

Ashburton District Council Stockwater Race Closure Hearing

to be held on

Wednesday 7 December 2022

commencing at 9am

**In the Council Chamber,
137 Havelock Street,
Ashburton**

Stockwater Race Closure Hearing – 7 December 2022

1 Welcome and Introductions

Council Hearing Panel:

Mayor Neil Brown; Deputy Mayor Liz McMillan (Chair), and Crs Carolyn Cameron, Russell Ellis, Phill Hooper, Rodger Letham, Lynette Lovett, Tony Todd and Richard Wilson

2 Purpose of Hearing

The purpose of the Hearing is to consider an application to close the stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN:24028, 323 Anama Settlement Road.

There are 20 affected properties in total. Nine property owners/occupiers support the closure, nine property owners/occupiers do not support the closure and two have indicated support for whichever recommendation is approved.

An explanatory memo is appended.

Appendix 1 Pg 3

3 Hearing Procedure

Appendix 2 Pg 5

3.1 Applicant's presentation

Appendix 3 Pg 6

- Alistair Morrison (10 minutes)

3.2 Other presentations (Support / Oppose) (10 minutes each)

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3.3 Council officers' report

Appendix 4 Pg 7

- Supplementary documents (survey forms and map circulated with this agenda)

3.4 Applicant's right of reply

- Alistair Morrison (10 minutes)

3.5 Hearing Panel deliberations

The Hearing Panel may defer deliberations. The outcome will be reported to the Council meeting on 21 December 2022.

Neil McCann

Group Manager Infrastructure Services

Appendix 1



To: Council
From: Infrastructure Services Support Lead
Date: 1 December 2022
Subject: Anama area stockwater race closure hearing – SKW/008/22

Summary

1. The purpose of this memo is to re-introduce an application to close a section of local stockwater race located in the Anama area.
2. A report for this closure was considered by Council at a meeting held on 5 October 2022. A copy of the report is attached.
3. Council resolved at the meeting:

That the application to close the stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN: 24028, 323 Anama Settlement Road be referred to a Council hearing.

Wilson/McKay

Carried

A show of hands gave 5 for and 5 against and the motion was lost on the Mayor's casting vote.

Background

4. An application has been received to close a section of local stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN: 323 Anama Settlement Road.
5. There are 20 affected properties in total.
6. Nine property owners/occupiers support the closure, nine property owners/occupiers do not support and two indicate their support for which ever recommendation is approved.
7. The significance of the application was assessed as per the requirements of Council's Standard Operating Procedure – Water Race Alterations (including closures) document dated October 2019.
8. The significance level was calculated as Moderate/High with there being more than 10 properties, the closure length was more than 10kms, and opposition to the closure was greater than 10%. This triggered the report to be put to Council.
9. Given the even split between support and non-support, the officer's recommendation in the 5 October 2022 report was to decline the closure.
10. Several of the non-supporting properties have indicated they will require an alternative stockwater supply if the race is closed.

11. There are two possible alternative supplies available either via the Rangitata Diversion Race (RDR) or BCI Irrigation scheme.
12. The RDR undertakes maintenance shutdowns every two to three years where no water flows through their race for three to four weeks at a time. This has implications for property owners relying on that supply of stockwater during their shutdown periods. Any supply from the RDR would require significant infrastructure installation.
13. The BCI piped irrigation scheme does not operate within the closure area; however it does have a holding pond approximately 1km from the closure area which would require significant infrastructure to be installed to enable connection to the scheme.
14. Any alternative supply from the RDR or BCI would require significant funding input from either individual property owners or the Ashburton District Council.
15. All affected parties have been contacted and offered the option of attending the hearing. A timetable listing the 10 property owners/occupiers who will be attending is attached. Also attached are the closure survey forms provided by each attendee.

Options available

16. There are two options available:

Option one – decline the closure of the stockwater race

Option two – approve the closure of the stockwater race

Conclusion

17. During the hearing and deliberations, Councillors need to take into consideration Schedule 1 of the [Water Races Bylaw](#).
18. Schedule 1 sets the assessment criteria for all stockwater race closure applications to ensure the final decision reflects the overall merits of the application as a whole.
19. Following the hearing deliberations, the decision and recommendation will be reported back to Council on 21 December 2022.

