

Lincoln Road Mill Dam Act 1865

Private Act 1865 No 2
Date of assent 30 October 1865

Contents

	Page
Title	1
Preamble	1
1 Short Title	2
2 Dam may be maintained	2
3 River bed may be scoured	3
4 Saving rights of persons to water	3
5 Lands may be entered	3
6 Compensation to be made	4
7 Fish ladder made	4
8 Power of Provincial Legislature not affected	4
9 Saving rights	4

An Act to enable John Cracroft Wilson Esquire CB his heirs executors administrators and assigns to maintain a Dam across the River Heathcote in the Province of Canterbury and to divert the waters of the said River.

Preamble

WHEREAS a certain Mill Dam was some time since erected across the River Heathcote in the Province of Canterbury at a point measured seventy links or thereabouts south-east from the bridge over the said river on the Lower Lincoln Road where the said river forms the south-western boundary of the section numbered seventy-six on the plan of the Lincoln District for the purpose of working a certain water-power mill erected and built upon the section numbered seventy-six in the said district And whereas the said John Cracroft Wilson is now entitled for the residue of a term of eighteen years commencing and to be computed from the twenty-ninth day

of September one thousand eight hundred and fifty-five to the said water-power mill and the Right Honourable George William Baron Lyttelton is entitled to the reversion thereof And whereas the construction of the said dam hath not been authorized by any law and it is expedient that the same should receive the sanction of law and the said John Cracroft Wilson his heirs executors administrators and assigns should be authorized to maintain the said dam subject to the conditions hereinafter contained And whereas the said George William Lord Lyttelton hath consented that the powers conferred by this Act should be made perpetual on certain terms and conditions to which the said John Cracroft Wilson has consented and the other owners of land affected or to be affected by the construction and maintenance of the said dam have also consented in like manner

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

1 Short Title

The Short Title of this Act shall be The Lincoln Road Mill Dam Act 1865.

2 Dam may be maintained

It shall be lawful for the said John Cracroft Wilson his heirs executors administrators and assigns to make perfect and for ever hereafter to maintain a certain mill dam some time since erected and now standing and being across the River Heathcote at a point measured seventy links or thereabouts from the bridge over the said river on the Lower Lincoln Road where the said road forms the north-western boundary of the section numbered seventy-six on the plan of the Lincoln District and at such place to dam up and raise the level of the water of the said river to the height of three feet that is to say to a height that shall be three feet two inches below the upper surface of the roadway of the bridge aforesaid Provided that within six months from the passing of this Act the said John Cracroft Wilson his heirs executors administrators or assigns shall erect and for ever thereafter maintain a fixed and permanent benchmark of stone or other durable material

as near as may be to the said bridge for the purpose of permanently showing the level of the said roadway surface to the satisfaction of the Provincial Engineer of the Province of Canterbury.

3 River bed may be scoured

It shall be lawful for the said John Cracroft Wilson his heirs executors administrators or assigns to cleanse and scour the said river either above or below the said dam when and so often as occasion shall require for better conducting the water of the said river and for the purpose of preventing or diminishing any injury spoil or damage which might otherwise be occasioned by the raising of the level of the said water by the said dam or any other injury spoil or damage which might result from the said dam and for the purpose of such cleansing and scouring to deposit material taken from the bed or banks of such river upon lands abutting thereon.

4 Saving rights of persons to water

Nothing herein contained shall be deemed to prejudice the lawful rights of any proprietor or occupier of land intersected by or adjoining the said river to the use of the water of the said river where the same flows through or along the boundary of his land and whether such land be situated above or below the said dam to the same extent and in the same manner as they might have used the same before the passing of this Act.

5 Lands may be entered

It shall be lawful for the said John Cracroft Wilson his heirs executors administrators or assigns servants contractors agents and workmen for ever hereafter at all reasonable hours during the day time to enter upon any lands on the banks of the said river for any of the purposes aforesaid Provided always that except when herein otherwise provided the said John Cracroft Wilson his heirs executors administrators and assigns shall not make any such entry unless with the consent of the occupier until after the expiration of twenty-four hours' notice for that purpose given to the owner or occupier.

6 Compensation to be made

Provided nevertheless that the said John Cracroft Wilson his heirs executors administrators or assigns shall make to the owners lessees and occupiers of all land injuriously affected by the exercise of any of the powers conferred by this Act compensation for any such damage sustained by them respectively which shall be ascertained in manner provided by The Land Clauses Consolidation Act 1863 and for this purpose the said Act shall be incorporated with this Act.

7 Fish ladder made

If at any time hereafter it shall be found desirable by any proper authority to make and maintain a fish passage ladder or stairs up or over the said dam it shall be lawful for such authority to make and maintain the same and charge the expense thereof upon and recover the same from the person who shall at the time be in the exercise of the powers conferred by this Act.

8 Power of Provincial Legislature not affected

Provided further that nothing herein contained shall interfere with the power of the Legislature of the Province of Canterbury to authorize the making a diversion at any point above the said dam of such portion of the water of the said river as may be required for any public purpose or for the use and benefit of the public if such power at present exists.

9 Saving rights

Nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty or of any body politic or corporate or of any person except such bodies politic or corporate and other persons as are mentioned or referred to in this Act and those claiming by from or under them.