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environment + planning + project management



12th of October 2015

Submissions on Plan Change 4 to the partially operative Canterbury Land and Water Regional Plan
Environment Canterbury
PO Box 345
CHRISTCHURCH 8140

By Email: *mailroom@ecan.govt.nz*

Dear Sir/Madam,

PROPOSED PLAN CHANGE 4 TO THE PARTIALLY OPERATIVE CANTERBURY LAND AND WATER REGIONAL PLAN

1.0 Introduction

This letter supports the submissions from Rangitata Diversion Race Management Limited ('RDRML') to the Plan Change 4 to the partially operative Canterbury Land and Water Regional Plan ('PC4').

2.0 RDRML's interests in the Canterbury Region

RDRML is a water supply company responsible for:

- a. Delivering water to its shareholders; and
- b. The maintenance, control and management of the Rangitata Diversion Race ('RDR') and its associated structures.

The RDR is 67 kilometres long and is located in the Ashburton District. It provides water to:

- The Mayfield Hinds Irrigation Scheme, which is operated as an irrigation company;
- The Valetta Irrigation Scheme, which is also operated as an irrigation company;
- The Ashburton Lyndhurst Irrigation Scheme, which is also operated as an irrigation company;
- The Barhill Chertsey Irrigation Scheme, which is also operated as an irrigation company;
- The Montalto Hydroelectric Power Station, which is operated by Trustpower Limited;
- The Highbank Hydroelectric Power Station, which is also operated by Trustpower Limited; and
- The Ashburton District Council for stock water purposes.

The RDR transports water from the Rangitata and South Ashburton rivers (at a maximum rate of 35.4 cubic metres per second) and delivers it to the two power stations in winter, and to the various irrigation schemes in summer. The irrigation schemes have priority of access to water in the

summer, while the power stations have priority of access outside of the irrigation season. Of note is that the RDR is the largest race that supplies water for irrigation in New Zealand.

Together, the RDR, the four irrigation schemes, and the hydroelectric power stations are a nationally significant resource. Given the presence of the RDR in Canterbury, the RDRML has a keen interest in the PC4, and the direction it advances.

3.0 General Comments

The RDRML is concerned that PC4 has the potential to adversely affect both the operation and maintenance of the RDR and the development of the same, along with a number of other activities, including but not limited irrigation and agricultural activities.

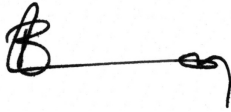
This submission focuses on the RDRML's key areas of concern to PC4.

The RDRML wishes to be heard in support of its submissions and if others make a similar submission, the RDRML would be prepared to consider presenting a joint case with them at any hearing.

Please do not hesitate to contact myself, or Gavin Kemble (of Ryder Consulting Limited) should you wish to discuss this submission.

Yours Faithfully

Rangitata Diversion Race Management Limited

A handwritten signature in black ink, appearing to be 'Ben Curry', written over a horizontal line.

Ben Curry
Chief Executive Officer

From: [Gavin Kemble](#)
To: [Mailroom Mailbox](#)
Cc: [Ben Curry](#)
Subject: Submission to proposed Plan Change 4 to the partially operated Canterbury Land and Water Regional Plan
Date: Monday, 12 October 2015 12:59:05 p.m.
Attachments: [ATT00001.htm](#)
[T2015-104_GDK_121015_Submission_Final.pdf](#)
[ATT00002.htm](#)
[T2014-104_GDK_121015_Letter_SubLodgement_Final.pdf](#)
[ATT00003.htm](#)

Good afternoon,
Please refer to the attached submission of the Rangitata Diversion Race Management Limited to proposed Plan Change 4 to the partially operative Canterbury Land and Water Regional Plan.

Please confirm receipt of the attached submission.

