homestead roof was approved in 2017/18 but unspent.²

The table below summarises the work identified to date to bring the homestead and cottage up to an acceptable standard and the work that has been completed or scheduled. All values are GST exclusive.

Work (operating expenditure)	Cost	Details
Driveway pot holes filled and metaled	\$323	Completed August 2019
Plumbing to remedy poor water pressure on hot tap	\$370	Completed August 2019
Separate water meter and feed installed to homestead and cottage (separated from the farm)	\$6,653	Completed August 2019

¹ Note that this includes \$30,000 funding approved in the 2017/18 financial year for painting which was not carried out. This funding has been reallocated to address the urgent maintenance issues.

² This funding will come from the accumulated Pain Farm funds.

Trees to be cleared away from powerline	\$2,040	Booked September 2019
Energysmart insulation compliance for homestead and cottage	\$700 (total)	Homestead – completed August 2019 Cottage booked October 2019
Chemical wash exterior homestead	\$1,870	Booked October 2019
Sash window repairs	Nil	Access to be arranged with tenant
Bathroom light homestead	\$476	Access to be arranged with tenant
Rewire and replace existing switches, sockets and fittings cottage	\$5,900	Access to be arranged with tenant
Exterior cladding on cottage	\$20,000	Estimate. Condition cannot be fully ascertained but there is known rot in the subframe and bearers
Total maintenance spent/committed	\$38,332	
Total maintenance budget	\$46,166	
Remaining maintenance budget	\$7,834	

Work (capital expenditure)	Cost	Details
Roof on homestead	\$15,000	Estimate. Builder has inspected but condition cannot be fully ascertained
Total capex for roof	\$53,550	
Remaining capex for roof	\$38,550	

Once this work is complete, officers consider the following work should be undertaken in the order provided, subject to budget approval.

Work	Details
Painting exterior homestead	Quote \$28,878
Painting exterior cottage	Quote \$14,577
Painting interior homestead	Quote \$22,554
Painting interior cottage	Access to the cottage interior to be arranged to quote

2.6 Future of the Pain Farm estate

2.6.1. Pain Farm

For the avoidance of doubt, the Council does not propose to sell the farmland. As stated in paragraph 2.1, the farm is leased for livestock farming until April 2022 and resource consent has been obtained to discharge treated wastewater to the land at Pain Farm to commence no later than 31 December 2030. The Council can confirm that the level of income received from the farm when the wastewater operation

commences will be at least commensurate with the market rate for a lease to farm the land.

At the Finance, Audit and Risk Committee meeting of 28 August 2019 Ms Webley requested that Pain Farm be listed as a strategic asset as it was an important part of Council's wastewater strategy. The Council's strategic assets are identified in the Significance and Engagement Policy and includes "Wastewater Network and Oxidation Ponds". Pain Farm will be included as part of the wastewater network.

2.6.2. Homestead, cottage and surrounds

In addition to quotes to bring the homestead and cottage up to an acceptable standard for rental purposes, the Board has requested a full assessment of the homestead and cottage and quotes to undertake a full restoration of the property. The Board further requested options and analysis outlining the implications for the long-term financial position of the Pain Estate and suggested priorities for undertaking the work.

There are a number of constraints to obtaining an assessment and quotes for work. First, there is a shortage of local tradespersons available and who are willing to quote for or undertake work due to existing work commitments and/or uncertainty of obtaining the contract. This may be addressed to some extent by paying for quotes. Second, tradespersons are unwilling to provide quotes if the extent of the work cannot be readily assessed. Third, in some cases comprehensive assessment may require the partial destruction of property. Fourth, the tenants have a right to quiet enjoyment of their homes and Council officers and tradespersons have limited access to the property.

In view of this, officers have prioritised work to bring the homestead and cottage up to an acceptable standard for rental purposes and is seeking the Board's direction on options for the homestead and cottage in the long term and next steps. Officers have identified the following potential options and make a recommendation, below, based on high level analysis of available information.

Option 1 – maintain current rental arrangements

Under this option, the repairs and maintenance to bring the properties up to an acceptable standard for rental purposes (identified above) would be completed. The exterior painting of the homestead and cottage should then be undertaken as budget allows. The homestead would be re-let at the end of the existing tenancy on the same basis. That is to say that the agreement is to let both the homestead and cottage and the tenant can sublet the cottage for residential purposes and/or run it as a holiday let business. The Council would retain responsibility for maintaining the homestead and cottage and surrounding gardens. The Council would implement a maintenance schedule for the properties and report to the Board on a regular basis. Market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough. The rental for both properties together is likely to be less than the combined total (\$785) because the homestead tenant would have to bear the risk of the cottage being unoccupied for some of the time.

No further work is necessary to scope this option. To implement this option, the Council would need to obtain a market assessment on rent following the completion of work and there could be costs for legal advice and the tenancy process.

Option 2 – separately rent the cottage for residential purposes

This option is similar to option 1 except that at the end of the existing tenancy, the Council would rent the homestead and cottage for residential purposes under separate tenancy agreements. As indicated above, market rental for residential purposes following the repairs is estimated to be up to \$450 per week for the homestead and \$335 per week for the cottage if rented separately, based on current rates in Martinborough.

No further work is necessary to scope this option. To implement this option, the Council would need to obtain a market assessment on rent following the completion of work and there could be costs for legal advice and the tenancy process.

Option 3 – superior holiday let / wedding venue

Under this option, the homestead, cottage and gardens could be brought up to a higher standard of decoration and amenity with a view to operating Pain Farm as a superior holiday let / wedding venue. This could be managed by specialised property services or tendered as a business opportunity.

The Council would need to assess the viability of this option by obtaining quotes for additional work, likely rental income and occupancy rates. In addition to the costs to undertake the work, there would be costs for legal advice and the tendering process. As this option is a change to the existing use, public consultation to determine support is recommended. In accordance with the Pain Farm Income Distribution Policy, expenditure over \$35,000 would be subject to the annual plan process so would need to be included and approved in the 2020/21 annual plan.

Option 4 – restore and maintain the homestead and gardens as heritage assets

Under this option, the homestead and gardens could be fully restored and maintained as heritage assets to protect the investment for the long term. Entry fees could be charged for visitors. The cottage could be let for reduced rental to a supervisor. Consideration could also be given to registering the homestead as a heritage item on the New Zealand Heritage List and/or as a heritage item in the Wairarapa Combined District Plan.

To scope this option, the Council would need in the first instance to commission a heritage architect to assess the heritage value of Pain Farm and to determine the restoration work to be undertaken. An assessment and conservation plan is estimated to be at least \$8,000. The renovation work would then be costed. In addition to the costs to undertake the work, there would be costs for legal advice and the tendering/tenancy processes. Given the change in use and likely scale of costs, public consultation to determine support would be required.

Option 5 — sell the homestead, cottage and surrounding land

Under this option, the Council could subdivide the estate and sell the homestead, cottage and surrounding land. The proceeds would be applied for purposes consistent with the bequest.

To scope this option, the Council would need to obtain a valuation for the property, planning advice for subdivision and legal advice on the process and options available for sale and use of proceeds. Implementation costs include planning and legal advice and court fees. Given the change in use and associated legal processes, public consultation to determine support would be required prior to any action being taken to sell.

3. Analysis and recommendation

Officers recommend Option 2. This option requires no further scoping and is low capital outlay relative to options 3 to 5. The income available for distribution would be at an acceptable level taking into account the operational costs for the property. Active management and improved reporting to the Board will ensure Board oversight of the integrity of the estate, consistent with the Board's delegations and Pain Farm Income Distribution Policy.

Option 2 is preferred over option 1 as it maximises residential rental income to the Council and provides greater control over the tenancy of the cottage, thereby reducing risk.

Option 3 may be a viable option in that the long term income may outweigh the capital outlay to bring the property up to a higher standard and ongoing operating costs. It would add to the accommodation pool in Martinborough which is in line with Council's focus on tourism. However, on top of the cost for additional work, this option would require increased internal resource to contract manage. It is also arguable that this option is outside what should be Council's core activities.

Option 4 would, subject to heritage assessment, recognise the heritage values and significance of the property in Martinborough's social history and protect the property from inappropriate development and use. It would also contribute to the Council's tourism focus by providing additional visitor interest. However, costs to scope and implement this option are likely to be significant. In addition, costs to maintain a heritage standard of condition, combined with the reduced income, could constitute a charge on the estate funds, contrary to the purpose of the bequest.

Option 5 is likely to bring the greatest financial return for the bequest taking into account the general increase in property values and costs to maintain the buildings as they age. It also reduces the risks and costs to Council arising from the need to manage the property and tenancies. However, this option has not been supported by the community in the past and the strength of feeling at the July 2019 Board meeting would suggest this has not changed.

Note that officers' recommendation for option 2 is based on the available information at this time. Should circumstances change significantly, such as the costs of

maintenance, condition of the buildings or value of the property, this recommendation may need to be revisited in the future.

If the Board supports officers' recommendation for option 2, officers will arrange for the outstanding work on the roof of the homestead and the exterior cladding on the cottage to be undertaken as a priority. Once this work has been completed, officers recommend the exterior painting of the homestead be undertaken subject to any remaining budget and funding approval.

If the Board wishes to investigate options 3 to 5, or any other option, officers can carry out further assessment and obtain quotes for work for the Board's consideration in the new triennium. Alternatively, officers can obtain a quote for an independent party to assess options.

3.1 Recommendations

1. The Pain Farm homestead, cottage and gardens be retained by the Council and:
 - a. at the end of the current tenancy agreement, the homestead and cottage be rented out for residential purposes under separate tenancy agreements;
 - b. officers report to the Board with a maintenance schedule for the homestead, cottage and surrounding land; and
 - c. officers report to the Board on a six-monthly basis on the maintenance completed and condition of the homestead, cottage, surrounding land and farm.
2. The repairs and maintenance work to bring the homestead and cottage up to an acceptable standard for rental purposes be undertaken as a matter of priority.
3. The exterior painting of the homestead be undertaken as the next priority and that the Board recommends Council approves up to \$30,000 for this work on top of available budgets.

4. Appendices

- Appendix 1 Questions and responses relating to Pain Farm.
- Appendix 2 Map of Pain Farm including areas reserved for the landfill and for the homestead, cottage and surrounding land designated to the house.
- Appendix 3 Copy of application and order of the Supreme Court for approval of a scheme under Part III of the Charitable Trusts Act 1957.
- Appendix 4 Pain Farm Working Party minutes, February 2004 and September 2004.
- Appendix 5 Pain Farm information for Council.
- Appendix 6 Officer's report to the meeting of the Martinborough Community Board 31 March 2014.
- Appendix 7 Pain Farm income and expenditure summary for the financial years 2009—2019.
- Appendix 8 Pain Farm operating budgets 2018/19 and 2019/20.
- Appendix 9 Pain Farm Income Distribution Policy.
- Appendix 10 Copy of resolution for loan to upgrade the Martinborough swimming pool 28 August 1996.

