

From: [Sarah Drummond](#)
To: [Mailroom Mailbox](#)
Subject: FW: CHCDOC01-#669389-v1-DHL_-_Variation_3_submission
Date: Tuesday, 26 May 2015 8:08:44 a.m.
Attachments: [CHCDOC01-#669389-v1-DHL - Variation 3 submission.pdf](#)

For Trimming Please

From: Ben Williams [mailto:Ben.Williams@chapmantripp.com]
Sent: Monday, 25 May 2015 4:46 p.m.
To: Sarah Drummond
Subject: CHCDOC01-#669389-v1-DHL_-_Variation_3_submission

Sarah,

Please find attached a short submission from Dairy Holdings Limited in respect of the Variation 3 matter.

Kind regards,
Ben

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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 3 (*Variation 3*) to the proposed Canterbury Land and Water Regional Plan (*pLWRP*).
- 2 Its submissions and sought relief are split between an overview and general submissions in **Annexure 1** and 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



Ben Williams
Senior Associate
25 May 2015

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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 what is commonly understood to be 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 Variation 3 and the South Coastal Canterbury Area

- 9 DHL owns three dairy farms within the Waitaki and South Coastal Canterbury Area. These are referred to as:
- 9.1 its Cantley Developments and Sunrise Properties (both owned by the wholly owned subsidiary Cantley Developments Limited, but which are operated as separate dairy farms). Both these properties are fully irrigated with water from the Morven Glenavy Ikawai Irrigation Scheme (*MGI Scheme*); and
- 9.2 its Retell Holdings property which receives water from the MGI Scheme (that is sufficient to irrigate the majority of the property on a border-dyke basis) and which also holds a surface water consent (CRC000943) to take up to 30 litres per second from Waikakahi Stream for the irrigation of the balance of the property.
- 10 It also has a dryland lease block that is used for support purposes at Waihaorunga.
- 11 All the dairy farms have in the past been mainly irrigated by border-dyke irrigation from the MGI Scheme. This is likely to change in the future with DHL already well advanced in a programme of irrigation system improvements throughout its Canterbury properties (which will see the conversion of all remaining border-dyke systems to spray).
- 12 All three dairy properties are located within the Morven-Sinclairs area.
- 13 Against that background, DHL is generally supportive of the notified version of Variation 3. Although expanded on in **Annexure 2**, DHL has the following general comments in respect of Variation 3:
- 13.1 the calculation of the nitrogen baseline (and obligations) in relation to properties that are within the Morven-Sinclair’s area and which also receive water from the MGI Scheme is unclear;
- 13.2 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

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

South Coastal Canterbury Area. DHL considers that the addition of the “*nutrient management group*” regime only confuses what was intended in respect of the farming enterprises across the wider pLWRP;

- 13.3 Variation 3 should expressly contemplate an ‘update’ following the release of the matrix of good management project (*MGM*) – or if available in time, the final the provisions of Variation 3 should be considered in light of the *MGM* project outcomes;
 - 13.4 making limited provision for transfers of surface water consents to irrigation schemes where the water will be used for environmental purposes is appropriate; and
 - 13.5 the implementation of Variation 3 (and a number of the limits set out in the Variation 3) 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.
- 14 A number of these aspects are expanded on in **Annexure 2**.

Annexure 2: Specific relief sought

Note: Further amendments are shown either as ~~strikethrough~~ or underline.

Page	Reference	Issue/concern	Relief sought			
15-5	Policy 15.4.2 Table 15(p)	<p>Policy 15.4.2 anticipates compliance with Tables 15(o) and Table 15(p).</p> <p>On the basis that all DHL dairy properties are located within the Morven-Sinclair Plains Area and the MGI Scheme command area, it appears that (Table 15(p) note 1):</p> <p><i>“Morven Glenavy Irrigation Scheme does not have a Nitrogen load limit. Within the command area, the sum of each individual property’s nitrogen baseline makes up the total scheme load limit”</i></p> <p>DHL is unclear on how the allocation is actually being calculated and whether (for example):</p> <ul style="list-style-type: none"> the MGI Scheme load will include dryland properties (not part of the scheme) within the command area; and the extent to which the total aggregate N-loss load will be assigned at scheme level between members of the MGI Scheme. 	<p>DHL considers that Table 15(p) would be clearer were it amended to provide a specific load for:</p> <ul style="list-style-type: none"> individual N-losses (for those not in the MGI Scheme), based on their individual nitrogen baseline; and MGI Scheme members on the basis of the total combined N-loss load of those members. <table border="1"> <tr> <td>Morven-Sinclairs</td> <td>From 1 May 2015</td> <td> Morven-Sinclairs Plains 369 <ul style="list-style-type: none"> <u>Morven Glenavy Irrigation Scheme – combined total nitrogen baseline of properties within the Scheme.</u> <u>Individual properties – nitrogen baseline</u> </td> </tr> </table>	Morven-Sinclairs	From 1 May 2015	Morven-Sinclairs Plains 369 <ul style="list-style-type: none"> <u>Morven Glenavy Irrigation Scheme – combined total nitrogen baseline of properties within the Scheme.</u> <u>Individual properties – nitrogen baseline</u>
Morven-Sinclairs	From 1 May 2015	Morven-Sinclairs Plains 369 <ul style="list-style-type: none"> <u>Morven Glenavy Irrigation Scheme – combined total nitrogen baseline of properties within the Scheme.</u> <u>Individual properties – nitrogen baseline</u> 				
15-5	Policy 15.4.4	<p>Policy 15.4.4 makes reference to “<i>good management practice or better</i>”. This is not defined in Variation 3 (or the pLWRP),</p>	Variation 3 needs to be amended to:			

