

Janel Hau

From: Sarah Drummond
Sent: Tuesday, 28 October 2014 8:02 a.m.
To: Mailroom Mailbox
Subject: TRIM: Dairy Holdings Proposed Variation 2 to the Proposed Canterbury Land and Water Regional Plan (Variation 2)
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From: Judy-Anne Stapleton [<mailto:Judy-Anne.Stapleton@chapmantripp.com>] **On Behalf Of** Ben Williams
Sent: Friday, 24 October 2014 4:47 p.m.
To: Sarah Drummond
Subject: Proposed Variation 2 to the Proposed Canterbury Land and Water Regional Plan (Variation 2)

Sarah

We act for Dairy Holdings Limited (DHL).

We **attach**, for lodging, DHL's submission on Variation 2.

Regards,

Ben

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Sarah Drummond

Planning Officer Hearings

Planning

027 549 7663

Form 5**SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR POLICY STATEMENT OR
PLAN, CHANGE OR VARIATION**

Clause 6 of Schedule 1, Resource Management Act 1991

To Canterbury Regional Council

Name of submitter: Dairy Holdings Limited (*DHL*)

- 1 This is a submission on:
 - proposed variation 2 (*Variation 2*) to the proposed Canterbury Land and Water Regional Plan (*pLWRP*).
- 2 Its submissions and sought relief are split between its general submissions in **Annexure 1** and its specific submissions in **Annexure 2**
- 3 DHL wishes to be heard in support of the submission.
- 4 If others make a similar submission, DHL will consider presenting a joint case with them at a hearing

Signed for and on behalf of Dairy Holdings Limited by its solicitors and authorised agents
Chapman Tripp



Jo Appleyard / Ben Williams
Partner / Senior Associate
24 October 2014

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Annexure 1

Introduction

Dairy Holdings – an overview

- 1 Dairy Holdings Limited (*DHL*) is the largest closely held dairy farming business in New Zealand.
- 2 All of its farming operations are located in the South Island - in the Canterbury, Springs Junction (West Coast), Waitaki, and South Otago/Southland regions.
- 3 For the 2014/15 season DHL will operate 56 dairy units on ~13,523 effective hectares, milking 44,509 cows to produce approximately 15.77 million kilograms of milk solids. DHL farms employ approximately 340 people in its operations.
- 4 In addition, DHL owns or leases:
 - 4.1 4 large scale special purpose heifer grazing blocks covering a total area of ~1,352 ha that rear and grow out around 7,500 in-calf heifers each year;
 - 4.2 12 grazing and dry stock blocks covering ~3,131ha that are utilised for carryover cows and winter grazing; and
 - 4.3 1 bull unit (a farm with an area of 271ha) that supplies 1,200 service bulls to the dairy farms.
- 5 The general 'DHL farm system' is based on research conducted through Ruakura and more recently the Lincoln University Dairy Farm that provides the base system for successful and profitable dairy farming. This system was initially promoted by Dr Campbell McMeeken and subsequently by Dr Arnold Bryant, continues to be supported in higher comparable stocking rate systems by DairyNZ.
- 6 In this regard, the company is focused on achieving consistent and repeatable levels of profitability predicated on simple, pasture based management systems. For DHL, this means a relatively low input system that has:
 - 6.1 a reduced reliance on supplementary feed being brought on to farm;
 - 6.2 centralised wintering of non-lactating cows and replacement young stock raising;
 - 6.3 careful nutrient budgeting and fertiliser applications that are aimed at producing maximum pasture (with minimum fertiliser being 'lost' in the system); and
 - 6.4 lower stocking rates (on a per hectare basis) but a higher comparable stocking rate (in terms of the stocking rate relative to the feed available) than those which might typically be seen on other farms within the same relevant area where systems with increased supplementary feeding are adopted.

- 7 On the basis of this pasture-focused farm system DHL is budgeting on producing ~1,263 kg of milksolids per hectare for the 2014/15 season from its Canterbury and Waitaki dairy units.¹ This is a little lower than that typically found on other farms in those Districts - but it is a system that provides a high level of resilience and good levels of profitability relative to the inputs prescribed.
- 8 The general DHL farm system also aligns well with good management practice – and in this regard, maximising pasture growth ensures that, as much as possible both available soil nitrogen and the rain/irrigation water hitting the soil is taken up by plants rather than draining below the plant roots, carrying nitrogen with it.

Interest in the Hinds/Hekeao Plains Area

- 9 DHL owns and leases a number of dairy and dairy support properties within the Hinds/Hekeao Plains Area – these are shown in **Figure 1**.

