

Before the Hearings Commissioners  
at Christchurch

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*in the matter of:* a submission on the proposed Canterbury Land and  
Water Regional Plan under the Resource Management  
Act 1991

*to:* **Environment Canterbury**

*submitter* **Hunter Downs Irrigation**

Statement of evidence of Kenneth George Gimblett

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Date: 2 April 2013

## **STATEMENT OF EVIDENCE OF KENNETH GEORGE GIMBLETT**

### **INTRODUCTION**

- 1 My full name is Kenneth (Ken) George Gimblett.
- 2 I am a Director and Senior Resource Management Planner with the environmental consultancy firm Boffa Miskell Limited based in the firm's Christchurch office. I joined Boffa Miskell in 1998, prior to which I was a senior policy planner with Christchurch City Council.
- 3 I hold the qualification of Bachelor of Regional Planning (Hons) and I am a member of the New Zealand Planning Institute. I have 25 years experience in planning and resource management, gained both in New Zealand and the UK. As a consultant I have provided advice on a broad range of developments and resource management issues to a range of clients, a number involving presenting expert planning evidence before councils and the Environment Court. I also have extensive experience acting as an accredited independent hearings commissioner.
- 4 Much of my professional work has been focused in the South Island and has included both advising on plan preparation as well as involvement in complex industrial, infrastructure and energy related proposals. In the Canterbury region I had significant involvement with undertaking environmental effects assessment (AEE) and preparing consent applications in respect of Meridian Energy Limited's (Meridian's) Project Aqua hydro proposal and the North Bank Hydro Project electricity concepts in the lower Waitaki River catchment, and the more recent Project Hurunui Windfarm in north Canterbury. I also continue to advise in respect of the current proposals to take and use water for irrigation in the Upper Waitaki catchment and Mackenzie Basin, and in respect of hydro-electricity generation infrastructure within that same area.
- 5 In terms of plan and policy development locally, I have provided consultancy services and given expert evidence in relation to the preparation of the Natural Resources Regional Plan for Canterbury and was engaged by the Canterbury Earthquake Recovery Authority (CERA) to prepare amendments to the Christchurch City Plan at the direction of the Minister for Earthquake Recovery. I am the lead consultant in the current review of the Ashburton District Plan, have presented evidence in hearings and appeals on recent rural land use and landscape related plan changes proposed for the Mackenzie District, and acted as hearing commissioner on behalf of the Canterbury Regional Council in determining applications for the management of water resources within the local Christchurch context.

- 6 In regard to this matter, Boffa Miskell was engaged by Hunter Downs Irrigation (HDI) to advise in relation submissions and further submissions on the Proposed Canterbury Land & Water Regional Plan, and to assist with preparing those submissions. While work directly associated with the preparation of those submissions was undertaken by my colleagues, I did undertake an internal review role in that process. In late 2012, HDI asked if I would prepare this planning evidence in relation to matters addressed in submissions made on behalf of the company.
- 7 Although this is a Council hearing, in preparing my evidence I have reviewed the code of conduct for expert witnesses contained in part 5 of the consolidated Environment Court Practice Note 2011. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 8 In preparing my evidence I have carefully reviewed:
- 8.1 The evidence (for HDI on behalf of South Canterbury Irrigation Trust) of:
    - a) Mr Ian Moore; and
    - b) Mr Brian Ellwood;
  - 8.2 The National Policy Statement on Freshwater Management 2011 (NPSFWM);
  - 8.3 The Canterbury Regional Policy Statement 2013 (CRPS);
  - 8.4 The Proposed Canterbury Land & Water Regional Plan 2012 (the Proposed Plan), and the related s32 RMA1991 report;
  - 8.5 Resource Consent CRC071029 for the take and use of water from the Lower Waitaki River for the Hunter Downs Irrigation Scheme (HDIS);
  - 8.6 The s.42A reports R12/114 and R13/11 for the Proposed Plan as relevant to my evidence.

#### **SCOPE OF EVIDENCE**

- 9 In my evidence I have been asked by Hunter Downs Irrigation (*HDI*) to address the following key areas:
- 9.1 The appropriateness of the exemption in Policy 4.35 and Rule 5.42 of the Proposed Plan for nutrient discharges associated

with existing lawfully consented irrigation schemes such as the HDIS; and

- 9.2 The appropriateness of policy 4.76 of the Proposed Plan in respect of regionally significant irrigation infrastructure such as the HDIS.

