Submission on Proposed Canterbury Land and Water Regional Plan

Form 5: Submissions on a Publicly Notified Proposed Policy Statement or Regional Plan under Clause 6 of Schedule 1 of the Resource Management Act 1991

Return your signed submission by 5.00pm Friday 5 October 2012 to:
Freepost 1201 Proposed Canterbury Land and Water Regional Plan
Environment Canterbury
P O Box 345
Christchurch 8140

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Contact name and postal address for service of person making submission (if different from above):
Edwin Jenkins, Nga Tatou Property Limited
P O Box 12 0060, Christchurch 8111

Trade Competition

Pursuant to Clause 6 of Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that:

a) adversely affects the environment; and
b) does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

☑ I could not gain an advantage in trade competition through this submission; or
☐ I could gain an advantage in trade competition through this submission.

If you have ticked this box please select one of the following:

☐ I am directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade competition or the effects of trade competition.
☐ I am not directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade competition or the effects of trade competition.

Signature: Brent Cowie
Date: 05/10/2012

(Signature of person making submission or person authorised to sign on behalf of person making the submission)

Please note:
(1) All information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information.

☐ I do not wish to be heard in support of my submission; or
☐ I do wish to be heard in support of my submission; and if so, if others make a similar submission, I will consider presenting a joint case with them at the hearing.
SUBMISSION BY NGĀI TAUHU PROPERTY LIMITED ON THE PROPOSED LAND AND WATER REGIONAL PLAN

PART 1 – INTRODUCTION AND OVERVIEW

1 Introduction

This submission to the Proposed Land and Water Regional Plan ("the Proposed Plan") is made on behalf of Ngāi Tahu Property Limited ("NTPL").

1.1 Ngāi Tahu Property Limited

Ngāi Tahu Property Limited is a wholly owned subsidiary of Ngāi Tahu Holdings Corporation which in turn holds and manages the commercial investments for the benefit of Te Rūnanga o Ngāi Tahu.

The vision of Te Rūnanga o Ngāi Tahu and its commercial arm is driven by one statement:

*Mō tātou, ā, mō kā uri ā muri ake nei*

For us and our children after us

The actions of Ngāi Tahu are driven by a set of core values that underpin every decision we make on behalf of Ngāi Tahu Whānui. We are long-term investors with a commitment to cultural and economic innovation and sustainability. These values are:

*Whanaungatanga (family)*

We will respect, foster and maintain important relationships within the organisation, within the iwi and within the community.

*Manaakitanga (looking after our people)*

We will pay respect to each other, to iwi members and to all others in accordance with tikanga Māori.

*Tohungatanga (expertise)*

We will pursue knowledge and ideas that will strengthen and grow Ngāi Tahu and our community.

*Kaitiakitanga (stewardship)*

We will work actively to protect the people, environment, knowledge, culture, language and resources important to Ngāi Tahu for future generations.

*Tikanga (appropriate action)*

We will strive to ensure that the tikanga of Ngāi Tahu is actioned and acknowledged in all of our outcomes.

*Rangatiratanga (leadership)*

NTPL Submission to Proposed Land and Water Plan.
We will strive to maintain a high degree of personal integrity and ethical behaviour in all actions and decisions we undertake.

Ngāi Tahu Holdings Corporation and its subsidiaries is a committed “New Zealand focused” intergenerational investor, driven by the vision and values of Ngāi Tahu Whānui with an active approach to investment and governance.

1.2 Forestry Interests of NTPL in the Canterbury Region

NTPL has a number of forestry assets and interests in the area covered by the Proposed Plan:

- NTPL owns the land in Balmoral Forest. This comprises 8,569ha of land on the immediate north bank of the Hurunui River, and a further 783ha on the south bank of the river. This forest is being converted to sustainable agriculture. Resource consents granted by Environment Canterbury in early 2012 enable dairy conversions to take place. Further consents are soon to be sought to take water for irrigation, and use land in the forest for irrigation. These consent applications will be heard under the provisions of the Hurunui and Waiar River Regional Plan.

- NTPL has owned the land in Eyrewell Forest since 2000. This comprises some 6,700ha of land on the immediate north east bank of the Waimakariri River. This land is being converted to sustainable agriculture, including dairy platforms and dairy support. The total cost of this investment will be in the hundreds of millions of dollars. This conversion is enabled via resource consents granted in 2005. The use of nitrogenous fertiliser is an essential part of the change of land use from forestry to sustainable agriculture.

