

**From:** [Richard Turner](#)  
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**Attachments:** [RJT\\_20151005\\_submission\\_FINAL.pdf](#)

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Good Morning

Please find attached Trustpower's submission on Plan Change 4 to the Canterbury Land and Water Regional Plan.

We would appreciate it if you could acknowledge receipt of this submission.

Regards

**Richard Turner**

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**Submission by Trustpower Limited  
on Proposed Plan Change 4 to the  
Canterbury Land and Water  
Regional Plan**

October 2015

Trustpower Limited (“**Trustpower**”) makes the following submission on Proposed Plan Change 4 to the Canterbury Land and Water Regional Plan (“**Plan Change 4**”). Trustpower’s submission on the individual provisions of Plan Change 4 are set out in the document attached as **Appendix One**.

Trustpower could not gain an advantage in trade competition through this submission.

Trustpower would like to be heard in support of its submission.

If other persons make a similar submission, then Trustpower would consider presenting joint evidence at the time of the hearing.



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## Introduction and Overview

Trustpower is one of the nation's largest electricity retailers / generators. Our generation portfolio is derived primarily from renewable energy sources across 20 hydro-electric power schemes and two wind farms spread throughout New Zealand.

Within the Canterbury Region, Trustpower owns and operates the Coleridge Hydro-Electric Power Scheme (“**Coleridge HEPS**”) and the Montalto and Highbank Power Stations. The Montalto and Highbank Power Stations also form part of the water conveyance infrastructure that comprises the Rangitata Diversion Race (“**RDR**”). Trustpower is a shareholder in the company that owns and operates the RDR; being Rangitata Diversion Race Management Limited (“**RDRML**”).

Trustpower is also strategically developing the Lake Coleridge Project over the medium term. In this regard, Trustpower successfully varied the National Water Conservation (*Rakaia River*) Order 1988 (“**Rakaia WCO**”) in 2013 to enable the future consenting, construction and operation of the Lake Coleridge Project. The Lake Coleridge Project involves augmenting the use of the Coleridge HEPS in a staged manner so that water stored in Lake Coleridge is able to be utilised for enhancing irrigation reliability on the Canterbury Plains and additional hydro-electricity generation. The project will enable water stored in Lake Coleridge during defined flow conditions to be exempt from the minimum flow and flow sharing restrictions in the Rakaia WCO upon its subsequent release and use for irrigation.

The Lake Coleridge Project will deliver considerable benefits to the Canterbury Region. It is expected to initially support up to 45,000 ha of irrigation at high levels of reliability. Once integrated into the wider irrigation infrastructure on the true-left and true-right banks of the Rakaia River, the area supported could exceed 65,000 ha. In terms of electricity generation, the Lake Coleridge Project will have a combined generation capacity of approximately 30 MW and an annual generation output of 130 GWh (in addition to the existing generation produced by the Coleridge HEPS).

Against this background, Trustpower has a strong interest in the amendments to the Canterbury Land and Water Regional Plan that are proposed via Plan Change 4. Trustpower also contend that the National Policy Statement for Renewable Electricity Generation 2011 (“**NPSREG**”) is a relevant consideration for the development of Plan Change 4 in light of the implications of the plan change for the operation, maintenance and upgrading of renewable electricity generation activities in the beds of lakes and rivers.

