

From: [Mitchell Tessa](#)
To: [Mailroom Mailbox](#)
Subject: FW: Fonterra - pLWRP - Variation 3 section 15/Waitaki and South Coastal Canterbury EMAIL:01620510
Date: Tuesday, 26 May 2015 11:16:42 a.m.
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Importance: Low

Hi Mailroom

Has already been sent to Sarah but for your processing.

Thanks

Tess

----- Original Message -----

From: Rakaia River Irrigators Association Inc & CPW & Irrigators
Received: 25/05/2015 4:05 p.m.
To: Drummond Sarah; Drummond Sarah; Drummond Sarah
Cc: ECInfo; Environment Canterbury; Services Customer; Services Customer
Subject: Fonterra - pLWRP - Variation 3 section 15/Waitaki and South Coastal Canterbury

Hi Sarah,

Please find **attached** the submission of Fonterra Co-operative Group Limited in respect of the Variation 3 matter.

Thanks very much.

Please acknowledge receipt.

Kind regards,
Ben

BEN WILLIAMS

SENIOR ASSOCIATE

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FONTERRA SUBMISSION ON THE PROPOSED VARIATION 3 TO THE CANTERBURY LAND AND WATER REGIONAL PLAN

To: Environment Canterbury
Submitter: **Fonterra Co-operative Group Limited**
(Client representative - Sue Ruston / Brigid Buckley)
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1. INTRODUCTION AND SUBMISSION STRUCTURE

- 1.1 Variation 3 (Waitaki and South Coastal Canterbury) to the proposed Canterbury Land and Water Regional Plan (pCLWRP) (the Variation) introduces changes to describe the limits, targets and timeframes and additional policies and rules to address over-allocation of water quantity and quality for the South Coastal Canterbury Area. Through Variation 3, a new Section 15A will be introduced to the pCLWRP.
- 1.2 Fonterra generally supports the direction of Variation 3 subject to the amendments which are outlined in this submission.
- 1.3 The overall conclusion is set out in the following section. The balance of Fonterra's submission is structured into two distinct parts as follows:

Part A – 'Farming related issues'

- a. An overview of farming-related issues
- b. Overview of Fonterra's interest in the South Coastal Canterbury Area
- c. Fonterra's farm-related environmental initiatives in the South Coastal Canterbury Area
- d. Details of concerns and relief sought (Table A).

Part B – ‘Manufacturing related issues’

- a. An Overview of dairy processing-related issues within the Variation
- b. Overview of dairy processing in the South Coastal Canterbury Area
- c. Details of concerns and relief sought (Table B).

1.4 Fonterra’s overall conclusion is set out below.

2. OVERALL CONCLUSION

2.1 An overview of Fonterra’s key issues and concerns is provided at the beginning of Part A and the beginning of Part B of this submission. In many cases the changes sought make Variation 3 more consistent with the Hearings Commissioners’ recommendation on Variation 1, while at the same time recognising the work of the Zone Committee and the Nitrogen Allocation Reference Group (NARG).

2.2 In relation to the provisions that Fonterra has raised concerns about, those provisions require amendment because, without amendment, they:

- will not promote sustainable management of resources and will not achieve the purpose of the RMA;
- are contrary to Part 2 and other provisions of the RMA;
- will not enable the social and economic well-being of the community;
- will not meet the reasonably foreseeable needs of future generations;
- will not achieve integrated management of the effects of the use, development or protection of land and associated resources of the District;
- will not enable the efficient use and development of Fonterra’s assets and operation, and of those resources; and
- do not represent the most appropriate means of exercising the Council’s functions, having regard to the efficiency and effectiveness of the provisions relative to other means.

