Waimakariri River Improvement Act 1922

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An Act to make Better Provision for the Improvement of the Waterway of the Waimakariri River and the Protection of certain Land in Canterbury.

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 and commencement

This Act may be cited as the Waimakariri River Improvement Act 1922, and shall come into force on a date to be fixed in that behalf by the Governor-General by Order in Council.

2 Waimakariri River Trust District constituted

(1) The area described in Schedule 1 hereto is hereby constituted and declared to be a special river district, to be called the Waimakariri River Trust District (hereinafter referred to as the district).

(2) The district is hereby divided into five subdivisions, to be known respectively as the Christchurch Subdivision, the Cust Subdivision, the Eyre Subdivision, the Waimakiriri East Subdivision, and the Waimakiriri West Subdivision, as the same are respectively described in Schedule 2 hereto.

Subsection (2) was substituted, as from 1 October 1926, by section 2 Waimakiriri River Improvement Amendment Act 1926 (1926 No 13).

3 Waimakariri River Trust constituted

There shall be for the district a Trust under the name of the Waimakariri River Trust (hereinafter referred to as the Trust), consisting ten Commissioners, of whom four shall be elected by the ratepayers of the Christchurch Subdivision, one shall be elected by the ratepayers of each of the other subdivisions of the district, and two shall from time to time be appointed by the Minister of Public Works. The said Minister may from time to time revoke the appointment of either of the members appointed by him as aforesaid, and thereupon such Commissioner shall cease to be a member of the Trust.

Section 3 was amended, as from 1 October 1926, by substituting the words "ten Commissioners, of whom four shall be elected by the ratepayers of the Christchurch Subdivision, one shall be elected by the ratepayers of each of the other subdivisions of the district" for the words "of eight Commissioners, of whom two shall be elected by the ratepayers of the Northern Subdivision, four shall be elected by the ratepayers of the Southern Subdivision" pursuant to section 3(1) Waimakiriri River Improvement Amendment Act 1926 (1926 No 13).

Section 3 was amended, as from 20 December 1933, by omitting the words "The Minister shall declare one of the Commissioners appointed by him to be the Chairman of the Trust" pursuant to section 2 Waimakiriri River Improvement Amendment Act 1933 (1933 No 17(L)).

4 Trust incorporated

The Trust shall be a body corporate under the name of the Waimakariri River Trust, with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of doing and suffering all that bodies corporate may do and suffer.

5 Election of Commissioners

The first elective Commissioners of the Trust shall come into office on the day of their election.

6 First election

(1) The Governor-General shall appoint a day for the first election of the elective Commissioners, and shall appoint a Returning Officer, and make such other appointments as may be necessary, and generally shall do all things necessary in or towards the carrying-out of such election.

(2) For the purposes of the first election of Commissioners every person who immediately before the commencement of this Act was entitled to vote at an election for any riding of a county, or for any road district, town district, or borough, or for any part thereof respectively which is included in the district, shall be entitled to be enrolled as an elector.

(3) Such person as the Governor-General appoints for the purpose shall make a roll of electors for the district by placing thereon the names of all persons entitled to be enrolled as aforesaid, and in such roll shall assign to each elector the number of votes he would be entitled to exercise if he were an elector at an election under the River Boards Act 1908; and in any case where a property lies partly within and partly outside the district may apply to the Valuer-General to be furnished with an assessment of such first-mentioned part of such property to enable him to complete the roll.

(4) The first meeting of the Trust shall be held at such place and at such time as the Governor-General may, by notice in the *Gazette*, appoint in that behalf.

7 Application of certain provisions of River Boards Act and Land Drainage Act

The enactments specified in Schedule 3 hereto with any amendments thereof heretobefore or hereafter made shall be deemed to be incorporated with and to form part of this Act, and for the purposes of this Act references in any of the said enactments to a Board or to any member or members of a Board shall be construed as references to the Trust and to a Commissioner or to Commissioners, as the case may require.

Section 7 was amended, as from 1 October 1926, by inserting the words "with any amendments thereof heretobefore or hereafter made" after the words "Schedule 3 hereto" pursuant to section 4(1) Waimakiriri River Improvement Amendment Act 1926 (1926 No 13).

8 Powers of Trust

(1) The Trust shall have full power to do all such things as may, in its opinion, be necessary to effectively cope with the drainage and the flooding of the district.

