From:	Judy-Anne Stapleton on behalf of Ben Williams
To:	Mailroom Mailbox
Cc:	Ben Williams
Subject:	Proposed Plan Change 5 to the Canterbury Land and Water Regional Plan - Dairy Holdings Limited
Date:	Friday, 11 March 2016 4:28:20 p.m.
Attachments:	CHCDOC01-#805808-v2-DHL_Variation_5_-_submission.pdf

Good afternoon,

We act for Dairy Holdings Limited (*DHL*).

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

Regards,

Ben

BEN WILLIAMS
PARTNER

CHAPMAN TRIPP

D: +64 3 353 0343
M: +64 27 469 7132
E: ben.williams@chapmantripp.com
T: +64 3 353 4130
F: +64 3 365 4587

PA: Judy-Anne Stapleton
D: +64 3 353 0396

245 Blenheim Road
PO Box 2510, Christchurch 8140
New Zealand

www.chapmantripp.com
Auckland, Wellington
Christchurch

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: Dairy Holdings Limited (*DHL*)

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 DHL) in **Annexure 1** and its specific submissions in **Annexure 2**.

3 DHL wishes to be heard in support of the submission.

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

Signed for and on behalf of Dairy Holdings Limited by its solicitors and authorised agents Chapman Tripp

Ben Williams
Partner

Address for service of submitter:

Dairy Holdings Limited
c/- Ben Williams
Chapman Tripp
PO Box 2510
Christchurch 8041
Email address: ben.williams@chapmantripp.com

Annexure 1

Background to DHL

1 DHL is a New Zealand registered company with 100% of its farming assets in the South Island of New Zealand. It is the largest closely-held dairy farming business in the country.

2 DHL is currently operating 58 dairy units on ~13,797 effective hectares, milking 46,000 cows to produce around 16.26 million kilograms of milk solids (for the 2014/15 season). DHL farms employ approximately 340 people in its operations.

3 In addition, DHL owns or leases:

3.1 4 large scale special purpose heifer grazing blocks covering a total area of ~1,361 hectares that rear and grow out around 7,500 heifer claves and 8,000 in-calf heifers each year;

3.2 14 grazing and dry stock blocks covering ~3,703 hectares that are utilised for carryover cows and winter grazing; and

3.3 1 bull unit (a farm with an area of 271ha) that supplies 1,200 service bulls to the dairy farms.

4 DHL's farms are principally located in the Canterbury, Springs Junction (West Coast), Waitaki, and South Otago/Southland regions.

5 The general 'DHL farm system' is based on research conducted through Ruakura and more recently the Lincoln University Dairy Farm that provides the base system for successful and profitable dairy farming. This system was initially promoted by Dr Campbell McMeeken and subsequently by Dr Arnold Bryant, continues to be supported in higher comparable stocking rate systems[1] by DairyNZ.

6 In this regard, comparable stocking rate is often regarded as a better measure than cows per hectare as, for example:

6.1 cows are not the same weight (noting that from an N-loss perspective the industry understanding is that smaller cows produce smaller urine patches which in turn results in reduced N-losses per hectare);

6.2 not all hectares grow the same amount of feed; and

[1] Comparable stocking rate is a measure used within the industry to measure effective stocking rate relative to the amount of feed cows consume. In this regard 'cows per hectare' is often an inadequate description of this balance, and can be misleading when comparing farms which vary in the amount of brought in feed/ha, or have different breeds (e.g. Holstein -Friesian versus Jersey). Comparable stocking rate, along with other indicators, improves the estimation of the balance between annual feed supply and feed demand.

Comparative Stocking Rate is calculated as:

$$\frac{\text{Average lwt (kg/cow) x no. cows/ha}}{\text{total feed (t DM/ha)}}$$

6.3 imported feed is not directly counted when using cows/hectare but still influence N-losses.

7 In this regard, the company is focused on simple, pasture based management systems. For DHL, this means a relatively low input system that has:

7.1 a reduced reliance on supplementary feed being brought on to farm;

7.2 centralised wintering of non-lactating cows and replacement young stock raising;

7.3 careful nutrient budgeting and fertiliser applications that are aimed at producing maximum pasture (with minimum fertiliser being 'lost' in the system); and

7.4 lower stocking rates (on a per hectare basis) but a higher comparable stocking rate (in terms of the stocking rate relative to the feed available) than those which might typically be seen on other farms within the same relevant area where systems with increased supplementary feeding are adopted.

8 This simple pastoral based farming approach has already enabled a significant number of the Group's 340 farm staff to progress through the Group's employment structure to Contract Milking, Lower Order Sharemilking and 50/50 Sharemilking positions, and subsequently farm ownership.

9 DHL considers that a simple pasture based dairy system is ultimately the best in terms of recognising the international competitive position of the New Zealand dairy industry (where seasonal calving has been successfully adopted to closely match milk production throughout the season with pasture growth). This has resulted in the New Zealand dairy industry maintaining an international cost advantage and generally having a higher level of resilience than it otherwise would have to downturns in dairy sector returns. While the need to achieve acceptable environmental outcomes is of course accepted, it is important it is done in a way that does not put New Zealand agriculture's international pastoral advantage at risk.

