

Summary of relief sought by Dairy Holdings Limited

Evidence or legal submission paragraph reference	Issue (including objective/policy /rule reference)	Explanation	Relief sought by DHL
Legal submissions [5] – [15]	Definition of “good management practice”: Glossary	A definition of “good management practice” that refers to industry-agreed standards is required so that all farmers are working towards a common set of agreed practices.	<p>Include a definition of “good management practice” in the Glossary as follows:</p> <p><u><i>Good management practice refers to those practices identified in the “Industry-Agreed Good Management Practices Relating to Water Quality”¹ and updated versions of this guide; or other management practice standards that may be issued by Environment Southland.</i></u></p> <p>=====</p> <p><u><i>1 Published by the Canterbury Matrix of Good Management project in September 2015. Available at: http://files.ecan.govt.nz/public/pc5/MGM_Technical_Reports/Industry_Agreed_Good_Management_Practices_MGM_2015.pdf</i></u></p> <p>Appendix N: Part B(5)(a)(i) – accept amendments recommended by section 42A Report, along with further additions shown in bold below (base text is that recommended in the Report):</p> <p><i>The range of general good management practices which will be undertaken on farm over the coming 12 month period. Examples of general good management practices are provided on the Southland Regional Council website, <u>and further guidance can be taken from the Industry-Agreed Good Management Practices Relating to Water Quality. Good management practices</u> must include:</i></p> <ul style="list-style-type: none"> <i>(1) Good management practices to manage critical source areas to reduce contaminant losses, particularly associated with overland flow, such as areas where stock will be excluded and where vegetation will be planted.</i> <i>(2) Proposed good management practices for cultivation, such as contour ploughing, strip cultivation or direct drilling.</i> <i>(3) Good management practices to minimise the discharge of nitrogen, phosphorous, sediment and microbiological contaminants to water from the use of land for intensive winter grazing.</i>

<p>Legal submissions</p> <p>[16] – [43]</p>	<p>Rights of existing water users under existing but not implemented resource consents, and water takes under section 14(3)(b) RMA:</p> <p>Policy 20, Policy 21, Policy 22, Rule 21, Rule 35, Rule 49 and Rule 54</p>	<p>These policies and rules need to provide for existing but not implemented resource consents so that the rights of consent holders are adequately protected. They also need to include (where appropriate) reference to water takes under section 14(3)(b) RMA so that these takes are not improperly restricted.</p>	<p>Policy 20: The following two amends were sought by DHL and have been recommended by the section 42A Report. The additions shown in <u>bold</u> to Policy 20(1)(g) and 20(2)(b) received support in the Report, but were not included in the recommended amendments (perhaps by oversight).</p> <p>20(1)(g):</p> <p><i>the rights of lawful existing users, <u>including those with existing, but not yet implemented, resource consents, and those taking water as of right pursuant to section 14(3)(b) of the Resource Management Act 1991.</u></i></p> <p>20(2)(b):</p> <p><i>the reliability of supply for existing groundwater users, <u>including those with existing, but not yet implemented, resource consents, and those taking water as of right pursuant to section 14(3)(b) of the Resource Management Act 1991.</u></i></p> <p>Policy 21(3)(b):</p> <p><i>The reliability of supply for existing groundwater users <u>(including those with existing resource consents for groundwater take that have not yet been implemented)</u> is not adversely affected.</i></p> <p>Policy 22(3)(b):</p> <p><i>assess and manage the effects of groundwater abstractions with a daily volume exceeding 86 cubic metres per day <u>(not including water taken under section 14(3)(b) of the Resource Management Act 1991)</u> in groundwater management zones other than those specified in Appendix L.5.</i></p> <p>Rule 21(b)(iii):</p> <p><i>The land area of the dairy platform is no greater than <u>what existed, or was consented,</u> at 1 May 2016.</i></p> <p>Rule 35: DHL supports the following changes to Rule 35(b)(i) and 35(c) recommended at paragraph 7.979 of the section 42A Report:</p> <p><i>(b)(i) the discharge is the replacement of <u>a lawfully established an existing</u> discharge <u>consent</u> pursuant to</i></p>
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Legal submissions [44] – [50]	Waterway terminology: Policy 16, Policy 18, Rule 70	Amendment to these policies is required so that the terminology used for referring to waterways is clear	<p>DHL supports the amendments to Policy 16 and 18 recommended in the section 42A Report (shown in <u>red underline</u>), but with the additional deletions show in bold strikethrough.</p> <p>Policy 16</p> <p><u>1(b) strongly discouraging applications to establish new, or further intensify existing dairy farming of cows or</u></p>