(2) In particular, and without restricting the general powers hereby conferred, the Trust may—

(a.) Enter upon any land within the district, divert any drain, stream, or river, and close up any outlet or inlet to or from the same, without payment of any compensation for loss of riparian or other water rights:

(b.) Divert, raise, lower, or alter roads, bridges, and culverts where in the opinion of the Trust they interfere with the proper discharge of flood-waters.

9 Trust to approve proposed works

All proposals by any person or body for any drain or drains to empty into any river in the district or into any drain or drains under the control of the Trust, and all plans for locks, tide-gates, bridges, ferries, or wharves, shall be submitted to and approved by the Trust before being carried into effect. No planting or cutting of willows on the banks of the Waimakariri River shall be done except by or by direction of the Trust.

10 Obstruction of flow of flood-waters

It shall not be competent for any person to do or to erect anything that will obstruct, or will be likely to obstruct, the free flow of flood-waters over any land within the district, unless with the written consent of the Trust.

11 Penalty for damage to Trust property

Every drain, tidal or flood gate, and every box, valve, levee, or other appliance, constructed or maintained by the Trust shall be deemed to be the property of the Trust; and any person doing any act whereby any such drain, gate, box, value, levee, or appliance may be damaged or its efficiency impaired, or doing any work or thing in contravention of this Act, shall be liable to a fine not exceeding one thousand dollars.

The reference to "one thousand dollars" was substituted, as from 10 July 1967, for a reference to "five hundred pounds" pursuant to section 7(1) of the Decimal Currency Act 1964 (1964 No 27).

12 By-laws

The Trust may from time to time make by-laws concerning the taking or diverting of water from any drain within the district, and may by any such by-laws prescribe a fine not exceeding one hundred dollars for any breach thereof.

The words "one hundred dollars" were substituted, as from 10 July 1967, for the words "fifty pounds" pursuant to section 7(1) of the Decimal Currency Act 1964 (1964 No 27).

13 Works to be carried out by the Trust

The Trust shall, so far as its funds will permit, carry out the following works:—

(a.) Works to safeguard the City of Christchurch from flooding:

(b.) Works to protect from erosion the banks on either side of the Waimakariri River:

(c.) Works to prevent or mitigate the ponding-up of floodwaters near the lower end of Coutt's Island:

(d.) Works to prevent or mitigate damage by flooding from the Eyre and Cust Rivers.

14 Additional duties of Trust

In addition to any other duties of the Trust under this Act, it shall be the duty of the Trust—

(a.) To have detail surveys, plans, estimates, and specifications made for carrying out the works hereinbefore prescribed, such plans to be approved by the Commissioners appointed by the Minister of Public Works:

(b.) To carry out the necessary work, either by contract or direct labour, in as expeditious a manner as possible:

(c.) To maintain the works efficiently, and to do whatever extra work may be necessary to improve the regimen of the Waimakariri River and secure the fullest protection for the district from floods:

(d.) To take all necessary observations and keep records that will assist in the study of the hydrology of the river, changes in its regimen, heights and duration of floods, rainfalls, and other information that will be of service to the Trust.

15 Existing water-races protected

In constructing any works under this Act the Trust shall not cut off from the Waimakariri River or interfere with the supply of water to any water-races subject to the Water-supply Act 1908.

16 In lieu of paying compensation Trust may purchase land injuriously affected by its operations

(1) In lieu of paying compensation to the owner or occupier of any land that may be damaged or injuriously affected by any work carried out under the provisions of this Act, the Trust is hereby empowered to purchase any such land.

(2) If the owner of any such land and the Trust cannot agree as to the price to be paid therefor, the Trust shall pay compensation, which shall be determined in the manner provided by Part 3 of the Public Works Act 1908.

(3) The Trust shall have the power to lease or to sell, convey, and transfer any lands (other than endowments) belonging to it.

17 Certain land vested in Trust as endowment

(1) The bed of the Waimakariri River outside the limits of the Waimakariri Harbour is hereby vested in the Trust as an endowment.

(2)

(3) Any revenue derived from the endowment shall be applied by the Trust towards the interest and other charges on any loan or loans raised for the purpose of improving the waterway of the Waimakariri River.