Relevance of Plan Change 5

10 DHL has extensive farming interests in the Canterbury Region, including:

10.1 the Waimakariri area (where the farms receive water from the Waimakariri Irrigation Scheme);

10.2 the central Canterbury area (between the Rakaia and Waimakariri Rivers) where the farms receive water from either irrigation schemes, groundwater, or individual surface water takes – or, in many instances a combination of those sources. This area is now controlled by Plan Change 1;

10.3 the mid Canterbury area (between the Rakaia and Waimakariri Rivers). DHL's farms in this area are similarly irrigated mainly through irrigation schemes or groundwater (or a combination of the two). Some of this area is now

controlled by Plan Change 2 (although that is under appeal at the time of this submission); and

10.4 the wider South Canterbury area. Three of these properties are located within the Plan Change 3 area and receive water from the Morven Glenavy Irrigation Scheme (although the properties also have their own groundwater or surface water takes). DHL also has one property within the lower Waitaki catchment and one property near McKinnons Creek (South side of the Rangitata River).

11 As set out above, the existing DHL farm system is low-input system that is focused on maximising pasture growth. From a nutrient loss perspective much of what DHL already does aligns with the 'good management practices' being formalised through Plan Change 5.

12 DHL remains very concerned that Plan Change 5 may require (through the Schedule 28 and Farm Portal framework) significant further reductions in order to achieve Good Management Practice Loss Rates. On the current economic conditions affecting the dairy industry in particular, any good management practices that require capital expenditure are a likely to be very difficult to meet in the timeframes set out.

13 Overall DHL has the following general submissions in respect of Plan Change 5:

13.1 the intent of Schedule 28 and the use of a Farm Portal as a nutrient management tool is generally supported. DHL however remains concerned that the proxys/inputs that underpin the Farm Portal are ether in accurate or inappropriate in the case of at least some individual farming activities and operations. In particular, based on preliminary work undertaken by others in the primary sector at the time this submission was prepared it appears there are significant concerns over the accuracy and appropriateness of the proxys relating to irrigation (and soils) and fertiliser inputs.

- the proxy's (and any other errors in the wider Schedule 28/Farm Portal framework need to be corrected);
- a mechanism needs to be included in Plan Change 5 requiring the Council to review and if necessary update (by way of plan change in the case of material amends)
- there is a need for an alternative consenting pathway for those that consider the Farm Portal is not reflective/accurate in respect of their farming activity - emphasising that the provision of an alternative consenting pathway should not be seen as reason for leaving any errors in the proxy's (and any others in the wider Schedule 28/Farm Portal framework need to be corrected).

13.2 DHL is concerned with the absence of express provisions addressing nutrient user groups from Part A (noting their presence in Part B). DHL already has a nutrient user group in the Selwyn Waihora Zone (CRC143288), and is likely to apply for other nutrient user groups in other parts of Canterbury. The Selwyn

Waihora group include properties that are both inside and outside of irrigation schemes, and properties that have multiple other surface water and groundwater sources. The nutrient management group has been a critical factor in allowing DHL to manage nutrient losses at a group level. This will also allow, for example, wintering on dryland to be supported through the nutrient user group so that the full effects of DHL's N-loss footprint can be managed in an integrated manner.

- DHL is seeking that provision be made for nutrient user groups (by way of a definition, rule and policy) in the Part A provisions.

13.3 it needs to made clearer that consents that are granted but still not implemented form part of the 'environment' (including the renewal or replacement of those consents). This is especially relevant for irrigation consents which will typically cause some increase in nutrient losses.

- Make express provision for granted but yet to be implemented resource consents – and in the case of irrigation consents their permissible nutrient loss should be based on the proposed irrigated landuse assuming irrigation is occurring (and not what they might have been doing through the nitrogen baseline period).

13.4 the inter-relationship between the Plan Change 5 provisions and existing and future consents held by irrigation schemes is not clear. It appears that irrigation scheme consents will continue to be determined through Rules 5.60 to 5.62 (and any sub-regional chapters).

- It needs to be made clearer that the policies in Plan Change 5 between 4.37 to 4.38E and the other provisions and rules that relate to individual farming activities and farm enterprises do not apply to irrigation schemes.

14 In addition, DHL has significant concerns with the section 32 analysis undertaken. Given the apparent errors in the proxys/inputs provided to the farm portal it appears there has been no economic costing of the significant expenditure that in many cases would be required to meet, for example, potentially very low (and wrong) Good Management Practice Loss Rates.

Annexure 2: Specific relief sought

Note : Text from plan change relevant to sought amends is set out in the Relief Sought. Further amends are shown in red and either as ~~strikethrough~~ or underline.