		<p>and consistent with the definitions included in the Plan.</p> <p><i>intensive winter grazing activities where the effects on the quality of water, including cumulatively, of groundwater, waterbodies, lakes, rivers, modified water courses, wetlands, coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands cannot be avoided or fully mitigated or in areas where water quality is already degraded to the point of being overallocated.</i></p> <p>Policy 18</p> <p><i>(1) Requiring progressive exclusion of all stock, except sheep, from all waterbodies including artificial watercourses, lakes, rivers, (including intermittent waterbodies rivers), natural wetlands, artificial watercourses, modified watercourses, estuaries and lagoons, on land with a slope of less than 16 degrees by 2025-2030...</i></p> <p><i>(4) ensuring that when stock access waterbodies, including artificial watercourses lakes, rivers (including intermittent waterbodies rivers), natural wetlands, artificial watercourses, modified watercourses, estuaries and lagoons, this is managed...</i></p> <p>Rule 70</p> <p><i>(a) The disturbance of the bed of a lake, river (including intermittent waterbodies river), natural wetland, artificial watercourse (other than a stockwater dam or race), modified watercourse, estuary or lagoon by stock and associated discharges through access by stock is a permitted activity provided the following conditions are met:</i></p> <p><i>...</i></p> <p><i>(b) Other than crossing points in accordance with Rule 70(a)(iii), cattle deer and pigs shall be excluded from a lake, river (including intermittent waterbodies river), natural wetland...</i></p> <p><i>(c) Despite Rule 70(a) or (b), all stock shall be excluded from a lake, river (including intermittent waterbodies river)...</i></p> <p><i>(e) The disturbance of the bed of a lake, river (including intermittent waterbodies river), natural wetland...</i></p> <p><i>(f) The disturbance of the bed of a lake, river (including intermittent waterbodies river), natural wetland...</i></p>
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<p>Legal submissions</p> <p>[51] – [63]</p>	<p>Effluent management – reference to “best practice guidelines” and qualification of the requirement to “avoid” adverse effects:</p> <p>Policy 17</p>	<p>Effluent management – need for further explanation of “best practice guidelines” and qualification of the need to “avoid” adverse effects</p>	<p>DHL supports the amendments to Policy 17 suggested in the section 42A Report that recommend referring to a examples of ‘best practice guidelines’ in a Note as follows:</p> <p>Policy 17</p> <p><i><u>Note: Examples of best practice referred to in 17(2)(a) include IPENZ Practice Note 21: Farm Dairy Effluent Pond Design and Construction and IPENZ Practice Note 27: Dairy Farm Infrastructure.</u></i></p> <p><i><u>Note: Examples of best practice guidelines referred to in 17(2)(b) include DairyNZ’s guidelines A Farmer’s Guide to Managing Farm Dairy Effluent – A Good Practice Guide for Land Application Systems, 2015 and A Staff Guide to Operating Your Effluent Irrigation System, 2013</u></i></p> <p>However, further amendment to Policy 17 is required to amend the absolute requirement to “avoid” adverse effects on water quality as follows:</p> <p>(1) Avoid <u>more than minor</u> adverse effects on water quality and avoid, remedy or mitigate other adverse environmental effects of the operation of, and discharges from effluent management systems.</p>
<p>Legal submissions</p> <p>[64] – [74]</p>	<p>Physiographic zones – New rule (or alternative more specific approach) required</p>	<p>Legal submissions supported new policy but concern is that the policy is not specific enough to (for example) override Policy</p>	<p>New provision(s)</p> <p><u>Incorrect physiographic zone(s)</u></p> <p>1. <i><u>Notwithstanding rules [reference to physiographic zone rules], where it is able to be demonstrated that a property, or part of a property, has been included in the incorrect physiographic zone, the property, or part of a property (as might apply) shall be treated for the purposes of this plan as falling within the</u></i></p>