Further resource consents granted by Environment Canterbury in 2007 enable up to 2.6 m³/s to be taken from the Waimakariri River for irrigation of about 4,500ha in the forest. At present an irrigation intake is being constructed at Brown’s Rock, and irrigation is schedule to start later in 2012. Irrigation equipment has already been purchased to irrigate 1,200ha.

Importantly for this submission conversion to agriculture will take place incrementally over about the next 12 years. This is because early forest harvesting attracts Emission Trading Scheme liabilities and so it is uneconomic to harvest trees until they reach certain ages, and because of funding streams.

- NTPL manages land it used to own in Oxford Forest for new owners.
- NTPL owns 2,450ha of land with Hanmer Forest.
General Comments on the Proposed Plan

There is much about the layout and approach of Proposed Plan that, in comparison with the operative NRRP, NTPL supports:

- The plan is much more compact, easy to follow and lacks all the complex numbering and cross referencing of the NRRP.
- There is far less repetition and redundancy, e.g. in the NRRP often repetitive methods for each policy that sometimes ran to several pages.
- Activity and resource based policies are generally a major improvement on the highly prescriptive and pedantic approach in the NRRP. There are many examples where overly prescriptive NRRP policy is much more simply expressed.
- Much of what was redundant in the NRRP, such as pages of detail on methods, monitoring and the like has been deleted. Similarly many now redundant schedules have also gone. As a result the plan is much shorter and all in one volume.

NTPL's main criticism of the general approach in Proposed Plan is that the rationale for the Objectives, and, to some extent, the Strategic Policies, is often difficult to understand.

This submission by NTPL focuses on protecting its current asset base, particularly the conversion of Eyrewell Forest to sustainable agriculture.
2 DETAILED SUBMISSIONS

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<th>Plan Provision</th>
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<th>Relief Sought</th>
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<td><strong>Section 2</strong></td>
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| **Section 2.10** – Definitions, Translations and Abbreviations | NTPL opposes the definition of “changed” in terms of Rules 5.42 to 5.45. The second limb of this definition would mean that in Eyrewell Forest, every time a new part of the property is converted to dairying and irrigated after 30 June 2013, a new resource consent would need to be sought for a non-complying activity under Rule 5.45. This is not practical or sensible, and introduces far too much uncertainty for future investment. NTPL considers that the trigger threshold of a 10% change is too low, and that this does not take sufficient account of common farm practise, including annual changes in cropping regimes and use of a farm for seasonal dairy support. NTPL would much prefer to be able to seek consent (if required) for irrigated land use on the balance of the property in one application. There is also a need to exclude small properties from this onerous requirement. | The relief sought is that the first sentence of Part 2 of this definition be redrafted as follows:
*An increase of more than 20% in the loss of nitrogen from a property used for a farming activity above the average nitrogen loss for the same property in the two previous years.* And that a third clause be added:
*This provision shall not apply to properties of less than 10ha, unless they undertake intensive indoor farming.* Make any consequential amendments necessary to give effect to the relief sought. |
| **Section 3 – Objectives** |                        |               |
| Objectives 3.1, 3.2, 3.22 and 3.23 | NTPL opposes each of Objectives 3.1, 3.2, 3.22 and 3.23 as they are not outcomes, and therefore do not meet the plan’s own definition of what an objective is. NTPL also considers that Objective 3.2 is effectively embraced by Objective 3.4 | The relief sought is to delete Objectives 3.1, 3.2, 3.22 and 3.23.

NTPL opposes Objective 3.9. It is not practical to protect existing natural character along the entire length of alpine rivers. This could be interpreted to mean that no new bridges, irrigation intakes or transmission lines could be constructed over or alongside alpine rivers. | The relief sought is either to delete Objective 3.9, or alternatively to restrict its scope to headwater regions of alpine rivers. |
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<th>Plan Provision</th>
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<tbody>
<tr>
<td>Objective 3.12.</td>
<td>NTPL partly supports Objective 3.12, but notes that the wording of the Objective infers that groundwater quality is currently “high” in all cases. This is not true.</td>
<td>The relief sought is to rewrite Objective 3.12 as follows: “Groundwater provides a sustainable source of water to support instream flows and abstraction”.</td>
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<tr>
<td>Objective 3.15</td>
<td>NTPL partly supports Objective 3.15, but believes that the word “wise” and the phrase “multiple use” are inappropriate. Who judges what is “wise”. In many instances water storage reservoirs, particularly smaller reservoirs, will not be suitable for any multiple use.</td>
<td>The relief sought is to delete “wise” and “multiple use” from the objective.</td>
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<tr>
<td>Objective 3.16</td>
<td>NTPL partly supports Objective 3.16 but considers there is no reason why all infrastructure should not be covered by the Objective.</td>
<td>The relief sought is to delete the words “of national and regional significance” from the objective.</td>
</tr>
<tr>
<td>Objective 3.20</td>
<td>NTPL opposes Objective 3.20. It is not appropriate to elevate management of a resource like gravel to the level of an objective.</td>
<td>The relief sought is to delete Objective 3.20</td>
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</table>
### Section 4 – Policies