Subsection (2) was repealed, as from 6 November 1924, by section 177(2) Reserves and other Lands Disposal and Public Bodies Empowering Act 1924 (1924 No 55).

The reference to the Public Bodies Leases Act 1969 was substituted, as from 1 January 1970, for a reference to the Public Bodies Leases Act 1908 by section 28(1) Public Bodies Leases Act 1969 (1969 No 141).

18 South Waimakariri River District abolished

(1) The South Waimakariri River Board is hereby dissolved as from the commencement of this Act, and the South Waimakariri River District is hereby abolished.

(2) All loans heretofore raised by the said Board are hereby declared to have been legally raised, and all rates made as security for such loans are hereby declared to have been legally made.

(3) On the dissolution of the said Board all its property shall, subject to the next succeeding subsection, become the property of the Trust, and all the liabilities and engagements of the Board shall become liabilities and engagements of the Trust, and all proceedings and actions pending by or against the Board may be carried on and prosecuted by or against the Trust, and all rates payable to the Board shall be payable to and may be recovered by the Trust. Where the said Board has made and levied any special rates that have not been collected, the Trust shall collect the same according to the classification in force on the coming into operation of this Act, which classification shall continue in force for the purpose of the levying and collection of the said special rates until the loans in respect of which they are made have been paid off.

(4) The Trust shall cause a valuation to be made of all the saleable assets of the said Board, and shall credit the General Account of the Board with the amount of such valuation.

(5) If after such amount has been so placed to the credit of the General Account there remains a credit balance in the account, then such credit balance shall be applied to the interest account in respect of one of the loans of the Board.

(6) If after such amount has been so placed to the credit of the General Account there is a debit balance in the account, the Trust is hereby empowered to make and levy a separate rate, on the basis of the classification in force at the time of the coming into operation of this Act, of such an amount as will produce a sum sufficient to liquidate such debit balance.

(7) All reserves heretofore vested in the said Board are hereby declared to be vested in the Trust upon the same trusts and conditions on which such land was held by that Board, save that all revenue or income derived therefrom may be used by the Trust for any of the purposes of, or in executing any works authorized by, this Act.

19 Railway lands safeguarded

It shall not be lawful for the Trust, or for any local authority or other public body, or for any other person, to execute any work upon or affecting any railway land in any part of the district, except with the previous consent and approval of the Minister of Railways, who may impose such conditions for the protection and safety of the railways as he thinks fit.

20 Waimakariri Harbour Board to exercise its powers subject to this Act

(1) The powers granted to the Waimakariri Harbour Board by the Harbours Act 1950, or by any other Act, shall be exercised by that Board subject to the provisions of this Act, and in the event of any dispute arising between that Board and the Trust in respect of anything done by the Trust pursuant to or purporting to be done pursuant to this Act it shall be submitted to the Minister of Public Works, whose decision shall be final. Save as provided herein, the powers, rights, functions, and duties of the said Harbour Board shall not be affected by this Act, nor shall anything herein be deemed to affect the rights of any creditor of the Board, or relieve the Board of any duty cast upon it to keep the portion of the Waimakariri River within its jurisdiction in a fit state for navigation, whether by the use of dredges or otherwise, or to cast upon the Trust any liability or duty for so doing.

(2) The plans of any works proposed to be executed by the Waimakariri Harbour Board for the purpose of obtaining a deep-water channel to the mouth of the Waimakariri River shall not be sanctioned by the Governor-General in Council until such plans have been considered by the Trust, which shall report thereon to the Minister of Marine.

(3) Notwithstanding anything in the Harbours Act 1950, or in any other Act, it shall be lawful for the Trust, in furtherance and as part of the general scheme of flood-prevention, to divert the course of the Waimakariri River or any branch thereof, and every such work shall be deemed to be a public work within the meaning of the Public Bodies Leases Act 1969, and its amendments.

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

A reference to the Public Bodies Powers Act 1887 was repealed, as from 4 August 1908, by section 1(2) Public Bodies Leasing-powers Act 1908 (108 No 153). That Act was in turn repealed, as from 1 January 1909, by section 14(1) Public Bodies Leases Act 1908 (1908 No 240). That Act was in turn repealed, as from 1 January 1970, by section 28(a) Public Bodies Leases Act 1969 (1969 No 141).

