

## Appendix E

### From James Lambie and Allan Cook in response to evidence raised by submitters regarding the Environmental Code of Practice

COP (November 2009 version of the Environmental Code of Practice for River Works)  
 LB main (Logan Brown main evidence)  
 LB supp (Logan Brown supplementary evidence)  
 TMI (caucus with Paul Horton and subsequent delimitation of SOS-C (238/16))  
 Ngati Kahungunu (delimitation of SOS-C in response to submission from Ngati Kahungunu (180/81))  
 PH evidence (the letter from Paul Horton)  
 JL supp (Jim Lambie supplementary evidence)  
 JL main (Jim Lambie main evidence)  
 JW supp (Julian Watts supplementary evidence)

Issue	Reference	Response and reason	Recommendation
Remove the Dotterel clause that allows for work during the dotterel nesting season when an inspection shows no dotterel are present	LB supp para 23. COP - all sites starting with "R".	Due to the way SOS-R are mapped, it is possible for there to be gravel beaches that do not have nesting dotterel during the nesting period. The intention of the clause (to provide opportunity for works if no dotterel are present) should be retained. An addition of "suitably trained" to the clause would ensure that personnel doing site inspections know what they are looking for.	In all references to dotterels in the Special Standards for Good Practice table, change the reference to read: <ul style="list-style-type: none"> <li>when an inspection of the site by a suitably trained person shows no dotterel are present;</li> </ul>
Replace the Inanga Spawning clauses with those referenced in Appendix 7 of Logan Brown's evidence	LB main pgs 98-99. LB supp para 64. COP pg 97-98	The additional controls sought are either already catered for, or do not fit the activities undertaken by Horizons in Inanga Spawning zones.	Do not adopt the clause list from LB 98-99 as it stands. Revise current clause 7 (1.3 Inanga Spawning Sites – pg 98) to read: <p>7. Any cleared area shall be revegetated within one month where practicable. Where it is not practicable to revegetate the area within one month, the reason why shall be documented in accordance with the Code of Practice reporting and monitoring standards.</p>

Issue	Reference	Response and reason	Recommendation
Extension of the exclusion dates for sites A1-A8 to cater for dwarf galaxias recruitment.	LB supp para 24 LB supp pgs 22 and 23 COP sites A1-A8 (pg 103 and 104)	Disagree – LB provides insufficient information about recruitment to justify the proposed extension to the exclusion date.  Further compromise by changing the exclusion date to 7 January can easily be accommodated without affecting works.  It is necessary to change the name reference of the species to Dwarf Galaxias to remain consistent with POP.  Site A1 needs a dwarf galaxias condition.  Other minor tidy-ups also needed.	Change the reference to the species from “Dwarf Galaxid” to “Dwarf Galaxias”  Change all references to the end of the exclusion periods from 31 December to 7 January i.e:  “A consent will be required...Kumeti site...between 1 September and 7 January”  “A consent will be required...West Tamaki...between 1 September and 7 January”  “Avoid in-stream works...Top Grass...between 1 September and 7 January”  “Avoid in-stream works...Mangatiwanui...between 1 September and 7 January”  Change the reference to the “Mangatiwanui” site to Mangatewanui  See comments below for site A1
A more specific definition of the works areas within the South East Ruahine Scheme	LB supp pg 23 in relation to site A1	Disagree for the reasons outlined in JL main para 153	No change
Add a training clause in reference to site A41	LB supp pg 10 COP pg 101	Agree to the concept in principle, though the requirement should be worded to include external observers if the need arises.	Insert the clause:  A suitably trained person is to be present during the operation to retrieve brown mudfish, record numbers, and then replace them to the stream.
Add SOS-C to Himatangi Scheme with provisions to protect juvenile eel migration in the outlet of Lake Koputara to sea.	TMI PH evidence JL supp pp 21-22	Agree. This is a workable compromise in response to TMI’s submission requesting inclusion of protection of eel in the COP. It is consistent with protecting specific values in specific places.	Insert new map, replacing the Himatangi Scheme map with SOS- C. Insert SOS-C C1 in Special Standards for Good Practice Table below site A41 (COP pg 101) to read: [Site] C1