		<p>11(3).</p> <p>Legal submissions stated a new rule is required to provide an avenue for landowners to apply to have the physiographic zoning of their property changed where on-site evidence indicates that the zoning is incorrect.</p> <p>Could also be achieved by a more specific policy or similar (e.g. under the <i>Consideration of Resource Consent Applications</i> section)</p>	<p><u>physiographic zone that correctly reflects its soil types.</u></p>
Legal submissions [75] – [80]	<p>Application of the permitted baseline:</p> <p>Policy 39</p>	<p>Policy 39 should be deleted as it is an inappropriate departure from the orthodox standard for the permitted baseline that has been developed through caselaw.</p>	<p>Delete Policy 39.</p> <p>Alternatively, clarify the “other” farming activities that the policy is intended to apply to (which are not provided for in other provisions of the Plan) so that the policy does not by default apply to all farming activities.</p>
Legal	Nutrient user	DHL has successfully implemented	Definition (Glossary):

<p>submissions</p> <p>[81] – [86]</p>	<p>groups:</p> <p>New definition, objective, policy and rule required.</p>	<p>nutrient user groups to coordinate management of nutrients between properties in Canterbury.</p> <p>The Canterbury Land and Water Regional Plan process has highlighted the benefits of nutrient user groups, but also the disadvantages of addressing these at later stages in the plan change process.</p> <p>To avoid the issues experienced in Canterbury, and pro-actively provide for nutrient limits which are more than likely going to be implemented through the FMU process, it makes sense to include provisions for nutrient user groups in the Plan from the outset.</p>	<p><u>Nutrient user group</u> means a group of properties in single or multiple ownership, where the owners of those properties undertake farming activities and operate as a collective for the purposes of nutrient management.</p> <p>Policy 39A</p> <p><i>To improve integrated management of freshwater and the use and development of land in whole catchments, including the interactions between freshwater, land and associated ecosystems (including estuaries) <u>through encouraging initiatives such as nutrient user groups that collectively manage nitrogen losses.</u></i></p> <p>Policy [X]</p> <p><u>Nutrient User Groups</u></p> <p><i>[x] Applications for a resource consent to establish a Nutrient User Group shall describe:</i></p> <ul style="list-style-type: none"> <i>a. <u>the procedures and methods for recording nitrogen losses from properties within the Nutrient User Group; and</u></i> <i>b. <u>the methods for redistributing nitrogen losses when a property joins or leaves a Nutrient User Group; and</u></i> <i>c. <u>the annual reporting requirements; and</u></i> <i>d. <u>how compliance with the actions set out in each Management Plan will be achieved.</u></i> <p>Rule [X]</p> <p><u>Nutrient User Groups</u></p> <p><i>[x] The use of land for a farming activity on a property that forms part of a Nutrient User Group is a <u>discretionary activity, provided the following conditions are met:</u></i></p> <ul style="list-style-type: none"> <i>1. <u>A management plan is submitted with the application for resource consent, which sets out:</u></i>
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			<p>a. <u>the properties forming the Nutrient User Group; and</u></p> <p>b. <u>a map showing the location of all properties forming part of the Nutrient User Group; and</u></p> <p>c. <u>the legal description of all properties and the legal names of the property owners forming part of the Nutrient User Group; and</u></p> <p>d. <u>the method by which nitrogen losses will be managed and accounted for within the Nutrient User Group; and</u></p> <p>e. <u>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</u></p> <p>2. <u>A Management Plan has been prepared for each property in the Nutrient User Group in accordance with Appendix N and is submitted with the application for resource consent.</u></p> <p>Appendix N:</p> <p>Add new Part B(4)(iv):</p> <p><u>(iv) a nutrient user group may be used to collectively manage nutrient losses from properties in single or multiple ownership where the nutrient user group has been granted resource consent by Environment Southland.</u></p>
Legal submissions [87] – [90]	Allocating water from over-allocated catchments: Policy 42 and Appendix O	Additions to Appendix O are required so that the method for determining allocations from over-allocated catchments is clear.	<p>DHL supports the amendment to policy 42 recommended in the s42A Report as set out below:</p> <p>Policy 42</p> <p>(2) consents replacing an existing resource consent for an abstraction from an over-allocated waterbody <u>will generally only be granted at a reduced rate, may be granted with a lesser volume and rate or take the reduction being proportional to the amount of over-allocation and previous use, using the method set out in Appendix O;</u></p> <p>Appendix O</p> <p>(b) Replacement resource consent applications to take and use water for irrigation will utilise records of</p>