Definitions

#	Page	Reference	Issue/concern	Relief sought
1	3-1	"Baseline GMP Loss Rate"	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*". It relies on an analysis of "*for the farming activity carried out during the nitrogen baseline period*". This appears difficult to apply where there may have been more than one farming activity carried out during "*nitrogen baseline period*" – including for example in the case of winter grazing where the nature of cropping or stocking on a property may have varied from year to year. Equally different farming activities carried out and complying with the same "*nitrogen baseline period*" may have different baseline GMP loss rates. It is also not clear whether the "*average nitrogen loss rate"* is intended to refer to the whole "*nitrogen baseline period"* or a relevant year within which [each] "*farming activity*" was carried out. Finally it is noted that in the case of current dryland converting	Amend the definition of "*Baseline GMP Loss Rate*": means the ~~average~~ highest annual nitrogen loss rate below the root zone, as estimated by the Farm Portal, for ~~the~~ all farming activities~~y~~ carried out during the nitrogen baseline period, if operated at good management practice; and where a Baseline GMP loss rate cannot be generated by the Farm Portal it means the nitrogen baseline. Consistent with its general submission, DHL considers that the Baseline GMP Loss Rate is not relevant for properties receiving water from an irrigation scheme (where that property holds resource consent related to the management of nutrient losses). The actual relief sought is set out elsewhere in DHL's submission.

#	Page	Reference	Issue/concern	Relief sought
			to irrigation the Baseline GMP Loss Rate (and the nitrogen baseline) will have limited relevance to the ongoing farming activities that might occur on that property. This is also discussed elsewhere in this submission.	
2	3-2	"Good Management Practices"	The good management practices (as reflected in this definition and Schedule 28) are supported, although it is noted that DHL 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.
3	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. 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.	Amend the definition of "Good Management Practice Loss Rate": means the nitrogen loss rate below the root zone, as estimated by the Farm Portal, for: • the farming activity with the highest annual losses carried out over the most recent four year period, if operated at good management practice; or • in the case of a property that has converted to irrigation, the irrigated land use, if operated at good management practice. 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.

#	Page	Reference	Issue/concern	Relief sought
4	3-2	"Nitrogen baseline"	Although there has been some minor amendment to the definition to change the timeframes to which it applies, they do not address with the wider concern held which is that the modelled **average** loss over the period will become the maximum permitted loss going forward. To correctly reflect natural variability in year-to-year farming operations, the focus should be losses from the highest year in the period.	Oppose in part Amend the definition to provide: a. the highest annual discharge of nitrogen below the root zone, as modelled with OVERSEER®, (where the required data is inputted into the model in accordance with OVERSEER® Best Practice Data Input Standards), or an equivalent model approved by the Chief Executive of Environment Canterbury, averaged over ~~a 48 month consecutive period in~~ the years of ~~the period of 01 July~~ 2009 – ~~30 June~~ 2013 inclusive, and expressed in kg per hectare per annum, except in relation to Rules 5.46 and 5.62, where it is expressed as a total kg per annum from the identified area of land; and Include a new d to cover unimplemented consents: (d) in the case of an irrigation scheme, the maximum, as included in a resource consent: i) rate at which nitrogen may be leached from the properties supplied water by the irrigation scheme or principal water supplier; or ii) concentration of nitrogen in drainage water leached from the properties supplied water by the scheme or principal water supplier.

#	Page	Reference	Issue/concern	Relief sought
5	3-2	"Nitrogen loss calculation"	As with the definition of nitrogen baseline, amendments are sought to reflect the highest annual losses through the period.	Oppose in part. Amend the definition to provide: means the highest annual discharge of nitrogen below the root zone, as modelled with OVERSEER®, (where the required data is inputted into the model in accordance with OVERSEER® Best Practice Data Input Standards), or an equivalent model approved by the Chief Executive of Environment Canterbury, ~~averaged~~ over the most recent four year ~~01 July to 30 June~~ period and expressed in kg per hectare per annum. If OVERSEER® is updated, the most recent version is to be used.
6	3-2	"Nutrient User Group"	To assist in the implementation of nutrient controls, BCI seeks a definition of "Nutrient User Group" (along with further provision relating to the implementation of collectives). This will ensure consistency with the Waitaki provisions and other sub-regional chapters that make reference to nutrient user groups. A Nutrient User Group should be able to occur within and outside an irrigation scheme.	Include a definition of "Nutrient User Group": means a group of properties in multiple ownership, where the owners of those properties undertake farming activities and operate as a collective for the purposes of nutrient management.
7	3-3	"Winter grazing"	Reference to supplementary feed within this definition creates uncertainty and is in circumstances where at least in some cases supplementary feed can be provided without causing high nitrogen or phosphorous losses.	Means the grazing of cattle within the period of 1 May to 30 September, where the cattle are contained for break-feeding of in-situ forage brassica and root vegetable crops ~~or supplementary feed that has been brought onto the property~~

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 programme relating to the implementation of the NPSFM. Although DHL 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. 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 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 "*granted under the region wide rules in this Plan*". 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	Delete 4.11 Or (contrary to DHL'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 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.

#	Page	Reference	Issue/concern	Relief sought
			where water quality outcomes are being met.	
9	4-2	4.36	This policy refers to water quality outcomes being met through the implementation of "*good practice*". This is not defined although it is anticipated that the intended reference is to "*Good Management Practices*".	Oppose Amend 4.36(a) to refer to "*… good management practices*"
10	4-3 – 4-4	4.37 4.38 4.38AA 4.38A 4.38B 4.38C 4.38D	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 *Shotover Park Ltd v Queenstown Lakes District Council*[2]). 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. 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.	Include an explanatory note advising that Policies 4.36 to 4.38E are not to apply to Irrigation Schemes: 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.

