



Disposal of Slip Material from Roads at time of Emergencies

Report by

Alan Watton

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Purpose of Report

At the Rooding Controlling Authorities (RCA) Forum meeting on 16 July 2004, Alan Watton, Rooding Manager for Hastings District Council raised a concern about the high costs his Council was facing in carting slip material away to approved dump sites in times of emergencies, in an effort to get the road open to one lane.

Hastings were of the view that during the rainstorm events most of the material that comes down in a the slip that blocks the road goes 'straight over the side' anyway - why does the rest that remains on the road have to be carted away.

Hastings does accept though that some slips are in sensitive environmental areas, and concede that in these cases material will have to be carted away.

At the Forum meeting, other TLA's and Transit NZ also voiced concerns at the requirements Regional Council's appear to be putting on such activities at time of emergency events, with the overall conclusion that the Forum should further investigate this matter and report back at a future meeting.

The investigative team was set up as follows:

Alan Watton (Chair)	Hastings District Council
Ross Nicholson	Horowhenua District Council
Peter Duncan	Rangitikei District Council
Maurice Mildenhall	Transit NZ Wanganui

Investigation Brief

The brief was to meet with Regional Council representatives in the environmental areas and seek guidance and clarification of rules as they apply to emergency events. Focus would be in a representative area of Hawkes Bay, Manawatu and Wanganui where there had been recent emergency event occurrences and hence some readily available information. Contact would also be made with both Environment Bay of Plenty and Whakatane District Council to see whether they wished to be involved on the basis of current rainstorm event in their region. They both subsequently declined to be involved, indicating that information already available to the investigating team was very similar to their situation and they could not add anything further.

The concern by TLA's and Transit NZ was in getting the road open to one lane traffic, accepting that for full reinstatement authorities would abide by local Regional Council rulings.

Meeting with Regional Councils

This meeting was held in Palmerston North on 6 December 2004, with a full attendance of the investigating team and the following Regional Council personnel:

Ged Shirley	Horizons
Sarah Gardner	Horizons
Ewan Robertson	Horizons
Colin McLellan	Hawkes Bay

Concerns put forward by RCA's were as follows:

- In Hastings District approximate 40% of their spend in the rural areas on emergency events is on carting material away from the site. This was also substantiated by other TLA's at the Forum.
- Why does the material have to be carted away when a considerable amount had already gone 'over the side', and why can't the rest 'go over' to get the road open to one lane?
- With TLA's, there is considerable public concern over delays in getting the road open to emergency vehicles for such activities as power supply restoration.
- Recent experiences of Transit NZ in the Manawatu Gorge about the time taken to open to one lane. Much public concern and media exposure in the case, with the questioning of the delay because material had to be trucked away out of the gorge area.
- The greatest bulk of a Manawatu Gorge slip above the road ends up in the river at the time of the event.
- There appears to be no problem with Regional Council rules where material goes when a drop out occurs below the roadway.

Regional Council personnel outlined processes where the Resource Management Act (RMA) did allow certain actions under emergency events, particularly under s330 of the RMA. They suggested that all roading authorities should be looking more closely at s330 and utilizing the RMA to the authorities best advantage.

There were also rules under RMA for when a State of Emergency is declared and authorities should make themselves familiar with these rules.

Regional Councils also suggested that authorities should be looking at their 'known trouble spots' and working with their local Regional Council to put in place what they called an 'advanced resource consent' so that when the emergency event happened all parties knew what could be done under an advanced consent already in place.

Horizon's have prepared some very good guidelines and reproduction of s330 of the RMA in relation to emergency events. This has been published on their web site and also supplied in hard copy to Transit NZ in Wanganui. This information is reproduced in full and is appended to this report.

Recommendations to RCA's

- a. All RCA's should become familiar with s330 of the RMA and also the guidelines published by Horizons Regional Council.
- b. RCA's should review resource consent requirements, consider known trouble spots, and look closely at how they may approach a resource consent process for clearing of roads to one lane at time of emergency events.
- c. RCA's should put in place 'advanced consents' for known trouble spots, thus giving one less matter to have to consider when an event strikes.
- d. Roothing Authorities should work closely with their Regional Council to establish a clear and well planned approach to resource consents at time of emergency events, including clarification of the full resource consent process when carrying out emergency work under an 'advanced consent'.

Conclusions

If RCA's follow the above recommendations, the appended guidelines and explanation of s330 of the RMA, they should overall save valuable time in getting roads open to one lane and realise cost savings at the time of an emergency event.

Alan Watton
For Investigative Team
21 November 2005

Appendix

The following notes are reproduced from information made available by Horizons Regional Council in connection with work at time of emergency events. While this information indicates activity and processes with Horizon's, it is the belief of the investigating team that the disposal problem investigated equally applies to other Regional Councils.

Guidelines for the clearance of slip debris from road above watercourses and sensitive areas

In order to get a road open that has been blocked by a slip:

Material may be pushed off the road in order to obtain basic single lane access only if there is no practical alternative and there is an urgent need to re-establish access

A practical alternative would include establishing a spoil disposal site on a nearby area of flat ground that is not environmentally sensitive.

