



Department of Conservation  
*Te Papa Atawhai*

18 March 2010

The Chairperson  
Proposed One Plan Water Hearing  
c/- Robyn Harrison  
Horizons Regional Council  
Private Bag 11025  
Palmerston North

Dear Madam Chair,

**Re: Position Statement by the Department of Conservation on behalf of the Minister of Conservation on Matters Relating to Rule 13.1 of Horizon's Proposed One Plan**

1. This position statement follows the Proposed One Plan Water Hearing Panel's suggestion that further discussion take place between submitters on matters relating to non-point source discharges from farming and other land management activities, and in particular Rule 13-1 of the Proposed One Plan.
2. A representative from the Department of Conservation ('the Department') attended a preliminary meeting with representatives from Federated Farmers and Wellington Fish and Game on 15 March 2010. This meeting assisted in providing further clarification of Federated Farmers' position as outlined in their statement to the Panel of 4 March 2010 and identified points of general agreement and difference between the parties on which further discussion may be worthwhile.
3. Pending the outcome of any further discussions and in view of the timeframes within which the Panel is understood to be working, this letter contains a brief summary of the Department's interim position with respect to Federated Farmer's recommended amendment to Rule 13-1. Reference is also made to expert evidence lodged by other parties and related plan provisions where this is considered to be relevant.

**Basis for Rule 13-1 and related provisions**

4. The linkage between land use practices and water quality has been well established through the evidence presented to the Panel. As notified, Rule 13-1 and associated provisions provide a reasonable and appropriate basis for addressing Issue One of the Proposed One Plan, *Surface Water Quality Degradation*, an issue which was identified during public consultation and confirmed by Horizons' research as a priority issue for the Region.

5. The Minister's submission supported the retention of Rule 13-1 as notified and noted that:

“The effects of diffuse discharges from intensive agricultural activities on aquatic ecosystems are serious and have been identified as the most significant threat to water quality across the region. The magnitude and urgency of the issue justifies a regulatory approach.

Whilst the Department is disappointed that improvements will only be gradual, the need to take into account the practicalities of the situation is recognized and the general direction is supported.”

### **Proposed exclusion of stock from water bodies**

6. The proposal by Federated Farmers to introduce a performance standard for dairy farming requiring the exclusion of stock from water bodies in target catchments and for new enterprises is fully supported in principle as an important step towards meeting the One Plan's Objectives.
7. However, it is also noted that the recommendation does not extend to land management activities covered by Rule 13-1 (as notified) other than dairy farming and that the scope of application would be limited to the water bodies covered by the Clean Streams Accord, which excludes small streams. In addition, whilst exclusion of stock may be a necessary approach to reducing the rate of contaminants entering water bodies, it may not on its own be sufficient to achieve the One Plan targets without additional changes to land management practices. For these reasons it would be preferable for stock exclusion requirements to form part of a controlled activity rule.

### **Use of N-leaching values or other indicators of improvements**

8. The amendment to Rule 13-1 proposed by Federated Farmers would remove the linkage between land management practices and environmental targets or standards provided by this part of the One Plan. This is not regarded as appropriate, given the importance and urgency of the issue and the requirement to give effect to the purpose of the Resource Management Act 1991 (“the RMA). The provisions for phased introduction of the performance standards should be retained based on the proposed Plan as notified and the adjustments to Table 13-2 as recommended in paragraph 151 of Dr Mackay's evidence.
9. The criticism of the proposed N-leaching/run-off values and their application is noted. However it is also noted that their use is supported in the evidence of Dr MacKay and that a similar type approach, using N-leaching/run-off values as indicators, is being pursued by Environment Waikato, through the Proposed Waikato Regional Plan, with respect to the Lake Taupo catchment (Variation 5). It is also noted that no alternative indicators have been proposed in the evidence of any submitters. The evidence of Dr Mackay identifies potential problems

associated with reliance on input-related indicators within the One Plan and on that basis the use of N-leaching/run-off values as an output-based measure is regarded as appropriate.

10. Whilst continuing research and discussion on the development of other, perhaps supplementary indicators relating to such matters as farming best practice and environmental outcomes may be worthwhile, this should not delay the introduction of measures to address the underlying issue.

### **Need for an integrated approach**

11. As notified, Rule 13-1 sought to manage the effects of a wide range of contaminants, including nitrogen and an integrated approach to the management of non point source discharges should be retained within the One Plan in accordance with section 59 of the RMA. This should be achieved either by the retention of the reference to *approved* FARM strategies in Rule 13-1 or through incorporation of the relevant standards and outcomes directly into the methods in the One Plan. The reduction in scope of Rule 13-1 to only apply to dairy farming (as recommended by Federated Farmers) or to N-leaching, or to use of land without reference to discharges to land or water (as recommended in Mr Willis' evidence) would not be supported.

### **Mixed-method approach**

12. The use of a purely non-regulatory approach, or a regulatory approach based on provision of information or performance standards which do not provide for adequate improvement on the status quo is not supported. Instead a mixed-method approach, which contributes significantly and measurably towards the achievement of the One Plan's objectives from the date at which the plan becomes operative is appropriate. This should provide for a combination of rules and incentives geared towards the exclusion of stock from waterbodies and the management of any further residual effects, but with scope within the rules and relevant policy framework for alternative approaches to achieving the relevant targets tailored to the characteristics of individual land management units. Whilst Rule 13-1 (as notified) and Policy 13-9 (as recommended in the 'pink' version) provides for this, there may be scope for discussion on further refinements.
13. A controlled activity rule, coupled with incentives for stock exclusion and education and advice should form the basis for managing non-point source discharges from existing intensive land use activities. Existing activities which do not meet the terms and conditions for controlled activity status would default to discretionary under Rule 13-27. It is agreed, as recommended by Federated Farmers, that new activities falling within the scope of Rule 13-1 should be classified as restricted discretionary.

## **Exclusions and exceptions**

14. It is acknowledged that land managers who can demonstrate compliance with the One Plan standards should not be subject to unnecessary resource consent processes. In addition, there may be exceptional circumstances relating to the physical characteristics of the land unit which would reasonably preclude the achievement of targets within the specified timeframes. There may be scope to discuss further refinements to the manner in which such matters are dealt with within the plan.
15. On the other hand, it should also be acknowledged that there may be circumstances in which significant changes to land management practices are required in order to achieve the necessary improvements, and that these will have significant economic consequences if management is to be sustainable in terms of the RMA. An approach based on 'business as usual', as suggested in the evidence of Federated Farmers and Mr Willis (in relation to One Plan Objectives and Policies as well as methods) is not appropriate given the significance and urgency of the issue.

## **Other methods**

16. The concept of a transferable permit scheme, as recommended by Mr Willis is supported in principle, but would need to be subject to the establishment of appropriate environmental standards relating to discharge or leaching rates and the ability to taper or withdraw permits in order to achieve progressive improvements in water quality to meet the One Plan objectives. Such an approach would be preferable to the simple 'grand parenting' of N-leaching rights, as recommended in Mr Willis' evidence, which would not provide adequate incentives or impetus for activities with high N-rates to reduce them where this can be achieved at relatively low cost.

## **Interim position on the wording of Rule 13-1**

17. Subject to the above, the approach to rewording Rule 13-1 as recommended by Wellington Fish and Game Council in Appendix 1 of their joint position statement, as lodged with the Panel on 16 March 2010, is generally supported.
18. Thank you for the opportunity to comment on this issue.

Yours sincerely,



Damian Coutts  
Conservator