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

#	Page	Reference	Issue/concern	Relief sought
11	4-4	4.38AA	Green and light blue nutrient allocation zones are currently meeting their water quality limits. The proposal under Policy 4.38AA(a) to restrict increases in nitrogen loss from farming activities to no more than a total of 5kg/ha/yr will prevent some intensification (especially if irrigation is proposed). This appears unnecessarily restrictive and could see legitimate intensification proposals that do not cause adverse effects on the environment (and which are consistent with the National Policy Statement for Freshwater Management 2014 and Part II of the Act) as being unable to proceed. Policy 4.38AA(c) is also unclear in its application. By definition green and light blue nutrient allocation zones are currently meeting water quality limits with some 'headroom' being potentially available to accommodate future intensification. If "*maintained*" is read narrowly then there is uncertainty around the extent to which any headroom can be taken up.	Amend Policy 4.38AA(a) to (c) to read: 4.38AA Freshwater quality is maintained within the Green and Light Blue Nutrient Allocation Zones by: (a) limiting the discharge of nitrogen for new irrigation to a Baseline GMP Loss Rate determined through the Farm Portal assuming spray irrigation and the proposed irrigated land use, ~~(a) restricting increases in nitrogen loss from farming activities to no more than a total of 5kg/ha/yr above the Baseline GMP Loss Rate; and~~ (b) including on any resource consent granted for the use of land for a farming activity, conditions that: (i) limit the nitrogen loss calculation for the farming activity to a rate not exceeding: a. in the case of new irrigation, a Good Management Practice Loss Rate based on the proposed irrigated land use and spray irrigation with an with an efficiency of 80%; and b. in all other cases, a total of 5kg/ha/yr above the Baseline GMP Loss Rate; and ~~(ii) require farming activities to operate at or below the Good Management Practice Loss Rate, in any circumstance where that Good Management Practice~~

#	Page	Reference	Issue/concern	Relief sought
				~~Loss Rate is less than 5kg/ha/yr above the Baseline GMP Loss Rate; and~~ ~~(c)~~(d) not granting any resource consent to exceed the Baseline GMP Loss Rate unless the application for resource consent demonstrates that water quality will be ~~maintained~~managed within environmental limits; and …
12	4-4	4.38AB	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) 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. 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 "*maintained*"), Policy 4.38AB effectively undermines the wider suite of policies that do anticipate resource consent applications being made. In particular, an activity that might require resource consent in circumstances where the 'effects' might be less than minor or	Delete Policy 4.38AB.

#	Page	Reference	Issue/concern	Relief sought
			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. It is also emphasised (in accordance with *Rodney District Council v Eyres Eco-Park Limited* (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. There appears to be no reason for departing from the orthodox position.	
13	4-4	4.38A	Policy 4.38A does not include any express provision for activities that are consented but not yet implemented (as at 13 February 2016). This is especially relevant for any farm enterprise consent or irrigation scheme consent where there might be considerable 'headroom' included in the consent to accommodate the full implementation of the farm enterprise or irrigation scheme. It could however also apply to individual farming operations – especially where they may have obtained consent prior to 13 February 2016 but are yet to fully implement it. In green and light blue zones greater flexibility should be afforded to increases over the nitrogen baseline. They should	Oppose Amend Policy 4.38A to read: 4.38A Within the Red, Orange~~, Green or Light Blue~~ Nutrient Allocation Zones, only consider the granting of an application for resource consent to exceed the nitrogen baseline where: (a) the applicant holds a resource consent authorising an exceedance of the nitrogen baseline that was granted prior to 13 February 2016 (including any renewal or replacement of that resource consent after 13 February

#	Page	Reference	Issue/concern	Relief sought
			not be included in Policy 4.38A.	2016); or (b)~~(a)~~ the: (i) nitrogen baseline has been lawfully exceeded prior to 13 February 2016 and the application contains evidence that the exceedance was lawful; and ~~(c)~~(ii) the nitrogen loss calculation remains below the lesser of the Good Management Practice Loss Rate or the nitrogen loss calculation that occurred in the four years prior to 13 February 2016.
14	4-5	4.38C 4.38D New (adjunct to the above)	DHL has concerns with the extent to which Baseline GMP Loss rates will be achievable (including but not limited to the extent to which the Farm Portal is able to accurately and correctly calculate an appropriate Baseline GMP Loss rate). In addition to that: • 30 June 2020 may not be achievable for some farming operations without significant social and economic repercussions (especially those that are required to make significant reductions in order to reach their relevant Baseline GMP Loss rate). Given the inability of submitters to 'ground truth' the Farm Portal as part of the submission process it unclear on exactly the extent to which such	In order to ensure scope within this submission, the policies should be amended to ensure that the Baseline GMP Loss rate only need to be complied with by 30 June 2030 (emphasising that this relief is only being sought in circumstances where the extent to which compliance with the notified policy is possible is currently unknown – it might well be that a different date either before or after 30 June 2030 is appropriate). In addition a further policy is sought and Policy 4.38C and 4.38D should be amended to provide: 4.38C Where a policy or a condition in a rule requires compliance with a Baseline GMP Loss rate, compliance with that loss rate shall, except as provided by Policy 4.33CC, not be required prior to 30