Schedule 1
The Waimakariri River Trust District

ALL that area in the Canterbury Land District comprising the whole watershed of the Waimakariri River and its tributaries up to the railway-crossing on the Lower Gorge, and also all territory at present included in the South Waimakariri River District which is not within the watershed; the whole as indicated on the plan marked PWD 51668, sheet 6, deposited in the office of the Minister of Public Works, at Wellington, in the Wellington Land District, and thereon bordered red.

Schedule 2
Subdivisions of the Waimakariri River Trust District

Schedule 2 was substituted, as from 1 October 1926, by section 8 Waimakariri River Improvement Amendment Act 1926 (1926 No 13).

Christchurch subdivision.

ALL that area comprising the whole of the City of Christchurch, as described in the First Schedule to a notice under section 141 of the Municipal Corporations Act 1920, published in the *Gazette* of the 12th day of July, 1923, at page 1876, and the whole of the Borough of Riccarton, as described in the First Schedule to a like notice published in the *Gazette* of the 16th day of October, 1924, at page 2473.

Cust subdivision.

All that area in Canterbury Land District situated in the Survey Districts of Oxford, Mairaki, Rangiora, and Christchurch, and bounded as follows: towards the north generally by the northern boundary of the Waimakariri River Trust District, as described in *Gazette* No 13, 1926, page 601, from the north-eastern corner of Rural Section 5300, Block VII, Oxford Survey District, to the sea coast; thence towards the east by the sea-coast to the mouth of the Waimakariri River; towards the south by the said Waimakariri River and the southern boundary of the Borough of Kaiapoi to the left bank of the south branch of the Waimakariri River; thence by that river and the Kaikainui Stream to the road forming the south-western boundary of rural section 2387; thence by that road to the junction of Cherry Road and Island Road at Rural Section 733; thence by Cherry Road, Middle Island Road, and Maber's Road to the middle of the old course of the north branch of the Waimakariri River, now Reserve 3415; thence by the middle of that old river-course to a point opposite the south-western boundary of Rural Section 17566; thence to and by the last-named boundary, across Dixon's Road, and by the road forming the south western boundary of rural sections 2706 and 3178 to the junction of Cust Road and Eyre Road south; thence by the Cust Road aforesaid to a point opposite the north-west boundary of Rural Section 2706; thence to and by the last-named boundary and by the north-west boundary of Section 2416, and by Lord's Road, Wood's Road, Oxford Tram Road, and Radden's Road to the north-west corner of Rural Section 6946; thence by the south western boundary of Rural Sections 7980, 6521, and 6097, along White's Road to a point in line with the southern boundary of Rural Section 3591 aforesaid; thence to and across the Kaiapoi-Oxford Branch Railway to the southern boundary of Rural Section 3591 aforesaid; thence by that boundary and the eastern boundary of section 6196, along Aschen's Road, and by the south-eastern boundary of Section 7165 to the junction of the Oxford and Ohoka Road with Ashworth's Road; thence by the Oxford and Ohoka Road, the south-western boundary of Sections 7465 and 8275, the western boundary of the last-named Sections 8275 and 7192, the south-western boundary of Sections 2954, 3617, 4673, 7903, 8119, 7040, 9007, 8207, and 6250 to the south-east corner of Section 5002; thence by the south-west boundary of Section 5002 aforesaid, and

in continuation by a straight line to the south-east corner of Reserve 362; thence by the south boundary of that Reserve 362, and the east, south and west boundaries of Rural Section 12326 to the Oxford and Rangiora Railway; thence by that railway to the junction of Starvation Road and the Oxford and Rangiora Road; thence by the last-named road, and by the road forming the southern boundaries of Rural Sections 1964, 10641, 8867, and 8360 to the north-east corner of Rural Section 5300, the place of commencement.