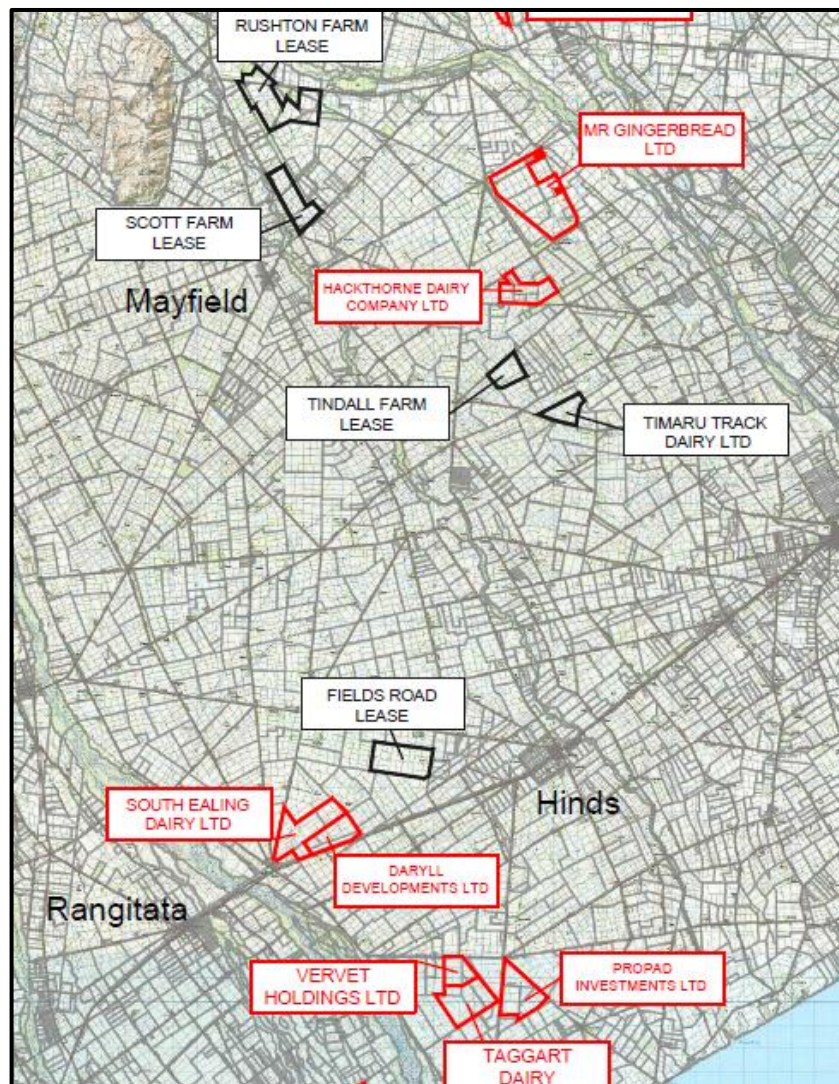


Figure 1: DHL farming properties in the Hinds/Hekeao Plains Area

¹ Noting that the West Coast and Southland farms are largely self-contained for their wintering requirements.

- 10 At a general level these can be divided between:
- 10.1 properties above the State Highway 1 that are mainly irrigated via either border-dyke or spray irrigation systems with surface water from the Rangitata Diversion Race (*RDR*) sub-schemes (with a number of these properties also holding consents to take groundwater for either the partial or full irrigation of the relevant properties); and
 - 10.2 properties below State Highway 1 (and outside of the *RDR* sub-schemes) that are irrigated via groundwater and spray irrigation systems.
- 11 Against the above properties that are still irrigated with border-dyke systems, DHL is already well advanced in a programme of irrigation system improvements throughout its Canterbury properties (along with associated dwelling and dairy shed upgrades) which will see the conversion of all remaining border-dyke systems to spray.
- 12 The cost of this programme is significant and DHL will require 'multiple millions' to see the programme through to completion. In this regard, it has been DHL's experience to date that the upgrading border-dyke irrigation systems to pivot irrigation (with sprinklers in corners) has generally required DHL to outlay around \$5,000 per hectare depending on the farm configuration (along with further costs to reflect the change in farm system and stocking etc).
- 13 The potential impact of Variation 2 is therefore of particular concern to DHL – the company would be very concerned were, having voluntarily undertaken significant system improvements, the plan were to require yet further reductions with the effect that DHL was effectively 'hit twice'.

Key concerns in respect of Variation 2

- 14 Although expanded on considerably in **Annexure 2**, DHL has the following key concerns in respect of Variation 2:
- 14.1 the absence of a known 'starting point'. Although good management is, at a general level supported, there is currently no formal regime within the Variation 2 framework meaning that the starting point for any further reductions cannot be determined;
 - 14.2 the further reductions are unproven. DHL is not confident that the sought reductions can be achieved while retaining an acceptable level of farm profitability. It also needs to be emphasised that every farm is different and reductions which might be relatively easy to achieve on one farm might very difficult to achieve on another;
 - 14.3 farming enterprises are supported and in DHL's view are a key part in terms of ensuring the properly integrated management of land (and nutrients) in the Hinds/Hekeao Plains Area;
 - 14.4 DHL also seeks that provision be made for water user groups and transfers be to be enabled in limited circumstances (including bolstering irrigation scheme

reliability, environmental enhancement and ancillary purposes adjunct to irrigation from an irrigation scheme (e.g. dairy shed supply); and

- 14.5 the implementation of Variation (and a number of the limits set out in the Variation 2) have been based on OVERSEER. Ensuring subsequent versions can be used to assess nitrogen loss (*N-loss*) is important – and it must be done using the same inputs in a manner that does not penalise farming activities solely by virtue of a change in the version of the model.
- 15 A number of these aspects are expanded on in **Annexure 2**.

Annexure 2: Specific relief sought

Note : Text from Variation relevant to sought amends is set out in italics. Further amends are shown in red and either as ~~strikethrough~~ or underline.

Introduction and policies

Page	Reference	Issue/concern	Relief sought
1-2	Introduction	<p>The introductory section is currently imbalanced and does not properly reflect the intended approach of Part II of the Act (which includes <i>"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being..."</i>). Currently too much emphasis is placed on natural or biophysical values, with insufficient regard to social and economic values.</p> <p>It is also not clear from the introduction that the sought 45% reduction is in fact a reference to both non-regulatory and regulatory matters (with the zone committee expecting that farming would contribute around 26% of the overall required reduction).</p> <p>As set out elsewhere in the submission, the appropriateness of the reference to <i>"good management practice"</i> is unclear. Requiring all farming activities to operate in accordance with <i>'good management practice'</i> by 2017 may not be possible, given that we currently do not know what it is. Reliance should instead be placed on Policy 4.11 of the PLWRP and until that time it needs to be acknowledged</p>	<p>Oppose, in part.</p> <p>The introductory section needs to be amended to:</p> <ul style="list-style-type: none"> a) better acknowledge the importance of agricultural activities within the Hinds/Hekeao Plains Area (and its direct link to the social and economic wellbeing of the wider community); b) amend the relevant part of the second paragraph on page 2 to read: <ul style="list-style-type: none"> "The Solutions Package require<u>targets a 45 26 percent reduction in nitrogen losses from farming activities in the Lower Hinds/Hekeao Plains Area by 20352050."</u> c) In terms of the wider relief sought by the submitter it is also noted that the percentage reduction identified in submission point (b) above (potentially along with the achievement of 3,400t N/yr and 6.9mg N/l 'targets'), need to be confirmed through a comprehensive and detailed investigation (and