2.3 Fonterra does wish to be heard in support of this submission.

2.4 If others make a similar submission, Fonterra will consider presenting a joint case with them at the hearing.

2.5 I confirm that I am authorised on behalf of Fonterra Co-operative Group Limited to make this submission.



Jo Appleyard / Ben Williams
Partner / Senior Associate
Chapman Tripp

Dated: 25 May 2015

PART A – FARM RELATED ISSUES

3. OVERVIEW OF FARMING RELATED ISSUES WITHIN THE VARIATION

- 3.1 Fonterra acknowledges the work that Canterbury Regional Council (ECan), the South Coastal Zone Committee and the Nutrient Allocation Reference Group (NARG) has undertaken leading up to the notification of the proposed Variation.
- 3.2 While there is much within the plan that Fonterra supports, it also has a number of concerns. The Co-operative's specific concerns and relief sought in relation to its "on farm" interests are detailed in Table A of this submission.
- 3.3 The relief sought addresses a number of substantive and technical issues. Amongst these there are several common themes that underpin Fonterra's submission. These include the following:
- The importance of recognising the positive aspects of primary production in the catchment, and the value that people and communities gain from that use. This can largely be addressed by amending the introductory narrative within the Variation.
 - Concern about whether the allocation regime proposed (through the imposition of "maximum caps" that vary by soil type) has the effect intended by the NARG.
 - Concern about the catchment load limits imposed being derived from the generic Look Up Table (LUT) and a fixed version of OVERSEER®, both of which will be subject to change (to improve accuracy) in the future. This will mean that load limits may prove to be a flawed basis on which to achieve the water quality outcomes of Variation 3 yet there is no ability (outside of a plan change) to keep the load limits set at levels that represent current best information.
 - The complexity of rules and clarity with which some of the policies are articulated. In particular although Policies 15.4.4 to 15.4.7 attempt to set out the management framework (particularly Rules 15.5.2 to 15.5.5), they fail to provide the necessary clarity to fully understand those rules. Furthermore, the policies do not contain relevant decision-making criteria to allow rules requiring consent to be consistently implemented.
 - The proposal to move to a common catchment expiry regime in the absence of any indication about the allocation method that will replace first-in, first-served regime at common catchment expiry.
 - The proposed prohibition on water permit transfers. Fonterra accepts that in fully or over-allocated catchments transfers have the potential to lead to (further) over-allocation since they may enable consented but previously unused water to be taken and used at a new location. However, Fonterra regards transfers as an important mechanism to ensure flexibility, innovation and efficiency of allocation and believe that carefully design rules can enable transfers without risk of further over-allocation.

4. OVERVIEW OF FONTERRA'S INTEREST IN SOUTH COASTAL CANTERBURY

About Fonterra

- 4.1 Owned by its 10,600 farmer shareholders, Fonterra is a global, co-operative, dairy food company based in New Zealand. It is the world's leading milk processor and dairy exporter

which, through an integrated “grass to glass” supply chain, delivers high quality dairy ingredients and a portfolio of respected consumer brands to customers and consumers around the world.

- 4.2 Employing over 18,000 people, Fonterra has a presence like no other New Zealand owned co-operative or company. Collecting around 17 billion litres of milk domestically Fonterra has production facilities spanning the country from Whangarei to Invercargill. Each one of these sites brings jobs and income to families and communities, and supports local economies within New Zealand.
- 4.3 In addition to domestic milk collection, Fonterra has developed milk pools in key markets worldwide. Approximately 2.3 billion litres of milk is collected and processed overseas, in Australia, Chile and China, and joint ventures in Europe and North America account for another 2.6 billion litres of milk.
- 4.4 Fonterra is committed to being a world leader in dairy research and development, food safety and sustainability, while also supporting communities. Its people work across the dairy spectrum; from dispensing on-farm advice on sustainable dairy farming, milk production and farm economics; through to processing and engineering, food science and innovation. All of which help to ensure the Co-operative meets exacting food quality and safety standards and deliver sustainably produced dairy nutrition every day to customers in over 140 countries.

Overview of the dairy industry in the South Coastal Canterbury Area

- 4.5 Dairy is a key component of the South Coastal Canterbury and broader Canterbury community.
- 4.6 Within the South Coastal Canterbury Area, Fonterra has in the order of 50 farmer shareholders, predominantly supplying its Studholme processing plant. Fonterra's farmer shareholders (and their farm managers and contractors), tanker drivers and plant operators are all significant participants in the community.
- 4.7 In addition to the above, dairying supports rural businesses in the area such as rural retailing, farm suppliers, rural transport and agri-commodity cartage, seed production, ground and surface water irrigation services and rural consultancy. There is the potential for ongoing milk and employment growth as the industry continues to make production efficiency gains.
- 4.8 Economic commentators have noted that despite dairy farming being only 19 per cent of the overall land use in the Canterbury region, it produces 40 to 50 percent of the agricultural contribution to the regional economy¹.

5. FONTERRA'S FARM-RELATED ENVIRONMENTAL INITIATIVES IN THE SOUTH COASTAL CANTERBURY AREA

- 5.1 Fonterra is committed to environmentally sustainable business practices. Fonterra's ability to produce quality food products relies on New Zealand having a healthy and resilient ecosystem.
- 5.2 Fonterra is also committed to collaborative planning processes and to meeting the community's consensus on use and protection of New Zealand's natural resources.
- 5.3 The following illustrates some of the Co-operative's key sustainability initiatives.

¹ Environment Canterbury. 2014. Technical report to support water quality and water quantity limit setting process in Selwyn Waihora Catchment. Predicting consequences of future scenarios: Economic impact.

