



Tasman District Council (Waimea Water Augmentation Scheme) Act 2018

Local Act 2018 No 1
Date of assent 18 December 2018
Commencement see section 2

Contents

	Page
1 Title	1
2 Commencement	1
3 Purpose	2
4 Interpretation	2
5 Act binds the Crown	2
6 Riverbed land vested in Council	2
7 Subsequent transfers of riverbed land	2
8 RFR status of riverbed land	3
9 Grant and transfer of easement	4
10 Issue of title and registration of easement	4
	Schedule
	Terms of easement
	5

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Tasman District Council (Waimea Water Augmentation Scheme) Act 2018.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to transfer land and create interests in land currently held by the Crown so that the Waimea Water Augmentation Scheme can proceed.

4 Interpretation

In this Act, unless the context otherwise requires,—

Council means the Tasman District Council

easement means the easement specified in the Schedule

easement land means the 9.6690 ha of land comprised in Section 10 SO Plan 509793 and being part of the land set apart as the Mount Richmond State Forest Park (*Gazette* 1977, p 445)

riverbed land means the 1.3516 ha of land comprised in Section 1 SO Plan 509793

Scheme means the Waimea Water Augmentation Scheme as described in resource consent Nos RM 140556 and RM 140557 issued by the Tasman District Council.

5 Act binds the Crown

This Act binds the Crown.

6 Riverbed land vested in Council

- (1) The riverbed land is vested in the Council.
- (2) No marginal strips are reserved from the disposition of the riverbed land, despite section 24 of the Conservation Act 1987.
- (3) The Council must pay the market value of the riverbed land to the Crown.
- (4) This section applies despite anything in—
 - (a) subpart 4 of Part 3 of the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014; or
 - (b) subpart 4 of Part 3 of the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014; or
 - (c) subpart 4 of Part 3 of the Ngati Toa Rangatira Claims Settlement Act 2014.

7 Subsequent transfers of riverbed land

- (1) The Council may transfer the riverbed land to a council-controlled organisation (within the meaning of section 6(1) of the Local Government Act 2002) that is controlled by the Council, either alone or together with any other local authority.

- (2) If the riverbed land is transferred to a council-controlled organisation under subsection (1), the council-controlled organisation may, at any time, transfer the land back to the Council.
- (3) If construction of the Scheme has not commenced by 1 January 2025,—
 - (a) the owner of the riverbed land (whether the Council or a council-controlled organisation) must offer to sell the land to the Crown at the market value of the land at the date of the offer; and
 - (b) the Crown must accept the offer.
- (4) If the Scheme is decommissioned,—
 - (a) unless agreed otherwise with the Crown, the owner of the riverbed land (whether the Council or a council-controlled organisation) must take all reasonable steps to return the land to the state it was in at the commencement of this Act; and
 - (b) the owner of the riverbed land must offer to sell the land to the Crown at the market value of the land at the date of the offer; and
 - (c) the Crown must accept the offer.
- (5) The Council and the council-controlled organisation must not dispose of the riverbed land except as allowed by this section.
- (6) This section applies despite anything in—
 - (a) subpart 4 of Part 3 of the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014; or
 - (b) subpart 4 of Part 3 of the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014; or
 - (c) subpart 4 of Part 3 of the Ngati Toa Rangatira Claims Settlement Act 2014.

8 RFR status of riverbed land

- (1) The vesting of riverbed land under section 6(1) or a transfer of riverbed land under section 7(1) to (4) does not breach—
 - (a) section 163(1) of the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014; or
 - (b) section 183(1) of the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014; or
 - (c) section 185(1) of the Ngati Toa Rangatira Claims Settlement Act 2014.
- (2) The vesting of riverbed land under section 6(1) or a transfer of riverbed land under section 7(1) to (4) does not cause the land to cease to be RFR land for the purpose of—
 - (a) the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014; or

- (b) the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014; or
- (c) the Ngati Toa Rangatira Claims Settlement Act 2014.

9 Grant and transfer of easement

- (1) The easement is granted to the Council, despite Part 3B of the Conservation Act 1987 and the Public Works Act 1981.
- (2) If the Council transfers the riverbed land to a council-controlled organisation under section 7(1), the Council may transfer the easement to the council-controlled organisation.
- (3) If the Council has transferred the easement under subsection (2) and the council-controlled organisation transfers the riverbed land back to the Council under section 7(2), the council-controlled organisation may transfer the easement to the Council.
- (4) The easement may be varied under section 90C of the Land Transfer Act 1952 or section 112 of the Land Transfer Act 2017, whichever applies at the time of registration of the instrument.
- (5) The easement may be surrendered under section 90A of the Land Transfer Act 1952 or section 108 of the Land Transfer Act 2017, whichever applies at the time of registration of the instrument.
- (6) The easement must be surrendered within 12 months after the Grantee (as defined in clause 1 of the Schedule) permanently ceases to store water on the land in accordance with any statutory or regulatory consent.