Page	Reference	Issue/concern	Relief sought
		<p>that the 'starting point' for any further reductions (as well as the timeframe within which they might be achieved) are currently not known.</p>	<p>subsequent plan change process) that would determine:</p> <ul style="list-style-type: none"> i) the appropriateness of the required reductions to farming activities (i.e. while ensuring farming activities can retain an acceptable level of profitability); and ii) the final timeframes for achieving reductions (and the appropriateness of the 'targets' set having regard to the above), <p>and</p> <ul style="list-style-type: none"> d) amend the reference to good management practice to accord with approach set out elsewhere in this submission.
2	13.1A: Definition "Baseline Land Use"	<p>The definition of "Baseline Land Use" is unclear, especially as it applies to farming enterprises and irrigation schemes.</p> <p>The following comments are noted:</p> <ul style="list-style-type: none"> • the reference to section 2.9 of the pLWRP means that the "[n]itrogen baseline" is to be as modelled by OVERSEER (or an equivalent model) over the period 1 July 2009 – 30 June 2013, "except in relation to Rules 5.46 and 5.62, where it is expressed as a total kg per annum from the identified area of land"; • despite reference to Rules 5.46 (relating to farming enterprises) and 5.62 (relating to irrigation schemes), the 	<p>Oppose, in part.</p> <p>The definition of "Baseline Land Use" (and potentially wider Variation 2) needs to be amended to:</p> <ul style="list-style-type: none"> a) expressly contemplate farming enterprises and irrigation schemes - and provide a clear method of determining the nitrogen baseline for each being: <ul style="list-style-type: none"> i) the total combined nitrogen baseline in the case of farming enterprises; and ii) the total combined nitrogen baseline in the case of existing irrigation plus any consented but not yet implemented

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		<p>definition of "<i>Baseline Land Use</i>" (in Variation 2) is to be applied "<i>on a property</i>"; and</p> <ul style="list-style-type: none"> the approach is further complicated by the fact that the table identified on page 5 of Variation 2 suggests that the rules within Variation 2 are to prevail over Rules 5.46 and 5.62. 	<p>irrigation in the case of an irrigation scheme (noting that the latter might be achieved through appropriate separate recognition elsewhere in the plan).</p> <p>b) remedy the current issue around reference to Rules 5.46 and 5.62; and</p> <p>c) ensure that the nitrogen baseline still enables compliance to be measured against both the average and the highest annual N-loss in the period in 2009-2013 (consistent with the use of OVERSEER as a long term model).</p>
3	13.1A: Definition " <i>Good Management Practice Nitrogen Loss Rates</i> "	<p>Although Variation 2 seeks to introduce a definition of "<i>Good Management Practice Nitrogen Loss Rates</i>", the definition is reliant on what is referred to as "<i>good management practice</i>". Currently, "<i>good management practice</i>" is not defined in Variation 2 or the pLWRP, although reference can be made to Policy 4.11 (of the pLWRP) which contemplates a further plan change occurring prior to 30 October 2016.</p> <p>In this regard:</p> <ul style="list-style-type: none"> it is understood that "<i>good management practice</i>" will be informed by the Matrix of Good Management Practice (MGM) project. The outcome of this project will include information about nitrogen loss rates for different land uses with different soil types and climate under good 	<p>Oppose, in part.</p> <p>Variation 2 needs to be amended to include:</p> <p>a) a definition of "<i>good management practice</i>" with reference to the fact that it will be populated in accordance with a full Schedule 1 process (where the costs and benefits can be properly assessed) as a part of the notified plan change under Policy 4.11 of the pLWRP;</p> <p>b) for any further reductions to reviewed and/or only apply once the outcomes of the plan change referred to are known; and</p> <p>c) for the references to the timing of the implementation of good management (throughout Variation 2) to contemplate that the</p>

Page	Reference	Issue/concern	Relief sought
		<p>management practice.</p> <ul style="list-style-type: none"> The section 32 report advises (at page 108) that “<i>This information will address this issue and is therefore not considered an appropriate reason to not act</i>”. This however appears to ignore the express process already contemplated under Policy 4.11 and the fact it would be inappropriate to act while the costs and benefits are not known. <p>Accordingly, good management is supported at a <i>general level</i>. The need for formal compliance and the timeframes within which that should occur should however be left to a subsequent plan change (as already contemplated by Policy 4.11). For the same reason, the ‘starting point’ for any further reduction regime will not be known until the MGM project is complete and the consequent plan change has occurred.</p> <p>As a final matter it is emphasised that the timing of actual compliance with MGM needs to be approached carefully. Although it is accepted that farming interests will need to be making positive steps to implement any formal good management requirements as soon as they are introduced, actual compliance – especially if, for example, extensive irrigation system changes are required, might take some time.</p>	<p>actual good management outcomes may take some time to occur (with the actual requirement being to be taking ‘positive steps’ towards full implementation rather the achievement of actual outcomes from the outset).</p>
2	13.1A: Definition (new)	As set out elsewhere in this submission, a number of the sought catchment loads and water quality levels are dependent upon the successful implementation of both regulatory and non-regulatory	Variation 2 needs to be amended to include a definition of “ <i>target</i> ”: “means, when used in the context of the Hinds/Hekeao Plains Area, an

