

NOTICE OF DECISION UNDER SECTION 38(1)

TO: Family First NZ

Title of publication: Into The River
Other known title: Not stated
OFLC ref: 1300727.000
Medium: Book
Author: Ted Dawe
Publisher: Mangakino University Press
Country of origin: New Zealand
Language: English, Māori

Classification:	Unrestricted: Suitable for mature audiences 16 years of age and over.
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Excisions: None
Descriptive Note: Contains sex scenes, offensive language and drug use.
Date of notice of decision: 11 September 2013
Display conditions: None

REASONS FOR THE DECISION

The Office of Film and Literature Classification (Classification Office) examined the publication and recorded the contents in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

Submission procedure:

The Secretary for Internal Affairs submitted this publication for classification on 8 July 2013 under s13(1)(b) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act)

because it was the subject of a complaint by a member of the public who was concerned at the description of sexual activity in the story.

An Inspector of Publications at the Department of Internal Affairs notified the original complainants, the Society for Protection of Community Standards and Family First New Zealand, of their right to make a written submission on the classification of the book under s20 of the Act. The author, the publisher, and the New Zealand distributor were notified of the submission of the publication. As persons with an interest in the publication they were also informed of their right to make a written submission on the classification.

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publication.

Under s23(2) of the FVPC Act the Classification Office must determine whether the publication is to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict a publication that would otherwise be classified as objectionable so that it can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

Synopsis of written submission(s):

The initial submission from Family First New Zealand to the Department of Internal Affairs requests an urgent classification. The organisation is concerned about the book's "graphic sexual content and paedophilia, explicit descriptions of drug taking that glorify the use of drugs, the sinister manipulation of 14 year olds and the use of highly offensive language". Family First also write that the book "offers nothing in the way of hope, inspiration or how to have a healthy personal relationship." They note that the sexual relationships "were based on animalistic drives" and "void of any kinship". The Family First submission includes the excerpts of the book that were published in the media as well as the sections of the FVPC Act that they consider are pertinent to classification (ss3(2) and 3A). They request an R18 classification "with shrink-wrap" and that "school libraries and public libraries [be] made aware of the nature of the book". They are concerned to "minimise the harm of this book to young teenagers".

Written submissions were also received from the author, Ted Dawe, and Booksellers NZ Inc.

Ted Dawe outlines his motivations for writing teen fiction, saying that he wanted to broaden the audience to include young Maori men for whom "there were very few novels written in a convincing 'voice' that they could relate to and feel spoke to them". The success of his 2003 novel *Thunder Road* (which also won the New Zealand Post Young Adult Book of the Year as well as the Best First Novel award) and the way it was reaching teen students who were "disenfranchised" and "staring at failure" convinced him that the prequel was needed. The students were also interested in the early life of the main character. *Thunder Road* had been purchased by many secondary schools to use as class sets in their English programmes. Ted Dawe points out the similarities in the two books – largely that *Thunder Road* contains the same [offensive] language and covers the same issues as *Into The River*. He states that the main difference in response to the books is because of the Herald On Sunday newspaper publishing selected excerpts from *Into The River*, and the heightened publicity his book received because of

winning the inaugural Margaret Mahy Book of the Year Award. As to the award, Ted Dawe says that Margaret Mahy herself, before she died, wrote to him affirming the win and said that she had read *Into The River* and when she had finished it, she immediately turned around and read it again. Ted Dawe is clear that *Into The River* is written for mature readers and that it draws on many years of experience as a secondary school teacher.

Booksellers NZ Inc (BSNZ) respectfully submit that “the OFLC should not restrict or ban *Into The River* as it does not fall within the terms of the Act, because it does not contain material that would be ‘harmful to society’”. They point out that the book was written for the young adults’ fiction genre “which generally carry no official OFLC classifications”. BSNZ contends that a misunderstanding has been caused by the book winning the ‘Children’s Book Awards’ leading people to believe (erroneously) that *Into The River* is for children under the recommended reading age. Previously, the award was known as New Zealand Post Children’s & Young Adults’ Book Awards. BSNZ includes references to a number of well regarded reviewers who speak highly of the merit of the book and also includes statements from the reasoning of Bernard Beckett, the chief judge of the 2013 Awards. In conclusion, BSNZ is firm that *Into The River* is “of high literary merit”, that it fits “meritoriously into the general young adult genre of good works which are generally unclassified by the OFLC”, and that the book does not meet the FVPC Act criteria of being “harmful to society”.

