

**SUBMISSION ON PROPOSED PLAN CHANGE 4 TO THE
CANTERBURY LAND & WATER REGIONAL PLAN**

To: Chief Executive Officer
Environment Canterbury
P O Box 345
Christchurch 8140

Submission on: Proposed Plan Change 4 to the Canterbury Land &
Water Regional Plan (PCL&WRP)

Name of Submitter: Hurunui Water Project Ltd (HWP)

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1. The specific provisions of the proposed Plan Change 4 that HWP's submission relates to are:

The Proposed Plan Change 4 as included in the attached submission below.

2. Trade Competition

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

3. HWP's submission is:

Refer to submission points below. The relief sought by HWP is also outlined in the submission points below.

4. HWP wishes to be heard in support of this submission.

HWP would be prepared to present a joint case with others that have made similar submissions at a hearing.



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Chris Hansen

Authorised Agent for Hurunui Water Project Limited

12 October 2015

SUBMISSION ON PROPOSED HURUNUI DISTRICT PLAN

1 HWP's interest in the Hurunui Region

The following submission is made on behalf of the Hurunui Water Project Ltd to proposed Plan Change 4 to the Canterbury Land & Water Regional Plan (PCL&WRP) that was publicly notified on 12 September 2015. Submissions to the proposed Plan Change close at 5pm on Monday 12 October 2015.

The Hurunui Water Project Limited (HWP) was formed in June 2008 by four founding shareholders: Hurunui Irrigation and Power Trust, Ngai Tahu Property, MainPower New Zealand Limited and David Teece, the owner of Eskhead Station.

This group was previously known as the Hurunui Community Water Development Project and it operated as a Working Group until it became a limited company. Since 2002 it has been assessing the feasibility of a water storage scheme, including possible locations and options in the Hurunui district with grants from the Ministry of Agriculture's Sustainable Farming Fund, the Community Irrigation Fund and its successor the IAF but mainly from substantial and local contributions and shareholding.

The HWP has developed the Waitohi Irrigation Hydro Scheme (the 'scheme') which involves the development of a series of water storage dams on the Waitohi River, and an on-plains storage dam, to provide for a community irrigation scheme to in the fullness of time irrigate up to 58,500 ha of land in the Hurunui, Waipara and Kowai catchments. HWP has approached the consenting for the scheme in two phases: Phase One involves the gaining of regional water consents from Environment Canterbury to take, use, divert, dam and discharge water from the Hurunui and Waitohi Rivers and the scheme irrigation network, and a change in land use consent (Phase One resource consents). Phase Two will follow the detailed design of the dam structures and irrigation infrastructure, and involves land use consents (from Hurunui District Council and Environment Canterbury) to construct the scheme (Phase Two resource consents).

In August 2013 the HWP were granted by Environment Canterbury the Phase One resource consents, which were subsequently appealed to the Environment Court. Recently HWP has applied for a change in land use consent under the Hurunui Waiau River Regional Plan that will allow for the likely uses resulting from the scheme.

It is with this background that HWP prepare this submission on proposed Plan Change 4 which has a number of amendments that potentially affect the next stages of HWP's scheme development.

2 Specific Submission on Proposed Plan 4

The following specific submissions follow format, plan provision heading and page numbering of the relevant sections of proposed Plan Change 4. In each case specific comment has been made reflecting HWP's concerns or matters of interest, with relief sought.

Section 4 – Policies

Plan Provision: New Policy 4.85A - *Activities in Beds of Lakes and Rivers* (Page 4-7)

The new Policy 4.58A reads: “4.85A Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:

(a) preventing encroachment of activities into the beds and margins of lakes and rivers; and

(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons

unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or network utilities, or maintenance of public access.”

Submission: HWP opposes the following aspects of this new policy:

- ‘Preventing’ the encroachment of activities into beds and margins of lakes and rivers;
- “Limiting vegetation clearance’ within the bed, banks and margins of lakes and rivers;
- Exemption only relating to a narrow range of matters.

In relation to the first matter, HWP considers the focus should be managing any adverse effects of activities on the values of the indigenous biodiversity and indigenous vegetation. The provision as currently written does not recognise that there are important activities (such as irrigation and hydro schemes) that will have structures that are required to be located within the beds and margins of lakes and rivers, and managing the effects of these activities is more appropriate.