Issue	Reference	Response and reason	Recommendation
			<p>[Scheme] – Himatangi Scheme                      [Species] – Longfin and shortfin eel (tuna)                      [Standards] – Drain clearance (either mechanical or herbicidal) between 15 August and 30 November shall be undertaken only to enhance eel migration.</p>
TMI submission on godwit etc.	PH evidence JL supp pp 23-28	TMI agrees with the reasoning JL puts forward in his supplementary evidence	No change
TMI SOS-C on the Manawatu River from mouth to gorge, Foxton Loop from confluence with Manawatu River to source, Oroua River from confluence with Manawatu River to 150 m upstream of SH56 bridge, and Pohangina River from confluence with Manawatu River to approx. T24-450-973	TMI PH evidence	In relation to a provision for eel migration, the consequence of an exclusion period over these SOS-C is unworkable. Limitations on sediment release that restrict the duration of high intensity sediment event would avoid the effects of in-stream activities during this critical life phase.	<p>Insert new maps, replacing the Lower Manawatu, Moutoa, Whirikino, Foxton East and Pohangina Scheme maps with SOS- C. Insert SOS-C C2 – C5 in Special Standards for Good Practice Table below site A41 (COP pg 101) to read:                      [Site] C2, C3, C4, C5                      [Scheme] – Lower Manawatu, Moutoa, Whirikino, Foxton East and Pohangina Schemes                      [Species] – Longfin and shortfin eel (tuna)                      [Standards] – Works will be undertaken in accordance with the generic standards (section 2.4.2) set out in the Code of Practice.</p>
Ngati Kahungunu SOS-C on the Akitio River from mouth to source	Ngati Kahungunu (180/81)	In relation to a provision for eel migration, the consequence of an exclusion period over this SOS-C is unworkable. Limitations on sediment release that restrict the duration of high intensity sediment event would avoid the effects of in-stream activities during this critical life phase.	<p>Insert a new map to replace the Akitio Scheme maps with SOS- C. Insert SOS-C C6 in Special Standards for Good Practice Table below site A41 (COP pg 101) to read:                      [Site] C6                      [Scheme] – Akitio Scheme                      [Species] – Longfin and shortfin eel (tuna)                      [Standards] – Works will be undertaken in accordance with the generic standards (section 2.4.2) set out in the Code of Practice.</p>
Site A45 – extension of exclusion date to provide for later dates for redfin bully spawning.	LB supp pg 11 and 15	Disagree with any further limits imposed on this site for the reasons stated in JL supp (par 40-44).	No change
Site A47, A48, A49 – reference to SH57	LB supp pg 12 COP pg 102	Agree	<p>Reword the Special Standards for Good Practice to read:                       A consent will be required to undertake in-stream works</p>

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			upstream of the SH57 bridge. Works downstream of the bridge are permitted if carried out under the Code of Practice Standards.
Site A129 – extension of exclusion date to provide earlier and later dates for redfin bully spawning.	LB supp pg 17	Disagree with any further limits imposed on this site. There is a fundamental disagreement about the critical spawning period for redfin bully that results from use of different references.	No change
Site A148 - extension of exclusion date to provide later dates for redfin bully spawning.	LB supp pg 18-19	Disagree with any further limits imposed on this site. There is a fundamental disagreement about the critical spawning period for redfin bully that results from use of different references.	No change
Site A62 – Requirement for consent and change to exclusion dates to provide for redfin bully spawning.	LB supp pg 20-21	Agree with the change in emphasis from redfin bully recruitment to redfin bully spawning, but need to retain the ability to respond to erosion events quickly. Adopt the restriction dates proposed by LB, but use the practicability clause.	Change the Special Standards for Good Practice to read:  Avoid in-stream works between 1 August and 31 December where practicable. Where it is not practicable to avoid works, sediment from those works shall not discolour more than 25% of the width of the wetted channel at the works site and the reasons why works have been undertaken shall be documented in accordance with the Code of Practice reporting and monitoring standards.
Sites R1-R8	JL supp COP pg 103	The Panel asked if all of JL's recommendations were in the current COP. In answering that question, JL found this oversight.	Remove reference to "The gravel extraction restrictions specified above do not... in accordance with the Code of Practice."
Sites R14-R16 and R17	JL supp Oversight noticed COP pg 106	The Panel asked if all of JL's recommendations were in the current COP. In answering that question, JL found this oversight.	Remove reference to "The gravel extraction restrictions specified above do not... in accordance with the Code of Practice."  Refer to Site R17 as well as R14, R15, and R16
Site A1	JL supp Oversight noticed COP pg 103	The Panel asked if all of JL's recommendations were in the current COP. In answering that question, JL found this oversight.	Add reference to Dwarf Galaxias in the Species column. Add the following exclusion date to the Special Standards for Good Practice Column:  A consent will be required to undertake in-stream works between 1 September and 7 January.