Kind regards,

Gavin

Gavin Kemble

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Table 1: Rangitata Diversion Race Management Limited Submission to PLAN CHANGE FOUR to the partially operative Canterbury Land and Water Regional Plan: 'OMINIBUS'

No.	Provision	Submission	Requested Relief
1.	Table 2, Part 1: General Amendments of Plan Change 4, as it relates to Rule 5.24 of the partially operative Canterbury Land & Water Regional Plan (hereafter referred to as the 'oLWRP').	<p>RDRML is opposed to the proposed amendment to limb (5)(b) of Rule 5.24 of the oLWRP, as set out in Plan Change 4 (hereafter referred to as 'PC4').</p> <p>As drafted Table 2 of PC4 suggests that limb (5)(b) of Rule 5.24 is to be amended. There is no such provision in the oLWRP. We anticipate that this is a typographical error, and that PC4 should in fact state that Rule 5.24(4)(b) is to be amended in the manner stated.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) That Rule 5.24(4)(b) be amended to delete the reference to the term 'Group'.</p>
2.	Section 2.3: Rules, Section 2: 'How the Plan Works & definitions' of the oLWRP	<p>RDRML supports the proposed addition of text to section 2.3 of the oLWRP, as set out in PC4.</p> <p>The proposed addition to section 2.3 is needed to ensure that the oLWRP can be readily interpreted and implemented, with the minimum of ambiguity. Some sections of the oLWRP are currently unclear as to whether a table referred to in the plan forms part of the provision that it is cited within.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) That the proposed amendment of (addition to) to Section 2.3 of the oLWRP is retained (without amendment) as it was publically notified.</p>
3.	Definition of 'Earthworks', Section 2.9: Definitions, Translations & Abbreviations of the oLWRP.	<p>RDRML is opposed to the proposed amendment of the term 'Earthworks', as set out in PC4.</p> <p>The amendment proposed would make cultivation on 'production land' that is established after the 5th of September 2015 an 'earthworks' activity. As the definition stands in the oLWRP, cultivation for crops and pasture is not deemed to be 'earthworks'.</p> <p>The rationale behind the proposed change is not readily apparent within PC4, or within the supporting Section 32 Analysis. The implications of this change are, however, potentially wide-ranging and significant. In this regard, were the amendment to be accepted, an array of additional rules would apply to, and thus regulate an activity that is fundamental to the continued social and economic well being of Canterbury. We question if this was the outcome that the Council intended, and (assuming it was) if the cost and benefits of this change have been sufficiently evaluated in the Section 32 analysis that accompanies PC4. Without this information, it is difficult to determine if the benefits that could arise from this change are sufficient to warrant the additional compliance costs that will eventuate.