10 Issue of title and registration of easement

The Registrar-General of Land must—

- (a) issue a computer freehold register or record of title for the riverbed land in the name of the Council; and
- (b) ensure that until the riverbed land is purchased by the Crown under section 7(3), the computer freehold register or record of title for the riverbed land records that the land is subject to section 7; and
- (c) issue a computer freehold register or record of title for the easement land in the name of the Crown and, on the written application of the chief executive of the Council, record the easement and any transfer or variation of the easement on the computer register or record of title for the land.

Schedule

Terms of easement

ss 4, 9

Inundation easement

Parties

Her Majesty the Queen acting by and through the Minister of Conservation (the **Grantor**).

Tasman District Council (the **Grantee**).

Easement

The Grantee holds this easement, which is granted by section 9(1) of the Tasman District Council (Waimea Water Augmentation Scheme) Act 2018, as an easement giving the right to store and retain water on, and release water from, the land on the terms set out in this easement and section 4 of that Act.

1 Definitions

In this Agreement, unless the context otherwise requires,—

Grantee means the Tasman District Council and any assignee or transferee under clause 10

Grantor means Her Majesty the Queen acting through the Minister of Conservation, and includes the Grantor's successors and assigns

land means 9.6690 hectares being described as section 10 SO Plan 509793 and being part of the land set apart as the Mount Richmond State Forest Park (*Gazette* 1977, p 445).

2 Water storage

- (1) The Grantee may store, retain, and release water within the operating levels established from time to time under the terms of resource consents or other regulatory consents or approvals imposed on the Grantee that relate to the land.
- (2) In the event of unusually heavy inflow of water or rainfall onto the land beyond the reasonable control of the Grantee, the Grantee may, and must if lawfully directed or requested to do so by any civil defence authority or the Tasman District Council acting in its statutory capacity as a unitary authority, store or retain water on the land beyond the operating levels.

3 Shoreline works

- (1) The Grantee may carry out planting of vegetation on or about the land with a view to limiting or minimising erosion, land slippage, and flooding, so long as the plantings are in keeping with the character of the land.

- (2) The Grantee must use reasonable endeavours to reduce erosion, land slippage, and landslides on the land by available practical and economic means.
- (3) The Grantee must, except in the case of an emergency, obtain the consent of the Grantor before planting vegetation or undertaking works on the land under subclause (1) or (2), which consent must not be unreasonably withheld or delayed.

4 Removal of material or vegetation

- (1) The Grantee may remove from any water on or about the land or remove from any part of the land any sediment or other material or any vegetation that, in the opinion of the Grantee, is causing, or is likely to cause, an impediment or danger, injury, or damage to persons or property.
- (2) Before carrying out the work, the Grantee must, except in the case of an emergency or due compliance with statutory, regulatory, or resource consent requirements, first obtain the consent of the Grantor.

5 Entry and operations

For the purpose of exercising any of the rights granted or duties imposed under this easement, the Grantee has the right by its employees and contractors to enter and operate any vessel, plant, or equipment upon any water on the land and the land itself.

6 Public access

The Grantee must not restrict public access to the land under this easement except to the extent that is necessary in the interests of public safety.

7 Ancillary rights

The Grantee has the right of access to do any acts and things that are reasonably necessary for the better enjoyment of the rights expressly and impliedly granted by this easement.

8 Statutory and consent compliance

- (1) The Grantee must obtain and comply with all statutory and regulatory consents required from time to time to exercise its rights under this easement.
- (2) The Grantee is entitled to apply for any resource consents required for the purpose of the exercise of any of the Grantee's rights under this easement in the same manner as if it were the registered proprietor of the land.

9 Fencing

The Grantee must not fence any part of the land, unless it is required as a reasonable condition of the Grantor's consent when granting any approval under this easement.

10 Assignment of rights

- (1) The Grantee may assign or transfer its rights and obligations under this easement, without the consent of the Grantor, to any council-controlled organisation that is controlled by the Council, either alone or together with any other local authority.
- (2) Upon notification to the Grantor of an assignment or a transfer, the provisions of this easement will cease to be binding upon the assignor or transferor, but without prejudice to the assignor's or transferor's liability for any prior breach of covenant under this easement.

11 Variation

This easement may be varied only with the written consent of the Grantor and the Grantee.

12 Disputes

- (1) If any dispute arises between the Grantor and the Grantee concerning the rights created by this easement, the parties will enter into negotiations in good faith to resolve their dispute.
- (2) If the dispute is not resolved within 1 month of the date on which the parties begin their negotiations, the parties may submit to the arbitration of an independent arbitrator appointed jointly by the parties and, if one cannot be agreed upon within 14 days, to an independent arbitrator appointed by the President of the New Zealand Law Society.

Legislative history

14 August 2018	Introduction (Bill 95–1)
19 September 2018	First reading and referral to Governance and Administration Committee
6 November 2018	Reported from Governance and Administration Committee (Bill 95–2)
28 November 2018	Second reading
12 December 2018	Committee of the whole House, third reading
18 December 2018	Royal assent