### **SUMMARY**

- 10 The Proposed Plan includes a regime for the management of farming derived nutrients. Prior to 1 July 2017, an interim holding position is proposed to manage farming activities, until which time it is anticipated that industry rates for nitrogen loss are to be included in Schedule 8 of the Plan. At that time a new post 1 July 2017 regime is proposed to apply.
- 11 Under the pre 1 July 2017 regime, it is proposed under rule 5.42 that changes in farming activity are a permitted activity where a land holder holds shares in an irrigation company that has been granted a water permit that authorises irrigation on the land. That status is subject to there being conditions on that permit that specify the maximum amount of nitrogen than may be leached.
- 12 Beyond 1 July 2017, no such exemption for consented irrigation schemes is proposed. The likely implications for HDIS are that after 1 July 2017, changes in farming activity will likely require a land use consent where the (as yet unknown) Schedule 8 rate of nitrogen loss for the relevant farming are not met.
- 13 This is despite the HDIS water permit already being subject to a comprehensive and robust means of managing nutrient loss, including the requirements for preparation of farm environment/management plans. Those conditions will achieve the intent of the Proposed Plan rules to control land use effects on water quality. I see no benefit in also requiring land use consents to be obtained in such a situation (including for the HDIS).
- 14 In my opinion an exemption for consented irrigation schemes from the nutrient management regime of the Proposed Plan should also apply after 2017. I recommend a number of changes to policies and rules that would achieve this.
- 15 I consider this would:
- 15.1 Recognise existing robust nutrient management regimes in existing water permits such as those for the HDIS;
- 15.2 Avoid the potential for conflict or unnecessary duplication between the requirements of water permits and the Proposed Plan;

- 15.3 Ensure existing irrigation scheme consent holders can exercise their water permits with certainty;
  - 15.4 Recognise that reviews of existing water permits under s128 RMA1991 are possible to address any inadequacies in relation to nutrient management;
  - 15.5 Support the continued operation of the substantial investment in existing regionally significant irrigation infrastructure (including HDIS), and its benefits;
  - 15.6 Support those provisions of the Proposed Plan and CWMS which specifically seek to provide for irrigation schemes;
  - 15.7 Not compromise the ability for catchment specific solutions to be determined and set in sub-regional sections to address poor water quality outcomes; and
  - 15.8 Give effect to those provisions of the CRPS2013 which seek to recognise and provide for irrigation schemes and infrastructure.
- 16 The s42A report recommends significant changes to the proposed nutrient management regime. However the recommended changes to the rules still fail to appropriately exempt consented irrigation schemes which have robust nutrient management conditions in place.
- 17 Policy 4.76 directs the granting of shorter term consents of 5 years where it may hinder community based approaches to resolving issues of degraded water quality and over-allocation of water.
- 18 The policy does not recognise the particular importance of the availability of water for regionally significant irrigation schemes such as HDIS. It would not recognise the practical certainty for investment in and operation of such infrastructure, and its associated benefits. It is also unclear how the qualification regarding impeding the communities' ability to find solutions is to be interpreted, or that judgement is to be made when significant infrastructure is concerned.
- 19 Policy 4.76 would not give effect to aspects of the policies of the CRPS2013. There is clear recognition in policy 7.3.11 of the CRPS2013 that certainty should be provided that the take and use of water associated with existing irrigation schemes can continue, and that resource consents can be granted for the maximum duration, within appropriate operating conditions.

- 20 I support HDI's sought amendment to policy 4.76 to recognise longer durations may be granted for regionally significant infrastructure.

### **NUTRIENT DISCHARGE PROVISIONS FOR IRRIGATION SCHEMES**

- 21 Irrigation schemes such as the HDIS facilitate changes in the modes of farming and intensification of farming practices. Possible resulting increases in farm derived nutrients can degrade catchment water quality unless appropriate controls and management practices are put in place.
- 22 The Proposed Plan proposes a region wide regime with two timescales for the management of farm derived nutrients. Prior to 1 July 2017, the focus is primarily on raising awareness of nitrogen leaching losses from farming activities, and controlling changes in farming that would increase nutrient loss to avoid further adverse effects on water quality. The degree of control applied is dependent on the nutrient allocation status of individual catchments which have been zoned according to whether the Proposed Plan's water quality outcomes (Tables 1a & b) are currently met. The pre 1 July 2017 regime is intended as an interim holding measure to apply region wide while longer term solutions are established, including catchment specific solutions.
- 23 Prior to 1 July 2017, farming activity associated with consented irrigation schemes (outside of 'lake' zones) are addressed under region wide rules 5.39 and 5.42 as follows:
- 23.1 Any existing farming activity (outside of a 'lake' zone) is a permitted activity, where a record of the annual amount of nitrogen loss from the land is kept and provided to ECan on request (rule 5.39);
- 23.2 Any 'change' in farming (outside of a 'lake' zone) is a permitted activity where the land holder holds shares in an irrigation company that has been granted a water permit that authorises irrigation on the land, and that permit is subject to conditions that specify the maximum amount of nitrogen that may be leached. This is subject to a Farm Environment Plan being prepared, implemented, and audited (rule 5.42).
- 24 This latter rule is supported by policy 4.35 which prior to 1 July 2017 enables changes in farming activities where the land owner is a shareholder in an irrigation scheme, and there are conditions on that water permit addressing nutrient management.
- 25 It is understood that by 1 July 2017, specific region wide nitrogen loss limits for different farming activities are intended by ECan to be

