

Report No.	20-12
<b>Decision Required</b>	

## ENHANCING THE HEALTH AND WELLBEING OF THE MANGAKINO (MAKINO) STREAM - THE USE OF FINE FUNDS

### 1. PURPOSE

- 1.1. This paper seeks Member's consideration of the use of remaining funds from the prosecution of PGG Wrightson Limited and Carrfields Livestock Limited.

### 2. EXECUTIVE SUMMARY

- 2.1. On 16 February 2018, a discharge of animal effluent occurred into the Mangakino (Mākinu) stream in Feilding. Horizons investigated and laid charges against PGG Wrightson and Carrfields. These companies were subsequently found guilty and fined in court. The case included a victim impact statement on behalf of tangata whenua and the stream itself, provided by Ngati Kauwhata.
- 2.2. The Judge imposed fines totalling \$146,250 of which \$131,000 was received by Horizons. Horizons has used the fine monies to cover the cost of its investigation. \$76,165 remains. In his notes, Judge Dwyer noted the request from Ngati Kauwhata that '*some of the fine monies be directed to environmental work for the benefit of the waters in this particular area*'. Horizons staff have discussed the use of remaining funds to benefit the health and wellbeing of the stream principally with Ngati Kauwhata.

### 3. RECOMMENDATION

It is recommended that Council:

- a. receives the information contained in Report No. 20-12;
- b. notes that Horizons Regional Council received \$131,000 in fine monies following the prosecution of two parties for an illegal discharge of animal effluent into the Mangakino (Mākinu) stream;
- c. notes that after covering the costs to ratepayers of taking the prosecution \$76,165 remains;
- d. **either**
  - i. agrees that the remaining \$76,165 be absorbed into the general reserve;
  - or**
  - ii. agrees that, subject to a formal agreement, \$76,165 be expended on a series of projects to benefit the health and wellbeing of the Mangakino (Mākinu) stream as detailed in this report;

### 4. FINANCIAL IMPACT

- 4.1. A total of \$131,000 were received in fines. After covering the cost of the investigation and prosecution \$76,165 remains.

- 4.2. The options for the remaining funds are that they are:
- i. absorbed into Horizons' general reserves
  - ii. utilised for the health and well-being of the stream.

## 5. COMMUNITY ENGAGEMENT

- 5.1. There have been ongoing discussions with Ngati Kauwhata.

## 6. SIGNIFICANT BUSINESS RISK IMPACT

- 6.1. There is no significant business risk

## 7. BACKGROUND

- 7.1. The use of fine monies is at the discretion of Horizons. Fines levied by the courts are collected by the Ministry of Justice and the portion due to Horizons is then remitted to Council. The collection of any fine is the prerogative of the Ministry of Justice.
- 7.2. The court will sometimes make comment on the use of fine monies, but doesn't have the power to instruct Council on how it uses the funds.
- 7.3. There is precedent for using all or part of fine monies to benefit the environment and in particular, where there is a clear victim, such as a river. In the case of the diesel spill caused by Ruapehu Alpine Lifts, Horizons covered the costs of its investigation from the fine monies and the remainder was used for community projects around the Mākōtuku. In the case of pollution of the Mōwhanau stream by Whanganui District Council, Horizons committed in sentencing that funds would be used to benefit the river in agreement with Ngaa Rauru.
- 7.4. The connection between communities and iwi / hapū and waterways is often a significant factor in court processes. In the case of the illegal discharge into the Mangakino (Mākino), Ngati Kauwhata filed a victim impact statement on behalf of the manga, themselves and their relationship with the manga.
- 7.5. In his sentencing notes, Judge Dwyer commented as follows *"The fourth adverse effect which I identify is a cultural one. The Court has received a cultural impact report from Ngati Kauwhata who expressed the view that the discharge of animal excrement into any waterway is obnoxious and unacceptable and that this discharge was a devastating and culturally offensive event. I am aware of the importance of Manawatu rivers generally to local iwi as a result of my work in the Environment Court in this region over a number of years. The sentiments which they express often represent feelings of the wider community which also has an interest in the rivers but carry special weight because of the status which iwi have as Kaitiaki and because of the relationship which they have with their ancestral waters. These matters are directly recognised in the RMA and I am required to give due weight to them in my consideration in undertaking this sentencing function."*

## 8. DISCUSSION

- 8.1.1. Horizons staff have worked with Ngati Kauwhata to understand key areas for potential investment in the health and wellbeing of the stream. These are:
- i. stream and habitat enhancement
  - ii. mātauranga Maori and freshwater education
  - iii. Cultural health monitoring and training.