Page	Reference	Issue/concern	Relief sought
		<p>although reference can be made to Policy 4.11 (of the pLWRP) which contemplates a further plan change occurring prior to 30 October 2016. Elsewhere in Variation 3, reference is made to Schedule 24b.</p> <p>In this regard it is understood that “<i>good management practice</i>” will be informed by the Matrix of Good Management Practice (MGM) project. It is not known how “<i>or better</i>” will be informed. The outcome of the MGM project will include information about nitrogen loss rates for different land uses with different soil types and climate under good management practice.</p> <p>If possible, the provisions and load limits in Variation 3 should be revisited in light of MGM. However, DHL considers the timing of actual compliance with MGM needs to be approached carefully. Actual compliance – especially if, for example, extensive irrigation system changes are required, might take some time.</p>	<p>a) include a definition of “<i>good management practice</i>” with reference to the fact that it will be populated either within the current Schedule 1 process or a further Schedule 1 process where the costs and benefits can be properly assessed; and</p> <p>b) for any reductions (and the timing of those reductions) to be reviewed once the outcomes of the MGM project are known.</p>
15-4	Definition “ <i>Nutrient User Group</i> ”	DHL has considerable experience in the farming enterprise/ nutrient user group regime, having established one of the first nutrient user groups (as described in the relevant resource consent) in the Selwyn Waihora zone.	Delete the definition of “ <i>Nutrient User Group</i> ” (and revert to use of the “ <i>Farming enterprise</i> ” regime contained in the pLWRP).
15-6	Policy 15.4.10 – 15.4.13	<p>Overall, it is very supportive of consistent approach being taken in relation to farming enterprises (as they are referred to in Variation 1 and Variation 2) across Canterbury.</p> <p>In respect of Variation 3:</p>	<p>Amend policies 15.4.10 – 15.4.13 to provide:</p> <p><i>Nutrient User Groups and Farming Enterprises</i></p> <p>15.4.10 Flexibility in nitrogen management is enabled by allowing an increase in nitrogen loss beyond the respective nitrogen baseline, except for any land within the Northern Streams Hill and Waihao-Wainono Hill areas, provided the property is part of:</p>