			<p>historical water use to establish a seasonal allocation which takes into account:</p> <ul style="list-style-type: none"> • <u>Whether the previous seasonal allocation as determined under Appendix O(a) remains appropriate for the farming activity being undertaken;</u> • The volume of water utilised in previous irrigation seasons; • Any proposed changes to the operation of the irrigation system or farming system; <u>and</u> • <u>In waterbodies that are determined to be over-allocated (in addition to the matters listed above):</u> <ul style="list-style-type: none"> ◦ <u>The level of investment made in reliance on the previous water allocation, and the impact a reduced allocation would have on this investment; and</u> ◦ <u>An annual irrigation volume to achieve 80 percent (4 in 5 year) reliability.</u> <p>This does create some tension between the wording of the policy and the Appendix O but suggest any more specific regime is left to the FMU process.</p>
Legal submissions [91] – [95]	Desirability of common expiry dates for permits from the same resource: Policy 40	Policy 40 requires amendment to qualify when it might be considered “desirable” to issue consents that allocate water from the same resource, or for discharges that may affect the quality of the same resource, with a common expiry date.	<p>Policy 40</p> <p>(5) <i>The desirability of applying a common expiry date for water permits that allocate water from the same resource or land use and discharges that may affect the quality of the same resource, <u>where such applications are made within two years of each other;</u></i></p>

Legal submissions [96] – [101]	Independently audited self-management participants New provision required.	Legal submissions referred to a new Rule to set out the process for creating an independently audited self-management participant register. Could also be achieved by a more specific policy or similar	New provision: <u>Register of Independently Audited Self-Management Participants</u> <ol style="list-style-type: none"> <u>1. Environment Southland, or a farming industry group in consultation with Environment Southland, may create a register of Independently Audited-Self Management Participants.</u> <u>2. Any such register referred to under X(1) must be accompanied by a set of recommended good management practices.</u> <u>3. Any register created under X(1) and recommended good management practices under X(2) shall be published on Environment Southland's website.</u> <u>4. Any person or entity involved in farming activity may apply to Environment Southland or the relevant industry group to be included in a register of Independently Audited Self-Management Participants.</u> <u>5. Independently Audited Self-Management Participants must manage their farming activities in accordance with the appropriate good management practices referred to in X(2) in order to retain their place on the register.</u>
Evidence of Colin Glass [31] – [43]	Intensive winter grazing: Rule 23	DHL has already completed fencing of the vast majority of waterways on its Southland farms, and wants to ensure that it is not required to meet the extensive costs of moving waterways to comply with new setback distances.	Amend 23(b)(iv): (iv) not more than 50 hectares of 50% of a landholding is used for intensive winter grazing is undertaken on a landholding; Delete Rule 23(b)(vi) as recommended in the section 42A Report: (vi) the location of any sub-surface drains within the area of land used for intensive winter grazing, and their outlet position and relative depth, is mapped and provided to Environment Southland upon request. Amend 23(b)(vii) (base text is the section 42A Report amended version): (1) 5 metres from the outer edge of the bed on land with a slope of less than or equal to 9 degrees, unless a