established and incorporated in Schedule 8 of the Proposed Plan. It is intended that any existing or 'change' in farming activity associated with a consented irrigation scheme will have to comply with those limits from 1 July 2017, unless no limit for the relevant farming activity has been specified. Where the limit is not met, or no relevant limit has been set, resource consent will be required.

- 26 Unlike prior to 1 July 2017, after 1 July 2017 there is no specific exemption for farming activities associated with consented irrigation schemes that have been granted a water permit and which are subject to conditions restricting nitrogen loss. All farming activities are addressed in the same way, irrespective of any controlling consent provisions that may exist. The result is that the following region wide rules apply after 1 July 2017:

26.1 Any farming activity (outside of a 'lake' zone) is a permitted activity (rule 5.46) where:

- a) It complies with the average annual loss of nitrogen rate for the relevant farming activity in Schedule 8 (yet to be devised); and
- b) If the annual average loss of nitrogen, averaged over three years is less than 20kg/ha, a record of the annual amount of nitrogen loss from the land is to be kept and provided to CRC on request; or
- c) If the annual average loss of nitrogen, averaged over three years is 20kg/ha or greater, a Farm Environment Plan is prepared, implemented and audited.

26.2 Where the relevant rate in Schedule 8 is exceeded, or no rate for the relevant farming activity has been specified, any farming activity requires resource consent, with the following activity status to apply:

- a) Restricted discretionary within 'blue' or 'green' (under-allocated) zones (rule 5.47);
- b) Discretionary within 'orange' (at risk) zones (rule 5.48);
- c) Discretionary within 'lake' (sensitive lake catchment) zones where it complies with the average annual loss of nitrogen rate for the relevant farming activity in Schedule 8 (rule 5.48);
- d) Non-Complying within 'red' (over-allocated) zones (rule 5.49); and

- e) Non-Complying within 'lake' (sensitive lake catchment) zones where it does not comply with the average annual loss of nitrogen rate for the relevant farming activity in Schedule 8 (rule 5.49).
- 27 Under policy 4.37, sub-regional sections of the Proposed Plan may also specify catchment specific nutrient load limits and allowances which must be met instead of the region wide rates specified in Schedule 8. It is understood from policy 4.7 of the Proposed Plan that establishing regimes will be prioritised in those catchments where water quality outcomes are not met to provide methods and a timeframe to address water quality issues. Formulation and incorporation of catchment specific regimes in the Proposed Plan will be subject to future plan change processes.
- 28 Permitted activity status for farming under region wide rule 5.46 is dependent on the currently unknown region wide rates set in Schedule 8. Consequently there is a high degree of uncertainty as to how farming within the HDIS command area will be provided for after 1 July 2017. As outlined by **Mr Ellwood**, this uncertainty is likely to have a detrimental effect on financial and farmer commitment to the scheme.
- 29 Much of the HDIS command area falls within areas zoned 'orange' (at-risk) and 'red' (over-allocated). As such if the rate of nitrogen loss of the relevant farming activity in Schedule 8 or any other condition of rule 5.46 is not met, any farming activity would be a discretionary or non-complying activity under rules 5.48 and 5.49 after 1 July 2017.
- 30 The consequence is that beyond 2017, a further land use consent may be required for farming activity on each property to consider nutrient management measures. This is despite nutrient management having been considered and consented comprehensively as part of the HDIS water permit. It would therefore essentially revisit nutrient management matters for no apparent benefit.
- 31 HDI's submission considered that limiting the exemption within policy 4.35 and rule 5.42 to the pre 1 July 2017 period is unnecessarily restrictive, and provides no environmental benefit where existing irrigation schemes are already subject to accepted nutrient management conditions. The submission sought amendments to the Proposed Plan which extended the region wide exemption beyond 1 July 2017.
- 32 It is unclear from reading the plan, as to why the region wide exemption for irrigation schemes does not apply beyond 1 July 2017. Furthermore in my examination, no explicit rationale is provided in the ECan s.32 report. The only apparent benefit is that it



would bring all farm derived nutrient loss under the same regime; that is the need to comply with the (as yet unknown) specified rates in Schedule 8. That however would fail in my view to appropriately recognise existing water permits which have robust nutrient management requirements in place, which have the same intent as the Proposed Plan to control nutrient loss. It would also fail to recognise ECan's ability to review the conditions of existing water permits under s128(1) of the RMA1991. This would seem an appropriate means to address any inadequacies in relation to nutrient management, rather than requiring new, and separate land use consent for changes in farming.

