

**From:** [Alanya Limmer](#)  
**To:** [Mailroom Mailbox](#)  
**Subject:** Submission on Plan Change 5 to the LWRP  
**Date:** Friday, 11 March 2016 2:10:46 p.m.  
**Attachments:** [tplogo94f61a](#)  
[ACL-013871-18-30-1 Submission on PC 5 to the LWRP - 11 March 2016.pdf](#)

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Dear Sir/Madam

Please find **attached** for filing a submission on Plan Change 5 to the Land and Water Regional Plan, by Mackenzie District Council.

We look forward to confirmation of receipt.

Regards

Alanya

**Alanya Limmer** | Partner



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**SUBMISSION ON PLAN CHANGE 5 TO THE PARTIALLY OPERATIVE CANTERBURY LAND AND  
WATER REGIONAL PLAN**

*Clause 6 First Schedule, Resource Management Act 1991*

**TO:** Environment Canterbury  
Freepost 1201  
Plan Change 5 to the Canterbury Land and Water Regional Plan  
PO Box 345  
Christchurch 8140

By email: mailroom@ecan.govt.nz

**Name of Submitter:**

1 Mackenzie District Council (**Submitter**)

Address: P O Box 52  
Main Street  
Fairlie 7949

Contact: Nathan Hole  
Phone: Tel: 03 685 8514  
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Email: nathan@mackenzie.govt.nz

**Trade Competition Statement:**

2 The Submitter could not gain an advantage in trade competition through this submission.

**Proposal this submission is on:**

3 This submission is on proposed Plan Change 5 to the partially Operative Canterbury Land and Water Regional Plan (**PC5**), in particular Part B.

**The specific provisions of PC5 (Part B) that this submission relates to:**

- 4 The specific provisions this submission supports are:
- 4.1 Section 15B, page 4-4 where essential drinking water supplies are discussed and matters of discretion (5) in proposed new Rule15B.5.20 – allowing effects on the quality of Council Water Supplies to be considered;
  - 4.2 Proposed new Policy 15B.4.7 – Community Wastewater; and
  - 4.3 The inclusion of provisions and the general intention of the policies and rules relating to significant indigenous biodiversity.
- 5 The specific provisions this submission opposes in part, because it requests amendments or further clarifications to them, are:

- 5.1 Table 15B(h) – Nitrogen Load Limits for Community Wastewater Discharges and Aquaculture;
- 5.2 Matters of discretion/control (7) and (6) in Rules 15B.5.18B and 15B.5.19 respectively; and
- 5.3 Policy 15B.4.23; Rules 15B.5.18B(3) and 15B.5.20 and respective discretionary matters (10) and (11) – significant indigenous biodiversity.

## **Submission**

### **General:**

- 6 The Submitter welcomes the opportunity to be involved in this process and acknowledges the significant work of the Upper Waitaki Zone Committee in the preparation of Part B of the Plan Change. The Mackenzie District Council has appreciated the efforts of CRC in undertaking early consultation with the Council and affected communities in developing Part B.
- 7 The Submitter is at present involved in seeking to finalise the provisions of Plan Change 13, which addresses the protection of the outstanding natural landscape of the Mackenzie basin.
- 8 The Council considers that the provisions of Part B, and particularly those relating to significant indigenous biodiversity are complementary to the Plan Change 13 process.
- 9 The Council sees value in ensuring provisions in the respective Regional and District Plans are implemented in an efficient and coordinated way between the Councils, once they are finalised. This would include coordination in consent processing for activities that require consent from both authorities. Mackenzie District Council supports this approach as a means of minimising transaction costs and enhancing environmental outcomes.
- 10 The Submitter looks forward to continuing to work with CRC and is supportive of PC5, subject to the specific concerns addressed in this Submission.

### **Specific Concerns:**

- 11 The Submitter's specific concerns together with a summary of the decisions it seeks from Canterbury Regional Council (**CRC**) are set out in **Annexure A** attached to this submission.

### **Decisions Sought by Submitter:**

- 12 The Submitter seeks the following decisions from Environment Canterbury:
  - 12.1 that the decisions sought in **Annexure A** to this submission be accepted; and/or
  - 12.2 alternative amendments to the provisions of PC5 to address the substance of the concerns raised in this submission; and

12.3 all consequential amendments required to address the concerns raised in this submission and ensure a coherent planning document.

**Wish to be Heard:**

- 13 The Submitter wishes to be heard in support of this submission.
- 14 The Submitter would be prepared to consider presenting a joint case with others making similar submissions at the hearing.