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	"target"	<p>measures (including catchment scale actions (e.g. on-farm mitigations, managed aquifer recharge, and increased irrigation area); local scale actions (e.g. riparian fencing, planting, and well head protection); investigations, monitoring and review of the Solutions Package; and community engagement.</p> <p>It is DHL's view that there is inevitably some uncertainty as to the exact extent all of these will be implemented and, more importantly how they might ultimately contribute to a reduction in N-loss and wider improved water quantity and quality.</p> <p>It is crucial that the term 'target' therefore not be construed to be a 'limit'. To do so would not recognise the fact that there is uncertainty associated with accuracy, appropriateness and practicability of the targets that Variation 2 seeks to establish.</p>	<p>aspiration goal that the Council will, working with the community of the Hinds/Hekeao Plains, work to achieve, to the extent that is practicable, appropriate and accords with the purpose of the Resource Management Act 1991."</p> <p>In addition, all references to sought catchment loads and water quality levels (etc) throughout Variation 2 need to be amended to ensure they are appropriately expressed as targets and not 'hard' limits.</p>
3	Policy 13.4.9(d)	<p>Policy 13.4.9 (d) refers to reducing nitrogen loss in the lower Hinds/Hakeao Plains Area by 45%.</p> <p>The following issues arise:</p> <ul style="list-style-type: none"> as set out elsewhere in this submission, the 45% reduction as the policy might be applied to farming activities is misrepresentative (the actual reduction contemplated by the zone committee was 26% - emphasising that even that number needs to be confirmed through comprehensive and detailed investigation (and potentially a further plan change)); 	<p>Oppose, in part.</p> <p>Policy 13.4.9(d) needs to be amended to read:</p> <p>reducing overall nitrogen losses <u>from farming activities</u> by <u>45-26%</u> percent in the lower Hinds/Hakeao Plains Area and adopting the use of managed aquifer recharge to augment groundwater and/or surface water.</p> <p>As set out elsewhere in the submission, it will still be necessary to confirm the appropriateness of the 26% reduction following the introduction of both a formal good management regime and a comprehensive and detailed investigation to confirm the</p>

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		<ul style="list-style-type: none"> there appears to a disconnect and/or confusion as between the 45% reduction that is contemplated at a wider catchment scale (having regard to both regulatory and non-regulatory measures) and the 45% and 25% reductions that are contemplated by 2035 for dairy farming and dairy support activities respectively (with a 0% reduction for other activities) in Table 13(h). <p>In regard to the specific wording of the policy (as notified) it is emphasised that the use of the word "and" as against the 45% reduction is confusing (seemingly suggesting that "catchment scale mitigations" are in addition to the 45% reduction).</p>	<p>appropriateness of the sought 'target' (i.e. while ensuring farming activities can retain an acceptable level of profitability).</p> <p>DHL is also concerned to ensure that the plan contemplates a wider range of further mitigation measures than just "managed aquifer recharge to augment groundwater and/or surface water". The policy should be further amended to simply refer to "catchment scale mitigations".</p>
4	Policy 13.4.12	<p>DHL is concerned that Policy 13.4.12 could be interpreted as a limit on the annual discharge rate (of 3,400t N/yr) rather than an actual target (as defined elsewhere in this submission). DHL is also concerned that:</p> <ul style="list-style-type: none"> the achievability and appropriateness of the target of 3,400 tN/yr is not yet proven; and the contribution that farming activities may need to make to any reduction (26%) is based on a starting point that is not known and similarly is not yet proven. <p>A date of 2050 is also likely to be more appropriate (at least as a placeholder) given the significant changes potentially required.</p>	<p>Oppose, in part.</p> <p>Amend Policy 13.4.12 to provide that:</p> <p style="text-align: center;"><u>Improve water quality in the Lower Hinds/Hekeao Plains Area by reducing the discharge of nitrogen to achieve with the goal of achieving a target load of 3,400 tonnes of nitrogen per year by 2035 2050.</u></p> <p>Consistent with the position set out elsewhere in this submission, the reference to 2050 is effectively a 'placeholder date' with the final date, along with the target loss of 3,400t N/yr to be confirmed through a comprehensive and detailed investigation (and potentially a further plan change) (i.e. while ensuring farming activities can retain an acceptable level of profitability).</p>

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4	Policy 13.4.13	<p>Policy 13.4.13 sets out the core approach to managing nitrogen loss from farming activities (including farming enterprises), whether or not supplied water from an irrigation scheme.</p> <p>DHL has the following concerns with respect to the Policy:</p> <ul style="list-style-type: none"> the Policy refers to the target of 3,400t N/yr being 'achieved' suggesting that this threshold is a limit and not a goal; the extent to which (unknown) good management practices can be adopted by 2017 is currently not clear; with reference to Table 13(h) (as included in the Policy), making only 'dairy' and 'dairy support' activities subject to specific percentage reductions now (in terms of their N losses) is not reasonable and the appropriateness of any reduction regime is currently not known given that we do not know what the starting point is; and as set out elsewhere in this submission, the references to 27kg N/ha/yr, along with the target loss of 3,400 tN/yr, need to be confirmed through a comprehensive and detailed investigation (and potentially a further plan change) – having regard to the need to ensure farming activities can retain an acceptable level of profitability. <p>DHL considers that all farms with N-losses over permitted activity levels should ultimately experience the 'same pain' – however, no one farmer should be required to undertake fundamental system</p>	<p>Oppose in part.</p> <p>Amend Policy 13.4.13 to provide that:</p> <p>Farming activities including farm enterprises in the Lower Hinds/Hekeao Plains Area whether or not they are supplied with water by an irrigation scheme or a principal water supplier, achieve a target load of 3400 tonnes of nitrogen per year by shall reduce nitrogen loss by:</p> <p>a) Requiring existing farming activities to meet good management practice nitrogen loss rates implementing good management practices in the manner directed by any plan change in accordance with Policy 4.11 from 1 January 2017, calculated on the baseline land uses;</p> <p>b) requiring <u>a collective reduction in nitrogen loss from farming activities across the lower Hinds/Hekeao Plains Area for all properties with a nitrogen loss calculation exceeding 20 kg per hectare per annum in accordance with Table 13(h) further reductions for dairy farming and dairy support from 1 January 2020, in accordance with Table 13(h);</u> and</p> <p>c) <u>Determining the extent and timing of nitrogen loss reductions to be achieved on individual farm properties from 1 January 2020 by:</u></p> <p><u>A. use of an expert farm systems advisory panel reviewing resource consent applications and any associated Farm Environment Plans and providing independent advice to Canterbury Regional Council about the opportunities for</u></p>

