

From: [Neil Barton](#)
To: [Mailroom Mailbox](#)
Subject: Submission
Date: Friday, 11 March 2016 10:28:05 a.m.
Attachments: [Barton_submission-PC5.DOCX](#)

Hi,
Please find attached my submission to Plan Change 5 of the LWRP
Regards,
Neil Barton

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: Neil Barton

- 1 This is a submission on:
 - proposed Plan Change 5 (*PC5*) to the Canterbury Land and Water Regional Plan (*LWRP*).
- 2 Its submissions and sought relief are split between its general submissions (including the background) in **Annexure 1** and its specific submissions in **Annexure 2**
- 3 I wish to be heard in support of the submission.
- 4 If others make a similar submission, I will consider presenting a joint case with them at a hearing

Signed

Address for service of submitter:

N Barton
C/- Brian Ellwood
Lowe Environmental Impact Limited
P O Box 29288
Christchurch 8440
Brian@lei.co.nz

Annexure 1

Background

- 1 Neil and Davina Barton own and farm land at Kingsdown south of Timaru within the Orari, Opihi and Pareora zone.
- 2 N & D Barton hold water permit CRC080842 to take and use water for irrigation from bore J39/0710 for irrigation of over 100 hectares and land use consent CRC143900 to install well J39/0710. The well has been drilled at considerable expense and irrigation plans are underway.
- 3 At the time the application was considered, the proposed change in land use arising from irrigation on this property was permitted by the LWRP and no land use consent was necessary. A nitrogen loss limit per hectare was not included as a condition of the water permit because the proposed land use was permitted (rule 5.53).
- 4 Significant investment has been made on the basis of rule 5.53. Plan Change 5 (rule 5.56AB) now classifies the activity as a non-complying activity.
- 5 It is our understanding that a sub-regional chapter for that zone is scheduled for 2019 (for immediate purposes outside of the timeframes within which Plan Change 5 will be determined).
- 6 This means that farming operation and land use change in respect of these properties will be controlled by the Land and Water Regional Plan (LWRP) and the outcomes of Plan Change 5 until a sub-regional chapter is developed.
- 7 In that context, the reason for this submission are that:
 - 7.1 *Region-wide Amendments* to the Land and Water Regional Plan being introduced through PC5 could directly effect the landuse and farming activities of our properties; and
 - 7.2 The properties are located in Orari, Opihi Pareora zone and as noted above it is understood that the sub-regional chapter for this zone is scheduled for 2019. In the interim this means that the existing provisions of the LWRP are directly relevant;
- 8 The final provisions of PC5 are therefore *potentially* very relevant to the future operation of these properties

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.

General

Definitions

#	Page	Reference	Issue/concern	Relief sought
	3-1	“Baseline GMP Loss Rate”	<p>It is understood that the intention of the definition of the definition of “Baseline GMP Loss Rate” is to bring those properties currently operating within their nitrogen baseline into line with “good management practice”.</p> <p>This will not work for properties that are changing their land use from dryland to irrigation – or the definition needs to be adapted to assume irrigation is occurring under the irrigated land use provide under resource consents held by any property).</p>	Ensure that the ‘Baseline GMP Loss Rate’ for a property holding a water permit granted prior to the notification of Plan Change 5 is based on the irrigated land use identified in the water permit application.
	3-1	“Farm Portal”	The is concerned to ensure that it provides accurate and appropriate modelling outputs that correctly reflect good management practices and that it is able to accommodate properties converting to irrigation.	That the portal reflect that transition period for converting to irrigation and that the modelling proxies used to represent Good Management Practice are not used in a prescriptive way.
	3-2	“Good Management Practice Loss Rate”	Consistent with its submission in relation to “Baseline GMP Loss Rate”, it is not clear how the Council intends to treat properties which have undertaken different farming activities within (for “Good Management Practice Loss Rate”) the most recent four year period – especially those that have converted to irrigation.	<p>Amend the definition of “<i>Good Management Practice Loss Rate</i>”:</p> <p><u>means the nitrogen loss rate below the root zone, as estimated by the Farm Portal, for:</u></p> <ul style="list-style-type: none"> the farming activity with the highest annual losses carried out over the

#	Page	Reference	Issue/concern	Relief sought
			Even without conversion to irrigation, in many cases, different farming activities or a combination of farming activities will be undertaken during each 4 year period. Each farming activity may have a different good management practice loss rate.	<p><u>most recent four year period, if operated at good management practice;</u> <u>or</u></p> <ul style="list-style-type: none"> <u>in the case of a property that has converted to irrigation, the irrigated land use, if operated at good management practice.</u> <p>And ensure the Farm Portal is used/structured in a manner that accommodates a dryland property converting to irrigation. This would require assumptions around the irrigation system and a farming activity that was based on irrigated landuse.</p>