#	Page	Reference	Issue/concern	Relief sought
			reductions will be required and achievable; and • In terms of the Farm Portal itself, if it does become further apparent that there are errors in the assumptions and modelling framework then there needs to be ability to seek resource consent to effectively remove the requirement to comply with an incorrect or misrepresentative Baseline GMP Loss rate.	June 2020. 4.38D Where a policy or rule requires a farming activity to be managed in accordance with the Good Management Practice Loss Rate, compliance with that loss rate shall not be required prior to: (a) 1 July 201~~6~~7 for any land where part of the property is located within the Lake Zone; (b) 1 January 201~~7~~8 for any land where part of the property is located within the Orange Nutrient Allocation Zone; (c) 1 July 201~~7~~8 for any land where part of the property is located within the Red Nutrient Allocation Zone; (d) 1 January 201~~8~~9 for any land where part of the property is located within the Green or Light Blue Nutrient Allocation Zone, except where it can be demonstrated by the applicant that: (e) the Farm Portal does not provide accurate or appropriate Good Management Practice Loss Rate for the farming activity undertaken; and (d) good management practices and the matters set out in Schedule 28 are being achieved.

#	Page	Reference	Issue/concern	Relief sought
				The new Policy 4.33CC would provide: 4.33CC To enable resource consent to be obtained for a farming activity with a nitrogen loss that is greater than its Baseline GMP Loss Rate or Good Management Practice Loss Rate, provided that the applicant demonstrates: (a) the nitrogen loss does not exceed the nitrogen baseline; or (b) that the nitrogen loss 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), and: (c) the Farm Portal does not provide accurate or realistic Baseline GMP Loss rates for the farming activity undertaken; and (d) good management practices and the matters set out in Schedule 28 are being achieved. The new rule is discussed below.
15	4-5	4.38D	As with the submission on Policy 4.38C, it is very unclear around the extent to which the Farm Portal is able to provide accurate	Oppose Push out the dates set out in Policy 4.38D by one year and amend as

#	Page	Reference	Issue/concern	Relief sought
			(and achievable) Good Management Practice Loss rates. The timeframes set out in Policy 4.38D and, in the case of the dairy sector in particular, coincide with the worst economic conditions in a large number of years. Any Good Management Practices that require capital expenditure are a likely to be very difficult to meet in the timeframes set out.	follows: 4.38D Where a policy or rule requires a farming activity to be managed in accordance with the Good Management Practice Loss Rate, compliance with that loss rate shall not be required prior to: (a) 1 July 2016~~7~~ for any land where part of the property is located within the Lake Zone; (b) 1 January 2017~~8~~ for any land where part of the property is located within the Orange Nutrient Allocation Zone; (c) 1 July 2017~~8~~ for any land where part of the property is located within the Red Nutrient Allocation Zone; (d) 1 January 2018~~9~~ for any land where part of the property is located within the Green or Light Blue Nutrient Allocation Zone, except where it can be demonstrated by the applicant that: (e) the Farm Portal does not provide accurate or appropriate Good Management Practice Loss Rate for the farming activity undertaken; and (f) good management practices and the matters set out in Schedule 28 are being achieved.

#	Page	Reference	Issue/concern	Relief sought
16	4-6	4.41B	There is an error in the numbering of Policy 4.41B – what is currently (f) should be (e)(i) – which will in turn mean that (f)(i) becomes (e)(ii) and (f)(ii) will become (e)(iii).	Oppose in part Correct typographical errors as set out in the *Issue/concern* column.
17	4-5	New	To assist in the implementation of nutrient controls, DHL seeks a definition of "Nutrient User Group" along with further provision relating to the implementation of collectives. This will ensure consistency with the Waitaki provisions and other sub-regional chapters that make reference to nutrient user groups. A Nutrient User Group should be able to occur within and outside an irrigation scheme.	Include a new policy (consistent with Policy 15B.4.17 of the proposed Waitaki provisions): ***Collectives*** 15B.4.17 Applications for a resource consent to establish a Nutrient User Group shall describe: (a) the procedures and methods for recording nitrogen losses from properties within the Nutrient User Group; and (b) the methods for redistributing nitrogen losses when a property joins or leaves a Nutrient User Group; and (c) the annual reporting requirements; and (d) how compliance with the actions set out in each Farm Environment Plan will be achieved.
18	4-6	4.41C	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. This is especially relevant for any irrigation scheme consent or	Oppose in part Amend Policy 4.41C to provide: 4.41C ~~Maintain~~Manage water quality in Orange, Green and Light Blue

