

Annex G: Health and Safety Risk Management Considerations for the Lake Horowhenua Accord Work.

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Introduction

This document relates to the health and safety implications for the ongoing work done as part of the Lake Horowhenua Accord and Action Plan. This advice is from the viewpoint of Horizons Regional Council and its health and safety obligations towards its workers, other stakeholders' workers and the public.

Work carried out under the Accord includes – fish pass construction; sediment traps; weed harvesting on the lake; agricultural impact reduction initiatives; water quality monitoring, lake bed analysis and plant nurseries.

Operational Challenges

Since the implementation of the Action Plan there has been increasing opposition to the work from some members of the community. Horizons workers have been subjected to actual physical violence, threats and intimidation. The work being carried for the improvement of the lake and its surrounds is a statutory obligation, reducing the ability to simply cease to do the work. While some the initiatives have been halted in the interests of the health and safety of workers, this has been considered a temporary measure. For the full work programme to commence again there would need to be additional risk management solutions put in place to protect workers and others from further violence and intimidation.

Governance – Health and Safety Perspective

Horizons Regional Council is a Person Conducting a Business or Undertaking (PCBU) under the *Health and Safety at Work Act 2015* (HSWA). As a PCBU, Horizons Regional Council has a primary duty of care to 'ensure so far as reasonably practicable, the health and safety of workers who work for the PCBU' and also 'that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking'. Under the HSWA, workers are identified as employees, contractors, sub-contractors and some volunteers (where a volunteer is an integral part of the organisation).

The HSWA appoints Officers of the PCBU to take on the responsibility for achieving the primary duty of care. For Horizons, the Officers of the PCBU are the elected members and the Chief Executive. The Officers of the PCBU are given six due diligence obligations that demonstrate that they are meeting the requirements of the HSWA. In relation to the Lake Horowhenua Accord work, the most relevant due diligence obligation is 'to ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking'.

It is important to note that under the HSWA 'Health means physical and mental health'. Physical and mental health has equal standing when it comes to meeting our health and safety obligations and managing risk.

Operational Risk Management

The HSWA requires that 'a PCBU who manages or controls a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and

anything arising from the workplace are without risks to the health and safety of any person'. From an operational perspective, given the level of potential mental and physical harm that Horizons workers have been subjected to, there needs to be additional consideration given to the controls in place for minimising risk when the work is carried out. The current controls, although extensive have failed to mitigate the potential for mental and physical harm to occur. If work is to be recommenced in some of the areas where it has been temporarily halted, then management must be confident that 'all reasonably practicable steps' have been put in place to prevent further harm.

Working with other PCBU's

Horizons has other options at its disposal for the delivery of the required services as part of the Lake Horowhenua Accord Work. They could directly engage contractors to carry out the work, or take a further step back and provide grant funding for other stakeholders to facilitate the work. In both cases Horizons cannot extract itself completely from its obligations under the HSWA. PCBU's working together on a piece of work or a work programme need to 'so far as is reasonably practicable, consult, co-operate with, and co-ordinate activities with all other PCBU's who have a duty in relation to the same matter'. This means all the PCBU's involved have a stake in meeting the primary duty of care for the health and safety of workers and other persons.

If Horizons is engaging others to complete the work on their behalf in place of Horizons employees, there will still be a requirement for them to consult, cooperate and coordinate with the PCBU's they are partnering with. This includes sharing information on the risks involved in the work and the agreeing the control measures that will prevent harm. Regardless of who carries out the work, Horizons will not be able to remove itself completely from its duty of care under the HSWA.