Contact Officers: Karen Yates, Policy and Project Coordinator and Bryce Neems, Amenities Manager

Reviewed By: Jennie Mitchell, Group Manager Corporate Support

Appendix 1 – Questions and responses relating to Pain Farm

Request	Response
Bring the Pain Farm house, cottage and grounds up to an excellent standard sparing no expense as the farm has provided for this community for years and received little in return. Repair and maintenance costs should not be absorbed by the ratepayer or the tenant.	Refer to paragraph 3 Analysis and recommendation.
Remove the investigation to sell house, cottage and surrounding land. STOP trying to sell this farm as it's not yours to sell.	Refer to paragraph 3 Analysis and recommendation.
I want a recommendation put to Council for a quarterly inspection of the whole farm with a maintenance progress report to be reported back to the Community Board, Council and be publicly available.	Refer to paragraph 3 Analysis and recommendation.
Disclose Mr & Mrs Pain's document of the gift to the children of Martinborough.	Refer paragraph 2.2 History of Pain Farm bequest.
Disclose all court cases to sell Pain Estate and the court rulings and the cost to the ratepayer for each court case	There have been no court cases to sell Pain Farm Estate.
Disclose maintenance, revenue and expenditure for the last 10 years	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.
I am staggered that this board even accepted the report from Council with the recommendation to investigate the sale of part of the Pain Estate. Hasn't Council been down this path before?	Refer to paragraph 2.3 Previous inquiries to clarify and/or amend the status or terms.
How did the Pain Estate come into such disrepair?	Refer to paragraph 2.5 Maintenance.
How often have there been property checks?	Refer to paragraph 2.5 Maintenance.
Why wasn't the money reinvested in the property to maintain it?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.
I want to recommend that any investigation into the sale of any part of the Pain Estate be removed immediately and permanently.	Refer to paragraph 3 Analysis and recommendation.
Disclose copy of deed of bequest	Refer to paragraph 2.2 History of Pain Farm bequest.
How much revenue has been generated from the Pain Estate for last 30 years and how has the money been spent?	Refer paragraph 2.4 Financial information for Pain Farm and Appendix 7 for financial information 2009—2019. Council may be able to obtain information prior to this but this will require extensive

	investigation and may be subject to charge under the provisions of the Local Government Official Information and Meetings Act 1987.
Where is the Pain Estate property maintenance long term plan?	Refer to paragraph 2.5 Maintenance.
How much has been spent on the maintenance of the Pain Estate?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.
How often are property inspections carried out and how often are they reported to Council?	Refer to paragraph 2.5 Maintenance.
How much of the revenue generated is spent paying Council for in-house governance, decisions and reports?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.
Why was there no response to Fiona Owens offer to bring the house and gardens up to standard for a reduced rental over five years with the added bonus of revenue generated by opening up the gardens to the public?	There is no record of this offer or response.
Lastly, who is responsible for the administration and oversight of the Pain Estate?	The Chief Executive is responsible for the management of council operations.
Who is the person in charge of maintenance (re all Council assets?)	The Chief Executive is responsible for the management of council operations.
On many occasions I would go and inspect the house and cottage approximately every three months. From reading the report this has subsequently never been done - if so, how many times up until now?	Refer to paragraph 2.5 Maintenance
No more moneys should be taken out of the account until work has been completed on house and cottage.	For the Community Board to consider.
No maintenance for some time - why was this allowed to happen?	Refer to paragraph 2.5 Maintenance.
Is this a historic building?	Refer to paragraph 2.1 Pain Farm estate.
Who gets rents from farm, buildings and transfer station?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.
Why have these monies not been used on maintenance?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.

When was Pain Farm “Okoroire” subdivided?	The Pain Farm estate has not been subdivided.
There have been reports all along the way so there must be a reason for letting the farm and buildings get to this state?	Refer to paragraph 2.5 Maintenance.
What is the reason for keeping it from us?	Refer to paragraph 2.5 Maintenance.
Is the Community Board going to recommend that the Trustees of Pain Farm either, seek a refund from the SWDC for all the fees they have charged "for some time", including the Corporate Services Allocation, or the Trustees take legal action for Services that have not been provided (I believe this is covered by legislation around provision of services)?	For the Community Board to respond.
Does the Community Board acknowledge that the SWDC has been negligent in its management of Pain Farm and suggest or recommend the Trustees review or consider their legal options?	For the Community Board to respond.
There is a promise to the Waihinga Centre of \$200,000, does the Community Board acknowledge in light of the state of disrepair that the Pain Estate has been allowed to fall into, that this gift must be held in abeyance and remain unpaid until such time as the assets that provide this funding are fully repaired and have sufficient cash reserves to be able to make this gift in the future.	For the Community Board to respond. Refer also to paragraph 2.4 Financial information for Pain Farm and paragraph 3 Analysis and recommendation.
And is the Community Board going to recommend that all funding bequests, even those committed to already, be halted and delayed until all repairs are done to the Pain Estate and its infrastructure are bought up to standard and legal requirements for tenancy?	For the Community Board to respond. Refer also to paragraphs 2.4 Financial information for Pain Farm and paragraph 3 Analysis and recommendation.
Why have the previous farm lessees not been approached to repair the infrastructure prior to the lease expiry?	Refer to paragraph 2.5 Maintenance.
It is my understanding that a farm lease would have an inspection at the start of the lease and at the end and routine maintenance like yards, gates and fencing return to the condition that it was at the commencement, and have these inspections been done by the property manager, and if not surely the Board should recommend that the SWDC no longer manage the assets in light of their performance to date, or non-performance in reality and an investigation as to the cost of employing or seeking a pro bono commercial property manager be sought with urgency?	For the Community Board to respond. Refer also to paragraph 2.5 Maintenance.
Can the Board seek and provide a detailed comprehensive breakdown of the \$16,316.62 allocation by SWDC?	Refer to paragraph 2.4 Financial information for Pain Farm and Appendix 7.

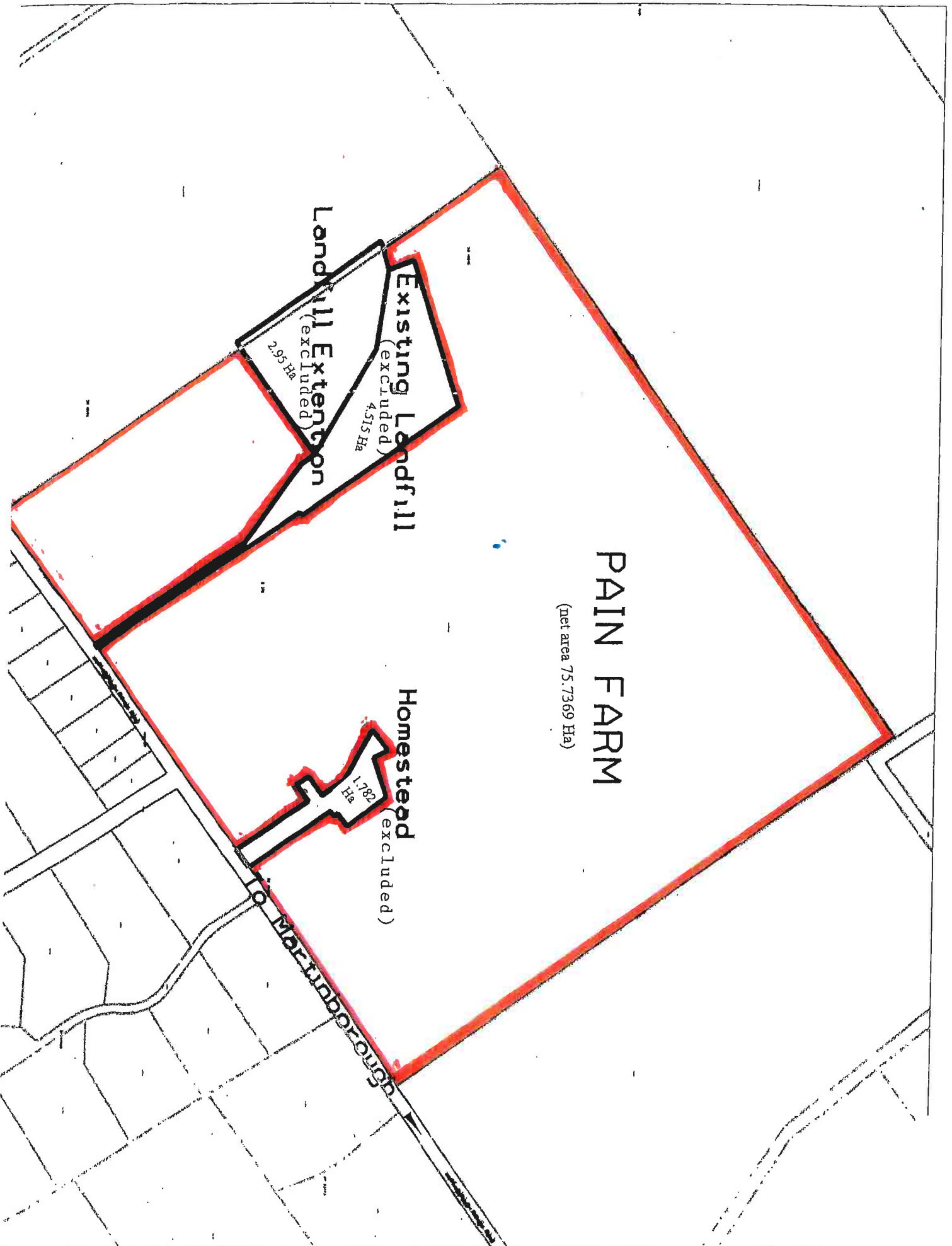
Does the Board undertake to provide the Community with the reassurance that all reference to the sale of Pain Farm in part or as a whole will be withdrawn and the Community informed that SWDC will not raise the sale again and honour the gift as intended?	For the Community Board to respond. Refer also to paragraph 3 Analysis and recommendation.
The reason I had my hand up in the back of the meeting was that I was wanting to ask a question of the CEO after he'd stated "no-one wants to sell Pain Estate." My question was "so if no-one wants to sell Pain Estate, can that recommendation in the Pain Estate report be removed?"	For the Community Board to respond. Refer also to paragraph 3 Analysis and recommendation.
SWDC are bleeding \$21k each year in Corporate Service fees and In House Professional fees. \$21k for doing what?	Refer paragraph 2.4 Financial information for Pain Farm and Appendix 7.
The legal fees for re-leasing the farm and the inspection fees by the valuer should be paid from those Corporate Service and In-House Professional fees.	See 2.4 Financial information for Pain Farm and Appendix 7.
The gifting of any further funds, \$200k to the Wahinga Centre should be cancelled and removed from the financial statements until such time as that Pain Estate Farm and all its buildings have been repaired and restored to both a legal and high standard which will enable as much income to be generated as possible. I want the Martinborough Community Board to vote and pass a resolution as above to take that to SWDC.	For the Community Board to respond. Refer also to paragraphs 2.4 Financial information for Pain Farm and 3 Analysis and recommendation.
Council meeting 7 August 2019: Investigate why Pain Farm is drawing water from the Martinborough Town Supply.	Refer paragraph 2.1 Pain Farm.
What is the value of the assets [in the table below] that have been sold off by the SWDC in the last 18 years? Where has the income/funds from those assets gone and what it has been used for?	See table below.