Page	Reference	Issue/concern	Relief sought
		<ul style="list-style-type: none"> the basis of, and need for a distinction between, a “<i>Nutrient User Group</i>” and a “<i>Farming Enterprise</i>” is not clear. DHL considers that the plan should refer to one or the other and not both (and in simple terms, DHL considers that given the pLWRP already includes a wider definition of “<i>Farming enterprise</i>”, that definition dispenses with the need for a definition of <i>Nutrient User Group</i>”); what happens on the disestablishment of a farming enterprise is currently not clear. Properties may have changed their farming systems on the basis of the farming enterprise regime and it may not, in some cases, be practical to revert back to their original nitrogen baseline (or flexibility cap); and on entry to the farming enterprise (Policy 15.4.13(b)), DHL considers the key issue will be the recalculation of a combined nitrogen loss load (rather than the “<i>redistribution</i>”). By necessary operation, it is the recalculation and compliance with the revised load that is of interest under Policies 15.4.10 – 13A (as set out). <p>It is also noted that since the notification of Variation 3, the decisions in respect of Variation 1 have been released. The Variation 1 decisions version of the plan includes a new Policy 11.4.15A (in response to a submission from DHL). DHL seeks a consistent approach in Variation 3. In this regard:</p> <ul style="list-style-type: none"> Policy 11.4.15A(1) is already largely addressed by Policy 	<ul style="list-style-type: none"> (a) a Nutrient User Group, or (b) an Irrigation Scheme; or (c) a Farming Enterprise. <p>15.4.11 Avoid catchment nutrient load limits being exceeded by only allowing Farming Enterprises or Nutrient User Groups to establish and operate where all the properties are located in the same Surface Water Allocation Zone.</p> <p>15.4.12 Maintain water quality by restricting the movement of nitrogen between properties unless:</p> <ul style="list-style-type: none"> (a) the property is part of a Farming Enterprise or Nutrient User Group; and (b) the combined nitrogen loss calculation from all properties forming the Nutrient User Group <u>Farming Enterprise</u> does not exceed the sum either: <ul style="list-style-type: none"> (i) the flexibility cap for the respective area; or (ii) the nitrogen baselines for the respective area whichever is the greater; and (c) the maximum cap is not exceeded on any individual property. <p>15.4.13 Manage nutrient losses by requiring applications for a resource consent to establish a Nutrient User Group <u>Farming Enterprise</u> to describe:</p> <ul style="list-style-type: none"> (a) the procedures and methods for recording nitrogen losses from properties within the Nutrient User Group <u>Farming Enterprise</u>; and (b) the methods for redistributing <u>recalculating the combined nitrogen loss load</u> when a property joins or leaves the Nutrient User Group <u>Farming Enterprise</u>; and (c) the annual reporting requirements; and

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		<p>15.4.10 so no further changes are proposed in respect of those matters; but,</p> <ul style="list-style-type: none"> Variation 3 currently omits the matters covered by Policy 11.4.15A(2) (except for brief reference in Policy 15.4.13(b)). Given the importance of the issue, DHL considers a new policy should be provided for. <p>In addition, DHL notes that were the deletion of "Nutrient User Group" accepted, there are a number of consequential amendments that would need to be made throughout Variation 3.</p>	<p>(d) how compliance with the actions set out in each Farm Environment Plan will be achieved.</p> <p><u>15.4.13A Enable disestablishment of Farming Enterprises, by which each parcel of land formerly used in the enterprise does not exceed either:</u></p> <p>(a) <u>the individual flexibility cap and nitrogen baseline (which is ever is greater) of the land in that parcel; or</u></p> <p>(b) <u>a nitrogen loss limit to be determined so that the aggregate of the flexibility caps and nitrogen baselines (which is ever is greater) of all the parcels formerly used in the enterprise is not exceeded.</u></p> <p>Delete reference to "Nutrient User Group" throughout Variation 3.</p>
15-8	Policy 15.4.30	<p>There will also be circumstances where surface water consents can be transferred to an Irrigation Scheme or other entity (on the basis that the scheme provides alpine water in place of water previously taken) – and the water so acquired used for environmental purposes.</p> <p>DHL considers that Variation 3 should encourage and facilitate such transfers. It would potentially facilitate environmental improvements by use of water for augmentation purposes etc.</p>	<p>Amend Policy 15.4.30 to provide:</p> <p>15.4.30 Meet environmental flow and allocation limits by only allowing the transfer of water permits (other than to the new owner of the same property at the same location), to occur where the transferred water is to be:</p> <p>(a) <u>used for a community water supply; or</u></p> <p>(b) <u>held by an Irrigation Scheme for the purposes of augmentation or environmental enhancement.</u></p>
15-10	Rule 15.5.2	<p>DHL is concerned around the wording of Rule 15.5.2, and in particular whether the exception in the introductory wording extends to "or a property that is supplied with water by an irrigation scheme" (noting the use of a comma after the words "Farming Enterprise" which suggests it may be separate to the</p>	<p>Amend Rule 15.5.2 to provide</p> <p>15.5.2 The use of land for a farming activity, except any land <u>property</u> that is part of a Nutrient User Group, or Farming Enterprise, or a property that <u>which</u> is supplied with water by an Irrigation S<u>rrigation Scheme</u>, is a permitted activity provided the</p>