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		<p>changes that might prevent an effective level of profitability being maintained.</p> <p>To this extent, 'grand-parenting' (in terms existing consented entitlements) is acknowledged and an essential part of Variation 2, but where possible regard also needs to be given to ensuring that the same farming activity (as might be permitted by individual nitrogen baselines) on the same soils, climate and irrigation systems is required to comply with the same N-loss rates.</p> <p>As a final matter it is noted that DHL's view is that good management practices need to be implemented against the farming activity occurring at the relevant time – for example, if an existing arable farm is converted to dairy (while staying within its nitrogen baseline) then it would be nonsense for that property to have to comply with the good management practices as might apply to an arable operation.</p>	<p><u>nitrogen loss mitigation given the individual _____ circumstances of each farm property.</u></p> <p><u>B. _____ having regard to the following matters in considering the individual circumstances of each farm property:</u></p> <p><u>i. _____ The nitrogen baseline for the property and the level of any reductions already achieved from that nitrogen baseline; and</u></p> <p><u>ii. _____ Any natural or physical constraints to lower nitrogen leaching faced on-farm that are outside of a farmer's control; and</u></p> <p><u>iii. _____ The level of investment in farm infrastructure and where a farm might be in the cycle of infrastructure replacement; and</u></p> <p><u>iv. _____ The capital and operational costs of making nitrogen loss reductions and the benefit (in terms of maintaining a farm's financial _____ sustainability) of spreading that investment over time.</u></p> <p>...</p> <p>It is noted that proposed new para c) is possible further and/or alternative relief to the request set out elsewhere in this submission around a comprehensive and detailed investigation to determine the extent of further reductions that are required and reasonable in respect</p>

Page	Reference	Issue/concern	Relief sought
			of individual farming properties (i.e. while ensuring farming activities can retain an acceptable level of profitability).

Rules

Page	Reference	Issue/concern	Relief sought
5	Rules Table	As set out elsewhere in this submission the extent to which sub-regional rules actually prevail is confusing and unclear – especially in relation to the determination of baseline land uses.	Oppose, in part. Amend table to make it clear as to which rules actually prevail.
7	Rule 13.5.14	<p>Rule 13.5.14 provides for the use of land for farming activities and farming enterprises as discretionary activity – with the conditions of the rule <i>inter alia</i> requiring that N-losses not exceed 27kg N/ha/yr and the subject area of land (it appears in combination with new irrigated land within irrigation schemes) not exceeding 30,000ha.</p> <p>The use of the word “<i>Despite</i>” and/or reference to farming enterprises within this rule appears to be in error unless what is intended is for the possibility of farming enterprises not only combining their individual nitrogen baselines but also increasing their combined N-losses.</p> <p>For applications by farming enterprises where no increase in N will occur then the only rule that should apply is rule 13.5.18 (discussed later in this submission). However, through the use of “<i>Despite any of</i>” at the start of Rule 13.5.14 it appears that such an application</p>	<p>Support, in part. Oppose, in part.</p> <p>Amend Rule 13.5.14 to provide that:</p> <ul style="list-style-type: none"> a) the word “<i>Despite</i>” at the start of the rule should be deleted and replaced with the word “<i>Unless</i>” (alternatively, references to farming enterprises should be removed from the rule). b) the words “<i>future</i>” and “<i>Row B of Table 13(i)</i>” should be deleted; c) as also noted elsewhere in this submission, a policy or rule also needs to be included in the final provisions of Variation 2 that ensures the reference to 27 kg N/ha/yr (as well the references to any other targets/limits) remain appropriate – including the possibility of a further plan change following

Page	Reference	Issue/concern	Relief sought
		<p>would have comply with both Rules 13.5.14 and 13.5.18. This is a significant error that needs to be corrected – the 27kg N/ha/yr limit and the combined 30,000 hectare limit should not apply where no increase in the combined N-losses is being proposed by a farming enterprise.</p> <p>DHL is also not clear on the meaning of “<i>future nitrogen loss</i>”.</p>	comprehensive and detailed investigation (i.e. while ensuring farming activities can retain an acceptable level of profitability).
8	Rule 13.5.18 (and all other plan provisions dealing with farming enterprises)	<p>DHL supports all provisions that enable farming enterprises, noting that it seeks:</p> <ul style="list-style-type: none"> • that farm enterprises be able to pool their combine nitrogen baseline; • for any N-loss reductions to then be applied at the farm enterprise level; and • that upon the exit of a property from the farming enterprise, an ability for the nitrogen baseline as it applies to that individual property to be permanently changed, provided that the total N-loss of wider farming enterprise (of which it was a member) does not increase. <p>In relation to Rule 13.5.18(3), it is noted that a farm environment plan could be prepared at a farm enterprise level.</p>	<p>Support in part</p> <p>DHL seeks:</p> <ol style="list-style-type: none"> a further policy (or provision within the rules) to provide better recognition of farming enterprises and to address the issues/concerns set out; and an amendment to Rule 13.5.18(3) to allow a farm environment plan to be prepared at a farm enterprise level: <p><u>3. A Farm Environment Plan has been prepared for the farm enterprise, or for each land management unit within the farm enterprise, in accordance with Schedule 7 Part A.</u></p>
8-9	Rules 13.5.19 – 13.4.20	Minor amendments to clarify position of farming enterprises and to ensure that matters not meeting the conditions of Rule 13.5.14 are dealt with as non-complying activities (on the basis they might not	Oppose, in part.

Page	Reference	Issue/concern	Relief sought
		<p>be unreasonable in certain limited circumstances).</p>	<p>Amend Rule 13.5.19 to read:</p> <p><u>"The use of land for a farming activity or farming enterprise that does not comply with any of the conditions 1 to 5 in Rule 13.5.14, any of conditions 2 or 3 in Rule 13.5.15 ...";</u></p> <p>Amend Rule 13.4.20 to read:</p> <p><u>"The use of land for a farming activity or farming enterprise that does not comply with ... or conditions 1 or 2 of Rule 13.5.18 or a farming enterprise that does not comply with any of the conditions of Rule 13.5.14, is a prohibited activity."</u></p>
9	Rule 13.5.22 – 13.5.23 and Table 13(i)	<p>As noted in Annexure 1, DHL is a member of the RDRML irrigation scheme. In that context, DHL has a number of concerns with Rule 13.5.22 (and Table 13(i)):</p> <ul style="list-style-type: none"> • Table 13(i) relies on the implementation of the "Good Management Practice Nitrogen Loss Rates" by 2017. As set out elsewhere in this submission, reliance on a formal regime that does not existing yet (in circumstances where we also do not know what timeframe for compliance is reasonable) is not appropriate. • DHL considers it is inappropriate to target dairy farming and dairy support activities as land use activities that need to reduce their N losses (beyond the reductions that will be occur by the adoption of good management practices). All farming should be subject to 'equal pain' as set out in this 	<p>Support, in part. Oppose, in part.</p> <p>Amend Rule 13.5.22 by:</p> <ul style="list-style-type: none"> a) deleting conditions 2 and 3 (and Table 13(i)) and replacing with a cross reference to specific loads and/or area to be set out in a separate table with entries for each irrigation scheme (similar to Variation 1); <p>or</p> <ul style="list-style-type: none"> b) amend Table 13(i) on the basis that: <ul style="list-style-type: none"> i) the reductions for existing irrigated land (i.e. Row A) will be determined by way of future plan change following the