Address	Details of property	Date of sale	Purchase price	Reason for sale
Holding paddock White Rock Road opposite Ruakokoputuna road	Bare rural land	February 2004	Information may be held in archives. Council may be able to obtain this information but this will require extensive investigation and may be subject to charge under the provisions of the Local Government Official Information and Meetings Act 1987.	Surplus to requirements. Funds used for Town Centre development.

Holding paddock cnr White Rock Road, Range Road	Not sold	N/A	N/A	N/A
Block of land cnr White Rock and Ruakokoputuna roads Martinborough	Bare rural land	16 December 2016	\$120,000 incl GST	Waihinga Centre
Holding paddock cnr White Rock and Te Muna roads Martinborough	Bare rural land	29 June 2017	\$210,000 incl GST	Waihinga Centre
Holding paddock cnr Cannock and Hinakura roads Martinborough	Bare rural land	12 December 2016	\$84,000 incl GST	Surplus to requirements. Funds used for Town Centre development.
Shingle pit cnr Lake Ferry and Pukio East roads Martinborough	Bare rural land	19 June 2017	\$90,000 incl GST	Waihinga Centre
Old County Yard Cork Street		Pre-1999	Information may be held in archives. Council may be able to obtain this information but this will require extensive investigation and may be subject to charge under the provisions of the Local Government Official Information and Meetings Act 1987.	Information may be held in archives. Council may be able to obtain this information but this will require extensive investigation and may be subject to charge under the provisions of the Local Government Official Information and Meetings Act 1987.
16-18 Kitchener St Martinborough	Former county yard including 3 buildings, one of which was heritage,	1 July 2016	\$625,000 plus GST	Waihinga Centre

Logging / roading reserves Ponatahi Road opposite Huangarua and White Rock Road between Mangapuri and Birch Hill Stations	Not sold, not for sale	N/A	N/A	N/A
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Appendix 2 – Map of Pain Farm



**Appendix 3 – Copy of application and
order of the Supreme Court for
approval of a scheme under Part III of
the Charitable Trusts Act 1957**

IN THE SUPREME COURT OF NEW ZEALAND
WELLINGTON DISTRICT
(MASTERTON REGISTRY)

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

TAKE NOTICE that on *Fri* day, the *11th* day of
February, 1966, at 10 o'clock in the forenoon, or as
soon thereafter as Counsel can be heard, Counsel for the
Martinborough Borough Council will move this Honourable Court
at Wellington for an order approving ^{*under Section 53 of the Charitable Trusts Act 1957*} the Scheme dated the 8th
day of November, 1965, filed herein ^{*under Part II of the said Act*} relating to a devise to the
said Council under the Will of the above-named deceased and
directing that the costs of the Martinborough Borough Council
and of the Attorney-General of and incidental to the preparation
and advertising of the said Scheme and this application and the
order thereon be fixed and paid out of the fund upon the ground
that the Scheme is a proper one and can be approved by this
Honourable Court under Part III of the above-mentioned Act and
that the Attorney-General has approved the same.

DATED this *22nd* day of *November*, 1965.

D W Neild
.....
Solicitor for the Martinborough
Borough Council.

TO the Registrar of the Supreme Court at Masterton
and TO The Attorney-General.

The address for service of the Martinborough Borough Council is
at the offices of Messieurs Gawith, Neild & Laing, Solicitors,
32 Perry Street, Masterton.

IN THE MATTER of Part III of The
Charitable Trusts Act 1957
AND
IN THE MATTER of the Estate of
GEORGE PAIN deceased.

DEED
ORIGINATING MOTION FOR APPROVAL OF SCHEME

11/2/66
Cecilia Mc Gregor
Baroness Borough Council
Carr for Attorney-General

Order approving scheme
Costs of Borough Council & Queen
& costs of Attorney-General & Queen
to be paid out of accumulated
income of fund

[Signature]
C. J. P. M. D.

GAWITH, NEILD & LAING,
SOLICITORS.

IN THE MATTER of The Charitable
Trusts Act 1957 Part III
AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

The Martinborough Borough Council hereby gives notice that application has been made to the Supreme Court of New Zealand at Masterton for the approval under Part III of The Charitable Trusts Act 1957 of the Scheme particulars of which are set out hereunder for the administration of a charitable trust being a devise to the said Council under the Will of the above-named George Pain of a property of 210 acres situated on the Lower Valley Road.

The date proposed for the hearing of the application by the Court is the 11th February 1966 and the hearing will take place at the Supreme Court at Wellington at 10 am.

Any person desiring to oppose the Scheme must give written notice of his intention to do so to the Registrar, Supreme Court, Masterton, to the Martinborough Borough Council, Cork Street, Martinborough, and to the Attorney-General, Crown Law Office, Wellington, not less than 7 clear days before the said above-mentioned date of hearing.

PARTICULARS OF SCHEME

That the income of the trust lands should be used:-

- (a) In payment of the costs of the preparation and approval of the Scheme including the costs of the Attorney-General.
- (b) In maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time to time decide.

GAWITH, NEILD & LAING

IN THE SUPREME COURT OF NEW ZEALAND
WELLINGTON DISTRICT
(MASTERTON REGISTRY)

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIM deceased.

ORDER APPROVING SCHEME

GAVITI, IRSH & LAING,
SOLICITORS,

MARTINBOROUGH

GN5L
DEEDS No.
M 179/18

IN THE SUPREME COURT OF NEW ZEALAND
WELLINGTON DISTRICT
(MASTERTON REGISTRY)

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

FRIDAY THE 11TH DAY OF FEBRUARY, 1966.

BEFORE THE HONOURABLE MR. JUSTICE McGRUGOR

UPON READING the notice of motion of the Martinborough Borough Council dated the 22nd day of November, 1965, the Statement of Facts, Submissions and Scheme dated the 8th day of November, 1965, the Report of the Attorney-General on the said scheme, and the affidavits of ALAN LEERY GREEN and DENNIS WILLIAM IDELL filed herein, AND UPON HEARING MR. BARTON of Counsel on behalf of the Martinborough Borough Council and MR. CAIRN of Counsel on behalf of the Attorney-General THIS COURT HEREBY ORDERS that the Scheme dated the 8th day of November, 1965, filed herein by the Martinborough Borough Council under Part III of the above-mentioned Act relating to a devise under the Will of the above-named GEORGE PAIN deceased be and the same is hereby approved AND HEREBY FURTHER ORDERS that the costs of the Martinborough Borough Council fixed at £84 together with disbursements and the costs of the Attorney-General fixed at £21 be paid out of the accumulated income of the fund.

By the Court



REGISTRAR

IN THE MATTER of Part III of The
Charitable Trusts Act 1957

AND

IN THE MATTER of the Estate of
GEORGE PAIN deceased.

STATEMENT OF FACTS

1. By his Will dated 24th March, 1932, the late George Pain gave to his wife a life interest in what he described as "the dwellinghouse at present occupied by me at Martinborough and also the farm of 200 acres situate at Martinborough which I am at present farming" and subject to that life interest gave devised and bequeathed "my said house property and farm of 200 acres at Martinborough to the Martinborough Town Board or Martinborough Borough Council or the local authority for the time being controlling the Township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children."
2. George Pain's widow died on 9th August, 1960, at which time the New Zealand Insurance Company Limited was the sole trustee of his estate.
3. George Pain did not at the date of his death own a "farm of 200 acres" but he did own a farm property in one block of 210 acres (being the land the subject of the present application) and a separate block of 40 acres a short distance away from the 210 acres. Both he and his trustee after his death had farmed the 210 acres, the 40 acres and land belonging to Mrs. Pain as one farm.
4. Shortly after the death of Mrs. Pain, the Trustee Company invited the Martinborough Borough Council to express its views on whether the devise included the separate 40 acre block, and the Council disclaimed interest therein.

5. The Trustee Company was anxious to terminate the estate's farming operations, and dispose of the stock and therefore gave the Council possession of the 240 acre block, but did not then execute a transfer. It subsequently sold the 40 acre block.
6. The 240 acres was leased for a term of 24 years at a rental (for the first 7 years) of £1155 per annum.
7. In March 1965 the Trustee Company transferred the 240 acres to the Council subject to the said lease.
8. The Council had, in 1964, on advice of Counsel, decided to apply to the Court under Part III of The Charitable Trusts Act 1957 to approve a scheme in relation to the devised land, but it was considered advisable to defer the application until the land had actually been transferred to the Council.
9. The trust income received to date, and the expenditure thereon are as follows:-

<u>Receipts</u>		<u>Payments</u>	
Rents	5640.12. 6	Mortgage principal	4082. 0. 0
Interest	147. 0. 7	Interest	553.16. 0
Timber Royalty	190. 6. 6	Repairs & Maintenance	109.11. 0
		Advertising	11. 8. 9
		Legal expenses	223. 5.10
		Grant to Baths	259. 8.11
		Balance Cr.	708. 9. 1
	<u>£5947.19. 7</u>		<u>£5947.19. 7</u>

10. The Government Capital value of the land (as at 1st December, 1960) is £13,770.

SUBMISSIONS

11. The Council has been advised -
 - (a) That the words of the testator's Will "and I particularly desire that the said property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children" do not create a trust.
 - (b) That the earlier words "to the intent that the said property should be held on behalf of the inhabitants of Martinborough" create a valid charitable trust,
 - and (c) That because the purpose of the trust is uncertain a scheme for carrying it out should be settled under Part III of the Charitable Trusts Act 1957.
12. In framing the proposed scheme the Council has been influenced by the following considerations -

- (a) It is considered impracticable or inexpedient to carry out the testator's precatory wish that the property should be made available as a sports ground and children's playground for the reasons that the property is some distance outside the Borough boundary and is a useful farm unit; The Council already owns 35 acres of parks and reserves within the Borough which are far from fully developed or in a high state of maintenance; The Council has no funds with which to develop the trust land as a sports ground or playground.
- (b) The precatory wish of the testator in favour of sports grounds and children's playgrounds can best be attained by retaining the property as an endowment and using the revenue therefrom for the development of those amenities within the Borough.
- (c) Martinborough is a small township with a population of approximately 1500 and is not growing fast. When a Town Planning Scheme was first prepared in 1958, the estimates for future population were

1962	-	1450
1967	-	1630
1977	-	1880

Present indications are that these forecasts may not be realised.