## APPENDIX ONE: SPECIFIC SUBMISSION POINTS

SECTION 2.9 – DEFINITIONS, TRANSLATIONS AND ABBREVIATIONS		
Provision	Submission	Requested Relief
Definition - High Naturalness Waterbody	The inclusion of a definition of ‘high naturalness waterbody’ in Section 2.9 is supported by Trustpower as it will assist in ensuring consistency across the terminology used in the objectives, policies and rules of the Canterbury Land and Regional Plan.	Trustpower seeks the following relief from the Canterbury Regional Council: <ol style="list-style-type: none"> <li>1. Retain the definition of ‘high naturalness waterbody’ in Section 2.9 of Plan Change 4 as notified.</li> <li>2. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</li> </ol>
Definition - Outstanding Fresh Water Bodies	The deletion of the definition of ‘outstanding fresh water bodies’ from Section 2.9 is supported by Trustpower as the term was only used in Objective 3.14 of the Canterbury Land and Regional Plan and was largely redundant. In this regard, there are no policies or rules that seek to manage the potential effects of activities on outstanding fresh water bodies.	Trustpower seeks the following relief from the Canterbury Regional Council: <ol style="list-style-type: none"> <li>1. Delete the definition of ‘outstanding fresh water bodies’ from Section 2.9 of Plan Change 4 as notified.</li> <li>2. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</li> </ol>

  

SECTION 3 - OBJECTIVES		
Provision	Submission	Requested Relief
Objective 3.14	The proposed amendment of Objective 3.14 to replace reference to ‘outstanding fresh water bodies’ with ‘high naturalness waterbody’ is supported by Trustpower. In this respect, the proposed amendment will assist in ensuring consistency across the terminology used in the objectives, policies and rules of the Canterbury Land and Regional Plan.	Trustpower seeks the following relief from the Canterbury Regional Council: <ol style="list-style-type: none"> <li>1. Amend Objective 3.14 as proposed in the notified version of Plan Change 4.</li> <li>2. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</li> </ol>

SECTION 4 - POLICIES		
Provision	Submission	Requested Relief
Policy 4.85A	<p>Policy 4.85A is opposed by Trustpower as it is inappropriately seeks to restrict activities in the beds of lakes and rivers, and conflicts with other objectives and policies in the Canterbury Land and Water Regional Plan that manage activities in the beds of lakes and rivers. In particular, the focus on the ‘preservation’ of indigenous biodiversity, habitats of indigenous flora and fauna and natural character does not align with the objectives in Section 3 of the Canterbury Land and Water Regional Plan – which seek the <u>protection</u> of natural character and significant indigenous biodiversity values.</p> <p>The reference to ‘preventing the encroachment of activities into the beds and margins of lakes and rivers’ in clause (a) of the policy also suggests that no new activities will be allowed in the bed of lakes and rivers – despite the permitted and discretionary activity rules that apply to activities in the bed of lakes and rivers.</p> <p>Trustpower also consider that Policy 4.85A conflicts with the policies in Section 10 of the Canterbury Regional Policy Statement, which actively seek to provide for activities in the beds of lakes and rivers (including vegetation clearance) subject to the maintenance of significant bed / riparian values and the avoidance of significant adverse effects.</p> <p>Finally, the exception created for vegetation clearance associated with pest control, flood control and the maintenance of public access is considered to be create uncertainty in light of</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>1. Delete Policy 4.85A from Plan Change 4.</li> <li>2. Any similar or consequential amendments to Proposed Plan Change 4 that stem from the submission and relief sought.</li> </ol>