- 33 The evidence of **Mr Ellwood** provides an outline of the existing HDI water permit. The water permit enables the take and use of water from the Waitaki River for the scheme, and provides a basis to manage consequential effects from nutrients on water quality in the HDIS command area. While the HDIS water permit is yet to be exercised, it is certainly reasonable to expect it will be, and therefore appropriate in planning terms to consider it to form part of the existing environment.
- 34 In my opinion, RMA planning documents should appropriately recognise and consider the existing environment in their formulation. The existing environment affects the resource management issues of relevance in the region, and the appropriate policy responses to address them. In regard to nutrient management, it is in my view relevant to recognise management regimes imposed via existing resource consents in devising provisions appropriate for the Proposed Plan. This is particularly so where the management regime under those resource consents provides a current and robust means to manage nutrients.
- 35 As described by **Mr Ellwood**, the nutrient management conditions of the HDI consents are intended to achieve the same outcomes as the Proposed Plan. He describes how the requirements for Scheme and Farm Management plans, water supply agreements, and other consents conditions create a robust regime for managing the change in land use and limiting adverse effects. They will achieve the intent of rules 5.46 – 5.49 to control land use effects on water quality. It is relevant to note that relative to other irrigation schemes in Canterbury, the HDIS was consented recently and incorporates the 'best practice' regime that seems to be anticipated by the Proposed Plan.
- 36 Given the above I consider that it is appropriate that there be some form of region wide exemption for water permits and irrigation schemes beyond 1 July 2017. The form and scope of such an exemption should however be conditional upon ensuring robust nutrient management conditions are in place (such as for HDIS). Such an exemption would:

- 36.1 Recognise those existing robust nutrient management regimes in existing water permits such as those for the HDIS;
  - 36.2 Avoid the potential for conflict or unnecessary duplication between the requirements of water permits and the Proposed Plan rules (e.g. duplicating requirements for farm environment/management plans);
  - 36.3 Ensure existing consent holders (including HDI) can exercise their water permits with certainty, without the need to vary or obtain new permits;
  - 36.4 Recognise the ability of ECan to initiate reviews of existing water permits under s128 RMA1991 to address any inadequacies in relation to nutrient management. This is a more appropriate process option than requiring new additional consents;
  - 36.5 Support the continued operation of the substantial investment in existing regionally significant irrigation infrastructure (including HDIS), and the social, economic, and environmental benefits from it;
  - 36.6 Support those provisions of the Proposed Plan and CWMS which specifically seek to provide for irrigation schemes, particularly achievement of the regional concept for water harvest, storage, and distribution in Schedule 16 of the Proposed Plan; while
  - 36.7 Not compromising the ability for catchment specific solutions to be determined and set in sub-regional sections to address poor water quality outcomes (i.e. as per policies 4.7 and 4.37).
- 37 In my opinion extending the exemption in situations such as those that exist for the HDIS would give effect to those key provisions of the operative CRPS which enable the development and ongoing operation of irrigation schemes, while providing for maintenance and enhancement of degraded water quality. **Appendix 1** details the relevant objectives and policies. In particular it would give effect to:
- 37.1 Objective 5.2.2 by supporting the use of infrastructure that is regionally significant to the extent that it promotes sustainable management;
  - 37.2 Policy 5.3.9 by providing for the continuation of the operation of existing infrastructure, and the development of new infrastructure, while avoiding, remedying, mitigating, or controlling adverse effects;

