

BEFORE THE HEARINGS PANEL

IN THE MATTER of hearings on
submissions concerning
the Proposed One Plan
notified by the
Manawatu-Wanganui
Regional Council

**SUPPLEMENTARY EVIDENCE OF ALLAN COOK REGARDING THE
ENVIRONMENTAL CODE OF PRACTICE FOR RIVER WORKS
FOR THE WATER HEARING
ON BEHALF OF HORIZONS REGIONAL COUNCIL**

1. PART ONE: INTRODUCTION AND EXECUTIVE SUMMARY

1. I have prepared this report as supplementary to my Section 42A report. It has been compiled in response to evidence received from experts on behalf of submitters. As a result of considering the expert evidence received, I have revised some of my recommendations as they appeared in my Section 42A Report. These revised recommendations are presented here.

2. This evidence is in two parts:

Part One: This introduction and executive summary.

Part Two: Issues raised by submitter's experts and my response, including any revised recommendations as a result.

3. I have read, and comment on here, the technical evidence of the following experts:

- Minister of Conservation – Evidence of Jillian Watts

2. EXECUTIVE SUMMARY OF SUPPLEMENTARY EVIDENCE AND REVISED RECOMMENDATIONS

4. My supplementary evidence addresses all of the issues raised by Mr Watts that I consider to be relevant. I have reflected on the issues raised and have proposed that a small number of changes be made to the August 2009 version of the Environmental Code of Practice for River Works (the Code). Those changes have been included in the November 2009 version of the Code.

5. There were a number of issues raised in Mr Watt's evidence that I do not consider to be significant, nevertheless I am willing to answer questions on those issues.

3. PART TWO: RESPONSE TO ISSUES RAISED BY TECHNICAL EXPERTS

6. Table 2 below summarises the issues raised by the submitter that I am responding to and provides a recommendation together with some explanation where required.

7. I have endeavored to focus on issues raised by submitter's experts that are not covered in my original evidence or require further explanation. Where issues are raised by submitters experts that I consider are already covered by material in my original evidence I have attempted to avoid repetition by not commenting on them here. However I am more than happy to address those issues in response to any questions the panel may have.

8. I would like to note that all the changes made to the Code (April 2007) version that necessitated the August 2009 version, were as a result of negotiations with the Department of Conservation. This is not acknowledged in Mr Watts' evidence.

Table 2. Summary table of matters raised by technical experts in evidence, on the water provisions of the Notified Proposed One Plan.

Key: JW = Julian Watts acting on behalf of the Minister of Conservation

Matter raised by submitters expert	Expert	Degree of agreement	Explanation/ outcome
At Paragraph 177 Paragraph 177 Mr Watt's states in his evidence "...the absence of thresholds relating to scale, frequency and duration of activities is one of the most significant, if not the most significant, shortcoming of the Code of Practice and I do not consider that the above activities should be classified as permitted under the One Plan until this issue is addressed."	JW	Noted	I have noted this issue but upon reading the evidence of Mr Watts I have found he does not however, make any recommendations to address this. Activities are limited by Scheme Management Plans and Scheme funding and DOC has the opportunity to participate in the review of those plans. More importantly however, the code focuses on behaviours and a culture of commitment to improved environmental outcomes. The maintenance of desired morphological characteristics is more important than whether for example a particular erosion protection work has a length of 100 m or 120 m. I am confident that Scheme plans, together with the measures proposed in the Code, adequately address potential environmental effects of Horizons river management activities.
Mr Watts recommends: 1. That Sections 1-5 not be included within the ECOP as rules within the One Plan. 2. That Section 6 should similarly be excluded from any rule, apart from an enforceable procedural standard on communication and consultation. 3. That the first paragraph of Section 7 be moved into Part One of the Code.	JW	Agree in Part	The code in its present form has been developed by practitioners not planners. It is understood by those who must operate under it, indeed operations staff have applied the code for the past two years. However, if changes must be made to the code for planning purposes, my recommendations are: 1. That 1-6 inclusive be internal operational policies/procedures. 2. That the One Plan refer solely to Parts 1, 2, and 3 being the Generic Standards for Good Practice, Good Practice Standards for Activities, and Special Standards for Activities Undertaken in Sites of Special Environmental Value as Noted in the One Plan respectively. 3. I strongly reject the suggestion that communication and consultation be included within Part One as an enforceable standard. The standards relate to avoiding and mitigating the adverse effects of activities. One of the fundamental tenets of the Code is the establishment of improved understanding and trust between the various interested parties. That objective will not be advanced by enforceable standards around communication. The commitment I make to consultation is no different to other commitments I make that Mr Watts labels as operational policies/procedures. To be consistent Section 6 in its entirety should remain grouped with Sections 1-5. To otherwise pick and choose dilutes any argument for redefining what parts of the Code are referred to as the rule in the One Plan. And, if the One Plan rule is to refer to only Parts One, Two and Three. 4. That the entire Section 7 is brought forward into Part One of the Code as it provides a good introduction to what follows. There is a structure and flow to the Code currently, and the exclusion of this section would disrupt this. 5. That Section 1.3 on page 2, "Scope of the Code of Practice" is inserted into the Introduction of Part One. It is critically important if the whole Code is not referred to in the One Plan, then the part that is should contain the description of where the Code applies.