Crissie Drummond

INFRASTRUCTURE SERVICES SUPPORT LEAD

Appendix 2: Stockwater Race Closure Hearing Procedure

Water Races Bylaw

In accordance with the Water Races Bylaw, upon receipt of a stockwater race closure application, Ashburton District Council (“the Council”) must make a decision on this race application (“the Application”).

Hearing Procedure

The Council shall undertake a public hearing on the Application. At the hearing, the applicant and the submitters in objection may present to Council on any issues relevant to the race closure, before Council makes a decision on the Application.

The hearing shall proceed as follows:

1. Applicant: The applicant shall have 10 minutes to present their case for the race closure.
2. Submitters: Each submitter shall have 10 minutes to present on their objection to the Application.
3. Council officers: Council officers will present a report on the Application, which shall include a recommendation on the Application. This report shall be pre-circulated in the Council Meeting Agenda.
4. Applicant right of reply: The applicant shall have 10 minutes to reply to any point raised by the submitters or Council. No new material or issues shall be discussed in the right of reply.
5. Council: Councillors shall then deliberate on the Application in open meeting. Council has the option to either make a decision on the Application, or reserve its decision for a later date. Council has the right to reserve its decision for any reason, including if there is insufficient information available to make a decision on the Application.

Appeal Rights

There is no right of appeal under the Water Races Bylaw against the Council’s decision on the Application. Council’s decision shall therefore be final.

Hearing Guidelines

1. No applicant or submitter shall be required to attend, or present, at the hearing. The Chairperson shall amend the hearing procedure accordingly, depending on which parties attend the hearing.
2. Submitters shall only be authorised to present at the hearing if they have lodged an objection to the Application prior to the objection deadline, and they confirm to the meeting secretary at least one day prior to the hearing that they wish to present.
3. Presentation time limits will be strictly enforced by the Chairperson.
4. The applicant and submitters have no right to cross-examine or question any other party.
5. There is no requirement to pre-circulate evidence or any written material, other than the Council officers’ report.
6. The applicant and submitters may wish to prepare written material to accompany their presentation. Please ensure you bring at least 15 copies of any material you wish to distribute.
7. The hearing may be live-streamed via Council’s usual streaming channels.
8. Nothing in this Procedure is intended to amend or supersede standard Council meeting procedures as contained in Council’s Standing Orders.

Appendix 3: Schedule of presenters

Stockwater Race Closure Application SKW/008/22 - Hearings & Deliberations

Wednesday 7 December 2022				
Time	Name	Property No	Length of race (m)	Survey form page no.
9.00 - 9.10	Alistair Morrison	25134	1,085	1 - 7
9.10 - 9.20	Andrew Mackenzie	5484 & 5485*	948 & 44	8 - 10
9.20 - 9.30	Paul Grigg	23051	1,963	11 - 13
9.30 - 9.40	Malcolm Clapperton	17564	37	14 - 16
9.40 - 9.50	Michael Rushton	5486	1,214	17 - 19
9.50 - 10.00	Graeme Power	5494, 17561 & 24566*	306, 208 & 50	20 - 22
10.00 - 10.10	Pauline Hewson	5514	1,632	23 - 25
Morning Tea Break				
10.30 - 10.40	Robert/Andrew Spencer	24028	1,558	26 - 28
10.40 - 10.50	Gerard Rushton	5482	1,824	29 - 31
10.50 - 11.10	Mihaela Williams	17563	80	32-34
Deliberations				
Council meeting begins at 1pm				
* Ashburton District Council owned land – leased to adjacent landowners				

Appendix 4

Council



[Copy of report presented on 5 October 2022]

Stockwater Closure Report – SKW/008/22 – Anama area

Author *Crissie Drummond; Infrastructure Services Support Lead*

GM responsible *Neil McCann; Group Manager Infrastructure Services*

Summary

- The purpose of this report is for Council to consider an application to close a section of local stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN: 323 Anama Settlement Road.
- The total distance to be closed is 12,052 metres.
- There are 20 affected properties, including the applicant. Of the affected property owners/occupiers, nine have consented to the closure, nine do not consent and two have indicated they will support which ever recommendation is approved.