Identification criteria for appropriate spoil disposal sites would be:

- *The spoil disposal site is at least 20 meters from any lake, watercourse or wetland;*
- *The site is above flood level;*
- *Landowner approval has been obtained;*
- *The site is not culturally significant.*

Appropriate spoil disposal site preparation needs to be undertaken, this would include:

- *Vegetation clearance and benching is required before material is dumped;*
- *Subsurface drainage is necessary;*
- *Storm water diversion around the spoil disposal site;*
- *Compaction of spoil to ensure stability; and*
- *Re-vegetation upon completion of the spoil dumping.*

Once basic single lane access is obtained, all remaining material should be placed in a suitably prepared soil disposal site (see above).

Only in exceptional circumstances should material continue to be pushed off the road. In these situations Horizons Regional Council staff must be notified before this occurs so an assessment can be made. Contact can be made via the pollution hotline to ensure a prompt response.

Keep a record of work undertaken and forward to Horizons Regional Council. Details to include:

- *Approximate volume disposed of;*
- *Nature of material;*
- *Location extracted from;*
- *Preparation of dump site;*
- *Location of dump site;*
- *Compaction undertaken or proposed;*
- *Vegetation remediation proposed.*

Background: The ‘natural’ process of slips occurring is not always a desirable one and we all have a duty to mitigate the damage where we have a liability and this is appropriate. The perceived urgency of getting a road open does not justify damage to the environment. A specific environmental impact issue is that simply pushing material over the bank will often load up the bank and lead to further slipping in future – with a resultant damage to the road among the concerns.

Although the emphasis of the guideline is on works close to water courses it is also important to recognise the disposal of spoil on to private land, or long- term effects of pushing spoil over the side of the road where it may fail and cause damage to private property.

It is also important that the ‘Authority’ responsible for the road complete an s330 (Emergency Works) declaration within 7 days of the works being undertaken. This process effectively allows work to occur without the need to first obtain a resource consent. The s330 declaration does require that a resource consent be obtained after the works have been completed, if there is an ongoing environmental effect.

The details of s330 are as follows:

Emergency Works

330 *Emergency works and power to take preventative or remedial action*

(1) *Where-*

- (a) *Any public work for which any person has financial responsibility; or*
- (b) *Any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or*
- (c) *Any project or work [for network utility operation] for which any network utility operator is approved as a requiring authority under section 167- is, in the opinion of the person the authority or the network utility operator, affected by or likely to be affected by-*
- (d) *An adverse effect on the environment which requires immediate preventive measures; or*
- (e) *An adverse effect on the environment which requires immediate remedial measures; or*
- (f) *Any sudden [event] causing or likely to cause loss of life, injury, or serious damage to property-*
the provisions of sections 9, 12, 13, 14 and 15 shall not apply to any activity undertaken by or on behalf of the person, authority, or network utility operator to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(2) *Where a local authority or consent authority-*

- (a) *Has financial responsibility for any public work; or*
- (b) *Has jurisdiction under this act in respect of any natural and physical resource or area-*
which is, in the reasonable opinion of the local authority or consent authority ,likely to be affected by any of the conditions described in paragraphs (d) to (f) of subsection (1), the local authority or consent authority by its employees or agents may, without

prior notice, enter any place (including a dwellinghouse when accompanied by a constable) and may take such action, or direct the occupier to take such action, as is immediately necessary and sufficient to remove the cause of, mitigate any actual or likely adverse effect of, the emergency.

- (3) *As soon as practicable after entering any place under this section, every person must identify himself or herself and inform the occupier of the place of the entry and the reasons for it.*
- (4) *Nothing in this section shall authorize any person to do anything in relation to an emergency involving marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.]*

330A *Resource consents for emergency works*

- (1) *Where an activity is undertaken under section 330(1), the person, authority, or network utility operator who or which undertook the activity shall advise the appropriate consent authority, with 7 days, that the activity has been undertaken.*
- (2) *Where such an activity, but for section 330(1), contravenes any of sections 9, 12, 13, 14 and 15 and the adverse effects to the activity continue, then the person, authority, or network utility operator who or which undertook the activity shall apply in writing to the appropriate consent authority for any necessary resource consent required in respect of the activity within 20 working days of the notification under subsection (1).*
- (3) *If the application is made within the time stated in subsection(2), the activity may continue until the application for a resource consent and any appeals have been finally determined.]*

330B *Emergency works under Civil Defence Emergency Management Act 2002*

- (1) *If any activity is undertaken by any person exercising emergency powers during a state of emergency declared under the Civil Defence Emergency Management Act 2002, the provisions of sections 9, 12, 13, 14, and 15 of this Act do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.*
- (2) *If an activity is undertaken to which subsection (1) applies, the person who authorized the activity must advise the appropriate consent authority, within 7 days that the activity has been undertaken.*
- (3) *If such an activity, but for this section, would contravene any of sections 9, 12, 13, 14, and 15 of this Act and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity, within 20 working days of the notification under subsection (2).*
- (4) *If the application is made within the time stated in subsection (3), the activity may continue until the application for a resource consent and any appeals have been finally determined.*
- (5) *A person does not commit an offence under section 338(1)(a) of this Act by acting in accordance with this section.]*