#	Page	Reference	Issue/concern	Relief sought
			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. It could however also apply to individual farming operations – especially where they may have obtained consent prior to 13 February 2016 but are yet to fully implement it. 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.	Nutrient Allocation Zones, and improve water quality in Red Nutrient Allocation Zones and Lake Zones by requiring: (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 (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: (i) the nitrogen loss 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 (ii) the Baseline GMP Loss Rate for any land within the Red, Lake or Orange Nutrient Allocation Zones; and (iii) 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

#	Page	Reference	Issue/concern	Relief sought
				with an efficiency of 80%.
19	4-7	New (adjunct to 4.41D)	Policy 4.41D provides for the matters that need to be provided in any Environmental Management Strategy for an irrigation scheme. There is no equivalent policy that applies to farming enterprises. It is noted that the relief sought is generally consistent with the express provision that was made for farming enterprises in Plan Changes 1, 2 and 3. DHL considers that a farming enterprise regime is appropriate in the circumstance that a property within the farming enterprise is also a member of an irrigation scheme.	Include a new Policy 4.41DD: 4.41DD Applications by farm enterprises for a resource consent for the use of land for a farming enterprise or the discharge of nutrients are to be accompanied by an Environmental Management Strategy that describes: (a) how the nutrient load for which resource consent is sought has been calculated, and the rationale for that nutrient load applied; and (b) how nutrients from all land subject to the farming enterprise will be accounted for; and (c) how properties joining or leaving the farming enterprise are to be managed, including the method to be used to calculate the nutrient load that will be allocated to any property leaving the farming enterprise; and (d) the proposed monitoring and reporting regime to the CRC, including, but not limited to, a description of the: (i) audit systems that will be used to assess individual on-farm compliance with the content of any Farm Environment Plan; and (ii) methods used to address non-compliances

#	Page	Reference	Issue/concern	Relief sought
				identified in individual on-farm audits; and (iii) proposed data to be collected and the frequency of any proposed reporting to the CRC.
20	4-7	4.41D	Policy 4.41D is specific to irrigation schemes. Policy 4.41D(b) provides for "*how nutrients from all land subject to any permit granted to the scheme or principal water supplier will be accounted for*". Although the intent is understood, it needs to be recognised that irrigation schemes typically have: • properties that are actually supplied water by the scheme or principal water supplier; • land that is actually irrigated by the scheme (generally being a subset of the above); and • a much larger command areas within which irrigation is authorised to occur. Reference to "*all land subject to any permit granted*" is therefore unclear. It is assumed that the intended reference is to properties that are actually supplied water by the Scheme. 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	Oppose in part Amend Policy 4.41D(b) to provide: 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: (a) 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 be fully accounted for by the scheme; and (b) 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

#	Page	Reference	Issue/concern	Relief sought
			Scheme only providing 'top up' water to the relevant property.	individual property; and (c) 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 (d) the proposed monitoring and reporting regime to the CRC, including, but not limited to, a description of the: (i) audit systems that will be used to assess individual on-farm compliance with the content of any Farm Environment Plan; and (ii) methods used to address non-compliances identified in individual on-farm audits; and (iii) proposed data to be collected and the frequency of any proposed reporting to the CRC.

Rules

#	Page	Reference	Issue/concern	Relief sought
21	5-3	5.41A	Rule 5.41A proposes that the use of land within an irrigation scheme will be a permitted activity where the irrigation scheme	Rule 5.41A. should be retained subject to amending the introductory

#	Page	Reference	Issue/concern	Relief sought
			holds an exist permit that controls the maximum rate at which nitrogen may be leached or the concentration of nitrogen in the drainage water. DHL considers the proposed introductory wording of Rule 5.41A should be amended to ensure that the use of land within an irrigation scheme will be a permitted activity where consented through Rules 5.60 to 5.62.	wording to state: 5.41A Despite Rules 5.43A to ~~5.59A~~5.62 (or any sub regional chapter), 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): *Notes:* 1. *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 or a sub-regional chapter or is not a permitted activity under Rules 5.41A or 5.61, then it is assessed under Rules ~~5.43 to 5.59~~ 5.42A to 5.59A.*
22	5-3	5.42A	Rule 5.42A a. provides that where a property farms within more than one Nutrient Allocation Zone "*the rules for each Nutrient Allocation Zone apply respectively only to the part of the property within that Zone"*. The intent of the rule is understood. However, from a practical perspective there are concerns that it will be difficult to implement given that the wider planning framework envisages nutrient loss being managed on a 'whole of property basis' and the fact a farming property will (for example) rotate cropping or winter grazing areas between paddocks. More flexibility therefore needs to be included within the plan framework – the intention being that nutrient losses will generally be 'pro-rated'	Amend Rule 5.42A to provide: a. regard shall be had to the rules for each Nutrient Allocation Zone that apply ~~respectively only to the part of~~ to the property ~~within that Zone~~ while ensuring that nutrient loss is managed on a whole of property basis.