Recommendation

1. **That** Council declines the application to close the stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN: 24028, 323 Anama Settlement Road.

Attachment

Appendix 1 Map of proposed closure

Background

The current situation

1. An application has been received from the owner PN: 23503 - 2945 Arundel Rakaia Gorge Road to close a local stockwater race commencing four properties above his own, and running through 15 properties below his own.
2. The proposal is to close the local stockwater race starting on PN: 21870, 3133 Arundel Rakaia Gorge Road, and finishing on PN: 24028, 323 Anama Settlement Road.
3. Approximately 3.9km downstream from the start of the proposed closure, the race splits into two at a junction on PN: 5482, 102 Heenans Road. From this location the races run parallel to each other with both lengths of race finishing on PN: 24028 (approximately 700m from each other) where they normally join the Mt Somers Willowby main.
4. Council's Water Ranger has confirmed the exact location of the races and that there are 20 affected parties including the applicant affected by this proposal.
5. The Asset Manager has confirmed that the races do not hold any strategic value, however noted that road drainage on Anama School Road may be an issue.
6. There are five road crossing affected by this closure. The Roding Team has advised many culverts will be affected by this closure; particularly around the Anama Township. They have concerns with drainage issues on Anama School Road during rain events and the team's preference is this stockwater race is not closed due to possible additional flooding issues that may occur as a result of landowners filling in their sections of this stockwater race upstream of Anama as a result of a closure.
7. Rapid Field Ecological Assessments were undertaken at three sites along the race system:
 - Lower Downs Road (above the RDR)
 - Heenans Road (race closest to Arundel Rakaia Gorge Road)
 - Heenans Road (race furthest from Arundel Rakaia Gorge Road)

Consultation

8. The applicant has consulted with the other 19 property owners affected by the proposed closure.
9. The applicant acknowledges in their application that some properties will need to be provided with an alternative stockwater supply provided if the race closure proceeds. This is discussed further later in the report.
10. All property owners completed and returned the required Water Race Closure Affected Parties Consent Survey.

11. The results of the surveys forms are outlined below:

Fully support closure	Do not support closure	Either way
9	9	2

12. The lengths of race are:

Fully support closure	Do not support closure	Either way
5,686m	5,800m	515m

13. The nine property owners who do not support the closure have advised on their survey forms:

PN:	Reason for not supporting	Race length	Comment
5486	RDR water access but no water during shutdowns. 25% of property troughed with more planned as finances allow over next few years. Estimate another \$60k + to complete. Intend to do as finance and storage solutions align. No irrigation on this property. BCI <1km from boundary.	1,214m	Has some troughs in place but needs more to cover all of the property. Storage will be required to cover RDR shutdown periods if race closed.
24566	ADC owned land leased to neighbouring property who relies on race. Would require alternative water source if race is closed.	50m	Alternative supply required if closed.
5499	Uses race as no reticulated SW system on property. Want it to help stop water from flooding around their house. No irrigation on this property. BCI >1km from boundary.	52m	Services one small paddock at front of property.
5493	Uses race as no reticulated SW system on property. Use for deer. Want it to help stop water from flooding around their house. No irrigation on this property. BCI >1km from boundary.	112m	Services one 2ha deer fenced paddock.
5514	Uses race as no reticulated SW system on property No irrigation on this property.	1,632m	Leases portion of property to neighbour

PN:	Reason for not supporting	Race length	Comment
			who wishes to retain race for stock use.
24028	Uses race as no reticulated SW system on property No irrigation on this property. BCI >1km from boundary. Supports retaining for firefighting and ecological purposes.	1,557m	A section of the Mt Somers Willowby main will continue to run through the lower part of the property.
5485	This is ADC owned land – the leasee relies on race for stockwater. MHV Water >1km from boundary.	44m	This is a thin strip of land forming part of leasee’s paddock
5484	Uses race as no reticulated SW system on property – only water available for stock. Leases ADC land PN: 5485 next door MHV Water >1km from boundary.	948m	The ADC leased land is immediately adjacent to own property and a continuation of the race.
5490	Reticulated SW system on own property but leases portion of neighbouring property across the road (PN 5514) which does not have a reticulated system	241m	Own property is ok for stockwater but needs water on leased block.

