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To: [Mailroom Mailbox](#)
Cc: [Ben Williams](#)
Subject: Proposed Plan Change 5 to the Canterbury Land and Water Regional Plan - Hunter Downs Development Company Limited
Date: Friday, 11 March 2016 4:28:09 p.m.
Attachments: [CHCDOC01-#806541-v5-HDDCL_submission - PC5.pdf](#)

Good afternoon,

We act for Hunter Downs Development Company Limited (HDDCL).

We attach, for lodging, HDDCL's submission on the above.

Regards,

Ben

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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: Hunter Downs Development Company Limited (*HDDCL*)

- 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 to HDDCL) in **Annexure 1** and its specific submissions in **Annexure 2**.
- 3 HDDCL wishes to be heard in support of the submission.
- 4 If others make a similar submission, HDDCL will consider presenting a joint case with them at a hearing

Signed for and on behalf of Hunter Downs Development Company Limited by its solicitors and authorised agents Chapman Tripp



Ben Williams
Partner

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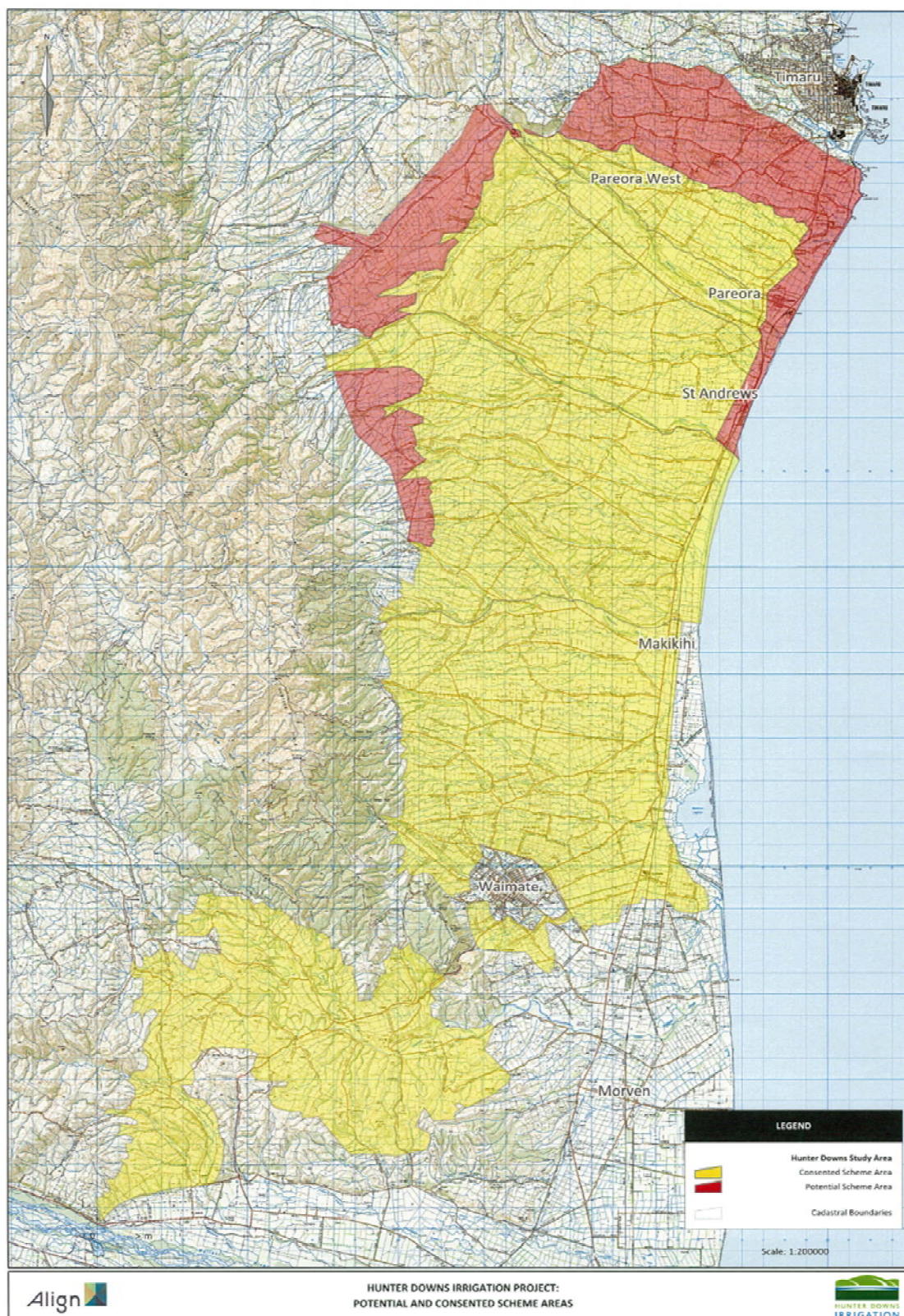
Annexure 1