</p> <p>Further, the reference to 'production land' in the definition creates an unnecessary level of uncertainty that does not assist with the oLWRP's interpretation and implementation. If this term is to be retained, it needs to be separately defined in Section 2.9 of the oLWRP. We note that a definition of the term 'primary production' exists within the Operative Canterbury Regional Policy Statement (hereafter referred to as 'the RPS'). A sensible, and thus appropriate approach in the context of PC4 and the oLWRP would be to incorporate that definition into section 2.9, either directly or by reference.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Delete the proposed amendment to the definition of the term 'Earthworks'; or:</p> <p>(b) IN THE ALTERNATIVE to the relief sought in Paragraph (a) of this submission;</p> <ol style="list-style-type: none"> i. Retain the definition has notified, but insert 'primary' before 'production'; ii. Incorporate, either directly or by reference, the definition of the term 'primary production' set out in the oRPS into section 2.9 of the oLWRP; and iii. Review and amend Rules 5.167 to 5.178 of the oLWRP so that the benefits that will accrue by regulating the cultivation of soil on 'primary production land' (via the earthworks provisions) outweigh the costs associated with the same. An updated and extended 'Section 32 analysis' will need to be accompany the amendments to Rules 5.167 to 5.178; and <p>(c) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>
4.	Definition of 'Vegetation Clearance', Section 2.9: Definitions, Translations & Abbreviations, of the oLWRP.	<p>RDRML is opposed (in part) to the proposed amendment of the term 'Vegetation Clearance', as set out in PC4.</p> <p>As with the proposed amendment of the definition of the term 'earthworks', we are concerned with the proposal to make cultivation or harvesting of pasture or crops an 'vegetation clearance' activity, where the production land was established after the 5th of September 2015.</p> <p>The rationale behind the proposed change is not readily apparent within PC 4, or within the supporting Section 32 Analysis. The implications of this change are, however, potentially wide-ranging and significant. In this regard, were the amendment to be accepted, an array of additional rules would apply to, and thus regulate an activity that is fundamental to the continued social and economic well being of Canterbury. We question if this was the outcome</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Delete the proposed amendment to paragraph (a) of the definition of the term 'Vegetation Clearance'; or:</p> <p>(b) IN THE ALTERNATIVE to the relief sought in Paragraph (a) of this submission;</p> <ol style="list-style-type: none"> i. Retain the definition has notified; and ii. Review and amend Rules 5.167 to 5.178 of the oLWRP so that the benefits that will accrue by regulating the cultivation and harvesting of crops and pasture being (via the vegetation clearance provisions) outweigh the costs associated with the same. An updated and extended 'Section 32 analysis' will need to be accompany