14. Two properties (owned by the same person) have said that they will work with the major vote. They have a total race length of 515m. They receive water from the RDR but have said that when that system is shutdown they have to look for other water supplies.

Possible alternative water supply via the RDR or BCI

15. The applicant acknowledges that some properties will require an alternative stockwater supply if the race is closed, possibly from the RDR which has an outlet from the pressured siphon above Lower Downs Road.
16. Officers have raised this possibility with RDR management. RDR confirm there are two 50mm outlets off the Surrey Hills siphon, approximately 2km apart. They advise that these each supply one or two individual local properties. These historic supplies are unregulated and inconsistent with current RDR’s preference/requirement to have all water measured and controlled. There is no formal agreement for these supplies, and it is not an arrangement they would like to see proliferate.

17. The RDR preference is for alternative supplies and distribution be by other means if possible, such as via the BCI scheme. If no other option is available, there is an expectation that an offtake would be installed that is consistent with RDR engineering and commercial requirements. While the RDR supply reliability is high, there are maintenance shutdowns every two to three years during which the RDR would not be responsible for maintaining supply at Surrey Hills. That would be ADC's responsibility and the relationship with any new water users would also be via ADC. Any additional stockwater supply from the RDR would be from ADC's water allocation.
18. Given the above, should the RDR be considered as an alternative supply option, investigation work would be required to determine the exact costs for installing the necessary control gates, valves and flow metres. Estimates for such a structure at this time are >\$50k.
19. There will be additional cost involved in enabling any additional RDR water overland to properties.
20. BCI does not have any network located within the closure area. The BCI Cavendish pond is on the northern side of the Arundel Rakaia Gorge Road, and approximately 600m from the stockwater race. A piped supply to the closure area would be the only option, however that would come at a significant cost.

Māori and tangata whenua participation

21. Aoraki Environmental Consultancy provided a cultural assessment of the proposal to close the race. This assessment advised that no cultural values are impacted by this closure.

Options analysis

Factors to be considered:

a	Length and location of section of race to be altered or closed	A total of 12,052 metres will be closed as a result of this application starting on PN: 21870, 3133 Arundel Rakaia Gorge Road and finishing on PN: 24028, 323 Anama Settlement Road
b	Number of properties that will be affected	20 properties are affected by this closure.
c	Current use of the section of race proposed to be altered or closed	It is an operational local race
d	Percentage of landowners/occupiers in support of the closure	45% fully support
e	Economic analysis of race closures and alterations, including the operating and capital costs and benefits for all affected parties, and the equitable distribution of those costs and benefits.	Operational costs of this race are the sole responsibility of the landowners. The closure of this race would benefit the owners with no maintenance costs going forward, but will disadvantage other properties that still rely on the race for stockwater.

f	Cost-effective water sources available to properties, including costs of in-farm infrastructure, such as wells, pumps, tanks and reticulation	There are no cost effective water sources available to the properties who still rely on the stockwater race at this time.
g	Whether the race is a main race or a local race	It is a local race
h	Cultural values affected by the alteration or closure	A Cultural Assessment received from Te Runanga O Arowhenua advised no cultural values are impacted by this closure.
i	Ecological values affected by the alteration or closure	One Rapid Field Assessment was undertaken on Lower Downs Road, and two undertaken on Heenans Road. All of the assessments showed there is no evidence of ecological significance.
j	Land/storm water drainage values affected by the alteration or closure	A race closure will impact detrimentally on the drainage of storm water in this area. Should the race be closed, the closure conditions would need to request a swale be retained through all properties to provide stormwater drainage. A closure may also impact the roading network in the area.
k	Fire-fighting values affected by the alteration or closure, such as the availability of water within that section of the race to provide a source for fire-fighting	No water will be available for firefighting purposes if the race is closed.
l	Physical effects of closure on other network infrastructure	No other network infrastructure is affected by the closure.
m	Impacts of mitigation measures that may reduce the effects of race closures or alterations	No mitigation measures required or proposed.
n	Achievement of the objectives of the Surface Water Strategy, the Ashburton Water Zone Implementation Programme, and the Canterbury Water Management Strategy and the Council meeting its obligations under the Canterbury Land and Water Regional Plan	The closing of this section of stockwater race will contribute to a more efficient race network, which is entirely consistent with the Surface Water Strategy and Ashburton.