In terms of limiting vegetation clearance, a similar comment applies as above. While limiting vegetation clearance is an understandable outcome, there will be activities that are required to be located within the bed, banks and margins of lakes and rivers where vegetation clearance will be required. From this perspective, structures associated with irrigation and hydro schemes should be recognised as an activity exempt in the policy.

Relief Sought: HWP seeks Council to amend to read the following (or similar):

~~“(a) preventing~~ managing the effects of activities encroaching ~~ment of activities~~ into the beds and margins of lakes and rivers; and

(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons

unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or network utilities, structures associated with community irrigation/hydro schemes, or maintenance of public access.”

Section 5 – Rules

Plan Provision: New Rules 5.94A – 5.94C – Construction-phase stormwater (Pages 5-9 to 5-10)

Submission: HWP supports the proposed rules including the Permitted Activity status of Rules 5.94A and 5.94B, and Restricted Discretionary Activity status of Rule 5.94C.

Relief Sought: HWP seeks for Council to retain Rules 5.94A – 5.94C as written.

Plan Provision: Rule 5.128; new Clause 11 – Take and Use Groundwater (Page 5-18 to 5-19)

New Clause 11 reads: “Where the water is to be used for irrigation, the preparation and implementation of a Farm Environment Plan in accordance with Schedule 7 to manage the effects arising from the use of the water.”

Submission: HWP supports the new Clause 11.

Relief Sought: HWP seeks for Council to retain the new Clause 11 as written.

Plan Provision: New Rule 5.141A - Structures (Page -23)

New Rule 5.141A reads: “The placement, installation, erection, reconstruction, alteration or removal of any structure, excluding dams, on, in or under the bed of a lake or river, and including any associated excavation, disturbance, diversion and discharge in the bed of a lake or river that does not comply with Rules 5.135 to 5.141 is a discretionary activity.”

Submission: HWP supports the proposed new Rule 5.141A and the Discretionary Activity status of the rule.

Relief Sought: HWP seeks for Council to retain Rule 5.141A as written.

Plan Provision: New Rule 5.141B - Structures (Page 5-23)

New Rule 5.141B reads: “Where not classified by any other Rule in this plan, the diversion or discharge of water and contaminants as a result of the excavation and disturbance of a river

or lake bed, or the establishment of a structure or defence against water, is a discretionary activity.”

Submission: HWP supports the proposed new Rule 5.141B and the Discretionary Activity status of the rule.

Relief Sought: HWP seeks for Council to retain Rule 5.141B as written.

Plan Provision: Rules 5.146A and 5.146B – Fine Sediment Removal from Rivers (Pages 5.24 – 5.25)

New Rule 5.146A reads “Despite any other rule in this Plan, the disturbance of the bed and banks of a river to remove fine sediment less than 2 mm in diameter for the sole purpose of habitat restoration, and the consequential damming, take, use and discharge of water in circumstances where contaminants may enter water is a restricted discretionary activity, provided the following conditions are met:

1. The application for resource consent includes a management plan that describes:

(1) the location, timing and method of sediment removal, and the methods for management and disposal of that material; and

(2) the location of any sensitive ecological habitats and species located within, and 250 m downstream of, the works area; and

(3) an assessment of the environmental effects of the activity, including those effects that may occur downstream, and a description of how those adverse effects will be avoided or mitigated; and

2. The activity does not take place on any listed archaeological site; and

3. Any damming of the waterbody will not occur for more than 12 hours at any one location; and

4. The activity is undertaken more than 50m from any lawfully established surface water intake, or closer where written permission has been obtained from the owner of the surface water intake structure.

The exercise of discretion is restricted to the following matters:

1. The content of the management plan including the comprehensiveness of the adverse effects identified and the adequacy of the proposed methods to mitigate any potential adverse effects; and

2. The location, method and timing of sediment removal with respect to the life stage and habitat of sensitive ecological communities including fish and invertebrates; and

3. The potential adverse effects of the activity on downstream water quality, flows, drinking water supplies, surface water takes, bank stability, and significant habitats of indigenous fauna and flora; and

4. The effect of the activity on the reliability of any authorised surface water take; and

5. The volume and rate at which water is abstracted and discharged to the river; and

6. The adverse effects of the activity on sites used for freshwater bathing as set out in Schedule 6; and

7. Any adverse effects on māhinga kai, wāhi tapu or wāhi taonga identified in any iwi management plan; and

8. The benefits of the activity to the applicant, community and the environment; and

9. Methods to restrict the activity when the river is at or below the minimum flow for that waterbody as set out in Sections 6 to 15 of this Plan, or any relevant catchment specific plan listed in section 2.8 of this Plan; and

10. Methods to restrict the maximum instantaneous rate of water abstraction to a rate not exceeding 50 percent of the flow in the river at the site being remediated.”