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		<p>that the Council intended, and (assuming it was) if the cost and benefits of this change have been sufficiently evaluated in the Section 32 Analysis that accompanies PC4. Without this information, it is difficult to determine if the benefits that could arise from this change are sufficient to warrant the additional compliance costs that will eventuate.</p> <p>Further, while we support the exemption that is provided in Limb (b) of the definition for the establishment and maintenance of utilities and structures, we are of the opinion that it should be extended to apply to the upgrading and repair of these physical resources. In this regard, in the context of the definition for Vegetation Clearance, it would be artificial, and would not serve any resource management purpose to treat 'upgrading and repair' differently from 'establishment and maintenance'. Further, it would be appropriate, in our opinion, for the limb (b) of the definition to reflect the terminology that applies throughout the oLWRP, and refer to network utilities and nationally and regionally significant infrastructure rather than to 'utilities'.</p>	<p>the amendments to Rules 5.167 to 5.178; and</p> <p>(c) Amend limb (b) of the definition of the term Vegetation Clearance to read:</p> <p><i>"clearance for the establishment, repair, upgrade or maintenance of <u>network utilities, regionally and nationally significant infrastructure</u> or structures; ...";</i> and</p> <p>(d) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>
5.	Policy 4.13, Section 4: Policies of the oLWRP	<p>RDRML supports (in part) the amendments proposed to Policy 4.13 in PC4.</p> <p>The Company supports, in principle, the amendments proposed to Policy 4.13. In this regard, it is of the opinion that the amendments proposed will make Policy 4.13 more realistic and practicable than is presently the case. In that regard, as redrafted Policy 4.13 affords Schedule 5 (and the standards it contains) particular prominence (and priority), but enables existing surface water quality to be maintained, as a second priority. Such an approach will, we believe, protect the important environmental values, and lead to their enhancement (where this is required) while, at the same time, enabling the social and economic wellbeing of Canterbury.</p> <p>The Company does, however, question if Policy 4.13 is appropriately cast in one respect. As proposed in PC4, Policy 4.13 effectively states that no further 'degradation' in water quality will be acceptable. We question if this is the most appropriate approach, and one that accords with Part 2 of the Act. There could, for example, be temporary (or transient) discharges that result in temporary degradation with only negligible adverse effects, or situations where further degradation could occur, but not in a manner that cuts across the approach advanced in the National Policy Statement for Freshwater Management, or cause adverse effects that are minor or more. Such situations need, in our opinion, to be assessed on their merits. It follows, therefore that we are of the opinion that it is not appropriate for Policy 4.13 to effectively prevent their consideration.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Retain the proposed amendments to Policy 4.13(e)(i) unchanged, and make the following amendment to Policy 4.13(e)(ii):</p> <p><i>"as a second priority, does not result in any <u>unacceptable</u> further degradation in water quality ... or any applicable water conservation order. The phrase '<u>unacceptable further degradation</u>' is a change that will, or is likely to result in adverse environmental effects <u>that are minor or greater in their magnitude.</u>";</i> and</p> <p>(b) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>
6.	Policy 4.85A, Section 4: Policies of the oLWRP	<p>The RDRML supports (in part) Policy 4.85A of PC4.</p> <p>The Company supports, in principle, Policy 4.85A. We are of the opinion that the broad thrust of this policy is aligned with the sustainable management, as defined by Part 2 of the Resource Management Act 1991 (hereafter referred to as 'the Act'). As a consequence, and with the exception of a proposed amendment (which we will come to shortly), we support the retention of this policy as publically notified.</p> <p>As proposed Policy 4.85A provide a limited number of what are effectively 'exemptions'. In that regard, a series of activities are exempted from limb (b) of Policy 4.85A. We believe that those exemptions are appropriate appropriate, as far as they go, and reflect the contribution that activities such as infrastructure make to Canterbury. We question why the policy does not, however, make provision for vegetation removal associated with the construction of new nationally or regionally significant infrastructure, or the upgrading, maintenance or repair of existing nationally or regionally significant infrastructure¹ in the same manner. The Company considers that it is inappropriate to, at worst, effectively foreclose on, or, at best, impose a significant hurdle in the path of such activities given the social and economic contributions that they can make.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Amend the introduction to Policy 4.85A to read:</p> <p><i>"Indigenous biodiversity, ... unless the vegetation clearance <u>and/or encroachment</u> is for the purpose of ... <u>the maintenance, upgrading, establishment or repair of structures or network utilities or nationally / regionally significant infrastructure</u> ...";</i> and</p> <p>(b) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>