Page	Reference	Issue/concern	Relief sought
		<p>submission with further regard also being had to ensuring that the same farming activity (as might be permitted by individual nitrogen baselines) on the same soils, climate and irrigation systems are required to comply with the same relative N-loss rates;</p> <ul style="list-style-type: none"> • As currently structured, Table 13(i) appears to require reductions for existing irrigation below 27kg N/ha/yr. That approach is not reasonable or equitable (whereas new irrigation within the 30,000 hectare 'cap' can increase its N-losses up to 27kg N/ha/yr with no further reductions being required). Existing irrigation should only be required to reduce N-loss until such time as 27kg N/ha/yr is reached; and • Similarly, DHL also reiterates its concerns around the target of achieving an annual discharge rate in the lower Hinds/Hekeao Plains of 3,400 tN/yr by 2035 (as set out in Table 13(g)). This has been derived using a sub-optimal methodology and thus is not appropriate - the timeframe for the 3,400 tN/yr target should be set following the completion of a comprehensive and detailed investigation. <p>In terms of Rule 13.5.23, it is noted that there are some uncertainties around the multi-water source properties discussed later in these submissions. In light of that complexity a non-complying activity test might be more appropriate.</p>	<p>introduction of a formal good management regime in accordance with Policy 4.11 and a comprehensive and detailed investigation (with an expectation that the set that subsequent plan change would also set the dates for the stepped actual or percentage reductions in Row A of the Table);</p> <ul style="list-style-type: none"> ii) no property (which is currently irrigated in accordance with Row A) is required to reduce N-losses below 27kg N/ha/yr; and iii) as also noted elsewhere in this submission, a policy or rule also needs to be included in the final provisions of Variation 2 that ensures the reference to 27 kg N/ha/yr (as well the references to any other targets/limits) remain appropriate – including the possibility of a further plan change following the comprehensive and detailed investigation (i.e. while ensuring farming activities can retain an acceptable level of profitability), <p>and</p> <ul style="list-style-type: none"> c) amend Rule 13.5.23 to be non-complying (unless otherwise dealt with in accordance with submissions in relation to multi source properties).
11	Rule 13.5.29	Under the heading " <i>Small and Community Water Takes</i> " Variation 2	DHL seeks a new rule 13.5.29A that states:

Page	Reference	Issue/concern	Relief sought																																		
	(and associated notes)	<p>notes that the groundwater take rules apply in the Hinds/Hekeao Plains Area. Rule 13.5.9 states the Rule 5.11 (small surface water takes) does not apply.</p> <p>Against the above, DHL has recently received advice from the Council regarding the interpretation of section 14(3)(b) of the RMA in relation to stock drinking water. We understand that Council will not regard companies, corporate bodies, trusts or partnerships as being entitled to take water for stock drinking (and/or domestic use) under section 14(3)(b) of the RMA. DHL notes that many of these entities have historically taken water under that provision and that such takes are critical and not otherwise authorised.</p> <p>DHL understands that water users may apply for a change of conditions to have their historic water take for stock water/domestic water authorised under the terms of an existing consent. If they do not do so, and attempt to have such takes authorised at the time of consent replacement, the annual volumes, instantaneous flow rates and return rate volumes will apply. Where these are already exceeded (as in the Hinds/Hekeao Plains Area) gaining consent for stock drinking water may be impossible (as it would constitute a prohibited activity).</p> <p>Although DHL acknowledges the opportunity for existing consent holders to apply now for a change of conditions, DHL is concerned that many farmers will be unaware of this situation or will not already hold an individual consent that may be changed. For those reasons we consider that a new rule be added to Variation 2 to authorise existing stockwater and domestic takes.</p>	<p><u>Despite Rule 5.114, the taking and using of groundwater is a permitted activity provided the following conditions are complied with:</u></p> <ol style="list-style-type: none"> <u>1. The rate of take is less than 5L/s; and</u> <u>2. The water is used for stock drinking, domestic needs and dairy shed purposes only; and</u> <u>3. The peak daily volume of take does not exceed the number of stock on the property multiplied by the daily animal drinking limit (for each type of stock) as specified in Schedule 25 plus 3m² per day for each household unit; and</u> <u>5. A record of the number and type of stock on the property as at 1 October 2014 is provided to Canterbury Regional Council on request.</u> <p>Add new Schedule 25 as follows:</p> <table border="1"> <thead> <tr> <th>Stock type</th> <th></th> <th>Litres/head/day</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Dairy Cattle</td> <td>- milking cows</td> <td>77</td> </tr> <tr> <td>- dry/replacement</td> <td>50</td> </tr> <tr> <td>Beef Cattle</td> <td></td> <td>50</td> </tr> <tr> <td>Calves</td> <td></td> <td>28</td> </tr> <tr> <td rowspan="2">Horses</td> <td>- working</td> <td>61</td> </tr> <tr> <td>- grazing</td> <td>39</td> </tr> <tr> <td>Breeding Ewes</td> <td></td> <td>3</td> </tr> <tr> <td>Sows</td> <td></td> <td>28</td> </tr> <tr> <td>Pigs</td> <td></td> <td>12</td> </tr> <tr> <td>Poultry</td> <td>per 100 birds</td> <td>33</td> </tr> <tr> <td>Turkey</td> <td>per 100 birds</td> <td>61</td> </tr> </tbody> </table>	Stock type		Litres/head/day	Dairy Cattle	- milking cows	77	- dry/replacement	50	Beef Cattle		50	Calves		28	Horses	- working	61	- grazing	39	Breeding Ewes		3	Sows		28	Pigs		12	Poultry	per 100 birds	33	Turkey	per 100 birds	61
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		<p>DHL acknowledges that there is already opportunity for a permitted groundwater take under Rules 5.113 and 5.114 of the pLWRP. However, based on DHL’s direct experience the Council has interpreted these such that they are not available in addition to any consented groundwater take.</p> <p>Given the normal practice of a dairying entity receiving water from an irrigation scheme to take a small volume of groundwater for dairy shed purposes (noting that scheme water is not 100% reliable so a back-up supply is required in the event of restriction to ensure cows can continue to be milked), DHL also seeks that the rule be extended to dairy shed takes.</p>	<table border="1" data-bbox="1301 325 2018 376"> <tr> <td data-bbox="1301 336 1509 360">Deer</td> <td data-bbox="1509 325 1751 360">- hinds</td> <td data-bbox="1751 325 2018 360">30</td> </tr> <tr> <td></td> <td data-bbox="1509 360 1751 376">- stags</td> <td data-bbox="1751 360 2018 376">20</td> </tr> </table> <p>Add a new rule 13.5.29B to state:</p> <p><u>Despite Rule 13.5.29, the taking and using of surface water is a permitted activity provided the following conditions are complied with:</u></p> <ol style="list-style-type: none"> <li data-bbox="1375 600 2101 655">1. <u>The rate of take is less than the rates specified in Rule 5.111 1. (a)</u> <li data-bbox="1375 703 2101 759">2. <u>The water is used for stock drinking, domestic needs and dairy shed purposes only; and</u> <li data-bbox="1375 807 2101 935">3. <u>The peak daily volume of take does not exceed the number of stock on the property multiplied by the daily animal drinking limit (for each type of stock) as specified in Schedule 25 plus 3m² per day for each household unit; and</u> <li data-bbox="1375 983 2101 1078">4. <u>A record of the number and type of stock on the property as at 1 October 2014 is provided to Canterbury Regional Council on request.</u> <li data-bbox="1375 1126 2101 1182">5. <u>Fish are prevented from entering the water intake as set out in Schedule 2; and</u> <li data-bbox="1375 1230 2101 1286">6. <u>The take is not from a river subject to a Water Conservation Order.</u> 	Deer	- hinds	30		- stags	20
Deer	- hinds	30							
	- stags	20							