Description of the publication:

The book is a soft-covered standard-sized publication of 280 pages, excluding the cover. The front cover is a dark photo print of dense bush over a stream. The title is printed in large white print on the top half. There is a small sticker at top left which reads “Parental Advisory: Explicit Content. On the right top corner, another sticker announces that the novel was the Winner of the Book of The Year award at the recent New Zealand Post Children’s Book Awards. The rear cover pictures a stream with rocks and overhanging bush. It too, has a dark tone. On the right, the profile of a face can be discerned but may also be interpreted as just part of a rock formation. This, along with the deep colouring, hints at the spirituality of the bush. A blurb in white print is superimposed over the top. It draws reader interest with some brief plot and character details.

The first pages of the book are taken up by a list of previous publications by the author, acknowledgements and a copyright statement, website information, and a dedication and an extract from the will of the author’s mother who writes passionately about her relationship with her river.

Into The River was published in 2012 by Mangakino University Press, which is Ted Dawe’s own company. There is humour in the choice of the name. Mangakino is a small rural settlement in the central North Island. The area is known for agriculture, forestry and hydro-electricity generation. Ted Dawe notes in his submission that he had some difficulty in having the novel accepted by other publishers. According to Ted Dawe, this was mostly because of the initial length of the novel. He then decided to publish under his own efforts.

Into The River begins with Chapter One on page 9 and ends with Chapter Nineteen on page 208.

The novel is centred on Te Arepa Santos, a boy from a fictional village on the East Coast of the North Island in New Zealand/Aotearoa. He lives with Ra, his koro or grandfather, and enjoys rural freedom with his friend, Wiremu. Te Arepa’s mother is in hospital with tuberculosis; his

father is a shadowy figure in the past. His Ngati Porou tribal connections and Pakeha ancestry include a Spanish explorer called Diego Santos. Knowing that Te Arepa is clever, Ra and other tribal leaders have clear aspirations for him and he wins a scholarship to a boys' boarding school in Auckland. The transition is difficult. He forges friendships, finds enemies, and discovers that his Maori identity is discounted and a disadvantage. He endures the bullying that comes from this, as well as that meted out to new boys, and sees what happens when that bullying goes too far. In the tradition of the school, the boys give him a nickname and he becomes 'Devon' after the ship in which his Spanish ancestor travelled. At school, Te Arepa grapples with serious competition, hard work and success. Holidays and term breaks are also full of learning. His friends' families provide stark and often uncomfortable contrasts to his East Coast roots and the sound values he has been imbued with by Ra. Along the way, there are confusing encounters with sex and a growing understanding of intimacy, the use of drugs, peer pressure, deep racism, grief and death. Friendships are deepened and finally Te Arepa's loyalty is tested to the utmost and his future is uncertain.

The meaning of "objectionable":

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if it:

describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.¹

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the main question is whether or not it deals with the following matters in such a manner that the availability of the publication is likely to be injurious to the public good:

Matters such as sex

The novel allows Te Arepa to discover sex. Two encounters are described in some detail. He is only thirteen or fourteen, not of legal age. This is discussed below under s3(3)(a)(iv).

¹ *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

Te Arepa and his friend, Steph, spend time with the music teacher at his flat. At one point, later in the book, it is indicated that the teacher is either a paedophile or creating images of young boys clearly for the purpose of distribution. This is discussed below under s3(3)(d).

Matters such as crime, cruelty and violence

Drug use is encountered a number of times in the narrative. Further crimes described include underage and dangerous driving, and the school bullying that eventuates in significant violent assault. These incidents are described and discussed under ss3(3)(a)(i) and 3(3)(d) below.

Certain publications are "deemed to be objectionable":

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"² in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.³

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

The Classification Office has considered all the matters in s3(2), but none are relevant to this publication as the issues germane to the book do not meet the threshold where they can be interpreted as promoting or encouraging, or upholding or strengthening. This content is discussed below under s3(3).

Matters to be given particular weight:

Section 3(3) of the FVPC Act deals with the matters which the Classification Office must give particular weight to in determining whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable.

The Classification Office has considered all the matters in s3(3). The matters relevant to the publication are:

² *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

³ Above n2 at para 29.