| Policy 4.1 | NTPL opposes Policy 4.1 in part and seeks amendments to section of the policy headed “all river units”, as outlined in Table 1a, as follows:  
Delete the phrase “the natural colour of the water shall not be altered”. This is not practical as many discharges will alter natural colour.  
Add the word “existing” before the words “passage for migratory fish”. There should be no absolute requirement to maintain passage if it does not already exist.  
Delete the words “avoids flat lining” in the last line. This is a colloquial phrase that should not be used in a statutory plan, and may not be appropriate depending on the flow and allocation regime in a particular river. Add the words “scour filamentous algae” in its place.  
NTPL opposes in part Table 1c. This does not recognise that groundwater quality has already declined in much of Canterbury, and that there will be ongoing changes in quality whatever remedial action is undertaken. NTPL considers this was provided for in Policy WQL 2.1 (2)(a) of the NRRP, and should also be provided for in the Land and Water Plan. It is also noted in officer reports for the Proposed Hurunui and Waiau River Regional Plan that there up to a seven year lag between cause and effect in relation to nitrogen concentrations. |
| --- | --- |
| The relief sought is in Table 1a to:  
- Delete the phrase “the natural colour of the water shall not be altered”.  
- Add the word “existing” before the words “passage for migratory fish”.  
- Delete the words “avoids flat lining” in the last line. Add the words “scour filamentous algae” in its place.  |
| Policy 4.2 | NTPL opposes Policy 4.2. There is no justification provided for this policy in the Proposed Plan.  
The relief sought is to either delete Policy 4.2, or to provide strong justification for the inclusion of the policy, so it can be reasonably tested. |