Page	Reference	Issue/concern	Relief sought
12	Rule 13.5.34 and Rule 13.5.35	<p>DHL considers that a transfer in circumstances where it is being used, for example, for environmental enhancement, to booster irrigation scheme supply reliability, or for ancillary irrigation scheme purposes (e.g. dairy shed supply following conversion to irrigation and dairying) is appropriate in some instances.</p> <p>In regard to transfers 'adjunct' to an irrigation scheme, the wider Hinds/Hekeao Plains Area will have the benefit of alpine water being introduced into the catchment to offset the very occasional use of ground or surface water consents for the purpose of bolstering irrigation scheme supply.</p>	<p>Oppose in part</p> <p>Amend Rules 13.5.34 and 13.5.35 by way of providing an exception (or provide for a new rule, in which case Rules 13.5.34 and 13.5.35 would cover all circumstances not covered by the new rule) to effect that the take and use of groundwater or surface water for environmental enhancement, for the purposes of increasing the reliability of supply from an irrigation scheme or for ancillary irrigation scheme purposes is a discretionary activity.</p> <p>In the alternative, DHL seeks that Rules 13.5.34 and 13.5.35 be deleted.</p>
n/a	Rule 13.5.35A (new)	<p>DHL has considerable experience in water user groups and considers they are a very useful mechanism to address the effects of restriction, use water more efficiently, and avoid the need for formal transfers.</p> <p>In light of the position taken in Variation 2 in respect of transfers, DHL considers provision for water user groups essential.</p>	<p>DHL seeks a new rule:</p> <p><u>13.5.35A The take and use of groundwater as part of a Water Users Group in the Hinds/Hekeao Plains Area is a discretionary activity, provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>1. All members of the Water Users Group have a condition on their resource consent that provides for the establishment of a Water Users Group and requires abstraction rates and volumes to recorded at no less than 15 minute intervals; and</u> <u>2. The total take by all members of the Water Users Group does not exceed the total combined rate and volume available to all members by virtue of the Water Users Group</u>

Tables

Page	Reference	Issue/concern	Relief sought
14-19	All tables	Council has recently notified an implementation programme for the National Policy Statement on Freshwater Management 2014 (<i>NPSFM</i>). That is separate to Variation 2 but DHL notes that some of the metrics in the tables listed as "limits" will be more accurately described as freshwater outcomes under the national objectives framework of the NPSFM.	Oppose in part. Alignment with the NPSFM where possible (acknowledging that Variation 2 may not fully give effect to the NPSFM).
19	Table 13(g)	<p>As set out elsewhere in this submission, DHL is unclear on the appropriateness of the 2035 date for when the "target" for the Lower Hinds/Hekeao Plains Area must be achieved.</p> <p>In this regard, there are various matters (both regulatory and non-regulatory) that would need to occur to reach the 3,400t N/yr target by 2035. Given the issues that exist, DHL is particularly concerned that achieving 3,400t N/yr by 2035 is neither realistic nor practicable, and that attempting to do so would likely generate adverse social and economic effects.</p> <p>The reductions required to achieve the 3,400 t N/yr load also extend beyond farming activities.</p> <p>Accordingly, DHL supports the use of a target for the Lower Hinds/Hekeao Plains Area, rather than the application of a hard limit (provided it is in fact a target – i.e. something that may or may not be met).</p> <p>DHL also queries whether a better or additional alternative approach</p>	<p>Oppose in part:</p> <p>Amend Table 13(g) by:</p> <ul style="list-style-type: none"> a) deleting the reference to the target annual discharge rate of 3,400t N/yr being achieved by 2035, and replace the target date with 2050 (effectively as a placeholder date) with the final date to be derived from a comprehensive and detailed investigation; b) provide further clarification (as set out elsewhere in this submission) as to the load for the lower plains in Table 13(g) being a target, rather than a limit; and c) ensure that the load expressed in Table 13(g) is calculated by multiplying the current N-loss load by 0.74 (to reflect the actual contribution of farming). <p>And as noted elsewhere in this submission, a policy or rule also needs to be included in the final provisions of Variation 2 that ensures the</p>