- s3(3)(a)(i) The extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with acts of torture, the infliction of serious physical harm, or acts of significant cruelty;*
- s3(3)(a)(iv) The extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with sexual conduct with or by young persons;*
- s3(3)(d) The extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts;*

and

- s3(3)(e) The extent and degree to which, and the manner in which, the publication represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.⁴*

Bullying is an issue for the new boys at the school. They discover they are easy targets and that they are expected to endure humiliation and physical punishment from senior boys. The more extreme violence and cruelty within the novel is mostly contained within a bullying incident. One of the new boys, Mitch, arrives at school as a physically impressive and confident boy. His refusal to obey an order from a senior boy who tries to humiliate him is regarded with awe by his classmates. However, the so-called ‘natural order’ of the school’s hierarchy does not allow him to get away with this. During the night, a group of older boys enter the dormitory and subject Mitch to a severe beating. This includes hitting him using a baseball bat over pillows. The other boys lie still. They hear, but are unable to react due to fear. Mitch is tended to by Steph and Te Arepa. His injuries are described, as are the following days when he bears the pain and the (hidden) marks of the violence without telling the school authorities. The significance of this bullying, in particular, the cruelty, and way it has risen above an accepted level to excessive violence is the subject of a lot of discussion and thought by the boys. They feel there is little they can do and Mitch is adamant that he will comply with the status quo. The way the school (and by extension, other schools) does not address the bullying in general, and the lack of a culture where they can report this disproportionate incident, is a subtext that sits with the reader. The notions of entitlement and the strata of class that drive the bullying will also be of interest to young adults.

Te Arepa is in the third form when he has sex with Tania, a 16-year-old young mother whom he meets when he is back home during a term break. The encounter is described with detail from the initial attraction, Tania’s casual encouraging of Te Arepa’s sexual responses, and the fast coupling which indicates not only her depth of sexual knowledge and experience, but also his inability to match her. He ejaculates early and tries desperately to continue so that he can satisfy her. The sexual conduct is described with clarity but this is without salacious tone or intent. The author uses correct anatomical terms which may startle the reader used to euphemisms for sexual conduct. The account is unrefined, about raw sex rather than the intimacy arising from attraction and the forging of a relationship. The sexual material is not written to excite. It presents as a natural part of social realism, the seizing of an opportunity, one which is not predatory. This incident and other briefly mentioned sexual encounters with

⁴ The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

Tania stay with Te Arepa as he works to see how this has affected him, the way he became obsessed with her, and the emptiness he feels as he thinks through his reactions. At one point he sees that he had “allowed a future to grow behind the sex”. When he thinks rationally, beyond the turmoil of adolescence and the surge of sexual awakening, he knows that will not happen.

The issue of having sex under the legal age is not discussed or raised in any way in the novel. The sex merely occurs. It is consensual, spontaneous and not predatory. It is not an issue for these two characters. There is no discussion. What is explored in a realistic way are Te Arepa’s emotions and reactions as he grapples with the confusion and disarray inside his head. These have a realistic edge to them. The incident is not glamorous or romanticised. It is casual, not entirely satisfactory and in no way promotes or supports sex with or between young people. It is an honest representation and part of Te Arepa’s journey. It is also fiction, written for the purpose of allowing the reader to understand a first sexual encounter, one that does not arise out of a depth of care or love, and how that can be an experience which does little else other than raise more doubts and questions for a boy already under some inner turmoil. Te Arepa does not have the maturity to deal successfully with the sex and later, with Sina, a girl with whom he feels some connection, the way he pursues her is also sex that is unsatisfactory. The sexual material in the book assumes some maturity and life experience from the reader. It needs engagement with the text and characters to place the sexual encounters, what precedes them and how it is carried further.

There is illegal drug use presented in the storyline. Te Arepa first encounters it during a night escapade when he and other boys sneak into the school’s chapel. Steph has marijuana. The descriptions of use are mildly educative and Steph’s sophistication plays a large part in normalising it. He has street smarts, and is happy to include and influence others. He is, altogether, a charismatic leader who guides to the wrong paths. To some extent, the drug use is also normalised by being easy to obtain. Steph doesn’t seem to have any difficulty at producing it. Later, he has free access to the music teacher’s flat and knows where his supply of marijuana is kept. Steph just helps himself. Te Arepa also goes to places where he sees adults using marijuana – Mitch’s father has mates who smoke the drug. When Te Arepa meets Sina, she wears a hidden necklace, a trophy it seems, of a marijuana leaf, indicating that she too is a user. During the school camp, there is use of pills; ecstasy is slipped into a drink. The drug use is peppered throughout the novel and, despite Te Arepa finding that he does not benefit from its influence, its presence may have a trivialising or desensitising effect on some readers.