Eyre subdivision

All that area in the Canterbury Land District situated in the Oxford, Hawkins, Mairaki, Rangiora, Rolleston, and Christchurch Survey Districts, and bounded as follows: towards the north and east generally by the Cust Subdivision from the northernmost corner of Rural Section 12278, in Block VII, Oxford Survey District, to the junction of the roads at the eastern most corner of Rural Section 4850, in Block II, Christchurch Survey District; thence towards the south generally by the Eyre Road south to a point opposite the western boundary of Rural Section 5898; thence to and by that boundary and the northern boundary of Rural Sections 5899 and 7436 to the road forming the eastern boundary of Reserve 1547; thence by that road and by Pashby's Road, the Waimakariri and Rangiora Road, and the road forming the southern boundary of Rural Sections 37080, 33610, 33043, and Lots 8, 3, and 2 of Reserve 2330, and Lots 43, 45, 47, and 48 of Reserve 2331 to the Sheffield and Oxford Railway line; thence towards the west by that railway-line and the road forming the eastern boundary of Rural Sections 18900, 21197, 12802, 27951, and 27589; thence a straight line to the south-east corner of Rural Section 5300; thence by the eastern boundary of that Section 5300 to the northern corner of Rural Section 12278, the place of commencement.

Waimakariri East Subdivision

All that area in the Canterbury Land District situated in the Rangiora, Christchurch, and Sumner Survey Districts, and bounded as follows: towards the north generally by the Eyre Subdivision and the Cust Subdivision from the intersection of roads at the south-east corner of Reserve 1547, Block I, Christchurch Survey District, to the mouth of the Waimakariri River; thence towards the east by the sea,

and towards the south by the south-east boundary of the Waimakariri River; thence towards the east by the sea, and towards the south by the south-east boundary of the Waimakariri River Trust District, as described in the *Gazette* No. 13, 1926, page 601, from the estuary of the Heathcote and Avon Rivers to the road forming the western boundary of Rural Section 814 at the southernmost corner of the City of Christchurch; thence by the Heathcote River, the Lincoln and Riccarton Junction Road, Riccarton Road, Yaldhurst Road, Russley Road, and its continuation to the middle of the Waimakariri River at Rural Section 17621; thence by a straight line to the southernmost end of the road forming the eastern boundary of Rural Sections 3079, 460, and Crown land; thence by a straight line to the easternmost end of Driscoll's Road; thence by that road to the intersection of roads at the south-east corner of Reserve 1547, the place of commencement: save and except therefrom the City of Christchurch and the Borough of Riccarton.

Waimakariri West Subdivision

All that area in the Canterbury Land District situated in the Oxford, Hawkins, Rolleston, Christchurch, Halswell, Leeston, and Ellesmere Survey Districts, and bounded as follows: towards the north generally by the Eyre Subdivision from the Sheffield and Oxford Railway line at the north corner of Section 49, Reserve 2331, Block X, Oxford Survey District, to the junction of roads at the south-east corner of Reserve 1547 in Block I, Christchurch Survey District; thence towards the east generally by the Waimakariri East Subdivision from the last-named point to the City of Christchurch, and by that city to the south-east corner of Rural Section 382; thence following in a southerly and north-westerly direction the boundary of the Waimakariri River Trust District, as described in *Gazette* No. 13, 1926, page 601, to the place of commencement.

Schedule 3
Sections in the River Boards Act 1908, and its amendments, and the Land

Drainage Act 1908, and its amendments, which are incorporated in this Act

Title of Act	Extent of Incorporation.
River Boards Act 1908.....	Sections 26, 28 to 46, 49, 51 to 82, , 107 (subsection (1)), 108, 110 to 117, 121, 122, 124 to 126.
River Boards Amendment Act 1910	Sections 2, , 4, 5, and 7.
River Boards Amendment Act 1913	Sections 6, 7, 8, and 11.
River Boards Amendment Act 1917	Sections 2, 3, 4, 5, and 6.
Land Drainage Act 1908	Sections 17, 18, 19, 23, 26, 50, 57 and 62.

This Schedule was amended, as from 28 June 1988, be omitting from the first item in the second column the words "85 to 87, 89 to 92, 95 to 105", from the second item, the expression "3", and from the third item, the expression "9, 10" pursuant to section 208(1) Rating Powers Act 1988 (1988 No 97).

The reference to the River Boards Act 1908 was amended, as from 20 December 1933, by omitting as much as relates to section 27 of that Act, pursuant to section 3 of the Waimakiriri River Improvement Amendment Act 1933 (1933 No 17).

Schedule 3 was amended, as from 1 October 1926, by inserting a reference to section 62 of the Land Drainage Act 1908 pursuant to section 4(2) of the Waimakiriri River Improvement Amendment Act 1926 (1926 No 13).