Background to Hunter Downs Development Company Limited

- 1 HDDCL is the entity that has been incorporated to develop the Hunter Downs Irrigation Scheme (*HDI Scheme*).
- 2 The HDI Scheme will use water from the Waitaki River to irrigate up to 40,000 hectares north to Otipua (immediately south of Timaru). This will service between 200 and 300 land owners within a total command area of 60,000 hectares.
- 3 The primary 'take and use' consents are held and the HDI Scheme is now in the advanced planning stages for the remaining consents associated with the final distribution infrastructure for the scheme. HDDCL also has a separate application for a land use/discharge consent that is well through the application process.
- 4 A diagram showing the command area (and peripheral areas that could also be irrigated by the scheme) is shown in **Figure 1** (over page).
- 5 The existing HDI Scheme command area is partly located within the area that will be separately addressed through the Plan Change 3 process (being South Coastal Canterbury Streams). The provisions of the notified version of Plan Change 3 have been included in a highlighted form in the notified version of Plan Change 5. On the basis of the instruction provided at page 1-3 of Plan Change 5:

"Amendments to the Plan as a result of other plan changes (ie Plan Change 1, Plan Change 2, Plan Change 3, Plan Change 4 and Plan Change 6) do not form part of Part of Plan Change 5. No submission may be lodged on Plan Change 5 which seeks to amend provisions that are the subject of a separate plan change"
- 6 The northern most part of the scheme area (being principally the area north of the Otaio Catchment) is however located outside of the Plan Change 3 area and is within the Orari, Opihi and Pareora zone. HDDCL understands 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).
- 7 This means that the core take and use consents in respect of the HDI Scheme are in the first instance controlled by:
 - 7.1 the Waitaki Catchment Water Allocation Regional Plan (as it relates to the divert and take of water from the Waitaki River);
 - 7.2 the provisions being introduced by Plan Change 3 in the case of the use of water and discharge to land/land use in the South Canterbury Coastal Streams area; and
 - 7.3 Rules 5.60 to 5.62 in the existing LWRP along with the new proposed Rule 5.41A that is being introduced through Plan Change 5.

Figure 1 HDI Scheme command area



- 8 In that context, the reason HDDCL makes this submission is that:
- 8.1 the existence of a sub-regional chapter (in this case Plan Change 3) does not necessarily remove the need to consider the "*Region-wide Amendments*" being introduced through PC5 (although it appears that there are only a limited number of provisions that are directly relevant to HDI);
 - 8.2 for the part of the scheme area based north of the Otaio Catchment, that is not part Plan Change 3. It is 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 (notably Rule 5.60 to 5.62) along with new proposed Rule 5.41A are directly relevant to that area; and
 - 8.3 in addition to the above, at some point in the future it is anticipated that the final provisions of the 'sub regional' plan changes (e.g. Selwyn Waihora, Hinds Plans and South Coastal Canterbury) may be brought into line with the final provisions of Plan Change 3.
- 9 The final provisions of PC5 are therefore *potentially* very relevant to the HDI Scheme.

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

#	Page	Reference	Issue/concern	Relief sought
1	Various	Definition of 'Farm Portal', Schedule 28, and all provisions that rely on the Farm Portal	<p>HDDCL is generally supportive of the intent of the 'management tools' set out in Schedule 28. The core matters set out in the Schedule are already requirements of the HDDCL farm plan framework and they largely reflect HDDCL's understanding of 'good management practices'.</p> <p>Under the current HDDCL consent framework these good management practices would be incorporated into the farm plan and water users (i.e. those receiving water from the Scheme) will need to comply with discharge limits that are already incorporated into HDDCL take and use consent (and will be further incorporated into a land use/discharge consent being sought).</p> <p>Overall, the concept of using a web-based Farm Portal is supported but HDDCL is concerned that it does not currently reflect the good management practices agreed with industry and might also be inconsistent with the management practices required in the Plan Change 3 area.</p> <p>Given that the HDI Scheme is still in the development stage (with generally dryland being converted to irrigation) particular care also needs to be taken to ensure that 'Baseline GMP Loss</p>	<p>Ensure the Farm Portal provides accurate outputs that correctly reflect the good management practices as they were understood at the time of preparing the plan change.</p> <p>Provide that:</p> <ul style="list-style-type: none"> the Farm Portal and the requirement to comply with it do not apply to individual properties where those properties are receiving water from an irrigation scheme and the irrigation scheme is required under resource consents held by it to account for nutrient losses; and/or that the Farm Portal is used/structured to manage properties converting to irrigation. that flexibility is retained to select on-farm good management practices that are tailored to the property and not overtly prescriptive – including provisions for an alternative consenting pathway that does not rely on the outputs of the Farm Portal. <p>This is again on the understanding that irrigation schemes will continue to be considered and consented through (as a default Rules 5.60 to 5.62 with the support of proposed Rule 5.41A). This means</p>