- (d) The total rate revenue is only £13,500 approximately and very limited amounts are available for expenditure on the reserves in the Borough.
- (e) Recreational amenities existing on such reserves in the Borough include -
- Public swimming baths - the only one in the borough, and extensively used by school children learning to swim.
 - Camping ground.
 - Rugby, Association Football, Cricket, Hockey and Softball grounds.

A Queen Carnival has just been held to raise funds for a chlorination plant and other improvements at the baths. The Rugby Football Club, at its own expense, is erecting dressing sheds and conveniences on the football ground. Apart from these matters all the reserves mentioned are far from fully developed, or even well.

There is no children's

playground in the Borough, though the Council has set aside a site for development as such.

SCHEME

13. The scheme which the Council submits for approval is that the income of the trust lands should be used -
- (a) In payment of the costs of the preparation and approval of the scheme including the costs of the Attorney-General.
 - (b) In maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council shall from time to time decide.

DATED this 8th day of November, 1965.

THE COMMON SEAL OF THE MAYOR COUNCILLORS
AND CITIZENS OF THE BOROUGH OF MARTINBOROUGH
was hereto affixed in the presence of:-

(L.S.)

"S.H. Ussher"

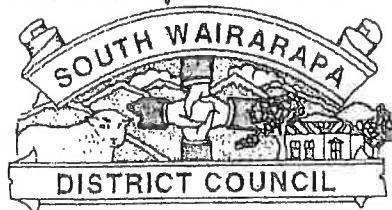
..... Mayor

"A.H. Green"

..... Town Clerk

Appendix 4 — Pain Farm Working Party minutes, February 2004 and September 2004

South Wairarapa District Council



Pain Farm Working Party

Minutes of a meeting held on Monday 23 February 2004 at 9.00am.

PRESENT: Mayor J F Read, Councillors V L Napier and J D Tenquist,
Mrs G Halson and Mr P Craig

IN ATTENDANCE: Mr R Airey (Secretary)

1. Apology

Mr K Banks.

2. Review of Pain Farm

A report on the background and present status of the Pain Farm from the Committee Secretary was considered. Also available for the Working Party were a number of legal documents (copies) and letters from the Council's solicitors over the years since 1965.

The current situation was reviewed and points made included:

- The scheme needed greater flexibility;
- A definition of "Martinborough residents" would be required;
- The criteria for projects to benefit should be broadened;
- Rent paid by the landfill should be reviewed;
- Maintenance of the homestead had to be provided for;
- Public understanding of the bequest was not good;
- Consultation with the public would be required before considering taking a case to the High Court.
- A flyer for public consultation needed to give examples of how some funding was spent and instances for where it could not.

RESOLVED

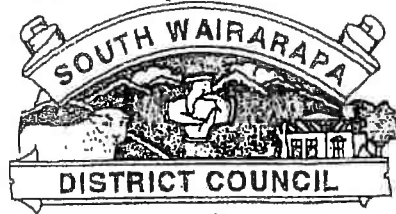
(Tenquist/Halson)

THAT the Council and the Martinborough Community Board be advised of the process the Working Party proposes should be followed, to prepare a flyer with a reply section, backgrounding the status of the Pain Farm Trust, the process to be undertaken and to invite comments.

The proposed flyer was to be prepared by Mr Mike Beckett, for final approval by the Working Party before distribution to those to be defined as residents of Martinborough.

The meeting ended at 9.50am.

South Wairarapa District Council



Pain Farm Working Party

Minutes of a meeting held on Tuesday 28 September 2004 at 9.00am.

PRESENT: Mayor J F Read, Councillors V L Napier, B J Clark,
Mrs G Halson and Mr P Craig

IN ATTENDANCE: Mr R Airey (Secretary)

1. Apology

Councillor J D Tenquist

2. Review of Pain Farm

A flier surveying residents in the Martinborough area had been despatched and replies received. The survey had sought responses to three proposals which were:

- (a) [should] the bequest continue in its current form; or
- (b) [should] the terms [be] changed to be more flexible; or
- (c) other ideas.

Responses were 94 for (a), 31 for (b) plus many varying comments under (c).

There was a widespread lack of understanding of the bequest and in some cases general confusion. Many believed that a trust existed.

The Working Party considered that while the bequest and subsequent Order of the former Supreme Court was clear, its application to the present situation was confusing to many and required clarification.

RESOLVED

(Halson/Craig)

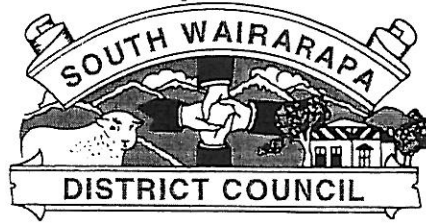
THAT (1) it be recommended that the present status and administration of the Pain bequest remain unchanged; and

(2) the Council officers obtain a legal opinion to clarify the status of the assets and a definition of the area of benefit from the bequest.

The meeting ended at 9.40am.

Appendix 5 — Pain Farm information for Council

South Wairarapa District Council



PAIN FARM

1. The Pain farm estate, located on the Pirinoa Road, is comprised of 84.9839 hectares (210 acres) on which is located the homestead, 1.782 hectares and the Martinborough landfill, 7.465 hectares.
2. The property was bequeathed to the former Martinborough Borough Council (now the South Wairarapa District Council) in a Will made in 1932. George Pain died in 1937 and his wife held a life interest in the property until her death in 1960. The Council then came into possession of the property.
3. The terms of the Will could not be implemented in full by the Council hence a "scheme" to vary its terms was approved by the Supreme Court (now the High Court) on 11 February 1966.
4. The key portions of the Supreme Court Order dated 11 February 1966 read:

"...that the income of the trust lands should be used ... in maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide".
5. The former Martinborough Borough Council no longer exists. By virtue of the 1989 Local Government Reorganisation Order all the powers, functions, assets and authorities of the former Borough Council are now vested in the South Wairarapa District Council.
6. The District Council owns the land as a trustee, and the terms of the trust are the terms contained in the Will of the late George Pain as varied by the provisions of the Court Order dated 11 February 1966. The Council must operate within the terms of the two documents and particularly within the terms of the Court Order which effectively modified and overrode the provisions of the Will.
7. The approval of the High Court would first be required should the Council wish to again vary the terms or to sell all or part of the property.

6 April 2005

Appendix 6 — Officer's report to the meeting of the Martinborough Community Board 31 March 2014

MARTINBOROUGH COMMUNITY BOARD

31 MARCH 2014

AGENDA ITEM 7.4

PAIN FARM BEQUEST

Purpose of Report

To seek approval in principal for a review of the Pain Farm bequest.

Recommendations

Officers recommend that the Committee/Community Board:

1. *Receive the information.*
2. *Recommend to Council this bequest be reviewed.*

1. Executive Summary

The Supreme Court last considered the bequest made by George Pain in 1966, making an order on 11 February 1966.

There has been some discussion around the relevance of this 1966 order **and it's applicability to the current and future needs of the Martinborough Community.**

This paper seeks support, in the form of a recommendation to South Wairarapa District Council, to examine the relevance of the current order.

Historically any application to the Courts has been funded directly from Pain Farm Funds.

2. Discussion

The current order is some 48 years old and there has been some discussion as to whether the order meets the needs of a community that has changed significantly since that time.

A review of this nature may (or may not) be more difficult following the finalisation of the current reorganisation process.

Either way, there are a number of initiatives that would benefit from a clear understanding of whether Pain Farm funds would be available to support, e.g. Martinborough Town Hall.

It is anticipated the review group would consist of MCB, SWDC members, with input from the community.

Contact Officer: Paul Crimp, Chief Executive

Appendix 7 — Pain Farm income and expenditure summary for the financial years 2009—2019

PAIN FARM SUMMARY 2009-2019

Financial Year July to June	10 Year Totals	% of Income	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
INCOME												
Rent Received	795,770	87%	63,209	73,236	68,942	81,887	82,401	82,647	87,501	87,801	84,186	83,959
Interest Received	116,431	13%	16,487	17,887	11,336	10,478	15,209	12,966	12,413	11,506	3,762	4,387
TOTAL INCOME	912,201		79,696	91,124	80,278	92,364	97,610	95,613	99,914	99,308	87,948	88,347
EXPENDITURE												
Operating Expenses:												
Repairs and Maintenance (Other)	56,896	6%	18,070	3,055	2,293	491	1,938	7,204	5,806	11,885	3,812	2,339
Repairs and Maintenance (Grounds)	9,708	1%		98			1,641	3,696	4,125			147
Repairs and Maintenance (Buildings)	20,141	2%	4,122	2,874	4,056	489	330		108	7,043		1,119
	86,744	10%	22,193	6,027	6,349	981	3,910	10,900	10,039	18,928	3,812	3,605
Consultants	11,283	1%			1,107	675	475		1,175		1,570	6,281
General Expenses	13,855	2%	1,349	250	2,879	3,571	945	247			2,400	2,214
Legal Expenses	14,944	2%		9,713		58	4,428					745
Utilities	1,131	0%	949				183					
Rents & Rates Payable	39,350	4%	1,455	0	0	11,982	1,585	1,740	1,746	6,940	6,861	7,041
Insurance	19,405	2%	1,047	903	2,456	3,288	3,293	1,776	1,459	1,292	1,866	2,026
Total Operating Expenses:	186,712	20%	26,992	16,892	12,791	20,553	14,819	14,663	14,419	27,161	16,509	21,912
SWDC Charges:												
Corporate Services	133,523	15%	9,980	8,499	11,983	12,552	10,544	16,524	14,914	15,608	14,900	18,020
In-House Prof Services	47,371	5%	583	28	10,888	5,594	5,352	5,347	4,359	4,311	5,142	5,770
Total SWDC Charges:	180,894	20%	10,563	8,527	22,871	18,145	15,896	21,870	19,273	19,918	20,042	23,790
Project Funding Allocated :												
Project Funding	438,965	48%	19,064	15,724	48,839	14,073	5,581	30,684	5,000	300,000		
Mbo Pool Loan	109,027	12%	14,275	14,935	13,246	22,027	20,425	14,116	10,002			
Total Project Funding Allocated :	547,991	60%	33,339	30,659	62,085	36,100	26,006	44,800	15,002	300,000	0	0
TOTAL EXPENDITURE	915,597	100%	70,894	56,077	97,747	74,799	56,721	81,334	48,694	347,079	36,551	45,702
Total Surplus/(deficit)	(3,396)		8,802	35,046	(17,468)	17,565	40,889	14,279	51,220	(247,771)	51,397	42,645
STATEMENT OF ACCUMULATED FUNDS												
Opening Balance	192,285		192,285	201,087	236,134	218,666	236,231	277,120	291,399	342,619	94,848	146,244
Closing Balance	188,889		201,087	236,134	218,666	236,231	277,120	291,399	342,619	94,848	146,244	188,889
Movement:	(3,396)		8,802	35,046	(17,468)	17,565	40,889	14,279	51,220	(247,771)	51,397	42,645