NTPL Submission to Proposed Land and Water Plan.
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<tr>
<th>Policy 4.6</th>
<th><strong>NTPL opposes</strong> Policy 4.6. Read literally, the policy means that in those large parts of Canterbury where groundwater nitrate-nitrogen exceeds the &quot;limits&quot; in Table 1c, consent would not be granted to continue existing farming operations, and new consents could not be granted for some types of farming. The adverse effect can be managed (e.g. by providing bottled water for babies), so the end sought does not justify the means.</th>
<th>The <strong>relief sought</strong> is to delete Policy 4.6</th>
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<tr>
<td>Policy 4.7</td>
<td><strong>NTPL opposes in part</strong> Policy 4.7, because of its links with Policy 4.6. If Policy 4.6 is deleted, NTPL's opposition to Policy 4.7 relates to its justification on a case by case basis.</td>
<td>The <strong>relief sought</strong> is either to delete Policy 4.7, or alternatively, to provide strong justification for its inclusion.</td>
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<tr>
<td>Policies 4.1, 4.26 and 4.27</td>
<td><strong>NTPL supports</strong> Policies 4.1, 4.26 and 4.27.</td>
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<td>Policies 4.28 and 4.29</td>
<td><strong>NTPL conditionally supports</strong> Policy 4.28, but notes that what is meant by &quot;collaboratively agreed catchment-based water quality outcomes&quot; does not provide any certainty at this time. <strong>NTPL opposes in part</strong> Policy 4.29. The phrase starting &quot;or, in the absence of ....resource consents&quot; should be deleted. This option should only be exercised once any collaboratively agreed outcomes are set consistent with Policy 4.29.</td>
<td>The <strong>relief sought</strong> is to delete the words &quot;or, in the absence of any such articulation, granting, subject to conditions, or refusing applications for resource consents.&quot;</td>
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<td>Policy 4.31</td>
<td><strong>NTPL opposes</strong> Policy 4.31. The policy is ambiguous as it does not say what &quot;significant and enduring&quot; means. As already outlined, NTPL also opposes the current definition of &quot;change in farming activities&quot;</td>
<td>The <strong>relief sought</strong> is to delete Policy 4.31</td>
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<tr>
<td>Policy 4.32</td>
<td><strong>NTPL opposes</strong> Policy 4.32. It is ambiguous what &quot;industry articulated gooc industry practise nitrate discharge limit for a particular industry sector&quot; means. Nor is it clear what &quot;significant and enduring&quot; means. Neither of these terms is defined in the Plan, so the Policy is subjective and open to various interpretations.</td>
<td>The <strong>relief sought</strong> is to delete Policy 4.32</td>
</tr>
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<tr>
<th>Policy 4.34</th>
<th>NTPL opposes Policy 4.34. In areas where the outcomes from Policy 4.1 are not being met, particularly in regard to groundwater, this policy effectively requires consent applications for non-complying activities under Rule 5.45 be declined. Any new discharge of nitrate-nitrogen to groundwater will prevent the outcomes being met (particularly if they are not being met now), and according to this policy, those applications would be declined. This policy would prevent further conversion to irrigated agriculture of Eyrewell Forest, resulting in many tens of millions of dollars already invested being wasted as well as denying the further investment of about $250 million. As noted in relation to Policy 4.32, the words &quot;significant and enduring&quot; are not defined.</th>
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<tr>
<td>Policies 4.37 and 4.38</td>
<td>NTPL opposes Policies 4.37 and 4.38. It is impossible to determine how they could be brought into effect at this time, as Sections 6-15 of the Proposed Plan are not complete. The relief sought is to delete Policies 4.37 and 4.38</td>
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<tr>
<td>Policy 4.68</td>
<td>NTPL opposes Policy 4.68. If water is allocated but not used, it should be available to other users until such time as the water is taken up by the original consent holder. A good example is the Hurunui Water Project, where major costly infrastructure is proposed. If consents are granted construction may take some years, and there is no good environmental reason why water allocated to that user could not be used by another party in the interim. The relief sought is to delete Policy 4.68.</td>
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<td>Section 5 – Region Wide Rules</td>
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<td><strong>&quot;Rule&quot; 5.4</strong></td>
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<td>NTPL opposes “Rule” 5.4. It is not appropriate that all controlled or restricted discretionary activities have as a matter of control or discretion “the need for a bond or financial contributions”. In most such rules these provisions are unnecessary and/or inappropriate. These matters should be included only in rules where there is justification for such provisions. NTPL also notes that “Rules” 5.1 to 5.6 are not rules but rather advisory notes.</td>
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<tr>
<td>The relief sought is to delete the words “the need for a bond or financial contributions” from “Rule” 5.4, and to include these provisions separately in each controlled and restricted discretionary rule only where appropriate. Make any consequential amendments necessary to give effect to the relief sought</td>
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<tr>
<td><strong>Rules 5.44 and 5.45</strong></td>
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<td>NTPL opposes Rule 5.45. This should not be a non-complying activity, particularly where groundwater outcomes in Table 1c (which are substantial parts of Canterbury) are not currently being met. It also seeks that Rules 5.44 and 5.45 be combined, and made a restricted discretionary activity</td>
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<td>The relief sought is to delete Rule 5.45, add the words “or red” after the word “orange” in Rule 5.44, and make Rule 5.44 a restricted discretionary activity, with discretion limited to the measures to limit effects on water quality and preparation of and compliance with a farm management plan prepared under Schedule 7</td>
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<tr>
<td><strong>Rule 5.107</strong></td>
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<td>NTPL opposes Condition 5 of Rule 5.107. This is a punitive approach to transfer that seeks to penalise the consent holder transferring the water. It also dis-incentivises the transfer of part of a water permit to a more efficient use, particularly for a temporary transfer. There is no good resource management reason for such a condition.</td>
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<td>The relief sought is to delete Condition 5 from Rule 5.107, and add a new restriction of discretion as follows: “In an overallocated surface or groundwater zone, if and to what extent any water should be surrendered by the consent holder from whom water is being transferred”</td>
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<thead>
<tr>
<th>Schedule</th>
<th>NTPL Description</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Schedule 2</td>
<td>NTPL <strong>supports</strong> Schedule 2 relating to fish screens, noting that it is very similar to Schedule WQN12 of the operative NRRP.</td>
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<tr>
<td>Schedule 7</td>
<td>NTPL <strong>supports</strong> Schedule 7, which it considers appropriate for the purpose of preparing a Farm Environmental Plan.</td>
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<tr>
<td>Schedule 8</td>
<td>NTPL <strong>opposes</strong> Schedule 8 at this time, as it is empty and so it is not possible to determine its implications. NTPL reserves the right to submit further once amendments are made in the Proposed Plan.</td>
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