

**Version
as at 17 February 2024**



Hauraki Plains County Eastern Water-supply Empowering Act 1935

Local Act 1935 No 3
Date of assent 25 October 1935
Commencement 25 October 1935

Hauraki Plains County Eastern Water-supply Empowering Act 1935: repealed, on 17 February 2024,
by section 11 of the Water Services Acts Repeal Act 2024 (2024 No 2).

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An Act to enable the Hauraki Plains County Council to take, divert, and impound water in certain streams in the Hauraki Mining District for supplying

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

water to parts of the County of Hauraki Plains and to the County of Thames, and to validate an agreement made between such Council and the Thames County Council

Preamble

Whereas it is expedient to enable the Hauraki Plains County Council to take, divert, and impound the waters flowing into and in the stream in the County of Thames in the Hauraki Mining District called Apakura Stream, and the tributary thereof called Canoe Creek, for the purpose of supplying water to the inhabitants of portions of the County of Hauraki Plains and to part of the County of Thames, and for the same purpose to empower such Council to lay mains and pipes from such streams to the County of Hauraki Plains over reserves and roads and across the Paeroa–Thames railway line and the Waihou River, which powers are not presently vested in such Council in respect of lands within a mining district:

And whereas there is no source of water suitable for the aforesaid purpose available except in the Hauraki Mining District above mentioned:

And whereas the said Council and the Thames County Council have entered into an agreement respecting the user of such water, and it is desirable that such agreement should be validated to set at rest any doubts as to the legality thereof.

1 Short Title

This Act may be cited as the Hauraki Plains County Eastern Water-supply Empowering Act 1935.

2 Power to take water and lay mains

The Hauraki Plains County Council is hereby empowered to take, divert, and impound the water flowing into and in the streams known as Apakura Stream and Canoe Creek, situated in Blocks IX and XIII, Tairua Survey District, in such manner as to the Hauraki Plains County Council shall seem expedient, for the purpose of supplying the same to inhabitants in parts of the County of Hauraki Plains, and to lay mains and pipes from the said streams to the County of Hauraki Plains through part of the County of Thames, in the Hauraki Mining District, along reserves and roads, and across the Thames–Paeroa Railway and the Waihou River, and to convey water through such mains and pipes:

provided that the authority hereby conferred to lay pipes across the said railway and the said river shall be exercised only with the consent of and in a manner approved of by the Government Railways Board in respect of the railway and the Minister of Marine and the Minister of Public Works in respect of the river.

3 Exclusion of the Mining Act 1926

- (1) The said streams shall be deemed removed from the operation of the Mining Act 1926 as from the commencement of the construction of works by the Hauraki Plains County Council.
- (2) From the date of the passing of this Act no mining rights, licences, or easements over such streams or either of them shall be granted or created, and such streams and their several tributaries shall not thereafter be proclaimed tail races or water courses into which tailings, mining debris, or waste water may be discharged:

provided that if on 1 July 1941, or such later date in that behalf as may be fixed by the Minister of Mines, the Hauraki Plains County Council shall not have commenced the construction of the water supply works aforesaid, then and in such case only the restrictions imposed by this section shall cease to apply to such streams.

4 Water-supply Act 1908 to apply

The provisions of the Water-supply Act 1908 shall apply to the works and operations authorised by this Act in the same manner as if the said streams and the line of the said mains and pipes were not in a mining district notwithstanding the provisions of subsection (4) of section 1 of the Water-supply Act 1908:

provided that the supply of water to be made by the Hauraki Plains County Council to the Thames County Council under the agreement hereinafter validated shall not be affected by the provisions of section 11 of the Water-supply Act 1908.

5 Power to do all necessary works

The Hauraki Plains County Council is hereby empowered from time to time to sink such wells or shafts and make, construct, install, maintain, procure, and alter such reservoirs, dams, weirs, waterworks, cisterns, tanks, aqueducts, tunnels, cuts, excavations, races, sluices, pipes, culverts, drains, engines, pumps, and other works and appliances necessary or incidental to the water supply works above mentioned.