The music teacher seems to be not only a drug dealer but also a producer and dealer of paedophilic/child exploitation images. Steph is the character that makes these links – his relationship with the teacher is dubious, probably sexual, but this is not dwelt upon. Steph is the character who is worldly, sophisticated, experienced, casual and unaffected. As a character, his role is to open Te Arepa’s eyes to the temptations and follies of the contemporary urban environment. The teacher suggests Te Arepa ‘sit’ for him. Steph casually draws attention to the teacher’s portfolio: “Yes I know... most of them are boys and most of them have no clothes on.” Nothing more needs to be said. The two boys have a silent understanding of the abhorrence of this. There is no doubt that they know what they are seeing is wrong.

Te Arepa is impressed by Paikea’s driving of the courier van. Paikea is his cousin who provides transport for him at holidays and term breaks. He sees how skilled she is, how she manages the vehicle. She understands his need and begins to teach him how to drive in a careful safe methodical manner. Later, when Te Arepa is with Mitch and his father, the boys are able to drive trucks. While the scenes present underage driving and dangerous driving, they also play to

the fantasies of teen boys and young men, just as film and television stunts, and video games do with cars and trucks by providing exciting precarious near-miss danger and allowing the boys to be the drivers. The fiction is crafted for the targeted readers.

The overall nature of the publication portrays all these criminal acts as having negative consequences, not necessarily from the law, but from the school's rules or natural turns of event. Teenagers and young adults are capable of understanding the material as entertainment and how that fits with reality.

The continuing themes of racism and classism throughout these school years for Te Arepa have a heavy and serious part to play throughout the narrative. There is enough of this for Te Arepa to receive messages that he is 'inherently inferior'. A strength of the publication is the clarity in the analysis of the intermittent but continuing racism that Te Arepa is subjected to from boys, teachers and other adults he encounters. There is indisputable merit in the way the author has used negative actions and slurs commonly encountered by people from cultures other than that of the majority to clarify the damage that the terms do. The author has caught the undercurrents that linger beneath the surface. Under s3(3)(e), the novel uses these not to perpetuate the racism but to illuminate the life of a boy who is disenfranchised, whose identity is continually under attack. This identity sits at the heart of the book. There are national and political issues that arise. They sit at the sides, but are never far from Te Arepa's world. The narrative has a searching approach to Maori interests and bicultural understanding: Paikea's partner, Jinny, works on Treaty issues for the tribe and takes them to the Waitangi Tribunal; the opening chapters outline Te Arepa's acknowledgement of spiritual dimensions and the profound effect of his relationship with his turangawaewae, his environment and place to stand; Te Arepa's whakapapa, his genealogical lineage, both Maori and Pakeha, is woven into his identity; there are encounters where the clash of cultures is clear and those where cultures meet; and there are ways of dealing with death that are culturally defined.

Publication may be age-restricted if it contains highly offensive language likely to cause serious harm:

Section 3A provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.

"Highly offensive language" is defined in s3A(3) to mean language that is highly offensive to the public in general.

The book contains a limited amount of highly offensive language, almost always used in contexts of frustration and anger and occasionally in ways that indicate a need to be seen as sophisticated and worldly. The word 'fuck' and its derivatives are used occasionally and the word 'cunt' is seen once. The language is not likely to cause harm. These are words and terms that have relatively common usage amongst teenage boys, most of whom have learned that there are contexts where using these terms is unacceptable. Understandably, the boys in the novel revert to stronger language when they are with each other and out of earshot of elders. The highly offensive language has a relatively low impact due to the context.

Te Arepa is subjected to boys calling him the highly offensive term ‘Nigger’ or ‘Nig’. The fact that other boys (ones who are not friends) contemplate calling him this derogatory name indicates the level of racism that exists. He is at risk of this remaining until he and Steph sort out the ship’s name ‘Devon’ for him.

Publication may be age-restricted if likely to be injurious to public good for specified reasons:

Section 3B provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).

The Classification Office has considered all the matters in s3B(3), but none are relevant to this publication.

Additional matters to be considered:

s3(4)(a) The dominant effect of the publication as a whole.

The novel is a powerful consuming coming-of-age story about a teenage boy grappling with a new and strange world.

s3(4)(b) The impact of the medium in which the publication is presented.