Appendix 8 — Pain Farm budgets 2018/19 and 2019/2020

Pain Farm	2018/19	2019/20
Rental/Hire Income		
Rental/Hire - MBA	92,020	89,144
Total Income	92,020	89,144
Operating Costs		
Consultants	5,000	5,000
General Expenses	1,500	1,500
Legal Expenses	5,000	5,000
Repairs & Maintenance (Other)	5,000	5,000
Occupancy Costs		
Repairs & Maintenance (Buildings)	35,000	7,806
Rates/Rent Payable	7,204	7,204
Internal Charges		
Corporate Services	16,960	21,064
Professional Services	5,628	6,340
Finance Costs		
Insurance	1,934	1,934
Total Expenditure	83,225	60,848
Surplus	8,795	28,296

Appendix 9 — Pain Farm Income Distribution Policy



PAIN FARM TRUST LANDS INCOME DISTRIBUTION POLICY

1. Rational

The Martinborough Community Board under the guidance of Council has a governance role of the Pain Farm Trust Lands and the recommendation of the expenditure of the income. There has been a widespread lack of understanding of the bequest and how the funds can be spent. This policy will be reviewed in accordance with SWDC requirements.

2. Purpose

- To provide guidelines for the distribution of funds from the income from the various leases of the Pain Farm Trust Lands.
- To allow greater efficiencies, understanding and transparency and give direction how and where the funds can be expended.

3. Guidelines

3.1 Administration

1. The Council shall recover fair and reasonable administration costs.
2. The Council will ensure that all leases, the land, homestead and cottage and Landfill /Transfer station will be reviewed and the intent of the bequeath and High Court judgment be complied with.
3. Council will advertise where the funds have been expended annually

3.2 Repairs and Maintenance

1. A fund of \$40,000 will be set aside for repairs and maintenance of the property and buildings, if expensed at any one time the amount will be accrued by \$10,000 amount per year until the fund is replenished.

3.3 Funding Distribution

1. The Community Board with the guidance of Council will ensure that the Council's Martinborough Parks and Reserves will have priority over available funds and will be expended as directed by the High Court's Judgement in 1966. It is recommended that the funds are spent on capital equipment/facilities.

2. Funds may be spent purchasing and funding capital sporting equipment and facilities where it will benefit the residents of Martinborough Community and with the support and guidance of Council.
3. Applications for funding community sporting (2. Above) equipment/amenities will be called for annually and will not exceed \$25,000 and if the funds are available.
4. All expenditure above \$35,000 will be subjected to the SWDC Annual Plan
5. Any funding distribution must be of benefit to the residents of Martinborough; this removes the confines of any town boundary as a sporting facility, club or reserve may be located on the outskirts of the town yet be a Martinborough amenity.
6. The Community Board may wish to accumulate funds for a specific project or raise a loan using some of the income; this will be permitted under Council guidance.

4. Background

George Pain, known as Tiny Pain or Hura Rorere (king of the road) born 1847 Wellington died 1937. A “pioneer” shepherd/farmworker, hawker, hotelier, storekeeper, landlord, run-holder/farmer and wool baron.

George Pain in 1932 made a will bequeathing the 210 acre property known as the Pain Farm to the then Borough Council (now the SWDC) with this wife having a life interest. In 1960 Mrs Pain died and the land was handed to the Martinborough Borough Council. The land that was bequeathed

‘to be held on behalf of the inhabitants of Martinborough and he particularly desired that the property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children’

In 1965 due to the practicality, uncertainty (the farm being held in a 21 year lease), location and the Borough Council already having a number of under utilised reserves, resolved to apply to the Supreme Court for a judgement on a scheme for the use of the income from the Pain Farm.

Under provisions of the Charitable Trust Act 1957 in February 1966 the Court directed:

“That the income from the Trust Lands should be used, in maintaining and improving the borough’s parks, sports grounds, camping ground, swimming baths, providing equipping and maintaining sports facilities and a children’s playground in such manner and in such proportion as the Council may from time to time decide.”

**Appendix 10 — Copy of resolution for
loan to upgrade the Martinborough
swimming pool 28 August 1996**

SOUTH WAIRARAPA DISTRICT COUNCIL

CERTIFIED COPY OF THE RESOLUTION TO RAISE \$150,000 TO UPGRADE THE MARTINBOROUGH SWIMMING POOL

RESOLVED

DC96/210 STEVENS/ADAMSON THAT the South Wairarapa District Council pursuant to Section 34 of the Local Authorities Loans Act 1956, Section 716B of the Local Government Act 1974 and all other Acts Powers and Authorities enabling it in that behalf does hereby resolve by way of Special Order as follows

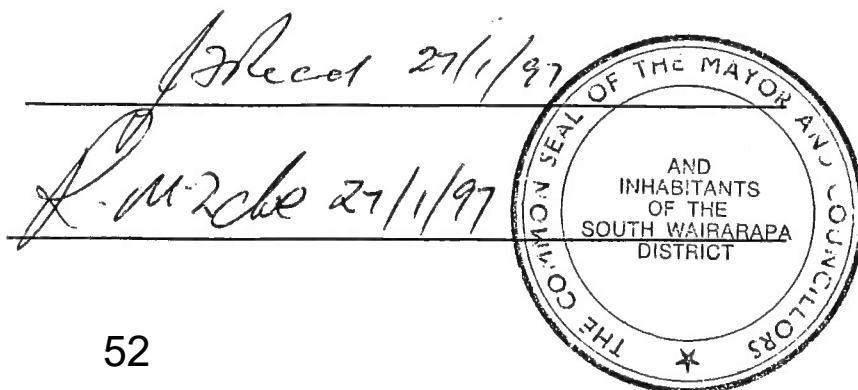
1. That a Special Loan to be known as Martinborough Swimming Pool Upgrade Loan \$150,000 be raised for the purpose of meeting the costs associated with the upgrading of the Martinborough Swimming Pool.
2. That the loan repayments of the said loan be funded from Pain Farm.
3. That the terms of the said loan or any part thereof shall be at the market interest rate for Local Government Stock.
4. That the Manager Finance and Corporate Services be given delegated authority to negotiate all terms and conditions of raising approved finance within the full life of the approval to raise finance being the:
 - Period of Finance
 - Interest Rate
 - Sinking Funds
5. That the Council secure payment of the said sum \$150,000 and interest thereon by issuing registered stock in a form which complies with provisions of the Local Authorities Loans Act 1956.
6. That the Common Seal of the Council be affixed to a certificate pursuant to section 17 of the Local Authorities Loans Act 1956 and that the Mayor and General Manager be, and hereby are authorised to sign and countersign the said certificate.
7. That the security for the Martinborough Swimming Pool Upgrade Loan be a Special rate in the dollar on the land value of all properties in the district of South Wairarapa, of an amount sufficient to meet the annual loan charges on the said loan plus ten per cent (10%) thereof.
8. That the cost of raising the said loans of \$150,000 be paid from the loan monies.

8. That the Council secure payment of the said sums \$1,674,000 and interest thereon by issuing registered stock in a form which complies with provisions of the Local Authorities Loans Act 1956.
9. That the Common Seal of Council be affixed to a Certificate pursuant to section 17 of the Local Authorities Loans Act 1956 and that the Mayor and General Manager be, and hereby are authorised to sign and countersign the said Certificate.
10. That the security for the 1996 Featherston Swimming Pool Upgrade Loan and the 1996 Cape Palliser Road Reinstatement Loan shall be in the case of each loan a special rate in the dollar on the land value of all rateable properties in the district of South Wairarapa, of an amount sufficient to meet the annual loan charges on the said loan plus ten per cent (10%) thereof.
11. That the security for the 1996 Greytown Water Supply Loan shall be a separate uniform charge on all rateable properties in the areas of the water supplies of Featherston, Greytown and Martinborough, of an amount sufficient to meet the annual loan charges on the said loan plus ten per cent (10%) thereof.
12. That the security for the 1996 Featherston Water Supply Loan shall be a separate uniform charge on all rateable properties in the areas of the water supplies of Featherston, Greytown and Martinborough, of an amount sufficient to meet the annual loan charges on the said loan plus ten per cent (10%) thereof.
13. That the cost of raising the said loans of \$1,674,000 be paid from the loan moneys.
14. That a sinking fund be established in respect of the loans.
15. That a poll of ratepayers be taken if not less than fifteen percent (15%) of the ratepayers of the District so demand, by writing under their hands, delivered or sent by Post to the office of the Council, 19 Kitchener Street, Martinborough and received not later than 9.00am on the day fixed for confirmation of the resolution to raise the loans.

We hereby declare that the above resolution was duly passed at the ordinary meeting of the South Wairarapa District Council held on 28 August 1996.

MAYOR

GENERAL MANAGER



Appendix 10: Wastewater Application – Pain Estate – October 2011



Baker & Associates

Waste Water Application to Pain Estate Farm

Advisory Report

South Wairarapa District Council

Prepared by:



Registered Farm Management Consultant/Registered Valuer
Baker & Associates Ltd
Masterton

October 2011

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APPENDICES:

1. Farm and Irrigation Maps
2. Financial Budget for Pain Farm
3. Taupo Waste Water Observations
4. Fonterra Waste Water Observations

1. PURPOSE OF REPORT

- To inspect the property and identify the physical features that will influence the application of waste water from a pastoral management perspective.
- Report and discuss and limiting features.
- Provide options for pastoral use of the Pain Estate under irrigated waste water with indicative physical and financial figures.

As part of the process the waste water treatment site for Taupo township was inspected and observations from this visit have been considered as part of the reporting process.