		<p>DHL also undertakes winter grazing on all of its dairy platforms, and risks being prevented from doing this by the current restriction to use no more than 50 hectares per landholding.</p> <p>DHL also wants to ensure that there is no duplication of monitoring and auditing requirements that are already required under existing resource consents.</p>	<p>permanent fence between the intensive winter grazing and the bed was established before 3 June 2016; in which case the distance from the outer edge of the bed is, <u>on average, 3 metres on land with a slope of less than 9 degrees (acknowledging that waterways can shift and farmers are not expected to shift permanent fences for the sake of maintaining a 3 metre setback where this would not be cost-effective); and</u></p> <p>(2) 20 metres from the outer edge of the bed on land with a slope greater than 9 degrees, unless a permanent fence between the intensive winter grazing and the bed was established before 3 June 2016; in which case the distance from the outer edge of the bed is, <u>on average, 5 metres (acknowledging that waterways can shift and farmers are not expected to shift permanent fences for the sake of maintaining a 5 metre setback where this would not be cost-effective); and</u></p> <p>Delete 23(c)(i):</p> <p>(i) — the area of land used on the landholding for intensive winter grazing has not increased beyond the area of land used, averaged over the previous three years;</p> <p>Amend 23(1) Environment Southland will restrict its discretion to the following matters:</p> <p>(1) The quality of, compliance with and auditing of the Farm Environmental Management Plan, <u>taking into account the costs associated with compliance monitoring and auditing and the desirability to prevent duplication of monitoring and auditing requirements.</u></p> <p>Amend Rule 23(c):</p> <p>From 1 May 2018, the use of more than 50 hectares <u>percent of a landholding</u>...</p>
<p>Evidence of Colin Glass</p> <p>[48] – [57]</p>	<p>Cultivation near waterways:</p> <p>Rule 25</p>	<p>As noted under Rule 23 above, DHL has already completed fencing of most of its waterways and does not want to have to shift existing fences.</p>	<p>Amend Rule 25(a)(i) and 25(b)(i) to include a new footnote as follows:</p> <p><u>* In limited instances the location of existing fencing and the location of the waterbody may require limited cultivation closer than the setback set out (this is permitted provided that the average setback remains the distance stated above).</u></p>

<p>Evidence of Colin Glass</p> <p>[58] – [60]</p>	<p>Compliance Monitoring</p> <p>Appendix N</p>	<p>Avoid duplication in monitoring requirements between existing resource consents and Farm Environmental Management Plans as required by Appendix N.</p>	<p>Appendix N, Part A:</p> <p><i>(1) The material set out in Part B below, <u>noting that where there are inconsistencies between the material set out in Part B and the conditions in a resource consent, then the material required by the conditions in a resource consent should prevail</u>; or</i></p> <p>Appendix N: Delete Part (7) and (8) relating to Cultivation and Intensive Winter Grazing as recommended by section 42A Report.</p>
<p>Evidence of Rob Potts</p> <p>[20] – [24]</p>	<p>Effluent storage - Rule 32</p>	<p>It is only necessary to require engineer sign-off where an effluent storage system requires building consent. Rule 32 needs to be amended to clarify this.</p>	<p>DHL supports the amends to Rule 32 recommended in the section 42A report, with the following additional amendments shown in <u>bold</u> below (base wording is that recommended in the Report):</p> <p>Rule 32:</p> <p><i>(b)(i) <u>where a building consent for the effluent storage system is required</u>, the design and build process is certified by a Chartered Professional Engineer as being in accordance with IPENZ Practice Note 21: Farm Dairy Effluent Pond Design and Construction (2013) or IPENZ Practice Note 27: Dairy Farm Infrastructure (2013); and</i></p> <p>...</p> <p><i>(c)(i) <u>where a building consent for the effluent storage system is required</u>, the storage is certified as being structurally sound by a Chartered Professional Engineer</i></p>
<p>Evidence of Rob Potts</p> <p>[25] – [29]</p>	<p>Sub-surface drains</p> <p>Rule 23, Rule 35</p>	<p>DHL supports the recommendations of the section 42A Report regarding changes to the requirements to map sub-surface drains in Rule 23 and 35.</p>	<p>Accept Report's recommendation to delete Rule 23(b)(vi).</p> <p>Amend Rule 35(a)(xii):</p> <p><i>The location of any <u>known</u> sub-surface drains <u>that are identifiable by surface features</u> within the discharge area, and their outlet position and relative depth, is mapped and provided to Environment Southland upon request.</i></p>

		Further amendment is required to Rule 35(a)(xii) to clarify what will be considered as a "known" subsurface drain.	
Evidence of Rob Potts [30] – [34]	Solid waste discharge Rule 38	DHL supports the recommendations of the section 42A Report regarding restrictions on solid waste discharge.	Delete Rule 38(d)(iv) as recommended in the Report: (d)(iv) from 1 May to 30 September in any year
Evidence of Rob Potts [35] – [37]	Silage storage facilities Rule 40	Amendment to Rule 40 is required to acknowledge that stormwater flows can be generated by silage storage facilities themselves.	Amend Rule 40(a)(vii) : <i>No part of the silage storage facility is on land that is made permanently or intermittently wet by the presence of springs, seepage, high groundwater, ephemeral streams, or flows of stormwater <u>(other than those flows coming off the silage covers in rainfall, which cannot be avoided).</u></i>