The publication is an ordinary looking novel with a darkly expressive cover that is available everywhere, certainly at most bookstores and public libraries. Either as a paperback or an e-book, it has portability, may be accessed freely and frequently, and it can also be shared with others who have similar interest or curiosity. Books with 280 pages require a level of maturity and skill to read. Most children would not be drawn by the dense text and most parents would know that the content is not for children.

s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.

The publication has significant literary, artistic, social and cultural, and educational merit. Ted Dawe is an acknowledged New Zealand author who has been published since 2003. The literary merit of *Into the River* has been signalled by the winning of the inaugural New Zealand Post Margaret Mahy Book of the Year Award as well as the Young Adult Fiction category of the 2013 New Zealand Post Children’s Book Awards. Chief Judge of the Awards, Bernard Beckett, himself an award winning author and playwright, and also a long-serving secondary school English/Drama teacher, writing on his blog⁵, said of *Into The River*, “It’s a truly marvellous and indeed moral book.” Further on, he points out the social responsibility and awareness that lies at the heart of the narrative:

⁵ <http://bernardbeckett.wordpress.com/2013/07/03/into-the-river/>

If we measure a society's moral strength by the way it treats its most vulnerable, then this is a book that speaks to the heart of our obligation to be better members of this community. To be more understanding, more open to difference, more willing to accept the part we play in perpetuating the pain.

He also states:

This is a book about what happens when a young man is forced to the periphery, that place where the normal social constraints do not reach. And out there risks are taken, and damage is done.

And Emma Neale, also an acknowledged author and poet, writing on her blog⁶ and responding to the initial wave of publicity after the win, succinctly links literature with personal moral development, a role that literature has always played:

I strongly believe that literature is one of the places that young people can safely think through situations, and rehearse their moral choices, without the grave personal compromise that living through the real events might involve.

Emma Neale concludes:

This is a novel for street-wise, intelligent young adults who know about the grinding reality of inequality in Aotearoa: and for the adults who have a responsibility to try to improve their conditions.

There is further merit. This is a book that targets boys, in particular those who are reluctant readers. It has a narrative that is driven by the interests and preoccupations of teenage boys such as fast cars and trucks, sport, the outdoors and hunting, competition, and of course girls and sex. The book is structured to hold concentration by keeping up the pace, having twists and turns to keep the reader engaged, and yet all the while presenting situations that need thought and analysis. Te Arepa is a boy who thinks and reflects yet the speed of the story never lets up. This is the skill and flair of the author who understands his target audience.

The book also hinges on the relationships between teenage boys – how they think, speak, and relate. The importance of loyalty, notions of freedom, the power of isolation, feelings of helplessness, the generational divide, injustice, inequality, the shaking down of hierarchy, the importance of sport, the satisfaction of succeeding in the arts – these all inform the reader of a highly complex, sophisticated masculine world. The novel never underestimates the reader.

s3(4)(d) The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available.

The narrative is written from a teenage boy's point of view. The subject matter, the storyline and manner of the prose indicate that the intended audience is teenage boys and the author states this very clearly in his submission.

s3(4)(e) The purpose for which the publication is intended to be used.

This book is intended for teenage/young adult readers. It specifically targets males and reluctant readers in these groups but will also interest teenage girls and young women. It is written to entertain but mostly and more importantly to edify, to help young adults engage with specific issues for them and for wider society. The author is aware of what interests the young adult reader and the social contexts that surround them. The novel has deep enduring purpose.

⁶ <http://emmaneale.wordpress.com/2013/07/02/book-banning-and-ted-daves-into-the-river/>

s3(4)(f) *Any other relevant circumstances relating to the intended or likely use of the publication.*

As a New Zealand work, *Into the River* has been included in the collection of most public libraries, and secondary school libraries since publication. It will already be in many New Zealand homes. As a significant work, a prize-winning publication, there will have been stronger uptake. The publicity afforded by controversy and the ensuing public interest has given the publication some short-lived notoriety which will also have boosted sales.

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBR Act) states that everyone has "the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form". Under s5 of the NZBR Act, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBR Act states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

Conclusion:

Into The River's unrestricted availability is unlikely to injure the public good. The novel's overall themes and dominant content are those of a coming of age novel written specifically for teenage boys and younger men. It gives these groups of society a New Zealand framework and pushes beyond thrillers and fantasy to an imaginative story that they might relate to, one that gives a level of realism. As a work of fiction it functions beyond reality but there is enough context for it to appear real and for readers to find the thrill of the familiar, as well as the excitement of the new and provocative.