2. EXECUTIVE SUMMARY

- Because of drainage limitations on the Pain property, year round application of water is not advocated.
- To achieve the maximum lifespan for use of this site it is advised that an irrigation system be designed to cover a maximum area. This will allow application rates to be kept low, helping maintain positive soil characteristics and slow or prevent the excessive build up of nitrates and phosphates. (refer Taupo observations)
- For reasons of maximum pasture harvest, low labour requirements and operational flexibility we would recommend a centre pivot system with thought towards an extension utilising pop-up sprinklers.
- On the basis of information gathered through the preparation of this report we believe the soil type and objective, i.e. to remove nitrates from the waste water, that pasture would be the most appropriate “crop” for waste water application to the Pain Estate.
- Information regarding the flow rate for waste water irrigation was provided by South Wairarapa District Council equating to 2 to 3 mm/Ha/day which would suffice on the shoulders of the irrigation system, however a rate of 5 to 6 mm/Ha/day would be needed for maximum pasture yields in the driest part of the irrigation season.
- We advise the council to consider directly owning and managing the business that would grow and harvest (via contractor) baleage and hay for sale from the Pain Farm.
- The net income from the making and sale of pasture based supplements (baleage and round bale hay) would be in the order of \$60,000 to \$70,000 per annum. There would be further operational (variable) costs that would be in the order of \$31,000 per annum. The net operating surplus for such a business would be in the order of \$30,000 to \$40,000 per annum.
- This gives a return in the order of \$600 to \$800 per Ha, which would be comparable with the current lease returns from the farm.

- While it is important to generate a financial return from the system, it should be viewed as part of waste water treatment process for the council and not a separate profit centre.
- Information reported to us during the preparation of this report indicates trees have a lower rate of nitrate removal than pasture. In the absence of more information we would advocate a pastoral system that can reliably sequester the maximum amount of nitrogen and thereby give some element of future proofing.
- However, as part of the report we have advocated the planting of trees. This could be for both aesthetic and revenue generation purposes. It is our recommendation that there be riparian planting with a view to retiring land around the streams and trees planted in the buffer zone and non-mowable areas.
- It is suggested the council consider the storage and sale of “solid waste” as a cropping fertiliser.

3. SITE INSPECTION

Two different classes of land were identified on the property.

1. Lower lying typically of shallow silt topsoil (10 cm) over clay, one meter deep to a gravel layer. Mottling in the sub soil confirms high winter water tables but dry summer conditions. Potential for consolidation and pans developing leading to perched water. Clear concerns with drainage. This would make up approximately 2/3rds of the farmable land area.



2. Soils on a higher terrace have a deeper silt layer (20cm+), better structured loam sub soil to a depth of 50cm, before one meter of clay which then leads to a layer of gravel. This higher terrace will have better drainage characteristics because of the deeper soil but is still considered to have drainage limitations.



4. SUBDIVISION

The total title area of the property is 84.9 Ha is subdivided into 8 paddocks, plus an area set aside for the Martinborough transfer station and a residence. There is no racing system and livestock are currently moved from paddock to paddock. The approximate area in pasture is 65 Ha, and we have provided for 50Ha to be accessible for the making of baleage and hay.

5. WATERWAYS

Two open waterways flow through the block. These may not flow all year round but are significant from the perspective of waste water application and there will be a need to fence these off and prevent livestock access. The latter step may not be necessary should the council adopt a zero livestock policy as part of this development.



6. PHYSICAL INFLUENCES ON LAND SUITABILITY

The area identified for spray irrigation is predominantly lower lying – described above as the lower lying terrace. This has clearly been identified as having poor drainage characteristics, these will limit suitability for irrigation. Care will be needed with the amount and timing of waste water applications.

The soils will suit a limited number of crop types (including ryegrass based pasture) for the effective harvest of nitrates. **However, deeper rooting crops like lucerne and late harvest crops like maize silage would not be suitable, particularly on the lower lying terrace.**

Subdivision fencing would need to be removed and the block re-fenced according to irrigation type and land use. If livestock are to be grazed on the non-irrigated areas then this area would need to be fenced accordingly including exclusion from the natural water courses.

7. TOPOGRAPHY

Although gently rolling, there is very little topographical limitation to intensive agronomic management of the block.

8. SOIL FERTILITY

Given the nutrient loading of the waste water we would expect the irrigated portion of the site to be self sustaining for nitrogen regardless of irrigation interval.

There would be sufficient phosphate with year round waste water application but possibly insufficient with the November to April interval.

Sulphur and potassium fertilisers will be needed, but subject to land use.

Lime may need to be applied from time to time, particularly with the establishment and maintenance of pasture should this be the “crop” of choice. It is noted the waste water is typically alkaline and this may have a positive effect on the natural acidifying effect of intensive land management. Annual soil testing of the land if used as a forage source is advised.

We have provided for fertiliser to be applied on the non-irrigated ground in our financial budget.

9. IRRIGATION AND SYSTEM OPTIONS

During the inspection of the Taupo site we saw both centre pivot and pop-up sprinkler in operation. The pop-up system was originally installed and found to be high maintenance – the pop-up sprinkler heads are prone to breakage and malfunction.

There is the potential to use a combination of irrigation system types should the South Wairarapa District Council wish to explore the maximum irrigable area. Our suggestion would be centre pivot with pop-up sprinkler heads. Our operating budget provides for an option with 26.5Ha centre pivot and 5 Ha of pop-up sprinklers.

The design of a pivot and pop-up irrigation system could then allow the pivot to be totally shut down during the making of supplements which ease the timing and managerial and design requirements that would come with having a single pivot. The pop-ups meeting full application requirements during the supplement making period, normally 3-4 days.

Information regarding the flow rate for waste water irrigation was provided by South Wairarapa District Council equating to 2 to 3 mm/Ha/day which would suffice on the shoulders of the irrigation system, however a rate of 5 to 6 mm/Ha/day would be needed for maximum pasture yields in the driest part of the irrigation season.

Our yield assumptions are based on system design that will allow application rates up to 5-6 mm/Ha/day.

We offer the following table as our view of irrigation types.

Irrigation type	Travelling e.g. Spitfire	Centre Pivot	Pop-ups
Capital Cost	Low	High	Moderate
Maintenance cost	Moderate	Low	High
Suitability for pasture	High	V.High	Moderate
Suitability for cropping	High	Moderate	Not recommended
Suitability for trees	Poor	Poor	Moderate
Pasture Yield	Moderate	Very High	High
Labour requirements	High	Low	Occasional

For reasons of maximum pasture harvest and low labour requirements we would recommend a centre pivot system with thought towards an extension utilising pop-up sprinklers.

10. BUFFER ZONE MANAGEMENT

It is noted that the application of waste water will occur on a portion of the property (approximate 26 Ha by supplied design), but there is land around the Pain homestead, property boundaries and natural water courses where waste water cannot be applied. By our estimate up to 40 Ha would need to be managed in an alternate system. Note we have based revenue calculations on 25 of the 40Ha to be mowable, non-irrigated (dry) ground.

Use of this area needs to be closely considered.

Options for buffer zone land use might include the following.

- Livestock grazing – in our opinion ruled out because of the mis-match with a neighbouring waste water irrigation system and the council run business.
- Forage for sale – e.g. grass, maize silage. Our recommendation and budgets provide for using the entire mowable area for the purpose of making and selling baleage/hay.
- Firewood Trees; e.g. pine or wattle – care is needed that the trees do not excessively shade the pasture. An area planted in trees could be permanently retired and planted in such a way as to improve the aesthetic appearance of the property.
- **Extended riparian planting, i.e. plant and retire around the streams. This could be done in combination with aesthetic tree planting for the buffer zone and non-mowable areas – and would be our recommendation to do so.**

11. SOLIDS WASTE

During our inspection of the Taupo site we observed the storage of solids taken during the waste treatment process. These solids have to be stored for an extended period (18 months) to dry. At this point these “solids” tend to have a very high nutrient status and can be used as cropping fertiliser.

We would recommend the council consider the storage and sale of “solid waste” as a cropping fertiliser.

12. COMPLIANCE REQUIREMENTS

Resource Management Act (RMA)

It is outside the scope of this report to definitively advise on the implications with respect to the RMA. However in preparing this report we are aware of the following.

- Nitrate leaching will need to be minimised and future legislation may in fact specify an acceptable nitrogen loss, kg N/Ha/yr. The nitrogen application rates provided by the council are unlikely to exceed the levels currently advocated.
- Phosphate leaching is not normally considered a risk. However care is needed that phosphate levels did not build to a level where it might exceed an RMA standard.

Suitability of Forage End Use

- Fonterra has a requirement that all forage harvested under a waste water irrigation system delivering at a standard less than California Title 22 standard, **is not to be fed to lactating animals** (dairy cows) and should have a 30 day withholding period where fed **to non-lactating livestock**.
- This means forage cannot be fed to milking cows and this would be expected to influence the price and size of market for a forage derived from the land with waste water application.
- Forage derived from the land can currently be fed to other (non dairy) livestock without compliance restraints.
- The Wairarapa market place would more than comfortably absorb the baleage/hay on the above basis.
- The future compliance requirements and market perceptions for use of forage derived under waste water irrigation, and fed to livestock is uncertain. The authors anticipate the market place for forages derived in this manner will narrow. There will be limitations on end use.
- Greater auditing of forage use is anticipated and councils need to be aware of their role and responsibilities in this area. If there is in-appropriate use of forage derived from the waste water system the South Wairarapa District Council would need to clearly demonstrate all reasonable steps have been taken to advise end users.
- It should be noted that forage such as baled pasture (baleage) is commonly traded and there is a risk that baleage made from the waste water irrigated area is on-sold and the end user would need to be aware of where the parent material had been sourced.
- We would advocate a grading / branding process be implemented during the making of pasture based supplements from the Pain Farm. This would clearly mark, identify and signal the quality and suitable end use of the feed. (Taupo had such a branding system that could be improved on).

13. LIVESTOCK

Grazing livestock on the area irrigated with waste water is not advised (permitted?). There is a hazard to the animal health with potentially dangerous pathogens in the water. It would be difficult to contain and rotate animals on the irrigated area without risk of irrigation being applied overhead while still grazing.

It is our recommendation that there be a zero livestock policy for the Pain Estate in a waste water treatment regime. The risk of stock wandering into the irrigated treatment area and the complication to management for relatively low returns would not warrant the time and capital required.

14. HUMAN HEALTH

It was observed that the Taupo irrigation system was deliberately operated outside normal working hours to ensure human health was not compromised by people being present on the irrigated ground during the period of waste water application. The risk is from both direct spray and to a lesser extent spray drift.

We would endorse this policy.

15. LAND USE OPTIONS

We would advocate the South Wairarapa District Council implement a system similar to the Taupo District Council in respect to waste water land use.

This would require the council to directly own/manage the business that would grow and harvest (via contractor) baleage and hay for sale from the Pain Farm.

It is an alternate option to lease the land out with clearly defined specifications for the lands use given the application of waste water. The tenant would take responsibility for the management of the land to derive a return.