Page	Reference	Issue/concern	Relief sought
		<p>exception referred to).</p> <p>If it is intended that land use by an individual within an irrigation scheme is intended to be permitted under this rule then condition 2 currently limits every property to its nitrogen baseline – when the key consideration should be ensuring the combined nitrogen loss from the scheme does not exceed the limits expressed in Table 15(p).</p>	<p>following conditions are met...</p> <p>Include a new permitted activity rule making it clear that the use of land where a property receives water from an Irrigation Scheme is a permitted activity where the Irrigation Scheme holds resource consent under Rule 15.5.11.</p>
<p>15-11-15-10</p>	<p>Rules 15.5.6 – 15.5.10</p>	<p>As set out in respect of DHL’s submission on Policy 15.4.10 – 15.4.13, DHL opposes the use of a ‘dual’ farm enterprise and nutrient user group regime.</p> <p>DHL considers a farm enterprise regime (that is consistent with Variation 1) is sufficient and appropriate. This includes the use of non-complying activity status where the matters in the rule are not met (except compliance with the flexibility cap for the respective area or the nitrogen baselines (whichever is the greater)).</p>	<p>Amend Rules 15.5.6 – 15.5.10 to provide:</p> <p><i>Farming Enterprises</i></p> <p>15.5.6 The use of land for a farming activity as part of a Farming Enterprise is a discretionary activity provided the following conditions are met.</p> <ol style="list-style-type: none"> 1. A Farm Environment Plan for the Farming Enterprise has been prepared in accordance with Schedule 7, and is submitted with the application for resource consent; and 2. In the Northern Streams and Waiho Wainono Areas the maximum cap for the relevant soil type, as set out in Table 15(n), is not exceeded on any land comprising part of the Farming Enterprise; and 3. The nitrogen loss calculation for the Farming Enterprise does not exceed the respective nitrogen baseline for each land area forming part of the Farming Enterprise; and 4. The properties comprising the Farming Enterprise are located in the same Surface Water Allocation Zone. <p>15.5.7 The use of land for a farming activity as part of a Farming Enterprise that</p>

Page	Reference	Issue/concern	Relief sought
			<p>does not comply with condition 1 of Rule 15.5.6 is a non-complying activity.</p> <p>15.5.8 The use of land for a farming activity as part of a Farming Enterprise that does not meet one or more of conditions 2, 3 or 4 of Rule 15.5.6 is a prohibited activity.</p> <p><i>Nutrient User Groups</i></p> <p>15.5.9 The use of land for a farming activity that forms part of a Nutrient User Group Farming Enterprise is a discretionary activity provided the following conditions are met:</p> <ol style="list-style-type: none"> 1. A management plan is submitted with the application for resource consent, which sets out: <ol style="list-style-type: none"> (a) the properties forming the Nutrient User Group Farming Enterprise; and (b) a map showing the location of all properties forming part of the Nutrient User Group Farming Enterprise; and (c) the legal description of all properties and the legal names of the property owners forming part of the Nutrient User Group Farming Enterprise; and (d) the method by which nitrogen losses will be managed and accounted for within the Nutrient User Group Farming Enterprise; and (e) the method by which nitrogen losses will be redistributed upon any property or any part of the property withdrawing from the Nutrient User Group Farming Enterprise; and (f) how the Nutrient User Group Farming Enterprise will ensure each property complies with the maximum caps

Page	Reference	Issue/concern	Relief sought
			<p>set out in Table 15(n); and</p> <p><u>2.</u> The nitrogen loss calculation for the Farming Enterprise does not exceed the sum of either:</p> <p>(i) <u>the flexibility cap for the respective area; or</u></p> <p>(ii) <u>the nitrogen baselines for the respective area whichever is the greater</u></p> <p><u>3.</u> A Farm Environment Plan has been prepared for each property in the Nutrient User Group <u>Farming Enterprise</u> in accordance with Schedule 7 Part A and is submitted with the application for resource consent; and</p> <p>3-4. All properties within the Nutrient User Group <u>Farming Enterprise</u> are located within the same Surface Water Allocation Zone; and</p> <p>4-5. No property within the Nutrient User Group <u>Farming Enterprise</u> is part of an Irrigation Scheme or a Farming Enterprise.</p> <p><u>15.5.9A The use of land for a farming activity that forms part of a Farming Enterprise that does not comply with one or more of the conditions 1, 3, 4 or 5 of Rule 15.5.9 is a non-complying activity.</u></p> <p>15.5.10 The use of land for a farming activity that forms part of a Nutrient User Group <u>Farming Enterprise</u> that does not comply with one or more of the conditions 2 of in Rule 15.5.9 is a prohibited activity.</p>
All	All (references to N loads / OVERSEER)	<p>Throughout Variation 3, 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</p>	<p>Provide for a rule to the effect that if OVERSEER® is updated, the most recent version can be used to both:</p> <p>a) re-calculate any N-loss limit/load (including the nitrogen baseline) described in a plan provision; and</p>

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		<p>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>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>	<p>b) assess compliance against the re-calculated N-loss limit/load (including the nitrogen baseline)</p> <p>In both cases it would be a condition of the rule that the same input data would be used.</p>
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 3 and not just the specific provisions identified or discussed in this Annexure 2 table.</p>