	<p>the definition of ‘vegetation clearance’ in Section 2.9 of the Canterbury Land and Water Regional Plan. In this regard, the definition of vegetation clearance excludes clearance activities required for the establishment and maintenance of utilities, the maintenance of dams, and flood or pest control purposes. However, Policy 4.85A suggests that some of the defined exclusion activities, particularly vegetation clearance for flood or pest control, are still considered to be vegetation clearance activities. Trustpower submit there is a need for consistency across the definitions, policies and rules of the Canterbury Land and Water Regional Plan with respect to vegetation clearance activities.</p>	
<p>Policy 4.86A</p>	<p>Policy 4.86A is opposed by Trustpower as it does not clearly define the areas considered to be inanga spawning sites and, therefore, where activities should be avoided as a first priority. While Plan Change 4 contains a proposed definition of ‘inanga spawning habitat’, there is no definition of ‘inanga spawning sites’ and it is has to be assumed that the application of Policy 4.86A is solely limited to those sites identified in Schedule 17 and on the planning maps of the Canterbury Land and Water Regional Plan.</p> <p>Further, Policy 4.86A is not clear as to whether it only seeks to avoid activities in the beds of lakes and rivers with defined inanga spawning sites and inanga spawning habitats, or also avoid activities outside of the defined spawning and habitat sites – but which may affect these sites. Trustpower submit that greater clarity should be provided in the text of Policy 4.86A.</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>1. Include the following definition of ‘Inanga Spawning Sites’ in Section 2.9 of the Canterbury Land and Water Regional Plan: <p><u><i>Inanga Spawning Site – means that part of the bed and banks of a lake, river, artificial watercourse, coastal lagoon or wetland that is between mean high water springs and mean low water neaps and is within the area identified as a ‘Inanga Spawning Site’ in Schedule 17 and on the Planning Maps.</i></u></p> </li> <li>2. Amend Policy 4.86A as follows: <p><i>Inanga spawning sites are protected through, as a first priority, avoiding activities within the beds and margins of <u>the lakes, rivers, hapua, wetlands, coastal lakes and lagoons identified in Schedule 17</u> that may damage inanga spawning sites, and where these activities cannot be avoided, the use of best practicable options to minimise all impacts.</i></p> </li> </ol>

		3. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.
Policy 4.86B	Policy 4.86B is opposed by Trustpower as it does not clearly define those waterbodies where works should be avoided between 1 March and 1 June in order to minimise potential effects on inanga spawning habitat. Trustpower submit that this should be addressed in the text of the policy by specific acknowledging that works should be avoided only in those waterbodies identified as inanga spawning habitat on the planning maps.	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>Amend Policy 4.86B as follows: <p><i>Within the beds and margins of lakes, rivers, hapua, wetlands, coastal lakes and lagoons <u>that are inanga spawning habitat identified on the planning maps</u>, damage to <del>inanga spawning</del> habitat is minimised by scheduling works to occur outside the inanga spawning period of 1 March to 1 June inclusive where it is practicable to do so, and by extending this period to 1 January to 1 June inclusive, where the works involve vegetation clearance or earthworks, so as to allow sufficient time for regeneration of the habitat.</i></p> </li> <li>Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought</li> </ol>

SECTION 5 - RULES		
Provision	Submission	Requested Relief
Rules 5.94A and 5.94C	<p>Rules 5.94A and 5.94C are supported in part by Trustpower as they introduce specific permitted and restricted discretionary activity rules for the discharge of stormwater associated with construction activities.</p> <p>However, it is unclear why clause 1(2) of Rule 5.94A seeks to limit the area of disturbed land outside of High Soil Erosion Risk Areas. In this regard, it is considered that clauses 2 and 3 of Rule 5.94A provide suitable controls over the quality and quantity of any</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>Delete Clause 1(2) of Rule 5.94A.</li> <li>Retain Rule 5.94C as notified in Plan Change 4.</li> <li>Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</li> </ol>