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			<p>Rate', 'Good Management Practice Loss Rate' and the 'Nitrogen baseline' (for example), along with the plan provisions that rely on those definitions/calculations are not used as a means to restrict development of irrigation within the HDI Scheme.</p> <p>Water users who join the HDI Scheme and convert to irrigation will in most cases have nitrogen losses that are higher than their nitrogen baseline. Equally, if Baseline GMP Loss Rates and Good Management Practice Loss Rate are to apply, they are to only apply to the extent that they assume irrigation and irrigated landuse (and not the farming activity that was occurring prior to irrigation).</p> <p>For completeness it is noted that given that resource consents for irrigation schemes will continue to be determined through Rule 5.60 to 5.62 (or the relevant sub-regional chapter), there appears to be no explicit requirement for the Farm Portal to apply to the management of nutrients within a Scheme (so no further changes to the rules are sought). HDDCL supports that approach – with in the instance of an irrigation scheme the key matter being management of a scheme load as anticipated by Rule 5.41A.</p>	<p>that there is no direct requirement within the rules to comply with the Farm Portal requirements (although it may still be relevant when, for example, considering the content of Farm Environment Plans through Scheme 7.</p> <p>To this extent HDDCL supports irrigation schemes having the flexibility of either using the Farm Portal as a 'tool' to assist to manage their scheme losses (or continuing to rely on the conditions of resource consents).</p>

Definitions

#	Page	Reference	Issue/concern	Relief sought
2	3-1	"Baseline GMP Loss Rate"	<p>It is understood that the intention 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 landuse from dryland to irrigation – or the definition needs to be adapted to assume irrigation is occurring under the irrigated land use (as provided under resource consents held by any irrigation scheme or principal water supplier).</p>	Ensure that 'Baseline GMP Loss Rate' does not apply directly to the management of irrigation scheme losses (which appears to the structure of the wider rules framework). In this context irrigation schemes will continue to be consented through Rules 5.41A, and 5.60 to 5.62 which provide greater flexibility in terms of how the Farm Portal might or might not be applied.
3	3-1	"Farm Portal"	<p>HDDCL has already discussed the farm portal in the context of the general submissions set out above.</p> <p>HDDCL 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.</p>	HDDCL repeats the relief set out in its General submission (#1, above)
4	3-2	"Good Management Practices"	The good management practices (as reflected in this definition and Schedule 28) are supported, although it is noted that HDDCL is seeking relief elsewhere in this submission that would require the Good Management Practices to be kept under review and if necessary a further plan change promulgated at the time any material change occurred.	Retain notified wording of definition and include relied as set out elsewhere in this submission.

#	Page	Reference	Issue/concern	Relief sought
5	3-2	"Good Management Practice Loss Rate"	<p>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> <p>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>	<p>Amend the definition of "Good Management Practice Loss Rate":</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"> <u>the farming activity with the highest annual losses carried out over the most recent four year period, if operated at good management practice; or</u> <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>
6	3-2	"Nitrogen baseline"	<p>Although there has been some minor amendment to the definition to change the timeframes to which it applies, HDDCL considers further amend is required to address the concern set out in respect of (for example) the Baseline GMP Loss Rate around the conversion of dryland properties to irrigation.</p> <p>It is noted that this submission is in part an alternative submission to the primary HDDCL submission that Rules 4.34 to 4.38E (along with associated definitions and a requirement to use the Farm Portal) should not apply to irrigation schemes.</p>	<p>Amend the definition to include a new (d):</p> <p><u>(d) in the case of an irrigation scheme, the maximum, as included in a resource consent:</u></p> <p><u>i) rate at which nitrogen may be leached from the properties supplied water by the irrigation scheme or principal water supplier; or</u></p> <p><u>ii) concentration of nitrogen in drainage water leached from the properties supplied water by the scheme or</u></p>

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				<u>principal water supplier.</u>
7	3-2	"Principal water supplier"	This submission is generally supportive of the amendments proposed to the definition but notes that use of the word " <i>subsequently</i> " appears to suggest that the supply of water is different to the conveyance of water. In most cases they will be the same thing. The definition would read better if the definition was removed.	Support in part. Delete the word " <i>subsequently</i> " from the definition: a publicly or privately owned supplier that is the sole abstractor of water which is subsequently conveyed and distributed to constituent irrigation <u>schemes</u> , community Principal water supplier and/or stockwater schemes, hydro-electricity generators and/or other users of the water.

Policies

#	Page	Reference	Issue/concern	Relief sought
8	4-2	4.11	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. In addition, the revised policy refers to the Council's Progressive Implementation Programme. On the basis of the section 32 report it appears that this is a reference to the publicly notified	Delete 4.11 Or (contrary to HDDCL's primary submission), if 4.11 is retained it should be amended to read 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. The setting and