#	Page	Reference	Issue/concern	Relief sought
			across the respective Nutrient Allocation Zones but that this needs to be approached in a practical and workable way.	
23	5-4 5-9	5.44A 1. 5.54A 1.	DHL remains concerned that the requirement to register with the Farm Portal by 1 July 2017 is too tight. Existing but yet to be implemented consents form part of the environment for the purposes of determining this plan change and considering the grant of resource consents. 5.44A 3. should therefore be deleted.	Amend 5.44A 1. And 5.54A 1. to refer to 1 July 2018 (rather than 1 July 2017). Delete 5.44A. 3.
24	5-4	5.44B	DHL supports the use of controlled activity status however 5.44B 2. does not appear to accommodate consented but not implemented resource consents.	DHL repeats its submissions in terms of the nitrogen baseline and the Baseline GMP Loss Rate (in terms of ensuring those terms allow for the implementation of consented but yet to be implemented resource consents). Alternatively, amend Rule 5.44B to refer to: 5.44B Within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with one or more of the conditions of Rule 5.44A is a controlled activity provided the following conditions are met: 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 2. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Red Nutrient Allocation Zone does not

#	Page	Reference	Issue/concern	Relief sought
				exceed: i) the nitrogen baseline,; or ii) 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), and from 1 July 2020 the Baseline GMP Loss Rate; and 3. The Farm Environment Plan and nutrient budget submitted with the application for resource consent has been prepared or reviewed by an Accredited Farm Consultant.
25	5-5	5.45A	As set out elsewhere in this submission, there will be circumstances where an existing resource consent is yet to be fully implemented. Rule 5.45A 2. needs to be amended to accommodate that situation.	Amend Rule 5.45A 2. to read: 2. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Red Nutrient Allocation Zone does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the Baseline GMP Loss Rate; unless: a. the nitrogen baseline was lawfully exceeded prior to 13 February 2016, and the application for resource consent demonstrates that the exceedance was lawful.; or b. the nitrogen loss was authorised by a resource consent that was granted prior to 13 February 2016 (including any renewal or replacement of that resource consent

#	Page	Reference	Issue/concern	Relief sought
				after 13 February 2016).
26	5-6	New (adjunct to Rule 5.47A)	Plan Change 5 Part A makes provision for farm enterprises whereas Part B (the Waitaki provisions) also makes provision for nutrient user groups. There appears to be no basis for the distinction. Nutrient User Groups are a useful tool and would assist in ensuring irrigation schemes and members within schemes (as well as those outside of a scheme) are able to more effectively manage the implications of the nutrient management regime in manner that is consistent with their respective farming operations. There is also no reason for preventing those within a farming enterprise also being part of a nutrient management group (although DHL's view is that they are really a reference to the same thing so there may be no need to duplicate the relevant provisions).	Include a new Rule: Nutrient User Groups [x] The use of land for a farming activity on a property that forms part of a Nutrient User Group is a discretionary activity, provided the following conditions are met: 1. A management plan is submitted with the application for resource consent, which sets out: a. the properties forming the Nutrient User Group; and b. a map showing the location of all properties forming part of the Nutrient User Group; and c. the legal description of all properties and the legal names of the property owners forming part of the Nutrient User Group; and d. the method by which nitrogen losses will be managed and accounted for within the Nutrient User Group; and e. the method by which nitrogen losses will be redistributed upon any property or any part of any property withdrawing from the Nutrient User Group; and

#	Page	Reference	Issue/concern	Relief sought
				2. A Farm Environment Plan has been prepared for each property in the Nutrient User Group in accordance with Schedule 7 and is submitted with the application for resource consent; and 3. The nitrogen loss calculation for the Nutrient User Group does not exceed the combined total of: a. for the properties that do not receive water from an irrigation scheme or principal water supplier: i. until 30 June 2020, the nitrogen baseline; and ii. from 1 July 2020, the Baseline GMP Loss Rate, plus any increase lawfully permitted by this plan; and b. for the properties that do receive water from an irrigation scheme or principal water supplier, where that irrigation scheme or principal water supply holds a resource consent that controls nutrient loss from properties supplied, the amount specified for those properties by that resource consent.
27	5-5	New (adjunct to rules 5.44A to 5.48A)	Consistent with the submissions on Policy 4.38C and 4.38D, there are a number of uncertainties around the Farm Portal and the extent to which any required reductions will be achievable in practice (and within the timeframes indicated in Plan Change 5). A new rule is therefore sought to address the situation where the	Include a new Rule 5.45B: 5.45B Within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 of Rule 5.45A, or the use of land for a farming activity as part of a farming enterprise that

#	Page	Reference	Issue/concern	Relief sought
			Farm Portal is shown to **not** provide an accurate or appropriate Baseline GMP loss rate.	does not comply with condition 2 of Rule 5.46A is a discretionary activity, provided the following conditions are met: 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 2 The nitrogen loss calculation for the part of the property within the Red Nutrient Allocation Zones does not exceed: i) the nitrogen baseline; or ii) the nitrogen loss 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), and 3. the applicant for resource consent can show that the Farm Portal does not provide accurate or realistic Baseline GMP Loss rates for the farming activity undertaken; and 4. good management practices and the matters set out in Schedule 28 are being achieved.