6 Approval of Local Government Loans Board and poll of ratepayers

The powers conferred by the preceding sections of this Act shall not be exercised by the Hauraki Plains County Council until loan proposals for the construction of the water supply works aforesaid shall have been sanctioned by the Local Government Loans Board pursuant to the provisions of the Local Government Loans Board Act 1926, and the first or some subsequent poll of the ratepayers in the areas in the County of Hauraki Plains intended to be reticulated with water from the aforesaid source shall have been taken pursuant to the Local Bodies' Loans Act 1926 upon and resulted in favour of such loan proposals.

7 Immunity from rates, fees, and rentals

The rights and powers created by this Act or under the agreement hereby validated shall not be assessable for rating or subject to payment of any licence fees or rentals.

8 Validation of agreement

The agreement set forth in the Schedule shall be deemed valid and binding on the Hauraki Plains County Council and the Thames County Council respectively.

Schedule

This deed is made the 7th day of August 1934 between the body corporate named the Chairman Councillors and Inhabitants of the County of Thames (which with its successors is hereinafter deemed to be included in and bound by the term “The Thames County Council”) of the one part and the body corporate named the Chairman Councillors and Inhabitants of the County of Hauraki Plains (which with its successors is hereinafter deemed to be included in and bound by the term “The Hauraki Plains County Council”) of the other part

Whereas the said bodies corporate are local authorities duly constituted under the Counties Act 1920

And whereas the respective counties of such bodies corporate are proximate to each other

And whereas the County of Thames is within the Hauraki Mining District

And whereas the portion of the County of Hauraki Plains on the eastern side of the Piako River is lacking a supply of pure fresh water within its boundaries and within the Thames County there is a suitable supply of water in a stream named the Apakura Stream and a tributary thereof named Canoe Creek and licenses under the Mining Act 1926 for a water-race and for a dam-site in respect of the said Apakura Stream were granted to the Thames County Council for the term of forty-two (42) years from the 20th day of April 1928 but no works have yet been constructed by the Thames County Council upon the said Apakura Stream

And whereas the Hauraki Plains County Council being desirous of acquiring rights to use the water from the said stream applied to the Warden of the Hauraki Mining District at Thames for a grant of licenses to such water but it appears that the Hauraki Plains County Council has no legal power or authority to acquire such rights under the Mining Act 1926 or to appropriate and use such water under any other statute

And whereas the application of the Hauraki Plains County Council was opposed by the Thames County Council and the said applications were adjourned to enable further consideration of the legal position and the said County Councils have conferred and come to an agreement upon the terms and conditions hereinafter contained

Now this deed witnesseth and it is hereby agreed by and between the said bodies corporate:—

1. The Hauraki Plains County Council shall promote and procure if possible the passage of legislation empowering such Hauraki Plains County Council to construct water-works drawing water from the said Apakura Stream and the said Canoe Creek and to construct and maintain a water-race or pipe-line over the reserves adjoining the said stream and creek and over the roads of the Thames County to the Waihou River and validating this deed and the contract for the supply of water to the Thames County Council herein contained and the Thames County Council shall assist in the procuring of such empowering and validating legislation in so far as such assistance may be necessary or desirable.

2. When the said proposed water-supply scheme of the Hauraki Plains County Council shall have been approved by the Local Bodies' Loans Board and the raising of the necessary loan or loans shall have been authorized by the carrying of a poll of the ratepayers in the area within the Hauraki Plains County proposed to be supplied with water from the said stream and any other legal requirements precedent to the construction of water-works by the Hauraki Plains County Council shall have been fulfilled or complied with the Thames County Council shall and will relinquish and surrender the said licenses for a dam-site and for a water-race provided that the Thames County Council shall not be bound to so relinquish and surrender such rights after the 1st day of July 1941.

3. After the compliance with all precedent legal requirements to the raising of the loan or loans for the construction of the said water-works and upon the raising of such loan or loans the Hauraki Plains County Council shall be at liberty to forthwith undertake the construction of such works including the laying of a main pipe-line of such diameter as it may deem necessary from the headworks at the Apakura Stream to the Waihou River and shall provide a three-inch-diameter connection in such main pipe-line at or near the township of Puriri in the Thames County at a point decided upon by the Engineer for the time being of the Thames County Council and so long as the water scheme shall be operating will permit the Thames County Council to connect pipes to such connection and draw off at the same a maximum quantity of one hundred thousand (100,000) gallons of water in each twenty-four hours at a maximum rate of six thousand (6,000) gallons per hour but without restricting the size of pipe to be fitted to such connection by the Thames County Council:

Provided that if the total quantity of water drawn from the said main pipe-line by the Thames County Council at any time to the knowledge of or after notice shall have been given to the Thames County Council or its County Clerk or Engineer shall exceed the aforesaid maximum of one hundred thousand (100,000) gallons in any period of twenty-four hours then and in such case the Hauraki Plains County Council shall have the right thereupon and thereafter to reduce the rate at which such water may be drawn by the Thames County Council to an even rate

And provided always the Hauraki Plains County Council shall not be liable to the Thames County Council for or in respect of any interruption of the supply of water due to any involuntary or unforeseen cause or causes

And provided also that during any period in which the quantity of water available in the Apakura Stream at the point in intake of the said proposed water-works together with water from any tributaries of the said stream which may have been taken advantage of by the Hauraki Plains County Council shall be insufficient to meet the demands upon such water-supply system then the quantity of water drawn by the Thames County Council at the aforesaid connection and the rate of withdrawal shall be reduced *pro rata* with the reduction of the

quantity of water available in such system to the Hauraki Plains County Council and for such purpose the quantity normally available to the Hauraki Plains County Council shall be deemed to be seven hundred thousand (700,000) gallons in each twenty-four hours.

4. The Thames County Council in respect of all water drawn by it from the said main shall take all proper and reasonable steps to prevent loss or wastage of water and promptly remedy any leaks or defects resulting in such loss or wastage and will also require consumers in its district using such water to provide upon their properties reasonable storage for water.
5. The Hauraki Plains County Council shall be responsible for the restoration of all damage to the roads in the Thames County caused in laying of the said main pipe-line or by a break occurring in the same and shall maintain in good order to the reasonable requirements of the engineer employed by the Thames County Council those parts of the surface of the road or roads in the Thames County affected by the laying of the said main pipe-line.
6. The Hauraki Plains County Council shall reimburse the Thames County Council in the amount of the reasonable costs and expenses incurred by the Thames County Council in the opposing of the above recited applications to the Warden of the Hauraki Mining District not exceeding sixty-two pounds (£62) and also in the procurement of validation and completion of these presents in so far as the same shall be done at the request of the Hauraki Plains County Council.
7. Excepting as to the payment of such of the aforesaid costs and expenses as shall be ordered by the Warden to be paid by the Hauraki Plains County Council to the Thames County Council these presents are conditional upon and subject to validation by legislation as aforesaid and excepting as to all payments to be made under clause six hereof to approval by the Local Bodies' Loans Board of the proposed water-supply scheme and loan proposals in relation to the same and to the carrying of a poll of ratepayers in the area of the Hauraki Plains County proposed to be served by the said proposed water-supply scheme and to any other legal requirements necessarily precedent to the execution of the said works and also to the raising of the loan or loans to enable the execution of the said works.

Provided that these presents shall not be deemed terminated or determined by the defeat of any particular poll or polls of ratepayers but shall continue in effect until the 1st day of July 1941 notwithstanding the defeat of any particular poll or polls of ratepayers as aforesaid.

8. If the Hauraki Plains County Council shall not have let contracts for the purchase of the requisite water-pipes and commenced the construction of the said proposed water-works by the 1st day of July 1941 then these presents shall determine and all obligations hereunder excepting those under clause six hereof shall be ended but otherwise these presents shall continue in full force and effect.

In witness whereof these presents have been executed.

The Common Seal of the body corporate the Chairman Councillors and Inhabitants of the County of Thames was hereto set and impressed pursuant to a resolution of Council thereof in the presence of—

[LS]

Henry Lowe, Chairman

Will Price, Councillor

James McCormick, Councillor

D Mackay, County Clerk

The Common Seal of the body corporate the Chairman Councillors and Inhabitants of the County of Hauraki Plains was hereto set and impressed pursuant to a resolution of Council thereof in the presence of—

[LS]

C W Parfitt, Chairman

J A Reid, Councillor

A S Fisher, Councillor

E Mahoney, County Clerk

Notes

1 *General*

This is a consolidation of the Hauraki Plains County Eastern Water-supply Empowering Act 1935 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Water Services Acts Repeal Act 2024 (2024 No 2): section 11