The book deals with some stronger content. There are sexual relationships between teenagers, encounters with possible child sexual exploitation, the use of illegal drugs and other criminal activities, violent assault, and a moderate level of highly offensive language. These are well contextualised within an exciting fast moving narrative that has as its protagonist, a young teenage Maori boy from a rural community who is finding his way through the strange uncomfortable environment of a boys' boarding school and unfamiliar social mores. The story captures the raw and real extremes of adolescence in teenage boys along with their yearnings and obsessions. The book is notable for being one of the first in the New Zealand which specifically targets teenage boys and younger men – a genre that does not have great representation. The genre character is therefore significant. The content immerses the reader in action, wit, and intrigue, as well as a level of social realism, all likely to engage teen and young adult readers and with particular appeal for older boys and young men.

Te Arepa's intelligent but confused emotional inner world grapples with the issues behind the sex and drug use. While there are significant passages describing sexual activity and brazen drug use, the book holds far more complexity than merely the main character's sexual experiences and his encounters with drugs. There is depth and wisdom that takes the narrative beyond the gratuitous and into the precarious nature of the development of an adolescent boy. Other plot strands and issues are plentiful. The reader has much to think about and process as they encounter and decode the content. As Emma Neale says in her blog, what happens to Te Arepa will help readers "rehearse their own moral decisions." The context is vital to

understanding character motivation and purpose and also authorial intent. The sex, drug use and violence in the novel are not intended to be lifted away from context. They make sense as the reader processes the narrative. This is affirmed by Bernard Beckett who states:

The language, the sexual references and the drugs are as integral to this story as domestic violence is integral to Othello. That is my considered opinion as an author of ten novels, as a teacher for over twenty years, and as a judge who has read this book slowly and carefully.⁷

The content to do with matters of sex and crime does not automatically require restriction. A reader with the maturity to read a text-dense novel is likely to have the maturity to deal with the contents. Readers must also make a conscious decision to engage with the book and the usual browsing behaviours will influence their choice to continue to a more comprehensive level. Unlike film or television, a book does not make a sudden and colourful impression on naive viewers. This book, with its dark, foreboding cover, is unlikely to attract children and the text requires a level of engagement that would make it of little interest to them.

After the newspaper publicity the novel received in July, the Classification Office received a limited number of calls from members of the public, all largely concerned about the availability of the book. The low number of calls suggests that books of this type are considered by our society as relatively benign in impact and effect in contrast to visual media like film, video games, and footage on the internet, which have a more immediate impact on the viewer. There is no evidence available to the Classification Office that New Zealand society is sustaining injury or harm because of the unrestricted availability of this book or indeed, its sequel. *Into the River* has been freely available in New Zealand since publication in 2012.

It is clearly acknowledged by Ted Dawe and Bernard Beckett as well as other expert literary reviewers that the book is intended for a more mature audience. There are many other novels widely available without restriction in New Zealand with similar sexual descriptions of an equivalent nature, many of them literary classics and coming of age novels, or popular fiction phenomena in their own right. This would make a restriction on *Into The River* arbitrary and unfair. It would create a widespread inconsistency in conditions of access to books of this nature. It would not be reasonable or “demonstrably justified” on the basis of content in this book. Concerns about children or young persons are adequately addressed by a classification indicating the book's suitability for mature audiences and a label that indicates sexual content. This has already been addressed by some booksellers, which indicates a reasonable and conscious responsibility taken by marketers to warn parents and caregivers and thus provide protection for children and young people.

The Classification Office has taken into account the New Zealand Bill of Rights Act 1990 when making this decision. While it is acknowledged that some people may be offended by reading parts of this book, the NZBR Act states that everyone has the freedom to seek, receive, and impart information and opinions of any kind in any form. Under s5 of the NZBR Act, this freedom is subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. Any restriction on the availability of this publication would not be a reasonable limitation nor demonstrably justified in a free and democratic society because of its status as a literary prize winner and a significant, well-reviewed example of a punchy novel with themes and events that target the young adult New Zealand reader.

⁷ Above n5.

Into The River is classified as:

Unrestricted: Suitable for mature audiences 16 years of age and over.

Date: 11 September 2013

For the Classification Office (signed):

Note:

You may apply to have this publication reviewed under s47 of the FVPC Act if you are dissatisfied with the Classification Office's decision.

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