#	Page	Reference	Issue/concern	Relief sought
			<p>programme relating to the implementation of the NPSFM. Although HDDCL does not necessarily take issue with the correct implementation of the National Policy Statement for Freshwater Management, it is unclear from reading the policy as to exactly that is envisaged and how it might be applied.</p> <p>This includes for example the Selwyn Waihora, Hinds Plains and South Canterbury Areas that have all been through a plan change process (so to varying extents are in line with the NPSFM) but further plan changes may be required in the future to bring the relevant area full in line with the NPSFM. It is unclear whether 4.11 will apply as consents in those areas are not “<i>granted under the region wide rules in this Plan</i>”.</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><u>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 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>
9	4-2	4.36	<p>As set out elsewhere in this submission, it appears that applications for resource consent by irrigation schemes will continue to be determined through Rule 5.60 and 5.62 (which are now supplemented by Rule 5.41A) and the relevant sub-regional chapters.</p> <p>Under Rule 5.60 to 5.62 there is no requirement for irrigation schemes to manage their nutrient losses through the Farm</p>	<p>Include a new clause (bbb) within Policy 4.36:</p> <p><u>(bbb) enable irrigation schemes and principal water suppliers to manage nutrient loss on the properties supplied with water through use of the Farm Portal or other mechanisms included in a resource consent for the purpose of controlling nutrient losses.</u></p>

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			<p>Portal and in many cases irrigation schemes will have their own system – with the primary objective being to manage farming activities to achieve whole-of-scheme nutrient loss/load limit(s).</p> <p>Rule 4.36 should be amended to reflect the flexibility that needs to be extended to irrigation schemes and principal water suppliers.</p>	
10	4-3 – 4-4	4.37 4.38 4.38AA 4.38A 4.38B 4.38C 4.38D	<p>In the case of irrigation schemes, these are consented and form part of the existing environment (noting the existing environment is relevant for the determination of plan changes as set out in <i>Shotover Park Ltd v Queenstown Lakes District Council</i>¹).</p> <p>If not yet fully implemented then it appears there will be issues with undertaking further development as it will exceed the Baseline GMP Loss Rate on the individual properties within the Scheme. It is currently not clear around the extent to which the Policies identified are intended to apply to irrigation schemes although it appears they are only intended to apply to individual properties.</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>Include an explanatory note advising that Policies 4.36 to 4.38E are not to apply to Irrigation Schemes:</p> <p>Policies 4.37 to 4.38E only apply to individual farming activities and farming enterprises. Irrigation Scheme nutrient losses are to be managed through policies 4.40 to 4.41D.</p> <p>In the alternative, to the extent that the policies refer to a requirement to comply with the nitrogen baseline, the HDDCL seeks that:</p> <ul style="list-style-type: none"> it amendments to the definition of nitrogen baseline as set out elsewhere in this submission be accepted; or the relevant policies include an alternative to complying with the nitrogen baseline through inclusion of the following or similar text: <p><u>the nitrogen loss was authorised by a resource consent that was granted prior to 13 February 2016 (including any renewal or</u></p>

¹ *Shotover Park Ltd v Queenstown Lakes District Council* [2013] NZHC 1712.

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			<p>HDDCL also notes that 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. Given the same issue arises in respect of all policies, HDDCL is submitting on these rules on a joint basis.</p> <p>These restrictions effectively mean that the conversion of dryland to irrigation will be prevented in these zones. HDDCL does not consider that approach 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.</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 limited basis.</p> <p>HDDCL considers a proper section 32 analysis does not justify this approach.</p>	<p><u>replacement of that resource consent after 13 February 2016</u>).</p> <p>Delete the restrictions on intensification in orange and blue and green zones. Amend the policies to allow for intensification up to a good management practice loss rate (but based on the changed land use and irrigation (if applicable)).</p>
11	4-4	4.38AB	<p>Application of the permitted baseline is orthodox in respect of resource consent applications and anticipated by the Act. It is accepted that in the context of sections 95D(2) and 104(2)</p>	Delete Policy 4.38AB.

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			<p>regard to the permitted baseline is discretionary, but that discretion will typically be exercised in favour of application of the permitted baseline provided it is 'non-fanciful' and useful in terms of informing decision making. There is considerably caselaw surrounding the permitted baseline that assists in informing the exercise of that discretion.</p> <p>By removing the permitted baseline (and having regard to the fact that a number of other policies and rules that, for example, anticipate water quality being "<i>maintained</i>"), Policy 4.38AB effectively undermines the wider suite of policies that do anticipate resource consent applications being made.</p> <p>In particular, an activity that might require resource consent in circumstances where the 'effects' might be less than minor or even result in an improvement (as against an existing permitted activity) might be problematic if the starting point is to assume that the permitted activity does not exist in the first place.</p> <p>It is also emphasised (in accordance with <i>Rodney District Council v Eyres Eco-Park Limited</i> (CIV 2005-485-33, High Court, 13 March 2006 , para [105])) that the permitted baseline is not intended to include activities being carried out in reliance of any existing use rights (which in this context would include existing resource consents or authorisations). Removal of the permitted baseline accordingly serves little utility in the case of any existing activity being carried at the moment.</p> <p>There appears to be no reason for departing from the orthodox</p>	