- 37.3 Policy 5.3.11 by supporting the operation of existing and consented community scale irrigation infrastructure;
- 37.4 Objective 7.2.1 by ensuring the region's fresh water resources are sustainably managed to enable people and communities to provide for their well-being through abstracting and using water for irrigation, while safeguarding life-supporting capacity, ecosystem processes, indigenous species, ecosystems, and mauri;
- 37.5 Objective 7.2.3 by ensuring the overall quality of fresh water in the region is maintained or improved, and the life-supporting capacity, ecosystem processes and indigenous species, and ecosystems are safeguarded;
- 37.6 Objective 7.2.4 by ensuring freshwater is sustainably managed in an integrated way, considering the effects of land uses and intensification on demand for water and on water quality, and the net benefits of water infrastructure;
- 37.7 Policy 7.3.7 by controlling changes in land uses to ensure water quality standards are maintained or where water quality is already below the minimum standard for the water body, it is improved;
- 37.8 Policy 7.3.10 by recognising the benefits of harvesting water for improving reliability of irrigation, increasing the irrigated land area in Canterbury, providing resilience from climate change, and reducing pressure on surface water bodies;
- 37.9 Policy 7.3.11 by recognising and providing for the continuation of existing irrigation schemes.
- 38 As per HDI's submission, I therefore support the addition of a new rule to complement rule 5.42 to provide for farming activity associated with an irrigation company that has been granted a water permit as a permitted activity beyond 1 July 2017. The scope of the exemption should be restricted to those water permits which specify a maximum amount of nitrogen that may be leached, and requires the preparation, implementation, and audit of a Farm Environment Plan. Related to this, I also support amendment of rule 5.42 as per HDI's submission to remove the need for a Farm Environment Plan where it is otherwise required under the water permit conditions. This will avoid unnecessary duplication and potential for conflict between corresponding Farm Environment/Management Plan requirements.
- 39 On that basis I support the following amendments to the Proposed Plan. These differ from those sought in HDI's submission to provide greater clarity, but are within the scope of that submission. Those

amendments which differ from those in HDI's submission are distinguishable by their background shading. The main change is the deletion of a proposed requirement in rule 5.42 and the new post 2017 rule that the water permit must be 'given effect to'. Retaining this requirement would not appropriately provide for consented, but unimplemented, irrigation schemes which have nutrient management regimes in place. It would in fact not provide for HDI which has yet to be given effect to.

## Activity and Resource Policies

### Nutrient Discharges – Region-wide Policies

- 4.35 To minimise the loss of nitrogen to water ~~prior to 1 July 2017~~, where the land owner holds an existing water permit to take and use water, or is a shareholder in an irrigation scheme, and there are conditions on the water permit that address nutrient management, any change in farming activities will be enabled subject to requirements to prepare and implement a farm environment plan, the regular audit of that plan (except where separately required by the conditions of the water permit) and to record, on a per enterprise basis, nitrogen discharges.

## Section 5 - Region-Wide Rules

### Farming

#### **5.42 Prior to 1 July 2017 the use of land for a change to an existing farming activity is a permitted activity if the following conditions are met:**

1. The land holder has been granted a water permit ~~that has been given effect to~~, or holds shares in an irrigation company that has been granted a water permit ~~that has been given effect to~~, that authorises irrigation on the land and the land is subject to conditions that addresses nutrient management, and in particular the requires the preparation, implementation, and auditing of a farm environment/management plan(s), and specifies the maximum amount of nitrogen that may be leached;
2. The property is outside a Lake Zone as shown on the Planning Maps;
3. A record of the annual amount of nitrogen loss from the land, for the period from 1 July in one year to 30 June in the following year, calculated using the OVERSEERTM nutrient model;

4. A Farm Environment Plan is prepared and implemented in accordance with Schedule 7 *(except where this is otherwise required under the water permit as provided in 1 above)*;
5. The Farm Environment Plan is externally audited each year for the first three years by an Farm Environment Plan Auditor *(except where this is otherwise required under the water permit as provided in 1 above)*. Following three consecutive years of full compliance, the audit shall occur once every three years; and
6. A record of the audit compliance grading and the average annual loss of nitrogen for the property is provided to the CRC by 31 August of that year *(except where this is otherwise required under the water permit as provided in 1 above)*.

**5.XX Notwithstanding rules 5.46 – 5.49, from 1 July 2017, the use of land for any farming activity, is a permitted activity if the land holder holds shares in an irrigation company that has been granted a water permit that has been given effect to that authorises irrigation on the land, and the land is subject to conditions that address nutrient management, and in particular requires the preparation, implementation, and auditing of a farm environment/management plan(s), and specifies the maximum amount of nitrogen that may be leached.**

#### **Section 42A Report Recommendations**

- 40 Notwithstanding the above, the section 42A report recommends extensive changes to the policies and rules relating to nutrient management. Without describing these changes fully, they include:
  - 40.1 Deletion of the use of the OVERSEER modelling tool and the post 2017 rule regime (to be reincorporated later when Schedule 8 is derived);
  - 40.2 Changes to the interim rule regime, including:
    - a) Exempting small farm properties from the regime;
    - b) The capture of other farm derived contaminants in addition to nitrogen;
    - c) Greater focus on managing existing 'high nutrient risk' farming activities instead of all existing farming;