	<p>stormwater being discharged to a waterbody via the limits on the concentration of total suspended solids and the increase in flow in the receiving waterbody.</p>	
<p>Rules 5.163 – 5.166</p>	<p>Rules 5.163 to 5.166 are opposed by Trustpower as the drafting of the rules fails to acknowledge that the definition of ‘vegetation clearance’ in Section 2.9 of the Canterbury Land and Water Regional Plan excludes clearance activities for the purpose of establishing or maintaining utilities or structures (as well as dams).</p> <p>The introduction to Rules 5.163 to 5.163 would appear to apply to vegetation clearance activities for the establishment or maintenance of utilities given that it simply refers to the ‘removal and disturbance of existing vegetation’. However, many of the conditions that apply under the rule refer to the term ‘vegetation clearance’, which would exclude clearance activities for the establishment or maintenance of utilities given the definition in Section 2.9 of the Canterbury Land and Water Regional Plan.</p> <p>Condition 9 also requires that permitted vegetation clearance activities not result in a reduction in the area or diversity of existing riverbed vegetation. Trustpower submit it would be difficult for a user of the riverbed to determine whether an activity will result in the reduction in the diversity of existing riverbed vegetation – which makes the enforceability of Condition 9 problematic.</p> <p>Condition 10 of Rule 5.163 provides an exclusion for the establishment and maintenance of network utilities from the total suspended solid limits applying to discharges from vegetation clearance activities. However, given that vegetation clearance associated with the establishment and maintenance of</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>1. Amend the introduction to Rules 5.163 to Rule 5.166 as follows: <ul style="list-style-type: none"> <li><i>The introduction or planting of any plant, or <del>the removal and disturbance of existing</del> <u>clearance</u> in, on or under the bed of a lake or river...</i></li> </ul> </li> <li>2. Amend the conditions of Rule 5.163 so that they consistently refer to ‘vegetation clearance’ as defined in Section 2.9 of the Canterbury Land and Water Regional Plan, particularly the clearance activities exemption from the definition.</li> <li>3. Amend the activity status of any activity which does not comply with Condition 9 of Rule 5.163 to a discretionary activity.</li> <li>4. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</li> </ol>

	<p>utilities and structures is not 'vegetation clearance', the utilisation of an exemption in Condition 10 appears unnecessary and lacking justification.</p> <p>It is also noted that Rule 5.165 makes any activity that does not comply with Condition 9 of Rule 5.163 a non-complying activity. Trustpower submit that this activity status could have implications for the consenting of infrastructure located in the beds of major rivers (particularly if the rule is deemed to apply to the establishment of utilities). As such, it is considered that any activity that does not comply with Condition 9 of Rule 5.163 be classified as a discretionary activity.</p> <p>In summary, Trustpower consider that Rules 5.163 to 5.166 requires redrafting so that it clearly distinguishes between those activities which constitute vegetation clearance in accordance with the definitions in Section 2.9 of the Canterbury Land and Water Regional Plan, and those which are excluded under the definition.</p>	
<p>Rule 5.187</p>	<p>Rule 5.187 is opposed by Trustpower as the amendments proposed fundamentally alter the original purpose of the rule. While many power station sites may be deemed contaminated land based on the definitions in Section 2.9 of the Canterbury Land and Water Regional Plan, any hazardous substances in power stations are typically stored in enclosed areas and cannot seep to groundwater.</p> <p>Trustpower also submit that the phrase 'passive discharge' is ambiguous and implies that landowners are required to manage run-off or discharges that they do not generate or have any active control over. In this regard, the rule will potentially mean that any uncontrolled run-off of rainwater from existing power</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> <li>1. Delete the proposed amendments to Rule 5.187 as notified in Plan Change 4.</li> <li>2. If Rule 5.187 is to be retained as notified, the term 'passive discharge' should be defined so that it is clear what activities which cause the emission of a contaminant are actually captured by the rule.</li> <li>3. If Rule 5.187 is to be retained as notified, its implementation should be delayed until October 2018.</li> </ol>

	<p>station sites will require resource consent. The lack of a definition of the term also means that the scope and actual intent of the rule is unclear.</p> <p>Finally, Trustpower submit that if Rule 5.187 is to be retained in its present form then its introduction should be staged so that owners of contaminated land have sufficient time to undertake the required site investigations, water quality sampling, and identify and budget for any remedial measures that may be regard. In this regard, Rule 5.187 appears to have immediate legal effect in accordance with Section 86B of the Resource Management Act 1991 as it 'protects or relates to water'. As such, it is possible that a number of contaminated sites will already be contravening the rule.</p>	<p>4. Any similar or consequential amendments to Plan Change 4 that stem from the submission and relief sought.</p>
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