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			position.	
12	4-5	4.40 4.41 4.41B	<p>HDDCL supports the use of Farm Environment Plans as a means of identifying and delivering good management practice.</p> <p>In the case of irrigation schemes, many such as the HDI Scheme already have comprehensive farm environment plan requirements that address all the matters set out in Policy 4.40.</p> <p>Care would need to be taken to ensure that only a single Farm Environment Plans need be prepared (that covers the matters required by any permitted activity or other rule under PC5 and the matters required by any resource consent held by an irrigation scheme).</p>	Support – subject to the understanding that in the case of an irrigation scheme there is no requirement to prepare ‘duplicate’ farm environment plans.
13	4-6	4.41A	<p>Policy 4.41A relates to the preparation of accurate nutrient budgets and farm environment plans. It appears to be primarily aimed at ensuring nutrient budgets and farm environment plans relating to individual properties are prepared in an accurate matter.</p> <p>It cross-references a controlled activity consenting pathway for those properties where (under Rule 5.44B for example) a farm environment plan has been prepared by an Accredited Farm Consultant.</p> <p>In the case of an irrigation scheme, the farm environment plans that apply to each property will be prepared in accordance with the procedure set out in the relevant resource consents held by</p>	<p>Amend Policy 4.41A to provide:</p> <p><u>4.41A The contribution that the preparation of accurate nutrient budgets and Farm Environment Plans make to the attainment of the water quality outcomes is recognised by:</u></p> <p>(a) <u>requiring the preparation of nutrient budgets in accordance with the Overseer Best Practice Input Standards; and</u></p> <p>(b) <u>applying to any nutrient budget that forms part of an application for resource consent a level of scrutiny that is proportional to the qualifications, experience and performance of the person who prepared the budget;</u></p>

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			the irrigation scheme. In such circumstances Policy 4.41A would be assisted by a further clause that anticipates preparation of farm environment plans within irrigation schemes.	<p><u>and</u></p> <p><u>(c) providing a requirement in resource consents held by irrigation schemes and principal water suppliers for the preparation and oversight of Farm Environment Plans</u></p> <p><u>(d) providing a controlled activity consent pathway for resource consent applications in relation to properties that do not receive water from an irrigation scheme or principal water supplier that have been prepared or reviewed by an Accredited Farm Consultant.</u></p>
14	4-6	4.41C	<p>Consistent with the concerns set out elsewhere in this submission, there is little provision made for consented but yet to be fully implemented resource consents.</p> <p>This is especially relevant for any irrigation scheme consent or farm enterprise consent where there might be considerable 'headroom' included in the consent to accommodate the full implementation of the farm enterprise or irrigation scheme.</p> <p>Policy 4.41C can also be compared with the wider suite of policies that anticipate some increase in the nitrogen baseline in some circumstances, whereas an irrigation scheme is limited to its nitrogen baseline.</p>	<p>Amend Policy 4.41C to provide:</p> <p><u>4.41C MaintainManage water quality in Orange, Green and Light Blue Nutrient Allocation Zones, and improve water quality in Red Nutrient Allocation Zones and Lake Zones by requiring:</u></p> <p><u>(a) any application for resource consent for the discharge of nutrients submitted by an irrigation scheme or principal water supplier to describe the methods that will be used to implement the good management practices on any land that will be supplied with water from the scheme or principal water supplier; and</u></p> <p><u>(b) discharge permits granted to irrigation schemes or principal water suppliers to be subject to conditions that restrict the total nitrogen loss to a limit not exceeding:</u></p>

#	Page	Reference	Issue/concern	Relief sought
				<p>(i) <u>the nitrogen loss that was authorised by a resource consent that was granted prior to 13 February 2016 (including any renewal or replacement of that resource consent after 13 February 2016); or</u></p> <p>(ii) <u>the Baseline GMP Loss Rate for any land within the Red, Lake or Orange Nutrient Allocation Zones; and</u></p> <p>(iii) <u>in the case of a total of 5kg/ha/yr above the Baseline GMP loss rate for any land within the Green or Light Blue Allocation Zones, a Good Management Practice Loss Rate based on the proposed irrigated land use and spray irrigation with an efficiency of 80%.</u></p>
15	4-7	4.41D	<p>Policy 4.41D is specific to irrigation schemes.</p> <p>Policy 4.41D(b) provides for “<i>how nutrients from all land subject to any permit granted to the scheme or principal water supplier will be accounted for</i>”. Although the intent is understood, it needs to be recognised that irrigation schemes typically have:</p> <ul style="list-style-type: none"> properties that are actually supplied water by the scheme or principal water supplier; land that is actually irrigated by the scheme (generally 	<p>Amend Policy 4.41D(b) to provide:</p> <p><u>4.41D Applications by irrigation schemes or principal water suppliers for a resource consent for the use of land for a farming activity or the discharge of nutrients are to be accompanied by an Environmental Management Strategy that describes:</u></p> <p>(a) <u>how the nutrient load for which resource consent is sought has been calculated, and the rationale for that nutrient load applied, including whether the nutrient losses from properties that are only partially irrigated by the scheme or principal water supplier are proposed to</u></p>

