

## Janel Hau

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**From:** Gerard Cleary <gerard.cleary@ah.co.nz>  
**Sent:** Friday, 21 March 2014 1:09 p.m.  
**To:** Mailroom Mailbox  
**Subject:** TRIM: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan  
**Attachments:** 20140321125337200.pdf  
**Categories:** Purple Category  
**HP TRIM Record Number:** C14C/43678

Dear Sir/ Madam

Please find attached submission on behalf of KO Farm Company Limited.

Acknowledgement of receipt would be appreciated.

Kind regards

Gerard Cleary  
Special Counsel - Resource Management  
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Anthony Harper is delighted to have been recommended in The Legal 500 Asia Pacific 2014 for its expertise in banking and finance, corporate and M&A, intellectual property, real estate and construction and restructuring and insolvency.

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# Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

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Submitter ID:  
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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 21 March 2014 to:  
Freeport 1201 Variation 1 to pLWRP  
Environment Canterbury  
P O Box 345  
Christchurch 8140

Full Name: GERARDO CHERAY Phone (Hm): \_\_\_\_\_  
Organisation\*: KO FARM COMPANY LTD. Phone (Wk): 364-38001  
\* the organisation that this submission is made on behalf of  
Postal Address: 110 ANTHONY HARPER LAWYERS Phone (Cell): 021-2275500  
PO BOX 2646, CHRISTCHURCH Postcode: \_\_\_\_\_  
Email: gerardo.cheray@kofarm.co.nz Fax: \_\_\_\_\_  
Contact name and postal address for service of person making submission (if different from above):  
\_\_\_\_\_

### Trade Competition

Pursuant to 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
  - I am not directly affected by an effect of the subject matter of the submission

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(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,  
 I would be prepared to consider presenting your submission in a joint case with others making a similar submission at any hearing

| Section & Page Number   | Sub-section/ Point | Oppose/support (in part or full) | Reasons |  |  |
|-------------------------|--------------------|----------------------------------|---------|--|--|
| <del>SEE ATTACHED</del> |                    |                                  |         |  |  |
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Add further pages as required – please initial any additional pages.

## **Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan**

### **1 Background**

- 1.1 This is a submission on behalf of KO Farm Company Limited (KO), the owner of a 28ha farm property located at 423 Lake Road South, Irwell. The property is currently leased and, in recent years has been used for a range of farming activities, principally cropping and grazing. KO is the holder of Resource Consent CRC010873.1, which permits the take and use of groundwater for the irrigation of crops and pasture for grazing sheep and non-milking cattle. This Consent expires in 2035.
- 1.2 The Property is located outside the Phosphorous Sediment Risk Te Waihora Cultural Values Landscape Management Areas identified in Proposed Variation 1.

### **2 The Specific Provisions of Proposed Variation 1 that this Submission relates to:**

- (a) Section 11 – Waihora-Introductory text at pages 4-2-4.4
- (b) Section 11.4 Policies, in particular policies relating to "Managing Land Use to Improve Water Quality" (Policies 11.4.6 – 11.4.17);
- (c) Rules 11.5.6 – 11.5.17, as they relate to Nutrient Management; and
- (d) S 32 Evaluation Report.

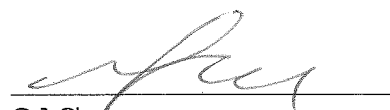
### **3 KO opposes the above provisions for the following reasons:**

- (a) In the limited time available to lodge a submission on Proposed Variation 1, KO has sought to engage an appropriately qualified person to prepare a Nitrogen Baseline analysis of the Property. This analysis has not been complete and, accordingly, KO is in a position of complete uncertainty as to the impacts Proposed Variation 1 may have on the ongoing economic viability and value of the Property, the flexibility to diversify existing farming practices and the costs associated with future compliance requirements;
- (b) To compound this uncertainty, section 10 of the S 32 Evaluation Report: *Managing Land Use to Improve Water Quality* anticipates that some properties will be able to develop and change land use in response to economic conditions, whereas other farms will be required to significantly modify present practices. For example, Figure 10.1 *Distribution of Farms and Relative Change Required under Option 2* contains a continuum between a >50% reduction and a >30% intensification of nitrate use. However, the resolution of this Figure is not of a sufficiently accurate scale in order to allow a user of this document (such as KO) to identify where on this continuum a particular property lies.
- (c) The introductory text to Section 11 and the associated policies at 11.4 fail to adequately identify and take into account the social and economic issues that may be associated with achieving the vision for Te Waihora/ Lake Ellesmere, including:
  - (i) Potential impacts on farm viability/profitability;
  - (ii) Social and economic consequences of the failure to obtain resource consents that may be necessary to continue an existing farming operation;
  - (iii) Lack of opportunities to undertake new land use options for landholdings; and
  - (iv) Impact on value of existing landholdings;
- (d) The s 32 analysis fails to properly justify the proposed nutrient management region, including in particular the 15kg/ha limit for nitrogen loss;

- (e) The limits on permitted activities and associated conditions (Rule 11.5.6 – 11.5.17) are unreasonable and inappropriate, and effectively have the potential to prevent or unnecessarily restrict farming activities on even the smallest of rural allotments;
- (f) The approach to framing rules around the calculation of a nitrogen baseline is inappropriate given the uncertainties associated with application of the OVERSEER model, as highlighted in the technical documents supporting the s 32 evaluation and the Council's decision on the Land and Water Regional Plan. Further, Variation 1 anticipates that the nitrogen baseline is likely to be recalculated by subsequent versions of OVERSEER thereby further adding to the uncertainty of the application of these rules and the status of farming activities on;
- (g) The rules impose unnecessary requirements and costs on properties in the preparation of Farm Environment Plans.

**4 KO seeks the following relief:**

- (a) As primary relief, KO seeks withdrawal of nutrient management provisions identified above; or as an alternative (but without prejudice to the primary relief sought):
- (b) Amendments to the Introductory text to Section 11 and associated policies to fully identify all potential issues associated with the proposed nutrient management regime;
- (c) Appropriate amendments to the Policies and associated Rules to provide a more appropriate balance between protecting the water quality of Lake Waihora/ Ellesmere and enabling existing and consented farming operations to continue with certain rules that provide for ongoing viability and flexibility of land use;
- (d) Permitted activity status for farms less than 50 ha in size;
- (e) Farm environmental plans should be voluntary for farms less than 50ha in size; and
- (f) Such further and consequential relief as may be necessary to give effect to this submission.



G J Cleary  
(on behalf of KO Farm Company Limited)

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21 March 2014

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