#	Page	Reference	Issue/concern	Relief sought
28	5-6	5.47A	In limited instances a farm enterprise may already be established across more than one surface water catchment – or part of a property within a farm enterprise may also include that falls outside the surface water catchment within which the majority of land is located. The use of non-complying activity status in the case of Rule 5.46A 3. is therefore supported. This is on the basis that if the applicant can show that the additional effect is no more than minor then it should be granted consent.	Retain as notified.
29	5-7	5.48A	Given the uncertainties associated with the use of the Farm Portal and Schedule 28, DHL is concerned to ensure an alternative consenting pathway is always available. Prohibited activity status (Rule 5.48A) should therefore be deleted. The alternative relief is effectively a consequential amendment given the new rule 5.45B referred to above.	Delete Rule 5.48A. In the alternative, amend Rule 5.48A to provide: 5.48A Unless provided by Rule 5.45B, ~~w~~within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 of Rule 5.45A, or the use of land for a farming activity as part of a farming enterprise that does not comply with condition 2 of Rule 5.46A is a prohibited activity.
30	5-8	5.51A 5.52A	Given the uncertainties associated with the proxies and the use of the Farm Portal, prohibited activity status should not be used in Plan Change 5	Amend Rule 5.51A to refer to both condition 1 and condition 2 of Rule 5.50A. Delete Rule 5.52A.
31	5-7 5-9	5.50A 5.54B	There is clause in each of these rules that generally states (for	Include in the relevant provisions amendments that in effect provide:

#	Page	Reference	Issue/concern	Relief sought
	5-10 5-11 5-12 5-13 5-13	5.55A 5.56AA 5.57C 5.58A 5.58B	example): "Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Orange Nutrient Allocation Zone does not exceed the nitrogen baseline, and from 1 July 2020 the Baseline GMP Loss Rate" In the interests of avoiding significant duplication/identical submission points, DHL is submitting on these provisions together. In simple terms DHL is concerned that the provisions do not appear to accommodate consented but not implemented resource consents. DHL has already suggested relief in respect of the 'nitrogen baseline' that would address these concerns. This is effectively alternative relief.	Until 30 June 2020, the nitrogen loss calculation for that part of the property in the [ ] Zone does not exceed : ii) the nitrogen baseline,; or ii) 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), and from 1 July 2020 the Baseline GMP Loss Rate; and …

Schedules

#	Page	Reference	Issue/concern	Relief sought
32	6-3 - 6-8	Schedule 7	The matters set out in Schedule 7 are generally supported. Clause 4B does 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	Retain Schedule 7 (subject to the amendments set out below). Amend clause 4B to include new introductory wording: Where the nitrogen loss from the farming activity or farming enterprise is not being managed under a resource consent held by

#	Page	Reference	Issue/concern	Relief sought
			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. The "*Management Area: Nutrient Management*" is similarly focused on individual farming activities and farming enterprises. The use in 'Target 1' of the 'Good Management Practice Loss Rates' is not applicable for irrigation schemes. DHL is also concerned around the uncertainty of the application of "*Management Area: Water-use Management (excluding irrigation water)*." This appears to cover at least some water that can be taken as of right under section 14(3)(b) (without any requirement for metering etc) or under permitted activity rules. It is noted that the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 only anticipate metering in respect of takes where a water permit is held and where the take is over 5 litres per second. DHL seeks amendments to ensure it only applies to water to which a resource consent is held. Water for domestic or stockwater supply (for example) that is taken under section 14(3)(b) falls outside the ambit of the plan.	an irrigation scheme or principal water supplier: … Include a new clause 4C: 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: a. 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 propert(ies) are being met. Amend the management area relating to non-irrigation water to include the following: The plan shall only apply to water that is taken under a resource consent. Water taken under section 14(3)(b) or a permitted activity rule is not controlled by the Farm Environment Plan.
33	6-11	Schedule 28 (and the Portal)	The intent of Schedule 28 is generally supported. BCI however has significant concerns with regard to the Farm	Correct all errors in the Farm Portal to ensure it correctly represents Schedule 28. Ensure Schedule 28 correctly reflects the

#	Page	Reference	Issue/concern	Relief sought
			Portal – given the proxies and rules currently relied on (and in part referenced in Schedule 28). 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. 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). It is noted that at the time of preparing this submission it is DHL'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. DHL 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. In terms of Schedule 28 itself (an how it has been reflected in the Farm Portal), DHL has concerns, in particular, that: • the irrigation triggers have not been appropriately refined; and • the fertiliser calculation is not robust.	intended good management practices. Include a new policy [X]: Reviews of the Farm Portal will be undertaken annually by the Canterbury Regional Council for the purposes of ensuring that: (a) 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 (b) the terminology and settings used in the Farm Portal are adjusted to align with the latest version of OVERSEER®; and (c) that any consequential changes in: (i) the Good Management Practices and Good Management Practice modelling Rules as incorporated into Schedule 28; or (ii) the settings, parameters and formulae within the Farm Portal 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. In preparing any plan change as contemplated by Policy [X](c), the

#	Page	Reference	Issue/concern	Relief sought
				Council will: (a) establish methods and a timeframe for the implementation of any revised Baseline GMP Loss Rate and Good Management Practice Loss Rate.