

STAFF REPORT

TO: Chairman and Members, Engineering Services Committee
FROM: Jeff Cuthbertson, Utilities Asset Manager
DATE: 31 March 2010
REFERENCE: W217
SUBJECT: **TORRENT BAY TOWNSHIP COMMITTEE – WATER CONSENT RESC10-04-07**
Report prepared for meeting of 15 April 2010

1 PURPOSE

The purpose of this report is to confirm with the Engineering Services Committee that Council does not own or operate the Torrent Bay Water Supply and to seek approval to transfer the water permit for the Torrent Bay water take to the Torrent Bay Township Committee.

2 BACKGROUND

The Torrent Bay Water Scheme has provided water solely for the dwellings in Torrent Bay since about 1927. The Torrent Bay Township Committee currently operates the Scheme.

When the land around Torrent Bay was under private ownership and before the land was transferred to the Crown as part of the Abel Tasman National Park, a parcel of land (approximately 21.596 hectares) was gifted to the Council as the Torrent Bay Waterworks Reserve.

Water is abstracted from a water course on this land (un-named stream) and reticulated to the small Torrent Bay community.

Council has not provided any financial assistance from its water account to the Torrent Bay Township Committee nor does Council provide maintenance and replacement assistance. No assets within the Torrent Bay Water Supply are valued or depreciated by the Tasman District Council.

It has always been recognised that the Torrent Bay Water Scheme has been privately owned and operated. No water rates are paid by the Torrent Bay water consumers to Council.

Discussions have been held with the Torrent Bay Township Committee and they have indicated that they are happy to continue to operate their water supply.

3 RESOURCE CONSENT

I understand that the Engineering Department has applied for water consents on behalf of the Torrent Bay Township Committee as this committee is not a legal entity. To hold a resource consent the committee would need to be incorporated, ie RMA section 2 Interpretation states:

“Person” – includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate.

It would be preferable for the Torrent Bay Township Committee to take over the resource consent for water extraction.

4 LAND ACCESS

The Torrent Bay water intakes are located on land owned by the Tasman District Council as Water Works Reserve. Council needs to have an agreement with the Torrent Bay Township Committee that:

- a) permits the committee to have the water intakes upon Council land;
- b) ensures that all issues relating to the installation, operation and maintenance of the intakes will be undertaken by the Torrent Bay Township Committee; and
- c) includes an acknowledgement that the Committee owns the water intakes that are situated on the Council's land.

5 WATER QUALITY

Council has received a letter (attached) from the South Island Drinking Water Assessment Unit (Nelson-Marlborough District Health Board) outlining that:

- a) The Torrent Bay Village water supply does not comply with the New Zealand Drinking Water Standards.
- b) The Nelson-Marlborough District Health Board will continue to regard the Torrent Bay Village water supply as being under the ownership of the Tasman District Council until it is formally transferred to another body.

As the Tasman District Council has never accepted ownership or the operation and maintenance of the Torrent Bay Township Water Supply no testing of the water supply has ever been carried out by Council.

6 OWNERSHIP OF THE WATER SCHEME

For Council to own something we must generally have the following:

- The asset is recorded on Council's asset register;
- Council budgets to operate and maintain the facility;
- Council provides for funding/operations and levels of service as required in the Ten Year Plan and the Activity Management Plan, and
- Council values the asset.

Council has no record of the asset in any of the above. However, in the absence of an agreement between the Council and any other person regarding the ownership of the water intakes, the Council's solicitors have advised that the Council is the legal owner of the water intakes that are situated on the Council's land. There is nothing to suggest that the Council owns any part of the water scheme beyond the boundary of the Council's land.

The Council, as landowner, has allowed the local community to convey water over the Council's land, and it is that arrangement that needs to be formalised.

7 WAY FORWARD

- a) It would be preferable that the Torrent Bay Township Committee becomes a legal identity.
- b) Council could transfer the existing water extraction consent in the name of the Torrent Bay Township Committee.
- c) Council and the Torrent Bay Township Committee agree terms on which water can be conveyed across the Council's land, including access to the water reserve for the purpose of installing a water intake.
- d) That the Torrent Bay Township Committee test their water supply and provide these tests to the Ministry of Health.

8 RECOMMENDATION

- 8.1 THAT the Engineering Services Committee endorse that the Tasman District Council does not own or operate the Torrent Bay Water Scheme.**
- 8.2 THAT the Engineering Services Committee supports the option for staff to discuss a way forward for the Torrent Bay Township Committee to take over the water extraction consent and that an easement agreement is negotiated and entered into by the parties.**



Jeff Cuthbertson
Utilities Asset Manager