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			<p>been a subset of the above); and</p> <ul style="list-style-type: none"> a much larger command areas within which irrigation is authorised to occur. <p>Reference to “<i>all land subject to any permit granted</i>” is therefore unclear. It is assumed that the intended reference is to properties that are actually supplied water by the Scheme.</p> <p>Flexibility also needs to be included in the policy and rules framework to accommodate the supply of water to a property that is either partially irrigated, or fully irrigated with the Scheme only providing ‘top up’ water to the relevant property.</p>	<p><u>be fully accounted for by the scheme; and</u></p> <p>(b) <u>how nutrients from all land subject to properties supplied with water under any permit granted to the scheme or principal water supplier will be accounted for, including whether the nutrient losses from properties that are only partially irrigated by the scheme or principal water supplier are proposed to be fully accounted for by the scheme or managed by the individual property; and</u></p> <p>(c) <u>how properties joining or leaving the irrigation scheme or principal water supplier area are to be managed, including the method to be used to calculate the nutrient load that will be allocated to any property leaving the scheme; and</u></p> <p>(d) <u>the proposed monitoring and reporting regime to the CRC, including, but not limited to, a description of the:</u></p> <p>(i) <u>audit systems that will be used to assess individual on-farm compliance with the content of any Farm Environment Plan; and</u></p> <p>(ii) <u>methods used to address non-compliances identified in individual on-farm audits; and</u></p> <p>(iii) <u>proposed data to be collected and the frequency of any proposed reporting to the CRC.</u></p>

Rules

#	Page	Reference	Issue/concern	Relief sought
16	5-3	5.41A	<p>Rule 5.41A proposes that the use of land within an irrigation scheme will be a permitted activity where the irrigation scheme holds an exist permit that controls the maximum rate at which nitrogen may be leached or the concentration of nitrogen in the drainage water.</p> <p>For completeness it is noted that Rule 5.41A <i>in itself</i> appears to accommodate irrigation schemes (or other entities) that may hold relevant resource consents but are yet to fully implement those resource consents.</p> <p>To this extent it is also noted that on the basis that rules 5.60 to 5.62 of the Canterbury Land & Water Regional Plan are not being amended by PC5, Rules 5.43A to 5.59A will have no relevance to determining the nutrient losses from an irrigation scheme.</p> <p>The introductory wording of Rule 5.41A should however be extended to cover irrigation schemes as consented through 5.60 to 5.62.</p> <p>It is also noted that there is currently a note included in the proposed Land and Water Regional Plan (on page 94) that provides useful guidance as to how Rules 5.60 to 5.62 are to be read in light of the [former] 5.43 to 5.59. Application of the plan would be assisted if this note were also amended as a</p>	<p>Rule 5.41A. should be amended to provide:</p> <p><u>5.41A Despite Rules 5.43A to 5.59A5.62 (or any sub-regional chapter), the use of land for a farming activity where either:</u></p> <p><u>a. the nitrogen loss from the farming activity is being managed under a resource consent that is held by an irrigation scheme or principal water supplier and the permit contains conditions which limit:</u></p> <p><u>(i) the maximum rate at which nitrogen may be leached from the subject land (as measured in kg/ha/yr); or</u></p> <p><u>(ii) the concentration of nitrogen in the drainage water leached from the subject land (as measured in ppm or g/m3); or</u></p> <p><u>b. the land is subject to a water permit that authorises the use of water for irrigation and:</u></p> <p><u>(i) the permit was granted prior to 18 January 2014; and</u></p> <p><u>(ii) the permit is subject to conditions that specify the maximum rate of nitrogen that may be</u></p>

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			<p>consequential amendment to the changes proposed.</p> <p>More generally, HDDCL considers it important that an alternative consenting pathway is available in the circumstance where an irrigation scheme, principal water supplier, farming enterprise or individual considers the Farm Portal is not appropriate for their farming activity. Given that it appears resource consents for irrigation schemes will continue to be determined through Rule 5.60 to 5.62 (or the relevant sub-regional chapter), there appears to be no explicit requirement for the Farm Portal to apply to the management of nutrients within a Scheme (so no further changes to the rules are sought).</p>	<p><u>leached from the land; and</u></p> <p>(iii) <u>the water permit is subject to conditions which requires the preparation and implementation of a plan to mitigate the effects of the loss of nutrients to water is a permitted activity.</u></p> <p>And amend the note on page 94 of the Land & Water Regional Plan (as a consequential and necessary clause 16 amendment arising from the other changes sought):</p> <p><i>Notes:</i></p> <p>1. <i>If a property is irrigated with water from an irrigation scheme or principal water supplier that does not hold a discharge permit under Rule 5.62 <u>or a sub-regional chapter</u> or is not a permitted activity under Rules <u>5.41A or 5.61</u>, then it is assessed under Rules 5.43 to 5.59 <u>5.42A to 5.59A</u>.</i></p> <p>...</p>
17	5-9	5.54B 5.55A 5.56AA 5.56AB 5.57B 5.57C 5.58A 5.58B	<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. Given the same issue arises in respect of all rules, HDDCL is submitting on these rules on a joint basis.</p>	<p>Delete the restrictions on intensification in orange and blue and green zones. Amend the rules to allow for intensification up to a good management practice loss rate (but based on the changed land use and irrigation (if applicable)).</p> <p>HDDCL suggests that this could be achieved principally achieved through amendments to Rule 5.55A and 5.58A (along with consequential deletions/amendments to the rules referred to in this</p>