Policies

#	Page	Reference	Issue/concern	Relief sought
	4-2	4.11	<p>Limiting the duration of resource consents is potentially problematic, especially in the case of irrigation infrastructure where the level of investment is such that finance will be difficult to obtain if consent durations are short with no certainty that consent will be renewed.</p> <p>There is no reason why effective review conditions within any consents granted prior to the notification of any further plan change cannot serve a similar function – while ensuring that consent holders have the certainty of holding consent. This is especially so in relation to existing green/blue and orange zones where water quality outcomes are being met.</p>	<p>Delete 4.11</p> <p>Or if 4.11 is retained it should be amended to read</p> <p>Acknowledging the pivotal role of good management practices in the sustainable management of the Region's water bodies, good management practice will be codified and introduced into this Plan by way of a plan change on or before 30 October 2016. <u>The setting and attainment of catchment specific water quality and quantity outcomes and limits is enabled through limiting the duration of any resource consent granted under the region-wide rules in this Plan to a period not exceeding five years past the expected notification date (as set out in the Council's Progressive Implementation Programme) of any ensuring that any consent granted</u></p>

#	Page	Reference	Issue/concern	Relief sought
				<p><u>under the region wide rules in this Plan includes appropriate review conditions to assist in meeting any catchment specific water quality and quantity outcomes introduced by way of future plan change plan change that will introduce water quality or water quantity provisions into Sections 6 – 15 of this Plan.</u></p>
	<p>4-3 – 4-4</p>	<p>4.37 4.38 4.38AA 4.38A 4.38B 4.38C 4.38D</p>	<p>If irrigation development is not yet fully implemented on a property, then it appears there will be issues with undertaking further development as it will exceed the Baseline GMP Loss Rate.</p> <p>In such circumstances the Baseline GMP Loss rate (if it is to apply at all) should be determined on the basis of the proposed irrigated land use (as set out in the relevant resource consent(s)) based on irrigation occurring.</p> <p>All these policies address intensification - including ongoing land use in orange and green or blue zones. The general approach of the policies is to prevent any further intensification in orange zones and to limit any further intensification in green or blue zones to an increase of 5kg/N/yr over baseline levels.</p> <p>These restrictions effectively mean that the conversion of dryland to irrigation will be prevented in these zones. It is not considered that the approach is justified on the basis that by definition both orange and green or blue zones are meeting water quality targets/limits and potentially have 'head room' available for further intensification. This is particularly the case for those landowners that hold water permits and have made investment on the basis of these water permits.</p> <p>The approach of Plan Change 5 is by effect to turn orange zones into red zones, and for blue and green zones to be similarly treated on a very</p>	<p>To the extent that the policies refer to a requirement to comply with the nitrogen baseline, the relief seeks that:</p> <ul style="list-style-type: none"> the amendment to the definition of nitrogen baseline as set out elsewhere in this submission be accepted and incorporated into the relevant policies; or the relevant policies include an alternative to complying with the nitrogen baseline through inclusion of the following or similar text: <p><u>A water permit was granted prior to 13 February 2016 and the nitrogen loss was permitted by the LWRP when the water permit was granted (including any renewal or replacement of that resource consent after 13 February 2016).</u></p>

#	Page	Reference	Issue/concern	Relief sought
			<p>limited basis.</p> <p>The section 32 analysis does not consider the case where existing investment has been made because land use change was permitted and a water permit was held.</p>	

Rules

#	Page	Reference	Issue/concern	Relief sought
	5-9	<p>5.54B</p> <p>5.55A</p> <p>5.56AA</p> <p>5.56AB</p> <p>5.57B</p> <p>5.57C</p> <p>5.58A</p> <p>5.58B</p> <p>5.59A</p>	<p>These rules all address intensification and ongoing land use in orange and green or blue zones. The general approach of those rules is to prevent any further intensification in orange zones and to limit any further intensification in green or blue zones to an increase of 5kg/N/yr over baseline levels.</p> <p>These restrictions effectively mean that the conversion of dryland to irrigation will be a non-complying activity. Where investment has been made on the basis of land use previously being permitted and a water permit being held, this would unreasonably impact upon the investment that has been made.</p> <p>The effects of increased nutrient loss were considered by the reporting</p>	<p>Amend the rules to allow for intensification up to a good management practice loss rate for the land use authorised by a water permit granted prior to 13 February 2016.</p>

#	Page	Reference	Issue/concern	Relief sought
			officer when the water permit was granted. The land use was permitted by the LWRP, in terms of nitrogen loss. The water permit therefore did not need to include nutrient management conditions	

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: Neil Barton

1 This is a submission on:

- proposed Plan Change 5 (PC5) to the Canterbury Land and Water Regional Plan (LWRP).

2 Its submissions and sought relief are split between its general submissions (including the background) in **Annexure 1** and its specific submissions in **Annexure 2**

3 I wish to be heard in support of the submission.

4 If others make a similar submission, I will consider presenting a joint case with them at a hearing

Signed



Address for service of submitter:

N Barton
C/- Brian Ellwood
Lowe Environmental Impact Limited
P O Box 29288
Christchurch 8440
Brian@lei.co.nz