Page	Reference	Issue/concern	Relief sought
		is for a concentration limit of Nitrate-N.	<p>reference to 3,400t N/yr (as well the references to any other targets/limits) remain appropriate – including the possibility of a further plan change following the comprehensive and detailed investigation (i.e. while ensuring farming activities can retain an acceptable level of profitability).</p> <p>Finally, DHL considers that regard should be had to including a concentration limit for nitrate-N (with 8.5 mg/L being a possible appropriate limit).</p>
19	Table 13(h)	<p>DHL repeats its reasons in respect of Policy 13.4.13.</p> <p>Table 13(h) should be amended to simply provide that by 2050, a 26% reduction is anticipated in the N loss from farming activities that currently have N-losses that are greater than the permitted activity standard in the variation.</p>	<p>Oppose.</p> <p>Amend table 13(h) to provide that by 2050, a 26% reduction is anticipated in the N loss from farming activities.</p> <p>And as noted elsewhere in this submission, a policy or rule also needs to be included in the final provisions of Variation 2 that ensures the reference to a 26 percent reduction (as well the references to any other targets/limits) remain appropriate – including the possibility of a further plan change following the comprehensive and detailed investigation (i.e. while ensuring farming activities can retain an acceptable level of profitability).</p>
20	Table X (new)	<p>Table X is part of DHL’s suggested alternative relief. It is a table that would specify a specific load and/or area for the DHL scheme and other irrigation schemes (based on both existing irrigation within the relevant scheme area and its existing consented entitlement).</p> <p>The structure of the table would be consistent with that provided for</p>	<p>Support, in part.</p> <p>And as noted elsewhere in this submission, a policy or rule also needs to be included in the final provisions of Variation 2 that ensures the reference to any load within the table (as well the references to any other targets/limits) remain appropriate – including the possibility of a</p>

Page	Reference	Issue/concern	Relief sought
		<p>in Variation 1.</p> <p>New irrigation would be calculated at 27 kgN/ha/yr consistent with the wider provisions of Variation 2.</p>	<p>further plan change following the comprehensive and detailed investigation (i.e. while ensuring farming activities can retain an acceptable level of profitability).</p>

General

Page	Reference	Issue/concern	Relief sought
All	All (references to N loads / OVERSEER)	<p>Throughout Variation 2, various limits have been calculated with reference to OVERSEER (or alternatively, compliance will need to be assessed using OVERSEER).</p> <p>Care needs to be taken to avoid limiting the operation of a property, farming enterprise or irrigation scheme based on the results of an analysis in one version when that version will be superseded. In this regard, it is understood that OVERSEER is not yet in a steady state with further refinements and improvements continuing to be made.</p> <p>Accordingly, it appears that the only proper weight that can be placed OVERSEER in a regulatory context is its use as a 'relative tool' rather than an 'absolute tool' – or to put that another way OVERSEER outputs are:</p> <ul style="list-style-type: none"> not necessarily reflective of actual real life N losses but if the same version of OVERSEER is used it is a useful tool in terms 	<p>Support, in part.</p> <p>Provide for a rule to the effect that if OVERSEER is updated, the most recent version can be used to both:</p> <ol style="list-style-type: none"> re-calculate any N-loss limit/load (including the nitrogen baseline) described in a plan provision; and assess compliance against the re-calculated N-loss limit/load (including the nitrogen baseline) <p>In both cases it would be a condition of the rule that the same input data would be used.</p>

Page	Reference	Issue/concern	Relief sought
		<p>of assessing land use change; but</p> <ul style="list-style-type: none"> if different versions of OVERSEER are used the N-losses from an individual farm might vary considerably under each version of the model with no actual change to the real-life activities on farm. <p>DHL seeks to ensure that all limits in the plan are able to be considered/recalculated in light of any further version of OVERSEER.</p>	
All	All (multiple irrigation sources)	<p>It is currently unclear how the limits that apply to an irrigation scheme are to be applied where a property is also irrigated with water from other sources.</p> <p>In this regard, in relation to farming enterprises it is also noted that DHL is likely to have farming enterprises that relate to properties that are both located within and outside an irrigation scheme (and/or receive water from multiple sources). The ability of being able to establish farming enterprises is essential in such circumstances.</p>	<p>Support, in part.</p> <p>Provide for a rule to the effect that where a property is part of an irrigation scheme, any reductions (and any other compliance matters as might be required under Variation 2), as might be relevant to the N-loss allowance for the scheme, shall be limited a proportional basis (by volume) to the amount of water supplied by the scheme.</p> <p>For example, where a property is 60% irrigated by and irrigation scheme and 40% irrigated from other sources, the irrigation scheme will be responsible accounting for 60% of the property N-loss load (and any reductions that might apply will similarly be approached on the same basis).</p> <p>As a final matter, DHL seeks continuing recognition of farming enterprises and express reference to farming enterprises being able to establish across multi-water source properties (and/or properties that take water from different sources) for the purposes of being able to</p>

Page	Reference	Issue/concern	Relief sought
			manage nutrients in an integrated manner.
All	All	N/a	<p>In addition to the specific (and General) relief set out above, DHL seeks such other further and alternative relief that addresses all of the concerns/issues set out.</p> <p>In this respect, the DHL submission should read as applying to, and to the extent necessary opposing, all of Variation 2 and not just the specific provisions identified or discussed in this Annexure 2 table.</p>