¹ Recognising that not all nationally or regionally significant infrastructure is deemed to be a network utility

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		<p>Similarly, we question why no exemption is provided to ‘encroachment’ into the beds and margins of lakes and rivers (which correlates to an exemption being provided to limb (a) of Policy 4.85A). This approach makes little sense (particularly given the exemptions that are provided to limb (b)), and seems to serve no resource management purpose. The absence of such an exemption has, in our opinion, a very real likelihood of hindering development that could contribute, significantly, to Canterbury. It also cuts across our experience that, if approached in the right way, nationally and regionally significant infrastructure can be designed, established, repaired, maintained and operated so as to preserve the values that are listed in Policy 4.85A.</p>	
7.	<p>Rules 5.137, 5.139, 5.140 and 5.141, Section 5: Region-wide Rules of the oLWRP</p>	<p>RDRML supports (in part) the amendments proposed to Rules 5.137, 5.139, 5.140 and 5.141, as set out in PC4.</p> <p>The Company broadly supports the measures that the Council is proposing to minimise duplication in the oLWRP. Consequently, we support, in principle, the deletion of the term ‘maintenance’ from Rule 5.137 given the existence of Rule 5.139. We are, however, concerned that Rule 5.139 is more confined than Rule 5.137, insofar as it does not seek to authorise any consequential deposition, excavation, takes, diverts or discharges. Further, we note that Rule 5.140 only enables temporary diversions and structures, and thus does not address ‘associated takes and discharges’. Further still, we note that Rule 5.141 only enables temporary discharges, and not associated takes. In summary, the amendments advanced in PC4 would result in a more complex, and more constrained rule framework. This seems to run contrary to the outcome that the amendments to rules 5.137 and 5.139 to 5.141 were intended to achieve.</p> <p>Given that these activities are, in our opinion, inextricably linked to the act of maintaining a structure, they should be provided for in a comprehensive manner. Doing would both assist those interpreting and implementing the oLWRP and represent good resource management and planning practice.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) That Rule 5.139 be amended to read:</p> <p><i>“The use and maintenance of structures ... river, and the consequential deposition of substances on, in or under the bed of a river or lake, the excavation or other disturbance of the bed of river or lake, and any associated take, discharge and diversion of water are permitted activities ...”; or</i></p> <p>(b) IN THE ALTERNATIVE to the relief sought in paragraph (a) of this submission, retain Rule 5.137 (as it exists in the oLWRP) without the amendment; and</p> <p>(c) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>
8.	<p>Rules 5.163, 5.164 and 5.165, Section 5: Region-wide Rules of the oLWRP</p>	<p>RDRML is opposed (in part) to the amendment of rules 5.163, 5.164 and 5.165, as set out in PC4.</p> <p>The Company’s concern centres on limbs (9) and (10) of Rule 5.163. In this regard:</p> <p>(a) Limb (9) states that vegetation clearance is not to result in a reduction in the area or diversity of existing riverbed vegetation in a number of rivers, including both the Rangitata and Rakaia. We are concerned that it will not be possible to undertake vegetation clearance without causing a reduction in the area of the existing riverbed vegetation, even if only temporarily while an area of ‘compensating’ vegetation is planted. It is not appropriate, in our opinion, to set a standard that is, for all intents and purposes, unable to be achieved. Further, we question if such an approach is needed to achieve the sustainable management purpose of the Act. Experience suggests that it will be possible to address any reduction in the area cleared with planting, and/or improved protection of established areas (thereby enabling them to expand into a wider area and possess greater ecological values). Indeed, a net environmental gain should be possible were indigenous species to replace (via planting) exotic species.</p> <p>(b) Limb (10) appropriately provides an exemption for the establishment, maintenance or repair of network utilities and fencing from the suspended solids limits. It does not, however, provide the same exemption for nationally or regionally significance infrastructure, which, in our opinion, is inappropriate given the importance of such physical resources to Canterbury. Similarly the upgrading of the exempted structures is also not provided for. We question the logic for this, given that the environmental effects that arise from such an upgrade are, in our experience, unlikely to exceed those associated with the establishment of what can be significant physical resources.</p> <p>We also note that activities that cannot achieve Limb (9) of Rule 5.163 are deemed to be a non-complying activity (refer to Rule 5.165). Such an approach is, in our opinion, both inappropriate and unnecessarily restrictive. While accepting that values possessed by the water courses listed in Rule 5.163 are, in many instances, of note, the values do not, in our opinion and experience, justify (in all places and all instances) a non-complying activity status if a</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Amend limbs (9) and (10) of Rule 5.163 to read:</p> <p><i>“(9) From 5 September 2015 ... the vegetation clearance (taking any proposed replanting and/or the formal protection of an area of indigenous vegetation into account) does not result ...”</i></p> <p><i>“(10) Except in relation to ... repair or upgrade of network utilities, nationally / regionally significant infrastructure ...”</i></p> <p>(b) Amend Rule 5.164 to read:</p> <p><i>“The introduction or planting of any plant ... excluding conditions 2 and 4, and 9, is ...”;</i></p> <p>(c) Amend Rule 5.165 to read:</p> <p><i>“The introduction or planting of ... that does not comply with conditions 2 or 9 of ...”;</i></p> <p>(d) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>