#	Page	Reference	Issue/concern	Relief sought
		5.59A	<p>These restrictions effectively mean that the conversion of dryland to irrigation will be prevented in these zones. HDDCL does not consider that approach 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.</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 limited basis.</p> <p>HDDCL considers a proper section 32 analysis does not justify this approach.</p>	<p>submission point):</p> <p><u>5.55A Within the Orange Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area, that results in a nitrogen loss rate that is greater than the nitrogen baseline and which does not comply with condition 2 or 3 of Rule 5.54B, is a restricted discretionary activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</u> <u>2. Any increase in the nitrogen loss rate occurs in circumstances where the anticipated environmental outcomes for the Orange Nutrient Allocation Zone continue to be met; and</u> <u>3. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Orange Nutrient Allocation Zone does not, from 1 July 2020, exceed the Good Management Practice Loss Rate (based on the landuse following intensification) the nitrogen baseline, and from 1 July 2020 the Baseline GMP Loss Rate, unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016, and the application for resource consent demonstrates that the exceedance was lawful.</u> <p>...</p>

#	Page	Reference	Issue/concern	Relief sought
				<p><u>5.58A Within the Green or Light Blue Nutrient Allocation Zone the use of land for a farming activity on a property greater than 10 hectares in area, that results in a nitrogen loss rate that is greater than 5kg/ha/yr above the nitrogen baseline and which does not comply with condition 2 or 3 of Rule 5.57C, is a restricted discretionary activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</u> <u>2. Any increase in the nitrogen loss rate occurs in circumstances where the anticipated environmental outcomes (as set out in Tables for the Green or Light Blue Nutrient Allocation Zone continue to be met; and</u> <u>3. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Orange Nutrient Allocation Zone does not, from 1 July 2020, exceed the Good Management Practice Loss Rate (based on the landuse following intensification) the nitrogen baseline; and from 1 July 2020 the Baseline GMP Loss Rate; unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016, and the application for resource consent demonstrates that the exceedance was lawful.</u> <p>In the case of proposed Rule 5.58A matters of discretion 5. and 6. would be deleted. All matters would be deleted for proposed rule</p>

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				5.55A

Schedules

#	Page	Reference	Issue/concern	Relief sought
18	6-3 - 6-8	Schedule 7	<p>The matters set out in Schedule 7 are generally supported.</p> <p>Clause 4B does not appear to be adequately structured to accommodate irrigation schemes (where the nitrogen baseline for dryland property will be irrelevant for ongoing farming activity and the establishment Baseline GMP Loss Rates). In such cases the nitrogen losses on the property will need to be managed according to the terms of any resource consent and management procedures applied by the irrigation scheme.</p>	<p>Retain Schedule 7 (subject to the amendments set out below).</p> <p>Amend clause 4B to include new introductory wording:</p> <p><u>Where the nitrogen loss from the farming activity or farming enterprise is not being managed under a resource consent held by an irrigation scheme or principal water supplier:</u></p> <p>...</p> <p>Include a new clause 4C:</p> <p><u>Where the nitrogen loss from the farming activity or farming enterprise is being managed under a resource consent held by an irrigation scheme or principal water supplier:</u></p> <p>a. <u>a description of how the conditions of the resource consent held by the irrigation scheme or principal water supplier that relate to nitrogen loss on the individual property(ies) are being met.</u></p>

#	Page	Reference	Issue/concern	Relief sought
19	6-11	Schedule 28 (and the Farm Portal)	<p>The intent of Schedule 28 is generally supported.</p> <p>HDDCL however has significant concerns with regard to the Farm Portal – given the proxies and rules currently relied on (and in part referenced in Schedule 28).</p> <p>This includes a concern (based on preliminary work done by other members of the primary sector) that there are errors within the proxies/inputs for the Farm Portal.</p> <p>There is also no ability to update the Portal to correct such errors and it appears it would need to be done via plan change (except in the case of minor Schedule 1 RMA, clause 16 amendments).</p> <p>It is noted that at the time of preparing this submission it is HDDCL's understanding that the Council had determined not to release a number of files that would be critical to understanding the extent to of the errors. HDDCL simply takes the position that full consideration of the Farm Portal assumptions and modelling framework are within the scope of the plan change and the correction of errors is within the scope of this submission.</p> <p>In terms of Schedule 28 itself (an how it has been reflected in the Farm Portal), HDDCL has concerns, in particular, that:</p> <ul style="list-style-type: none"> the irrigation triggers have not been appropriately refined for different soil types; and 	<p>Correct all errors in the Farm Portal to ensure it correctly represents Schedule 28. Ensure Schedule 28 correctly reflects the intended good management practices.</p> <p>Include a new policy [X]:</p> <p><u>Reviews of the Farm Portal will be undertaken annually by the Canterbury Regional Council for the purposes of ensuring that:</u></p> <p>(a) <u>the Farm Portal includes accurate and up to date settings, parameters and formulae that correctly reflect Good Management Practices as included in Schedule 28; and</u></p> <p>(b) <u>the terminology and settings used in the Farm Portal are adjusted to align with the latest version of OVERSEER®; and</u></p> <p>(c) <u>that any consequential changes in:</u></p> <p>(i) <u>the Good Management Practices and Good Management Practice modelling Rules as incorporated into Schedule 28; or</u></p> <p>(ii) <u>the settings, parameters and formulae within the Farm Portal</u></p> <p><u>that result in a change to the Baseline GMP Loss Rate or Good Management Practice Loss Rate that might apply to an individual farming operation are incorporated by way of plan change into Schedule 28 and the Farm Portal.</u></p>