- d) Greater use of farm environment plans as a management tool for both permitted activities and through resource consents; and
  - e) Increased flexibility by enabling a degree of 'change' in farming in 'red zones', subject to the adoption of 'advanced mitigation' practices.
- 41 Like the Proposed Plan, a resource consent framework is proposed for changes in farming, with a differential activity status being applied on the basis of the nutrient allocation zonings identified on the planning maps. In addition catchment specific solutions will still be prioritised for development in the sub-regional sections where water quality outcomes are not being met.
- 42 One significant departure from the Proposed Plan is the deletion of the current exemption in rule 5.42 for land holders who are part of a consented irrigation scheme. This would have the following implications for changes in farming within the HDIS command area:
- 42.1 Within green (under-allocated) zones, changes in farming are a permitted activity (recommended rule 5.44);
  - 42.2 Within orange (at-risk) zones, changes in farming as a restricted discretionary activity, where a farm environment plan is prepared (recommended rule 5.45). Otherwise it is discretionary (recommended rule 5.47);
  - 42.3 Within red (over-allocated) zones, changes in farming are a discretionary activity (recommended rule 5.46).
- 43 On the basis of the above, resource consent would still be required for changes in farming in a significant proportion of the HDIS command area where a comprehensive nutrient management regime is already proposed and consented for HDIS. Unlike the Proposed Plan, the regime recommended in the s42A report would however apply immediately instead of after 1 July 2017.
- 44 It is unclear whether removal of the exemption for consented irrigation schemes was intended. I note that if anything the related nutrient management policy regime is recommended to be more enabling of irrigation scheme based initiatives for managing nutrients, specifically:
- 44.1 Recommended policy 4.30 supports irrigation scheme initiatives to improve water use practices, reduce nutrient discharges, including reporting and auditing of their constituent farmers;

- 44.2 Policy 4.35 is retained (renumbered 4.34) and enables changes in farming where the land owner is a shareholder in a consented irrigation scheme, subject to requirements to prepare and implement a farm environment plan;
- 44.3 Recommended policy 4.38 supports the use of farm environment plans as a primary means of delivering good practice, including efficient and effective use of water for irrigation;
- 44.4 Policy 4.60 is amended, requiring abstractions of surface water for irrigation to be subject to conditions requiring compliance and auditing of a farm environment plan.
- 45 In my opinion, these policies together provide a strong basis for the inclusion of an exemption for consented irrigation schemes from the need to obtain land use consent for changes in farming. This is particularly so where the water permit contains conditions which address water use efficiency and minimising nutrient discharges through the implementation and auditing of farm environment plans. As explained by **Mr Ellwood**, the conditions on the HDIS water permit provide for all of these matters.
- 46 Overall in my view, the s42A report recommendations have not satisfactorily addressed the issues raised by HDI in its submission. The recommended policies are supported in providing appropriate recognition of irrigation scheme initiatives to manage nutrients, including through water permits. However the removal of the exemption for consented irrigation schemes would fail to appropriately provide for such alternative pathways for nutrient management which would achieve the same outcomes as the proposed regime.

#### **CONSENT DURATION FOR RESOURCE CONSENTS**

- 47 Policy 4.76 generally restricts the duration of resource consents for the use of land for farming activities and the associated discharge of nutrients and for water take and use in catchments or groundwater allocation zones which are over-allocated. Under the policy such activities will generally be subject to a 5 year duration if they may impede the ability of the community to find an integrated solution to manage water quality or the over-allocation of water.
- 48 The ECan s32 report notes that the intent of policy 4.76 is to ensure consents are not issued for extended periods of time which hinders the ability to address over-allocation or degraded water quality in those catchments where this is an issue. Policy 4.76 therefore sets a

direction towards shorter term consents where it may hinder community based approaches to resolving these issues.

- 49 Policy 4.76 is limited in its application to water and nutrient over-allocation, where the granting of resource consent may impede the ability to find an integrated solution to manage water quality degradation and over-allocation. These are significant resource management issues in the region, which are also recognised in the objectives and policies of higher order planning documents including the NPSFWM, and the CRPS. Similarly the objectives of the Proposed Plan itself recognise these issues within the region.
- 50 Conversely however Policy 4.76 does not recognise the particular importance of the availability of water for regionally significant infrastructure, particularly irrigation schemes. Restricting the duration of water permits for irrigation to 5 years would not recognise the practical certainty required for investment in and operation of such infrastructure, and its associated benefits.
- 51 In my opinion a 5 year duration on consents to take and use water for regionally significant infrastructure, including for irrigation would not give effect to aspects of a number of the relevant objectives and policies of the CRPS described earlier, particularly Objectives 5.2.2, 7.2.1, 7.2.4 and Policies 5.3.9, and 5.3.11. It is also uncertain how the policy qualification regarding impeding the community's ability to find integrated management solutions is to be interpreted, or how that judgement is to be made particularly where large scale or otherwise significant infrastructure is concerned.
- 52 Policy 7.3.11 is particularly relevant to the take and use of freshwater for existing activities and infrastructure. It recognises and provides for the continuation of existing irrigation which involves substantial investment in infrastructure, but requires improvements in water use efficiency and reductions in adverse effects, where appropriate. The explanation to the policy recognises:

*'Policy 7.3.11 takes a pragmatic approach to existing hydro-electricity generation, irrigation schemes, and other activities which involve substantial investment in infrastructure, by recognising them and providing some certainty in regional plans that these activities can continue. This may include provision for these activities within environmental flow and water allocation regimes. However, there is a requirement that existing activities continue to improve their water use efficiency and reduce other environmental effects as new technologies and information allow; as would be the requirement should those existing activities be applying for resource consent today. One way in which this can be achieved in the current statutory framework, is through granting resource consents for the maximum period under*



*the RMA, but placing more emphasis on regular monitoring of effects and review of operating conditions.'*

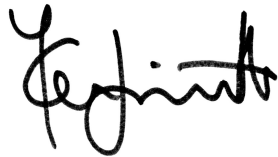
- 53 There is a clear recognition in the policy that some certainty should be provided that these activities can continue, and that resource consents can be granted for the maximum duration, within appropriate operating conditions. I consider applying the 5 year duration under Policy 4.76 to such existing infrastructure would not give effect to this CRPS policy. This is particularly so, given the subjectivity inherent in the policy regarding the possibility of there being some impedance to the community finding integrated solutions to water quality and over-allocation issues.
- 54 Enabling a duration of more than 5 years for the take and use of water for infrastructure in over-allocated catchments will not necessarily affect the ability of the community to find an integrated solution to address over-allocation. Under the CWMS led approach, such solutions will be addressed and determined collaboratively through zone committees and will involve irrigation stakeholders. Any solution which eventually finds its way into a Zone Implementation Plan (ZIP) can be implemented by a range of measures, which may include provisions being added to the sub-regional sections of the Proposed Plan or initiating reviews of the conditions of water permits to address any significant adverse effects from their implementation.
- 55 In recognition of the above, I support HDI's submission to amend policy 4.76 as follows to provide an exemption for the take and use of water for strategic infrastructure. Recognition for such infrastructure and of its benefits is a theme that underlies much of the submission made by HDI. In my view the wording sought could be further amended, including the addition of reference to "regionally significant infrastructure" to better accord with the terminology used in the Proposed Plan.

4.76 Resource consents for the use of land for farming activities and the associated discharge of nutrients in catchments that are coloured red on the Planning Maps and resource consents for water take and use in catchments or groundwater allocation zones that are over-allocated will generally be subject to a 5 year duration if the land use and associated nutrient discharges or water take and use may impede the ability of the community to find an integrated solution to manage water quality and the over-allocation of water. *The general presumption towards a 5 year restriction on duration does not apply will not be applicable in relation to the take and use of water for strategic regionally significant infrastructure.*

**Section 42A Report Recommendations**

- 56 The s42A report considers that policy 4.76 strikes the right balance in that resource consents can be granted for a limited duration, in order that the community outcomes for these sensitive types of catchments are not undermined or prejudiced by the grant of a resource consent for a significant period. In my opinion however, the policy fails to recognise the needs of regionally significance infrastructure; specifically its importance in supporting social and economic well-being, and the certainty required for investment in new infrastructure. It would not give effect to key policies of the CRPS which support provision of such infrastructure.

Dated: 2 April 2013



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Ken Gimblett

**APPENDIX 1 – CANTERBURY REGIONAL POLICY STATEMENT 2013**  
**– RELEVANT OBJECTIVES AND POLICIES**

**Chapter 5 – Land Use and Infrastructure**

**Objective 5.2.2 – Integration of land-use and regionally significant infrastructure**

In relation to the integration of land use and regionally significant infrastructure:

- (1) To recognise the benefits of enabling people and communities to provide for their social, economic and cultural well-being and health and safety and to provide for infrastructure that is regionally significant to the extent that it promotes sustainable management in accordance with the RMA.
- (2) To achieve patterns and sequencing of land-use with regionally significant infrastructure in the wider region so that:
  - (a) development does not result in adverse effects on the operation, use and development of regionally significant infrastructure.
  - (b) adverse effects resulting from the development or operation of regionally significant infrastructure are avoided, remedied or mitigated as fully as practicable.
  - (c) there is increased sustainability, efficiency and liveability.