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**Mackenzie District Council**

Nathan Hole

Acting Chief Executive Officer

Date: 11 March 2016

**ANNEXURE A – DECISIONS SOUGHT BY MACKENZIE DISTRICT COUNCIL**

Specific Provision of PC5 that Submission Relates To		Submission		Decisions Sought
Section & Page Number	Sub-section/Point	Oppose/support	Reasons	
Section 15B Page 4 -43	Table 15B(h) as it relates to proposed new Policy 15B.4.7	Oppose (in part)	<p>The Submitter supports proposed new Policy 15B.4.7.</p> <p>The Submitter seeks a 'breakdown' of the specific contributing amounts to the 44 tonnes nitrogen/year Haldon Zone community wastewater discharge limit, to be included in Table 15B(h).</p> <p>The existing settlements at Tekapo and Twizel, and all of the Submitter's existing community wastewater systems, lie within the Haldon Zone. Appendix One: Table B of the Upper Waitaki ZIP listed a breakdown of the specific contributing discharges to the Haldon Zone discharge limit<sup>1</sup>.</p> <p>The definition of <b>community wastewater treatment system</b> is broad and includes private systems. Council wants to ensure the load provided for in PC 5 is available to the existing, council-owned systems. For that reason, it seeks the existing townships serviced be expressly</p>	<p>Insert into Table 15B(h) the contributing discharges breakdown to the Haldon Zone as found in the Upper Waitaki ZIP:</p> <ul style="list-style-type: none"> <li>(a) Tekapo Township = 22 tN/yr;</li> <li>(b) Twizel Township = 18 tN/yr;</li> <li>(c) Aoraki/Mt Cook Village = 3.5 tN/yr.</li> </ul>

<sup>1</sup> Canterbury Regional Council, Upper Waitaki ZIP Addendum, July 2015, page 21

			<p>identified so there is no ambiguity about how the load limit is to be allocated.</p> <p>With this clarification, the Submitter supports the contents of Table 15B(h) in full.</p>	
<p>Section 15B Page 4 -11</p>	<p>Proposed new Policy 15B.4.23</p>	<p>Oppose (in part)</p>	<p><u>Legal Effect</u></p> <p>The Submitter supports the inclusion of provisions relating to significant indigenous biodiversity in PC5, and seeks that such provisions are retained. The Council also supports the intent of this Policy – in particular, its application until there are legally effective district plan provisions in place. The Submitter is concerned that “legal effect” and “notified” are not necessarily synonymous. As such, the Submitter seeks addition of the words “and take legal effect”.</p> <p>This amendment provides more certainty that any potential gap between effective controls on activities that may affect significant indigenous biodiversity will be avoided.</p> <p><u>Protection of Significant indigenous biodiversity</u></p> <p>The Submitter considers proposed new Policy 15B.4.23 does not give effect to Canterbury Regional Policy Statement (<b>the RPS</b>). The Submitter considers that ‘protection’ under the RPS and</p>	<p>Amend proposed new Policy 15B.4.23:</p> <p>15B.4.23 Significant indigenous biodiversity is <del>maintained</del> <u>protected</u> in the Haldon Zone and Mid Catchment Zone by:</p> <p>(a) the implementation of any relevant district council planning provisions <del>notified</del> <u>that are notified and take legal effect</u> after 13 February 2016, that require the identification and protection of significant indigenous biodiversity; or</p> <p>(b) until such district council planning provisions are notified <u>and take legal effect</u>, requiring as part of any application for resource consent for a farming activity to exceed the nitrogen baseline, an assessment of environmental effects which identifies the indigenous biodiversity values present within the application area, identifies the sites of significant indigenous biodiversity; and demonstrates that no net loss of significant indigenous biodiversity will occur.</p> <p>There are other provisions that employ the same wording. The Submitter seeks all similar and/or</p>

		<p>RMA requires more than 'maintenance'; once an area is determined to be an area of significant indigenous biodiversity then anything less than protection is inconsistent with the RPS.</p> <p>The Submitter considers it desirable a consistent approach is taken to implementation of the RPS requirements and seeks to avoid ambiguity about the level of "protection" an application to affect significant indigenous biodiversity must provide.</p> <p>The Submitter seeks Policy 15B.4.23 be amended to replace 'maintained' with 'protected'. This amendment would align the policy with the requirement of the RPS and RMA below.</p> <p>Section 6(c) RMA provides as a matter of national importance "the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna" .</p> <p>Objective 9.2.3 of the RPS states: <i>Areas of significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values and ecosystem functions protected.</i></p> <p>Policy 9.3.1 implements Objective 9.2.3, and states at (3): <i>Areas identified as significant will be protected to ensure no net loss of indigenous biodiversity or indigenous biodiversity</i></p>	<p>necessary consequential amendments so the phrase "notified and take legal effect" is used.</p> <p>The Submitter also seeks amendments to proposed new Rules 15B.5.18B(3) and 15B.5.20(3) (wording proposed below).</p>
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			<p><i>values as a result of land use activities.</i></p> <p>The Methods for Policy 9.3.1 identify at (1) that CRC will: <i>Set out objectives and policies, and may include methods in regional plans to provide for the identification and protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna in water bodies including wetlands, in the coastal marine area, and in river and lake beds.</i></p>	
<p>Section 15B Pages 4 -4; 4 -20 to 4 -22</p>	<p>Section 15B, page 4-4; Matters of discretion/control (7), (6) and (5) in proposed new Rules 15B.5.18B, 15B.5.19 and 15B.5.19</p>	<p>Support (in part) and oppose (in part)</p>	<p>The Submitter supports the express recognition of essential water supplies contained within the Waitaki sub-region in the introductory note of Section 15B.</p> <p>The Submitter supports the reservation of control or discretion over effects from land use activities on essential, council water supplies. However, the Submitter seeks some amendments to ensure:</p> <ol style="list-style-type: none"> <li>(1) The Regional Council can impose appropriate conditions upon controlled activity consents; and</li> <li>(2) The Regional Council has the necessary discretion to decline consent for restricted discretionary activities which may have inappropriate adverse effects on essential drinking water supplies.</li> </ol> <p>The Submitter therefore supports the following provisions with some</p>	<p>Retain matter of discretion (5) in Rule 15B.5.20;</p> <p>Amend matter of discretion (7) in Rule 15B.5.18B so that it is the same as matter of discretion (5) in Rule 15B.5.20;</p> <p>Amend matter of control (6) in Rule 15B.5.19 so that it reads (or similar):</p> <p><i>(6) Methods to avoid <u>adverse effects on sources of drinking water and avoid or mitigate adverse effects of the activity on surface and groundwater quality</u> and <del>sources of drinking water</del></i></p>