Option one – Decline the closure of the stockwater races (Recommended)

22. Under this option, the races will remain in their current locations.
23. There will be no need to find alternative supply for the nine properties (of the 20 affected properties) at a considerable cost, who rely on the water race for the supply of stockwater.
24. The races will continue to assist stormwater drainage in the Anama area.
25. The analysis of the 14 bylaw criteria supports this recommendation.

Option two – Approve the closure of the stockwater races (Not Recommended)

26. Under this option, the junction on PN: 21870, 3133 Arundel Rakaia Gorge Road would be closed stopping water flowing down the races from this junction.
27. The nine properties who do not support the closure and rely on the water race for stockwater would need to be provided with an alternative supply.
28. If the RDR is deemed the only option available, significant cost will be incurred to install the necessary offtake infrastructure required. This cost may never be recovered.
29. The analysis of the 14 bylaw criteria does not support this recommendation.

Legal/policy implications

Legislation

30. The Water Races Bylaw, under which the closure process sits, meets the bylaw requirements under the Local Government Act 2002.

Bylaw

31. Council adopted the Water Race Bylaw in 2019. At the time of this being developed, officers also received the Standard Operating Procedure for Water Race Alterations (including Closures). The recommended option is compliant with the Bylaw and SOP.

Strategies

32. Council adopted the Surface Water Strategy in 2018. This ten year strategy includes Council's water race network.

Strategic alignment

33. The recommendation relates to Council’s community outcome of *A prosperous economy based on innovation and opportunity* and *A balanced and sustainable environment*

Wellbeing		Reasons why the recommended outcome has an effect on this wellbeing
Economic	✓	Retaining the water race will enable the properties to continue to function
Environmental	✓	Retaining the water race will support the flow of water during high rainfall events
Cultural		
Social	✓	Retaining the water race is the only viable option for the properties connected

Financial implications

Requirement	Explanation
What is the cost?	If the race is to be closed, and alternative stockwater supplies found for nine properties, significant expenditure well in excess of \$50,000 could be incurred if a supply has to be obtained by ADC for those properties from an external stakeholder such as the RDR.
Is there budget available in LTP / AP?	No
Where is the funding coming from?	The funding would need to come from other stockwater ratepayers
Are there any future budget implications?	Yes. Less stockwater rates will be received and the installation of new infrastructure would impact the stockwater budget.
Reviewed by Finance	Erin Register; Finance Manager.

Significance and engagement assessment

34. All property owners were consulted as part of the application process.

35. One external stakeholder, Te Runanga O Arowhenua were consulted as part of the application process.

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Medium
Rationale for selecting level of significance	Applying the technical thresholds set out in the Standard Operating Procedure for Stockwater closures, three criteria scored LOW, and the three scored MED, for an overall score of MEDIUM. Reviewing this assessment “in the round” it remained MEDIUM overall.
Level of engagement selected	Level 3. Consult – All affected parties have been formally engaged with.
Rationale for selecting level of engagement	This is consistent with Council’s bylaw and SOP and council’s S&E Policy.
Reviewed by Strategy & Policy	Toni Durham; Strategy & Policy Manager

Appendix 1

SKW/008/22



Stock Lines	Race, Open	Soak Hole
Race_type, Operating Status	Stock Water Points	Supplementary Intake
Main, Closed	Point_Type	Urban Road Labels
Main, Open	Discharge	ADC Carriageways
Race, Closed	Intake	Address labels

Disclaimer Note:

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