New Rule 5.146B reads: “*The disturbance of the bed and banks of a river to remove fine sediment less than 2 mm in diameter for the sole purpose of habitat restoration, and the consequential damming, take, use and discharge of water in circumstances where contaminants may enter water that does not meet one or more conditions of Rule 5.146A is a discretionary activity.*”

Submission: HWP considers this rule may be applicable for some of the habitat restoration it is required to undertake as part of its proposed irrigation and hydro scheme. Overall HWP supports the intent of these rules, and the Restricted Discretionary and Discretionary Activity status of the rules.

Relief Sought: HWP seeks for Council to retain Rules 5.146A and 5.146B as written.

Plan Provision: Rules 5.154 and 5.155 – Dams and Damming (Page - 27)

Rules 5.154 and 5.155 have been amended to delete the term: “*and the use of land to store water.*”

Submission: HWP notes the provision for the use of land to store water has been deleted from these rules. HWP opposes these deletions, and is unable to find any reasons provided in the s.32 Evaluation Report or after discussions with Council Officers. HWP considers this is a valid activity that is required to be provided for as part of an irrigation scheme that adopts water storage options. HWP supports Rules 5.154 and 5.155 prior to amendment.

Relief Sought: HWP seeks Council to reject the proposed amendment to delete provision for the use of land to store water from Rules 5.154 and 5.155, and retain the rules as previously written (with other amendments proposed).

**Plan Provision: Rules 5.163; 5.164 – *Vegetation in Lake and Riverbeds*
(Pages 5-28 to 5 – 19)**

There are several amendments to Rule 5.163 of interest to HWP:

- The addition of the term “and any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water” in the rule;
- New Condition 9 that reads: “From 5 September 2015, and within the bed of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers the vegetation clearance does not result in a reduction in the area or diversity of existing riverbed vegetation; and”

In addition, non-compliance with the new Condition 9 is a non-complying activity under Rule 5.165.

Submission: HWP supports provision for any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity.

HWP opposes new Condition 9 as it is considered all-inclusive and presumably would include exotic vegetation. HWP considers these provisions should only relate to significant indigenous, and include an exemption for structures or land inundation that is part of a community irrigation/hydro scheme.

Relief Sought: HWP seeks for Council to:

- Retain the additional term any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity;
- Delete Condition 9 or amend it to only relate to significant indigenous vegetation and to provide exemption for community irrigation/hydro schemes similar to the request sought for Policy 4.85A above.

Plan Provision: Rules 5.167 and 5.168 – *Earthworks and Vegetation Clearance in Riparian Areas* (Page 5-29 to 5.31)

Similar to Rule 5.163 above, these rules include the term: “any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity” and new Conditions 5 and 6 (respectively) with the same wording as Condition 9.

Submission: HWP supports provision for any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity.

HWP opposes new Conditions 5 and 6 (respectively) as it is considered all-inclusive and presumably would include exotic vegetation. HWP considers these provisions should only relate to significant indigenous, and include an exemption for structures or land inundation that is part of a community irrigation/hydro scheme.

Relief Sought: HWP seeks for Council to:

- Retain the additional any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity;
- Delete Conditions 5 and 6 (respectively) or amend it to only relate to significant indigenous vegetation and to provide exemption for community irrigation/hydro schemes similar to the request sought for Policy 4.85A above.

Plan Provision: Rule 5.170 – *Vegetation Clearance and Earthworks in Erosion-prone Areas (Page 5 - 32)*

Similar to Rule 5.163 above, Rule 5.170 includes the term: “any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity”.

Submission: HWP supports provision for any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity.

Relief Sought: HWP seeks Council to retain the additional term any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water as permitted activity.