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Site R28 and R29	JL supp Errors / oversights COP 107-108	The Panel asked if all of JL's recommendations were in the current COP. In answering that question, JL found this oversight.	Change the reference from Upper Whanganui Scheme to Lower Whanganui Scheme.  Delete the bullet point floating at the bottom of the list.
Site R20 and R29	Errors and oversights COP 108	The Panel asked if all of JL's recommendations were in the current COP. In answering that question, JL found this oversight.	Delete this row – the contents of this row is incorporated by making the changes above.
Site A22	LB supp pg 23 COP pg104	Agree - JL made a mistake in supplementary evidence in reporting the COP standard for this site but the COP was not changed. LB's supp identifies the mistake (although also suggests an alternative start date of 1 April instead of 1 March).	Change the Special Standards for Good Practice to wording to read:  A consent will be required to undertake in-stream works in the Manga Atua site of significance between 1 April and 30 June.
No thresholds or limits on the scale, frequency or duration of the majority of the activities in the COP - JW suggests that the existing BRL plan provision from rule 22 be inserted; this limits the scale of hard structures to 100 m/y and up to 500 m in cumulative total	JW supp – paragraphs 42 to 49	The COP does, in section 2.2, Morphological Characteristics, which I have recommended to be referenced in Rule 16-13, apply thresholds where the identified characteristics will be maintained. It is untenable to effective river management for higher order morphological characteristics to be maintained <u>and</u> attempt to constrain any site specific activity which, in fact, may be a necessary tool to achieve maintenance of the higher order objective. The current BRL rule referred to has proven to be unworkable and “100 m/y and up to 500 m in cumulative total” is arbitrary in relation to potential adverse effect.	No change
Insert Permitted Activity standards (c) and (d) from Table 16.1, Chapter 16 of the Proposed One Plan – as altered and agreed to during the caucusing meeting on 8 February 2010 – into the generic standards section of the COP	JW supp – paragraphs 50 and 51	The wording of February 8, 2010 caucusing meeting, in its entirety, does not make sense. The wording that does make sense is “any discharge of sediment directly caused by the activity shall be for no more than a total of 12 hours over no more than 5 consecutive days and no more than one event in any 12 month period”. This wording is suitable as it is to cover an activity creating a	Insert the following standard as a Generic Standard, Section 2.4.2:  “Any discharge of sediment directly caused by an activity at a site shall be for no more than a total of 12 hours over no more than 5 consecutive days and no more than one event between flows less than three times the median where adequate flow data is available, or within 12 months where adequate flow

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		temporary adverse effect – the principle being to “get in, and get out”. Any adverse effect created by settled sediment will be eliminated by the next fresh in the river – and in this sense the “12 month period” restriction is unnecessarily restrictive. Reference to a magnitude of flow would be much more sensible, particularly for this COP, as the Regional Council has ready access to the flow data. Three times median flow is shown by its data to be a flow at which fine sediment is mobilised and redistributed within the active channel. This standard cannot apply to the activity “Drainage Channels/Modified Streams: Mechanical Cleaning” because: an entire drainage channel constitutes a “site”, may take longer than 12 hours to clean, and cleaning may need to be done up to three times a year. Constraints on adverse effects are applied through the timing of this activity where Sites of Significance have been identified.	data is not available. This standard does not include the activity “Drainage Channels/Modified Streams: Mechanical Cleaning”
Referencing of certain sections of the COP in Rule 16-13. Julian Watts has suggested that parts 2 and 3 of the COP are referenced in full, along with the Glossary and section 2.4.2 of part 1 of the COP which outlines the Generic standards. JW suggests that no other parts are referenced.	JW supp – paragraphs 52 to 62	Agree with the exception of Section 2.2 (Morphological Characteristics). I am firmly of the opinion that this section needs to be referenced in Rule 16-13. It provides a higher order focus; it has specificity and therefore certainty, which Mr Watts suggested Method 6-9 wording does not; and as mentioned above, obviates the need for activity specific threshold standards which are entirely arbitrary.  The Glossary will need to be included as a new part (Part 7).	Rule 16-13, Under Conditions/Standards/Terms (a) The activity shall be undertaken in accordance with the following sections of the Environmental Code of Practice for River Works, Horizons Regional Council, November 2009. I. Part 1, sections 2.2 and 2.4.2 II. Part 2 in its entirety III. Part 3, 1 and 2  Add new Part in COP to define the glossary as Part 7: IV. Part 7 in its entirety
Julian Watts suggests the following amendment to the gravel management	JW supp – Paragraph	Agree	Add new standard to Gravel Management:

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<p>activity specific standard:</p> <p><u>9 The activity is not to permanently shorten the channel or to cut off meanders.</u></p>	63		9. The activity is not to permanently shorten the channel or to cut off meanders.
<p>Julian Watts suggests the following amendment to the stopbank activity specific standard descriptor <b><u>Stopbanks within the beds of rivers:</u></b> Construction of new earth embankments or <u>extending or</u> upgrading existing earth embankments or other flood retaining structures <del>The purpose of this activity is to provide for flood protection purposes</del> <u>within the beds of rivers.</u> This includes stripping vegetation and topsoil from affected areas, importation and placement of fill material, compaction, shaping, trimming, top soiling and re-grassing. {NB: <i>Stopbanks outside the bed of a river are to be deleted from this activity</i>}</p>	JW supp – Paragraph 63	The qualification requested is not necessary. The COP can apply to scheme works area stopbanks generally and doesn't override any District Plan requirement for land-use consent.	No change
<p>Julian Watts suggests the following amendment to the tied tree edge protection (trenched and anchored willows) activity specific standards</p> <p><u>2A The activity is to be undertaken using sterile or non-invasive willow species only.</u></p> <p><u>6 The extent of bank shaping and contouring will be the minimum</u></p>	JW supp – Paragraph 63	<p>Agree in part.</p> <p>Cannot agree at this time with a standard that prohibits the use of invasive willow species. Often these species are all that is available, and it would be contrary to the Regional Council's Pest Plant Strategy. Suffice to say, it is our clear intention to phase out the use of invasive willow and we do not use these species where we have a viable alternative.</p>	<p>No restriction on use of invasive willow species – that is, no change.</p> <p>Add, to standard 8, Tied Tree Protection, the underlined wording:</p> <p><u>The extent of bank shaping and contouring will be the minimum required to establish the plants</u> and alignment will be on a curvature that fits the natural meander curvature of the channel.</p>

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<p><u>required to establish the plants</u> and alignment will be on a curvature that fits the natural meander curvature of the channel.</p>		<p>Agree with the suggested standard regarding minimal bank shaping and contouring.</p>	
<p>Julian Watts suggests the following amendment to the Edge Vegetation Management, Tree Layering and Removal activity specific standards:</p> <p><u>7 Trees of non-native species which are reducing the channel capacity or are undesirable species such as grey or crack willow shall be removed where practicable and replaced with native species to maintain plantings where appropriate and practicable.</u> Removal of native trees shall be avoided where practicable.</p>	<p>JW supp – Paragraph 63</p>	<p>Agree with the intent -- although the wording is cumbersome – with the caveat that there is no need to include non-native species that are not undesirable.</p>	<p>Add new standard to the activity Edge Vegetation Management tree layering and removal:</p> <p>11. Where practicable, the removal of undesirable tree species, such as grey and crack willow, shall take precedence during vegetation clearance and layering.</p>
<p>Julian Watts suggests the following amendment to the Tree Planting activity specific standards:</p> <p>6 Planting shall aim to produce a multi-tiered canopy consisting of ground cover, shrubs and trees that will reduce the opportunity for weeds to flourish <u>and to utilise species native to the locality as far as practicable.</u></p>	<p>JW supp – Paragraph 63</p>	<p>Agree</p>	<p>Add to standard 6, Tree Planting, the underlined words:</p> <p>Planting shall aim to produce a multi-tiered canopy consisting of ground cover, shrubs and trees that will reduce the opportunity for weeds to flourish <u>and to utilise species native to the locality as far as practicable.</u></p>