Leasing the land out and allowing the tenant to derive the business system within the permitted use specifications would be simpler but reduces the councils ability to control the operation of the waste water system and potentially increases liability where the tenant fails to perform.

As part of the report we have advocated the planting of trees. This could be for both aesthetic and revenue generation purposes. However the information we have found in the preparation of this report indicates trees have a lower rate of nitrate removal than pasture.

In the absence of more information we would advocate a pastoral system that can reliably sequest the maximum amount of nitrogen and thereby give some element of future proofing.

16. REVENUE STREAM

As an appendix to this report we have provided three budgets looking at three waste water irrigation options, with consideration for the management and returns from the non-irrigated ground. For the purpose of this exercise we used a mowable grassed area of 50Ha.

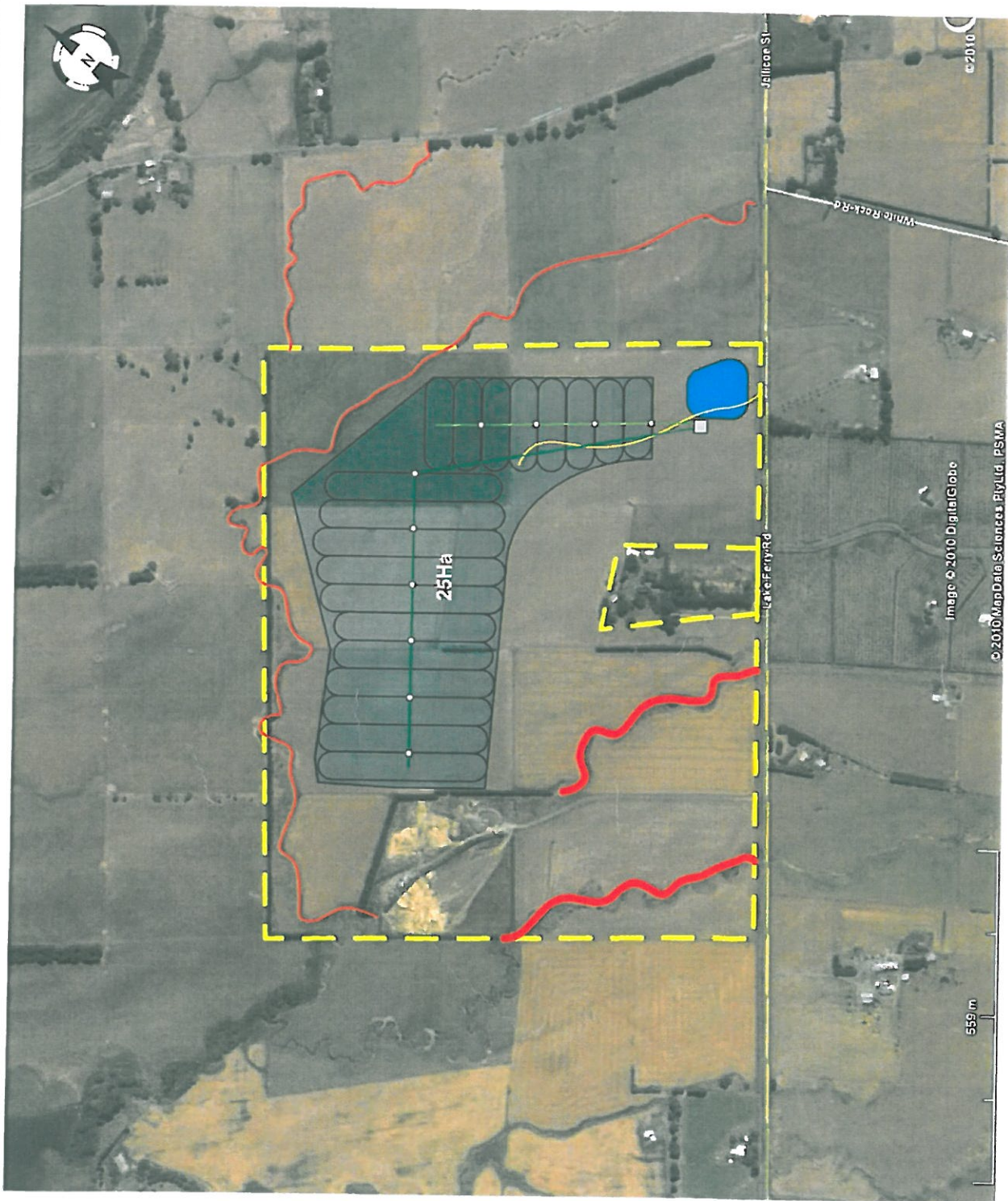
A key assumption within this budget is the capital cost and operation of the irrigation system is applied as a cost to the management of waste water, and is effectively excluded from this “pastoral operations” budget.

Our findings are as follows.

- The net revenue from the making and sale of pasture based supplements (baleage and round bale hay) would be in the order of \$60,000 to \$70,000 per annum.
- There would be further operational (variable) costs that would be in the order of \$31,000 per annum.
- The net return for operating such a system would be in the order of \$30,000 to \$40,000.
- This gives a return in the order of \$600 to \$800 per Ha, which would be comparable with the current lease returns from this ground.
- These figures provide for use of 50Ha but our recommendations advise retirement of land into trees and riparian planting. These areas will not provide any regular income although it would be an option to plant trees with a view of sale for timber or firewood.

APPENDIX 1

Farm and Irrigation Maps



Martinborough Wastewater
Upgrade

Client: South Wairarapa
District Council

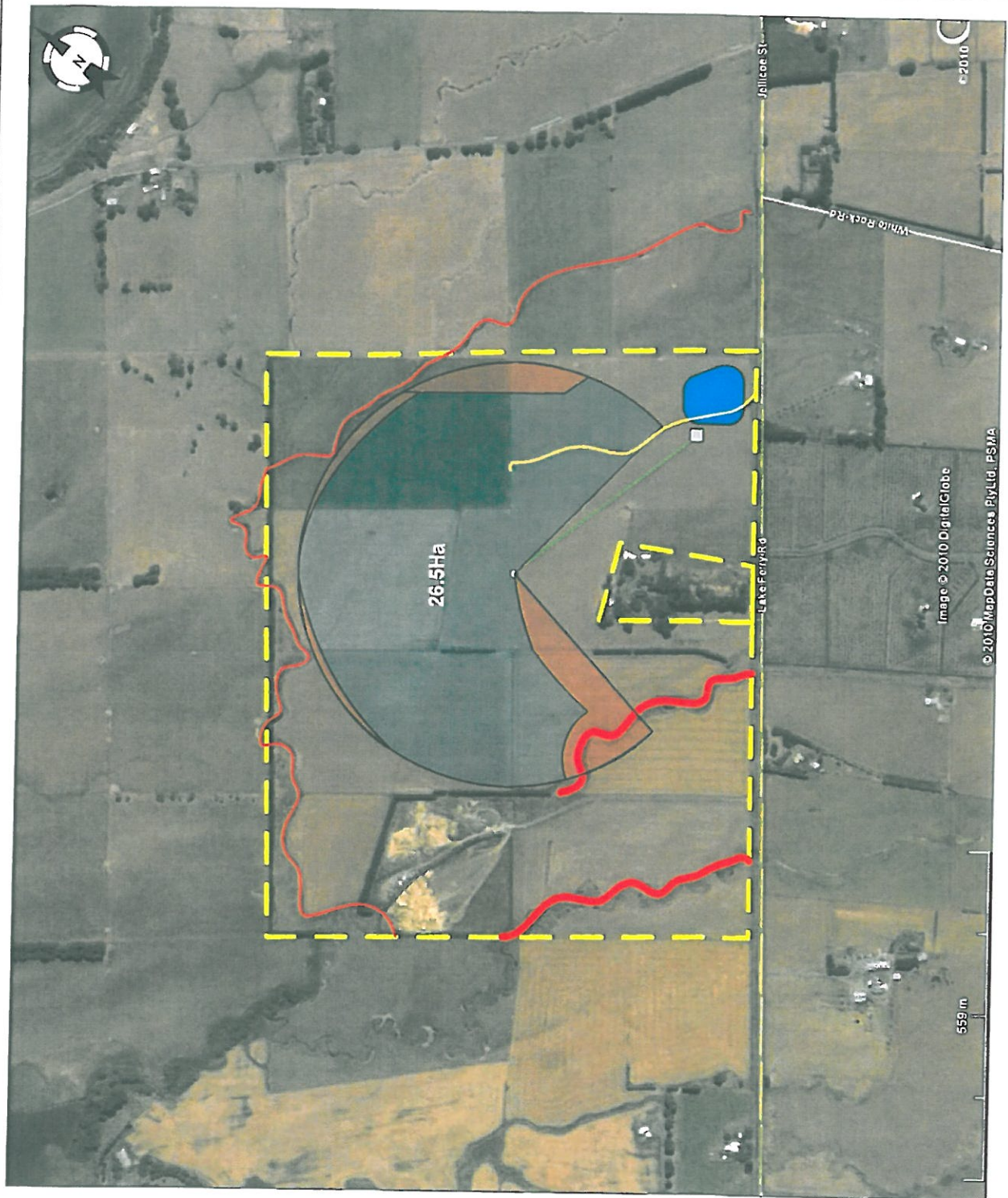
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Spitfire Irrigator Setup – Pane Farm

Legend:

Irrigation area		Pipeline Run 1		Hydrants	
Stream (20m buffer)		Holding pond		Stream (no buffer)	
50m width irrigator runs		Pump shed		Boundaries	
Pipeline Run 2					

SIZE	DWG NO	REV
A4	C 22033/1/0	1
SCALE	NTS	Drawn: SDC 20/10/2010
		SHEET 1 OF 1



Martinborough Wastewater
Upgrade

Client: South Wairarapa
District Council

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Central Pivot Irrigator Setup – Pane Farm

Legend:

Irrigation area
Stream (20m buffer)
Restricted area



Pipeline



Holding pond



Boundaries



Pump shed



Stream (no buffer)