No.	Provision	Submission	Requested Relief
		<p>proposal can not complying with Limb (9). A discretionary activity classification would, in our opinion, be more appropriate. In that regard, such an activity classification still allows a resource consent application declined and for appropriate conditions to be proposed. It also provides a heightened degree of certainty to a resource user.</p>	
9.	<p>Rules 5.167 and 5.168, Section 5: Region-wide Rules of the oLWRP</p>	<p>RDRML is opposed (in part) to the amendment of rules 5.167 and 5.168, as set out within PC4.</p> <p>The Company has four concerns with rules 5.167 and 5.168. In this regard:</p> <p>(a) Limbs (2A) of Rule 5.167 and (2) of Rule 5.168 correctly, in our opinion, exempt the establishment, maintenance and repair of network utilities and fencing from two suspended sediment standards. This is supported, as it recognises the minor nature of the discharges associated with fencing activities, and the benefits of the same for stock control, while also acknowledging the benefits that network utilities provide to the communities that they serve. That said, we note that no exemption is made for the upgrading of network utilities, or fences. We do not see a resource management reason for this differentiation, and thus are of the opinion that it is inappropriate.</p> <p>(b) While supporting the reference to network utilities in Limbs (2A) of Rule 5.167 and (2) of Rule 5.168, the rules (as they are presently drafted) do not acknowledge that not all forms of infrastructure fall within the bounds of the term 'network utilities', as defined by the Act. Given that infrastructure provides the same type of benefits, and can fulfil the same broad role in the community, we are of the opinion that it should be treated in the same way as network utilities in both of limbs of these rules.</p> <p>(c) Limbs (6) of Rule 5.167 and (5) of Rule 5.168 both state that vegetation clearance and earthworks can not result in a reduction in the area or diversity of existing riparian vegetation. For the reasons that we discussed in Submission 8 (specifically, the part of that submission that addresses Limb 9 of Rule 5.163), we are concerned that this approach is neither realistic, nor required to achieve the purpose and principles of the Act.</p> <p>(d) Limbs (6) of Rule 5.167 and (5) of Rule 5.168 effectively provide an exemption for vegetation clearance and earthworks that have, amongst other things, secured a land use consent from the relevant territorial authority. While this is appropriate, the exemption should also apply to activities that are designated within an operative district plan. Doing so recognises that vegetation and earthworks can be legally authorised via a designation pathway.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) Amend limb (2A) of Rule 5.167 to read:</p> <p><i>"Except in relation to recovery activities, or the establishment, maintenance, upgrade or repair of network utilities, nationally / regionally significant infrastructure and fencing, the ..."; and</i></p> <p>(b) Amend limb (6) of Rule 5.167 to read:</p> <p><i>"From 5 September 2015 ... the vegetation clearance (taking any proposed replanting and/or the formal protection of an area of existing riparian vegetation into account) does not result ... authorised by a land use consent granted by a land use consent granted by the relevant territorial authority or is authorised by an operative designation and ... "; and</i></p> <p>(c) Amend limb (2) of Rule 5.168 to read:</p> <p><i>"Except in relation to recovery activities or the establishment, maintenance, upgrade or repair of network utilities, nationally / regionally significant infrastructure and fencing, the ..."; and</i></p> <p>(d) Amend limb (5) of Rule 5.168 to read:</p> <p><i>"From 5 September 2015 ... the earthworks (taking any proposed replanting and/or the formal protection of an area of existing riparian vegetation into account) does not result ... authorised by a land use consent granted by a land use consent granted by the relevant territorial authority or is authorised by an operative designation and ... "; and</i></p> <p>(e) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>
10.	<p>Rule 5.111, Section 5: Region-wide Rules of the oLWRP</p>	<p>RDRML is opposed (in part) to the amendment of Rule 5.111, as set out within PC4.</p> <p>The Company questions the merits of, and reason for the proposed amendment to limb (1) of Rule 5.111. While accepting that the reference to 'site' within the Rule (as it stands) enables more water to be taken in some instances, we question if that automatically justifies the change that is proposed. The Section 32 analysis provides little assistance in terms of the justification behind, and reasons for this change. On the basis of the information that is before us, the benefits of the proposed change appear to be more perceived than real, and seem to be arbitrarily defined. Certainly, we do not believe that change is sufficiently justified, or evaluated as it must be under section 32 of the Act.</p> <p>What is clear is that the proposed change will reduce the water that may be abstracted, even from artificial watercourses, as a permitted activity, thus incurring an additional series of compliance costs for those that have multiple sites within their properties.</p>	<p>RDRML seeks the following relief from the Canterbury Regional Council:</p> <p>(a) That the proposed amendment of limb (1) of Rule 5.111 not be made, and that the rule be left unchanged; and</p> <p>(b) Any similar and/or consequential amendments that stem from the changes and/or additions described above.</p>

No.	Provision	Submission	Requested Relief
		Given the foregoing, the Company questions if the proposed change to limb (1) of Rule 5.111 is warranted, or accords with the purpose and principles of the Act.	