

## AMENDED RULE 13-6 FDE AND DR HOULBROOKE'S EVIDENCE

### **An amended rule proposed by HRC staff is attached**

1. The Hearing Panel asked on Tuesday 19 January 2010 whether the matters of control in R13-6 were sufficient to impose conditions to achieve the BMP's identified by Dr Houlbrooke.
2. The planning approach to setting performance standards and matters of control for R13-6 was to set performance standards which are applicable to all farms and have sufficiently broad matters of control to impose conditions appropriate to individual farms to achieve BMP. As Dr Houlbrooke's evidence demonstrates, landscape, herd size and climatic factors all affect the appropriate BMP. The approach is also to not set conditions specific to type of equipment but to have performance focussed conditions.
3. BMP's can influence:
  - (a) Rate of discharge.
  - (b) Depth of discharge.
  - (c) Infiltration rate.
  - (d) Minimum SWD.
  - (e) Appropriate storage capacity.
4. Matters of control for controlled activities are to be read, like all parts of plans, purposively and contextually. Narrow or unnecessarily restrictive interpretations are not appropriate. See *Powell v. Dunedin City Council* 11 ELRNZ 144.
5. The matter of control in R13-6(matter of control (a)) covers 'amount' and 'frequency'. Frequency can also be referred to as 'timing'. The controls therefore relate to the amount and timing of discharge on an annual and

daily basis. The matters of control are plainly directed at addressing effects of effluent discharge to land and to give effect to proposed policy 13-7(d) concerning nutrient and water reuse.

6. It is considered R13-6(matter of control (a)) is sufficiently broad to place specific controls on the amount and timing using specific metrics. These metrics can include rate and depth of discharge onto land as well as thresholds such as maximum infiltration rate and minimum SWD's. Nevertheless, greater clarity in a rule is always desirable and further refinement is useful.
7. In relation to whether total N per year can be addressed, it considered that this also is covered under R13-6(matter of control (a)) applying the interpretation above. However, if there is doubt about that then it is noted that submission 180 (Ngati Kahungunu) seeks an additional matter of control as follows:

"Maximum rate of nitrogen application for all sources shall not exceed 120kgN/ha/yr."
8. The prescriptive approach that submission 180 proposes is not supported by HRC staff but the submission does raise the issue of maximum annual volumes. Rule 13-6 could be amended to explicitly encompass the setting of conditions limiting nitrogen loading.
9. There are general submissions seeking greater clarity of intent in relation to rules (see for example sub ID#102). These submissions enable refinement of the matters of control.
10. Staff suggest amendments to R13-6(matter of control (a)) as shown on the attached document.

Clare Barton/John Maassen

<p>13-6 Farm animal effluent<sup>*</sup> including effluent from<sup>1</sup> dairy sheds, poultry farms and existing piggeries</p>	<p>The discharge<sup>^</sup> of farm animal effluent<sup>*</sup> onto production land<sup>*</sup> pursuant to ss15(1), 15(2) or 15(2A) RMA including:</p> <p>(a) effluent from dairy sheds and feed pads</p> <p>(b) effluent from existing piggeries</p> <p>(c) sludge from farm effluent ponds</p> <p>(d) poultry farm litter and effluent</p> <p>and any consequential discharge<sup>^</sup> of contaminants<sup>^</sup> into air pursuant to s15(2) or 15(2A) RMA, except where the discharge<sup>^</sup> is undertaken in association with a use of land<sup>^</sup> controlled by Rule 13-1.</p> <p>This rule does not apply to discharges<sup>^</sup> from new piggeries.</p>	<p>Controlled</p>	<p>(a) There shall be no discharge<sup>^</sup> of effluent into a water body<sup>^*</sup>, including drains or<sup>1</sup> from effluent holding facilities.</p> <p>(b) All effluent storage and treatment facilities (including sumps and ponds) newly established or extended (including deepening) after the date the Plan is made operative<sup>^</sup><sup>1</sup> shall be sealed so as to restrict seepage of effluent. The permeability of the sealing layer shall not exceed 1x10<sup>-9</sup> m/s.</p> <p>(c) The discharge<sup>^</sup> shall comply with the following separation distances:</p> <p>(i) for discharges<sup>^</sup> of piggery effluent, 150 m from residences, marae, schools, public buildings and public recreation areas</p> <p>(ii) for other discharges<sup>^</sup>, 20 m from residences, marae, schools, public buildings, and public recreation areas</p> <p>(iii) for all discharges<sup>^</sup>, 50 m from rare habitats<sup>*</sup> and threatened habitats<sup>*</sup></p> <p>(iv) for all discharges<sup>^</sup>, 20 m from bores<sup>*</sup>, surface water bodies<sup>^*</sup>, including drains,<sup>1</sup> public roads<sup>^</sup> and the Coastal Marine Area<sup>^</sup></p> <p>(v) for all discharges, 50 m from any archaeological site, waahi tapu or koiwi remains Historic Heritage<sup>^</sup> as identified in any District or Regional plan Schedule or database or proposed plan<sup>^</sup>, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places</p>	<p>Control is reserved over:</p> <p>(a) Amount of effluent per discharge<sup>^</sup> and timing and frequency of discharge<sup>^</sup> (including the rate of discharge, minimum infiltration rates, maximum soil depth for discharge, minimum soil water deficits for discharge and maximum nutrient loading and best management practices to minimise contaminant leaching).</p> <p>(b) Measures to manage the ponding of effluent on the discharge<sup>^</sup> area</p> <p>(c) Maintenance<sup>*</sup> of vegetative cover</p> <p>(d) Odour management</p> <p>(e) Effects on rare habitats<sup>*</sup> and threatened habitats<sup>*</sup> and at risk habitats<sup>*</sup></p> <p>(f) Contingency measures including but not limited to effluent storage,<sup>1</sup> for events of mechanical failure and prolonged wet weather</p> <p>(g) Duration of consent</p> <p>(h) Review of consent conditions<sup>^</sup>, and</p> <p>(i) Compliance monitoring.</p> <p>Resource consent<sup>^</sup> applications under this rule<sup>^</sup> will not be notified and written approval of affected persons will not be required (notice of applications need not be served on affected persons)</p>
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<sup>1</sup> Water officers report - recommendation WTR 86

<sup>2</sup> Clause (f) has been shifted within rule 13-6 to become clause (g)

			<p><del>Trust except where Historic Places Trust approval has been obtained.</del></p> <p>(d) Stormwater from ancillary roof areas or hardstand areas, which does not contain farm <i>animal effluent</i><sup>*</sup>, shall not <i>discharge</i><sup>^</sup> to the effluent storage facility.</p> <p><del>(e) A nutrient budget, which takes into account all other sources of nitrogen and which is designed to minimise nitrogen leaching rates, shall be used to plan and carry out the <i>animal effluent</i><sup>*</sup> application.<sup>2</sup></del></p> <p>(f) There shall be no <i>offensive</i> or<sup>1</sup> objectionable odour, dust, <i>waste</i><sup>*</sup> or <i>spray drift</i><sup>*</sup> to the extent that causes an adverse <i>effect</i><sup>^</sup> beyond the <i>property</i><sup>*</sup> boundary.</p> <p><u>Information requirement</u></p> <p>(g) <u>A nutrient budget, which takes into account all other sources of nitrogen and which is designed to minimise nitrogen leaching rates, shall be used to plan and carry out the <i>animal effluent</i><sup>*</sup> application.</u></p>	
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