SIZE
A4

DWG NO
C 22033/1/0

REV
1

SCALE NTS

Drawn: SDC 20/10/2010

SHEET

1 OF 1

APPENDIX 2

Financial Budget for Pain Farm

Pain Estate	Pastoral Operation Budget		Centre Pivot	Centre Pivot + Pop-ups
	Spitfire Irrigator			
Irrigated Ground				
Mowable Area Ha		25	26.5	31.5
Harvest Yield		10,000	12,000	12,000
Total Yield		250000	318000	378000
DM /bale		250	250	250
Bales		1000	1272	1512
\$ / bale		75	75	75
Gross	\$	75,000	\$ 95,400	\$ 113,400
Contractor Cost per bale	\$	40	\$ 40	\$ 40
Total baling costs	\$	40,000	\$ 50,880	\$ 60,480
Net Return	\$	35,000	\$ 44,520	\$ 52,920
Non-irrigated				
Mowable Area Ha		25	23.5	18.5
Harvest Yield		4,000	4,000	4,000
Total Yield		100000	94000	74000
DM /bale		250	250	250
Bales		400	376	296
\$ / bale		75	75	75
Gross		30000	28200	22200
Contractor Cost per bale	\$	40	\$ 40	\$ 40
Total baling costs	\$	16,000	\$ 15,040	\$ 11,840
Net Return	\$	14,000	\$ 13,160	\$ 10,360
Mowable Area Ha		25	23.5	18.5
Harvest Yield		4,000	4,000	4,000
Total Yield		100000	94000	74000
DM /bale		220	220	220
Bales		455	427	336
\$ / bale		55	55	55
Gross	\$	25,000	\$ 23,500	\$ 18,500
Contractor Cost per bale	\$	30	\$ 30	\$ 30
Total baling costs	\$	13,636	\$ 12,818	\$ 10,091
Net Return	\$	11,364	\$ 10,682	\$ 8,409
Total Net Operating Revenue	\$	60,364	\$ 68,362	\$ 71,689
Operating Expenses - excludes irrigator operation, power, R&M, labour				
	Spitfire Irrigator		Centre Pivot	Centre Pivot + Pop-ups
Pasture renewal	\$	3,250	\$ 3,250	\$ 3,250
Fertiliser - K & S	\$	8,599	\$ 11,437	\$ 11,961
Feriliser "Dry" Ground	\$	12,399	\$ 11,655	\$ 9,175
R&M	\$	2,000	\$ 2,000	\$ 3,000
Administration / Rates / Ins	\$	4,000	\$ 4,000	\$ 4,000
Total variable costs	\$	30,248	\$ 32,342	\$ 31,387
Net Operating Return	\$	30,115	\$ 36,019	\$ 40,302
Return per Ha	\$	602	\$ 720	\$ 806

Fertiliser Calculation

Potassium kg / tonne of pasture removed: 10
Sulphur kg / tonne of pasture removed: 8

Irrigated Area		Spitfire Irrigator	Centre Pivot	Centre Pivot + Pop-ups	Irrigation Workings
Dry Matter Removed		450000	506000	526000	180 days
kg Potassium Required		4500	5060	5260	423 m3/day
kg Sulphur Required		3600	4048	4208	76140 m3/irrigation season
kg K in Waste water		761	761	761	1000 l per m3
kg S in Waste water		1777	1777	1777	76140000 litres per irrigation sea
kg Potassium Chloride		7477	10120	10520	10 mg/l K Concentration
kg Maxi Sulphur Super		3880	4833	5173	23 mg/l S Concentration
\$ Potassium Chloride		\$ 6,729	\$ 9,108	\$ 9,468	Price per Tonne Applied
\$ Maxi Sulphur Super		\$ 1,870	\$ 2,329	\$ 2,493	\$ 900.00 Potassium Chloride
Total Fertiliser		\$ 8,599	\$ 11,437	\$ 11,961	\$ 482.00 Maxi Sulphur Super
Dry Ground		Applied 25 Ha	23.5 Ha	18.5 Ha	
Rate kg/Ha		Price \$/t			
30% K Super		600 \$ 515 \$ 7,725	\$ 7,262	\$ 5,717	
Urea		217 \$ 860 \$ 4,674	\$ 4,393	\$ 3,459	
Total Fertiliser Dry Ground		\$ 12,399	\$ 11,655	\$ 9,175	

APPENDIX 3

Taupo Waste Water Observations

TAUPO SITE INSPECTION OVERVIEW

Physical Operation

Waste water is applied on two farms. One with older “pop-up” sprinkler technology and the second with centre pivot irrigation. Pictured is a pop-up sprinkler head.



TDC have shifted to centre pivot for lower maintenance requirement and more even application.



Centre pivot is in fact multiple pivots and this allows blocks to be switched off as part of the baleage harvesting system.

Contractor harvests pasture into baleage on an agreed annual contract basis. Recent adjustments to the contract allow the contractor to modify an otherwise fixed price if major input costs change, i.e. fuel.

They are irrigating a pumice soil which is naturally well draining.

Applying 45 mm per week, but have storage facilities in the event of breakdown or wet weather events that require irrigation to slow or stop.

Fertiliser is applied in the form of potassium and sulphur to provide for the removal of these nutrients.

The system is self sustaining for nitrogen and phosphate.

Evidence of building nitrate levels and this may limit the lifespan of the system, operational constraints or event trigger a compliance constraint.

The water applied has passed through a secondary treatment system but still has pathogens and bacteria.

Timing of irrigation is typically late afternoon and evenings to ensure contractors and others on site are not exposed to the irrigation drift.

Pasture yield on well performing parts of the unit is around 16 tonne DM per Ha.

There is evidence of some cultivars performing better than others.

The primary task of the “crop” grown on site is to extract nitrates. Pasture is used in this case and when cut regularly at modest yields it will have the greatest yield of nitrogen. Older/longer crops have less nitrogen uptake, but can be favourable to the contractor – efficiencies associated with cutting at higher yields.

Lucerne is used at Taupo as a buffer sector species – i.e. not irrigated. But Lucerne is being trialled on another waste water site.

Solids taken at the waste treatment centre, and at the storage ponds is held for 18 months to dry and can then be taken by farmers with appropriate consents and applied to land. (analysis of this waste and test for suitability with crops like maize is worthy of further investigation.



BUSINESS MODEL

- The primary purpose of the waste water treatment centre is to sustainably treat and apply waste water and solids to land. It is not driven for profit.
- Pasture is the “crop” of choice as it is low cost and resilient.
- The sale of baleage from the land is sold on contract and it was noted that the 2011-12 crop has virtually sold out before the season commenced.
- Baleage sale price has lifted each year.
- There are three quality standards under which the baleage is sold; standard \$65 per bale, <9ME, 20% of Crop, Mid range “Good” quality baleage is 60% of the crop, <35% DM & ME 9-10.5. Then there is premium baleage, 10.5+ and >35% DM, sold at \$85/bale.
- A Contractor is used for control purposes – retain direction of operations and timing of events.

COMPLIANCE

- Resource consents required.
- Pathogen monitoring – very regular.
- Fonterra has a requirement that all forage harvested under California Title 22 standard is not to be fed to lactating animals (dairy cows) and should have a 30 day withholding period.
- This means forage cannot be fed to milking cows and this would be expected to influence the price and size of market.
- Greater auditing of forage use is anticipated and councils need to be aware of their role and responsibilities in this area. Could be a downstream issue – particular where feed is on-sold to a party that might not be made aware of the source material for the baleage.

APPENDIX 4

Fonterra Waste Water Observations



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To Whom It May Concern

Fonterra has recently reviewed its policy relating to the use of human effluent wastewater and sludge on pasture or feed that is fed to dairy cows supplying Fonterra.

Fonterra's previous policy allowed for the application of wastewater treated to the Californian Standard Title 22 to be applied to pasture being grazed by lactating cows. Any wastewater not meeting this standard was to be sub-surface irrigated.

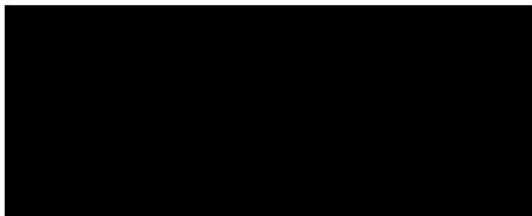
Additionally, stabilised sewage sludge could be incorporated into the soil, a crop could be grown, harvested and fed to lactating cows, and then the pasture could be re-sown and fed to cows.

Taking into account feedback from our customers and markets, the following policy has been approved by the Fonterra Board and applies from 1 June 2010:

- Only wastewater that meets the Californian Standard Title 22 is to be used on pasture or feed that is fed to lactating animals supplying Fonterra.
- No sewage sludge derived from the treatment of human waste may be used to grow pasture or feed that is fed to lactating animals.
- If dry stock is fed with feed that has been grown with stabilised sludge or wastewater that does not meet the Californian Standard Title 22, the stock must not be fed the material for 30 days before the start of lactation if they will be supplying Fonterra.
- Any suppliers using human sewage must meet the requirements of their local Regional Council.
- District Councils will be responsible for the production and implementation of the required management plan.

If you have any questions or comments relating to this change of policy please contact [REDACTED]

Yours faithfully



Manager, Food Safety and Sustainable production

APPLICATION OF TREATED DOMESTIC WASTEWATER AND DOMESTIC BIOSOLIDS TO DAIRY FARMS.

29th April 2008

It is important to realise that we are dealing with two different waste streams

The treated wastewater liquid stream

The treated solids stream that comes out of the wastewater treatment plant.

1 TREATED WASTEWATER STREAM

1.1 Application onto land

The wastewater must be treated to Californian Health Law Title 22 standard. This requires the domestic wastewater to be tertiary standard followed by disinfection. ie the wastewater has been treated in a biological system followed by filtration and disinfection.

The main requirement is the median concentration of total coliform bacteria must not exceed a most probable number (NPM) of 23 per 100ml (based on a 7 day period) and the maximum number in any one sample over a 30 day period must not exceed an MPN of 240 per 100ml.

1.2 Application into land

The wastewater must be treated in a biological plant. The wastewater can then be applied to the subsoil either by injection or sub surface irrigation. Whichever method is used, no wastewater must end up on the surface of the land.

2 MANAGEMENT PLAN

A management plan must be provided. The management plan must contain the following

- Description of the treatment system and expected wastewater quality
- Monitoring of the wastewater quality
 - Frequency-weekly
 - Analysis BOD, TN, TP, Total coliforms
- Soil types
- Irrigation equipment and application rate
- Irrigation regime ie is it all year or based on soil moisture deficit
- Rest period between irrigation and dairy cows grazing the pasture. Fonterra's recommendation is 14 day rest period.
- Buffer zones from waterways and houses-should be required by the Regional Council and often included in District Plans
- Contingency plan if WWTP does not meet the required effluent quality standards

3 BIOMASS/SOLID STREAM

The solids stream (biomass/sludge) coming from the wastewater treatment system must be stabilised in some manner-at least one year's storage, composting or heat treated.

The stabilised biomass can then be applied to dairy farms provided it is:

- Ploughed into the land
- A crop (eg maize) is grown. (need a growing/harvesting period of at least 6 months)
- The crop is harvested not grazed. The harvested material can be feed to dairy cows
- The land can then be regressed and grazed by cows.