			<p>amendment:</p> <p>(1) Matter of discretion (7) in Rule 15B.5.18B;</p> <p>(2) Matter of control (6) in Rule 15B.5.19; and</p> <p>The Submitter fully supports matter of discretion (5) in Rule 15B.5.20:</p> <p><i>The actual or potential adverse effects of the proposal on surface or groundwater quality and sources of drinking water</i></p>	
<p>Section 15B</p> <p>Pages 4 -20 to 4 -21; and</p> <p>Pages 4 -22 to 4 -23</p>	<p>Proposed new Rules 15B.5.18B(3) and 15B.5.20(3)</p>	<p>Oppose (in part)</p>	<p>The Submitter seeks amended wording to clarify the application of proposed Rule 15B.5.18B(3) and matter of discretion (10), and in proposed Rule 15B.5.20(3) and matter of discretion (11) in relation to net losses and adverse effects on significant indigenous biodiversity.</p> <p>Proposed new Rules 15B.5.18B(3) and 15B.5.20(3) state that certain farming activities, in order to have restricted discretionary status, must propose methods to “avoid or mitigate any adverse effects on significant indigenous biodiversity”. The matters of discretion mirror the wording of subs(3). It is questionable whether the matters of discretion go far enough in enabling decline of consent where:</p> <p>(1) Mitigation of effects is</p>	<p>Amend Rule 15B.5.18B(3):</p> <p>Except where areas of significant indigenous biodiversity on the property have been identified and maintained in accordance with the relevant provisions of any district plan <del>notified</del> <u>notified that are notified and take legal effect</u> after 13 February 2016, the application for resource consent is accompanied by an assessment, undertaken by a suitably qualified ecologist, which identifies any areas of significant indigenous biodiversity located on the application area, and proposes methods to <del>avoid or mitigate any adverse effects on significant</del> <u>ensure no net loss of</u> indigenous biodiversity.</p> <p>Amend Rule 15B.5.20(3):</p> <p>Except where areas of significant</p>

			<p>proposed; but</p> <p>(2) There will still be a net loss of indigenous biodiversity.</p> <p>The Submitter seeks amendments to Rules 15B.5.18B(3) and 15B.5.20(3) and their respective discretionary matters to afford consent authorities the ability to decline consent on the basis of the application failing to achieve no net loss of indigenous biodiversity, in accordance with Policies 9.3.1 and 9.3.6 of the RPS.</p> <p>There is a minor drafting difference between discretionary matter (10) in Rule 15B.5.18B and discretionary matter (11) in Rule 15B.5.20. Discretionary matter (11) in Rule 15B.5.20 refers to “biodiversity provisions”, whereas Discretionary matter (10) in Rule 15B.5.18B refers to “provisions” only. The Submitter considers both discretionary matters should operate in the same way, so should be worded the same. The Submitter seeks an amendment to achieve consistency between the two provisions.</p>	<p>indigenous biodiversity have been identified and maintained in accordance with the provisions of any relevant district plan <del>notified that are notified and take legal effect</del> after 13 February 2016, the application for resource consent is accompanied by an assessment, undertaken by a suitably qualified ecologist, which identifies any areas of significant indigenous biodiversity located on the application area, and proposes methods to <del>avoid or mitigate any adverse effects on</del> <u>ensure no net loss of</u> significant indigenous biodiversity.</p> <p>Amend discretionary matter (10) in Rule 15B.5.18B(3):</p> <p><del>Until provisions in a district plan the district plan provisions referred to in Policy 15B.4.23(a) are notified take legal effect post 13 February 2016, the extent to which whether the proposal avoids or mitigates any adverse effects on any areas</del> <u>ensures no net loss of</u> significant indigenous biodiversity.</p> <p>Amend discretionary matter (11) in Rule 15B.5.20(3):</p> <p><del>Until the district plan provisions referred to in Policy 15B.4.23(a) biodiversity provisions in a district plan are notified take legal effect post 13 February 2016, the extent to which whether the proposal avoids or mitigates any adverse effects on any areas</del> <u>ensures no net loss of</u> significant indigenous biodiversity.</p>
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