**Policy 5.3.9 – Regionally significant infrastructure**

In relation to regionally significant infrastructure (including transport hubs):

- (1) avoid development which constrains the ability of this infrastructure to be developed and used without time or other operational constraints that may arise from adverse effects relating to reverse sensitivity or safety;
- (2) provide for the continuation of existing infrastructure, including its maintenance and operation, without prejudice to any future decision that may be required for the ongoing operation or expansion of that infrastructure; and
- (3) provide for the expansion of existing infrastructure and development of new infrastructure, while:

- (a) Recognising the logistical, technical or operational constraints of this infrastructure and any need to locate activities where a natural or physical resource base exists;
- (b) avoiding any adverse effects on significant natural and physical resources and cultural values and where this is not practicable, remedying or mitigating them, and appropriately controlling other adverse effects on the environment; and
- (c) when determining any proposal within a sensitive environment (including any environment the subject of section 6 of the RMA), requiring that alternative sites, routes, methods and design of all components and associated structures are considered so that the proposal satisfies sections 5(2)(a) – (c) as fully as is practicable.

**Policy 5.3.11 – Community-scale irrigation, stockwater and rural drainage infrastructure**

In relation to established and consented community-scale irrigation, stockwater and rural drainage infrastructure:

- (1) Avoid development which constrains the ability of this infrastructure in Canterbury to be operated, maintained and upgraded;
- (2) Enable this infrastructure to be operated, maintained and upgraded in Canterbury to more effectively and efficiently transport consented water provided that, as a result of its location and design:
  - (a) the adverse effects on significant natural and physical resources and cultural values are avoided, or where this is not practicable, mitigated; and
  - (b) other adverse effects on the environment are appropriately managed.

**Chapter 7 - Freshwater**

**Objective 7.2.1 – Sustainable management of fresh water**

The region's fresh water resources are sustainably managed to enable people and communities to provide for their economic and social wellbeing through abstracting and/or using water for irrigation, hydro-electricity generation and other economic activities, and for recreational and amenity values, and any economic and social activities associated with those values, providing:

- (1) the life-supporting capacity ecosystem processes, and indigenous species and their associated freshwater ecosystems and mauri of the fresh water is safe-guarded;
- (2) the natural character values of wetlands, lakes and rivers and their margins are preserved and these areas are protected from inappropriate subdivision, use and development and where appropriate restored or enhanced; and
- (3) any actual or reasonably foreseeable requirements for community and stockwater supplies and customary uses, are provided for.

**Objective 7.2.3 - Protection of intrinsic value of waterbodies and their riparian zones**

The overall quality of freshwater in the region is maintained or improved, and the life supporting capacity, ecosystem processes and indigenous species and their associated fresh water ecosystems are safeguarded.

**Objective 7.2.4 - Integrated management of fresh water resources**

Fresh water is sustainably managed in an integrated way within and across catchments, between activities, and between agencies and people with interests in water management in the community, considering:

- (1) the Ngāi Tahu ethic of Ki Uta Ki Tai (from the mountains to the sea);
- (2) the interconnectivity of surface water and groundwater;
- (3) the effects of land uses and intensification of land uses on demand for water and on water quality; and
- (4) kaitiakitanga and the ethic of stewardship; and
- (5) any net benefits of using water, and water infrastructure, and the significance of those benefits to the Canterbury region.

**Policy 7.3.7 - Water quality and land uses**

To avoid, remedy or mitigate adverse effects of changes in land uses on the quality of fresh water (surface or ground) by:

- (1) identifying catchments where water quality may be adversely affected, either singularly or cumulatively, by increases in the application of nutrients to land or other changes in land use; and

- (2) controlling changes in land uses to ensure water quality standards are maintained or where water quality is already below the minimum standard for the water body, it is improved to the minimum standard within an appropriate timeframe.

**Policy 7.3.10 - Harvest & storage of fresh water**

To recognise the potential benefits of harvesting and storing surface water for:

- (1) improving the reliability of irrigation water and therefore efficiency of use;
- (2) improving the storage potential and generation output of hydro-electricity generation activities;
- (3) increasing the irrigated land area in Canterbury;
- (4) providing resilience to the impacts of climate change on the productivity and economy of Canterbury;
- (5) reducing pressure on surface water bodies, especially foothill and lowland streams, during periods of low flow;

and facilitate the conversion of resource consents to abstract water under 'run of river' conditions to takes to storage, where this can be done under conditions which maintain or enhance the surface water body.

**Policy 7.3.11 – Existing activities and infrastructure**

In relation to existing activities and infrastructure:

- (1) to recognise and provide for the continuation of existing hydro-electricity generation and irrigation schemes, and other activities which involve substantial investment in infrastructure; but
- (2) require improvements in water use efficiency and reductions in adverse environmental effects of these activities, where appropriate.