- 8.1.2. In looking at these three areas of investment, the focus has included:
- i. enhancing the health and wellbeing of the stream
  - ii. building on existing programmes of work
  - iii. developing iwi capacity around freshwater
  - iv. overlap with freshwater and policy work of Horizons
  - v. delivering a programme over a suitable timeframe that matches capacity to deliver with planned works
- 8.2. *Proposed habitat and stream enhancements.* The proposed focus of this work is an area adjacent to the Mangakino (Mākinō) Stream known as the Mangakino Esplanade. The area is currently degraded. Ngati Kauwhata is proposing to work with partners including Manawatu District Council, Horizons Regional Council, Department of Conservation, Transpower NZ, Awahuri-Kitchener Park Trust and Recreational Service Limited. The focus of the work will be planting of native flora and buffer zones to enhance habitat, and improving grassed areas and picnic sites to better enable public access and enjoyment of the restored areas. This will build on habitat and stream restoration already undertaken in Awahuri-Kitchener Park.
- 8.2.1. *Mātauranga Maori and education programme.* The focus of this programme will be to develop and deliver a programme of wānanga or workshops focused on developing mātauranga and ecological education about the Mangakino (Mākinō) and Mangaone streams. The programme will focus on delivery to rangatahi with the key areas of delivery being developing knowledge of Te Awa – the Mangakino and neighbouring catchments, the local ecology, iwi history and relationships with the river. This will build on the work done in one of the whare constructed alongside the Mangakino through a Te Mana o Te Wai project.
- 8.2.2. Development of mātauranga is a focus in government's proposed Essential Freshwater package and mātauranga knowledge will be important in setting values and monitoring methods in future reviews of the One Plan. Assisting Ngati Kauwhata in developing this knowledge further is a valuable investment.
- 8.3. *Cultural health monitoring and training.* This area of focus links to the mātauranga area noted above. It aims to give practical effect to cultural monitoring of the stream. Again this will be enshrined in government's package and will be important to future versions of the One Plan. Members of Ngati Kauwhata have been trained via workshops at marae in Woodville and at Kauwhata marae. This part of the programme aims to put these skills into practical action and links to 8.1.1 ii. above in terms of training.
- 8.4. The final component of the proposed funding package is a small amount of resource to enable iwi to administer and run the proposed package over three years. The programme has deliberately been spread across three years to match capacity to deliver.

Total cost

	Year 1	Year 2	Year 3
<b>Habitat Restoration &amp; Enhancement</b>	<b>10,000</b>	<b>8,000</b>	<b>6,500</b>
<b>Matauranga Maori &amp; Education</b>	<b>8,000</b>	<b>7,500</b>	<b>7,800</b>
<b>Ecological and cultural health monitoring and training</b>	<b>6,000</b>	<b>4,500</b>	<b>3,000</b>
<b>Project management</b>	<b>5,000</b>	<b>5,000</b>	<b>4,800</b>
<b>TOTAL</b>	<b>29,000</b>	<b>25,000</b>	<b>22,100</b>

## 9. TIMELINE / NEXT STEPS

- 9.1. Should Council approve the expenditure on the health and wellbeing of the stream, a formal agreement will be established between Ngati Kauwhata and Horizons Regional Council with the transfer of funds in the current financial year.

## 10. SIGNIFICANCE

- 10.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

Nic Peet

**GROUP MANAGER STRATEGY & REGULATION**

## ANNEXES

There are no attachments for this report.