Matter raised by submitters expert	Expert	Degree of agreement	Explanation/ outcome
Part 1. Generic Good Standards Paragraphs 10-12 Mr Watts recommends that Section 1.1 Planning is also operational policy/procedure.	JW	Disagree	My recommendation: I acknowledge the point, however, again, in the interests of the structure and flow of the Code I consider this section should remain where it is.
Section 1.2 Morphological Characteristics Paragraphs 13-15 Mr Watts recommends that "braiding pattern" be added to the morphological characteristics monitored.	JW	Disagree	My recommendation is: To reject the addition of any further monitoring of morphological characteristics. The Operations group has already made substantial concessions with respect to the monitoring of morphological characteristics. There is no evidence that monitoring of such characteristics will establish linkages with river management activities, nevertheless agreement was reached early in the Code development process to monitor pool and riffle counts and with DOC during more recent negotiations to also monitor channel width and sinuosity. These concessions were made with the objective of gathering information to dispel a perception that river management is 'all bad'. However the complexity and cost of any further monitoring requirements will seriously compromise the Operations Group's ability to deliver cost effective services to it's customers.
Paragraph 16 (recommendations also found in paragraphs 21, 22, and 23) Mr Watts is recommending that changes be monitored at the "whole river" and River Management Zone level as a matter of routine. Mr Watts appears to believe that the monitoring results will be aggregated across all rivers. Mr Watts recommends a "guideline" deviation of more than 10% in any one characteristic counted or measured be a determinant of significant change.		Reject	What happens outside Scheme areas is not a matter for schemes to be concerned with. My recommendation is monitoring of the Code must be restricted to within the scope of the Code. I strongly oppose being required to monitor rivers or reaches of rivers outside the scope of the Code. It is clearly stated in two bullet points, on pages 28 and 29 of the Code, counts and measurements will be obtained for each river and results will be expressed for each river. My recommendation is to reject this. A 10% deviation, or variation, in any one of the characteristics being monitored, in the types of dynamic gravel-bed rivers we manage, could occur with any flood bigger than an annual flood. I need to be confident corrective action under the Code is to address real change attributable to river management practices, not change within the natural processes of a river. It is for this reason the Code quite deliberately states "significant change" is assessed as all three parameters trending in the same direction.
Paragraphs 17, 18, and 20 Mr Watts appears to be recommending that the Code be used as a means to manage rivers on some continuum toward their natural state		Reject	My recommendation is to emphatically reject any change to the Code where the implication of that change imposes any requirement on me to manage rivers towards a return to natural state. Quite apart from being an improper use of the Code, it would have serious implications on existing Scheme Plans - with respect to both their design and financial viability.
Paragraph 26 Mr Watts recommends a rewording of Generic Standard 2.	JW	Reject	My submission is that the issue of the operation of machinery within a watercourse is best addressed by way of a generic standard. That is because any activity could unavoidably require the operation of machinery within a watercourse. For example, even the planting activity may

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			<p>involve a river crossing to access a planting site. The alternative would be that provision be made in all specific activity standards to allow the operation of machinery within the waterway.</p> <p>In that case, the standard should read:</p> <p>“Where machinery has to enter the watercourse, measures shall where practicable be taken to minimise temporary adverse effects. Such measures could include temporary diversions; bunding off sections of work; and temporary causeways to elevate machinery above the water surface.”</p>