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			<ul style="list-style-type: none"> the fertiliser calculation is not robust. <p>HDDCL also seeks further guidance be included to ensure it is understood, that the GMP modelling proxies are intended to reflect the intent of the industry-agreed GMPs within the OVERSEER model. To put that another way, the proxies are not intended to indicate a prescriptive action that a farmer must do in order to be at good management practice - as they are a proxy it would be inappropriate to use them in a prescriptive way.</p>	<p><u>In preparing any plan change as contemplated by Policy [X](c), the Council will:</u></p> <p>(a) <u>establish methods and a timeframe for the implementation of any revised Baseline GMP Loss Rate and Good Management Practice Loss Rate.</u></p> <p>Amend the explanation in Schedule 28 to provide:</p> <p><u>The Farm Portal (www.farmportal.ecan.govt.nz) is a web-based tool that estimates the nutrient losses from a farming activity operating under Good Management Practice. The Farm Portal achieves this by applying a set of modelling proxies that correlate with 'Good Management Practice' to uploaded OVERSEER® nutrient budgets.</u></p> <p><u>The proxies are not intended to be overly prescriptive and by their nature it will not be possible for proxies to represent capture every farming activity. An alternative consenting pathway (that does not rely on the proxies) is therefore set out in rules. The intent of the proxies and the Farm portal is that they reflect the industry defined Good Management Practices.</u></p> <p>...</p>

Waitaki provisions

#	Page	Reference	Issue/concern	Relief sought
20	4-4	Introduction	The HDI Scheme takes water from the lower Waitaki River (for use outside of the Waitaki catchment). For completeness mention of it should be made in the introduction section (in a similar manner to the mention that has been made of the North Otago Irrigation Scheme).	<p>Amend the Section 15B introductory narrative to provide:</p> <p><u>In the lower Waitaki catchment several large irrigation schemes exist, including the Morven Glenavy Irrigation Scheme which supplies irrigation water to the majority of land owners in the Northern Fan Area, and the proposed Waihao Downs Irrigation Scheme which has resource consent to irrigate land within the catchment. Infrastructure to supply water via the Waihao Downs Irrigation Scheme is currently in the process of being built, and once completed the scheme will commence supplying water to shareholders. The Hunter Downs Irrigation Scheme is also consented and will take water from the lower Waitaki River for use out of catchment in the South Coastal Canterbury Area.</u></p> <p><u>On the south side of the Waitaki River, an area of over 10,000 hectares is supplied with water by the North Otago Irrigation Scheme. The majority of properties supplied by the North Otago Irrigation Scheme are located within the Otago Region. In addition to these larger irrigation schemes there are also several smaller irrigation schemes operating within the Waitaki sub-region that collectively supply water to a significant area of land.</u></p>
21	4-9	15B.4.18	Policy 15.4.18(b) appears to cover all discharge consents held by irrigation schemes. In the case of the HDI Scheme there will be discharge consents associated with the take of water that do	<p>Amend Policy 15B.4.18 to provide:</p> <p>(b) <u>any discharge permit for the discharge of nutrients within the Waitaki Sub-region granted to an irrigation scheme or principal</u></p>

#	Page	Reference	Issue/concern	Relief sought
			<p>not impact on nutrient loss.</p> <p>Policy 15.4.18 should be amended to clarify that it only applies to discharge permits associated the discharge of nutrients.</p>	<p><u>water supplier to be subject to conditions that restrict the total nitrogen loss from properties that are partially or fully supplied with water from a scheme to a limit not exceeding</u></p>
22	4-15	15B.5.8 15B.5.9	<p>Rules 15B.5.8 and 15B.5.9 provides that the provision of water by an irrigation scheme to a farming enterprise will be a prohibited activity.</p> <p>There appears to be no rational basis for the prohibition. In some instances a member of an irrigation scheme may still seek to manage their properties (some inside and some outside of the scheme) through a farm enterprise.</p> <p>From a scheme perspective the only matter that needs to be reported is the loss 'assigned' to the property that is supplied with water by the scheme. That load will also be limit that is available for sharing by the farm enterprise.</p>	Delete Rules 15B.5.8 and 15B.5.9.