Sustainable Dairying Water Accord

- 5.4 As a signatory of the *Sustainable Dairying: Water Accord* (the Accord), Fonterra has made a commitment that its farmers will exclude dairy cattle from all waterways and drains on their properties that are greater than one metre in width and deeper than 30cm. Auditing shows that near on 100 percent of defined waterways in the area are now fenced and near on 100 percent of regular stock waterway crossings are culverted.
- 5.5 Fonterra will also encourage riparian planting where it would provide a water quality benefit – and require its farmers to have riparian management plans in place and being implemented by 31 May 2020.
- 5.6 As a party to the Accord Fonterra requires its supplier farmers to collect nitrogen loss information and promote practices on farm to reduce their nitrogen and phosphorus losses. The Co-operative also requires dairy effluent systems to be able to meet 365-day compliance with applicable council rules, and require farmers to install water meters.
- 5.7 Most aspects of the Accord are already compulsory components of Fonterra's Supply Fonterra contract.

Supplier contract – “Supply Fonterra”

- 5.8 Fonterra's supplier agreement - a contract referred to as "Supply Fonterra" – is, in effect, its long-term behaviour change programme. It is founded on four key elements:
 - (a) minimum standards that must be achieved in order to be able to supply milk to Fonterra;
 - (b) one-on-one advice and support to guide farmers to best management practice;
 - (c) practical education and resources for farmers (including support from Fonterra's industry partners DairyNZ and AgITO); and
 - (d) recognition and reward for those who are at the cutting edge of sustainability, milk quality and animal welfare.
- 5.9 The Environment Programme for Supply Fonterra includes four modules: Effluent Management; Waterway Management; Nitrogen Management and Water Use Efficiency.

Effluent Management

- 5.10 The minimum standard for the Effluent Management Programme requires Fonterra farmers to have systems in place that manage all effluent sources in a manner that complies with the relevant regional council resource consent or permitted activity rules, 365 days a year; and where this is not achieved, that they work with a Fonterra Sustainable Dairy Advisor to create an Environment Improvement Plan (EIP) that sets out the actions required to achieve the minimum standard. Implementation of the plan is checked by the Sustainable Dairying Advisor.

Waterway Management

- 5.11 This programme focuses on reducing impacts on surface water quality.
- 5.12 The minimum standards for this programme are:
 - (a) The exclusion of stock from all waterways that are wider than 1 metre, deeper than 30cm and permanently contain water;
 - (b) All regular stock crossing points are required to have bridges or culverts; and

- (c) Sediment and/or effluent is not to be discharged into any waterway where it is likely to result in a significant adverse effect on the environment.

- 5.13 The programme also provides guidance and advice to Fonterra farmers about managing the risks from fodder crops and wintering practices, and about stock exclusion on run-off blocks.
- 5.14 Compliance with the stock exclusion and crossing requirements is assessed annually. Working with the farmer, the assessor uses electronic mapping technology and aerial photographs to identify and classify the waterways on the farm and the level of stock exclusion that has been achieved. To ensure accuracy, all information provided by farmers is verified on-farm by a Fonterra employee or a third party contractor.

Nitrogen Management

- 5.15 This programme was introduced in 2012 and seeks to:
 - (a) Model each Fonterra farmer's nitrogen loss and efficiency at year end, using actual farm data, and in accordance with the industry developed protocol for the use of OVERSEER®;
 - (b) Provide this information to Fonterra farmers in an easy to understand format that shows how they are performing compared to their peers; and
 - (c) Provide an audited record of nitrogen loss that allows Fonterra farmers to easily participate in audited self-management schemes or demonstrate compliance with regulatory requirements.
- 5.16 This programme requires Fonterra farmers to submit on-farm data at the completion of every dairy season. This information is then entered into the OVERSEER® model to indicate nitrogen loss risk and use efficiency for the given farm system. There is also a support package to assist Fonterra farmers to reduce losses whilst increasing efficiency.

Water Use Efficiency

- 5.17 The water use efficiency programme was new for the 2013/14 season and focuses on improving water use management on all Fonterra farms to ensure Fonterra farmers are using no more water than what is required to produce safe and hygienic milk and irrigation systems are designed to minimise the amount of water needed to meet production objectives.
- 5.18 The programme focuses on:
 - (a) Regional Consents: Informing Fonterra farmers on when their regional water access rules are changing; and
 - (b) Water Use Efficiency: Helping Fonterra farmers realise the benefits of water use efficiency through measuring and monitoring. Fonterra farmers will need to install water meters by 2018/19 to start measuring and monitoring their water use.

Annual auditing

- 5.19 Every farm supplying Fonterra is assessed annually for compliance with Supply Fonterra. Where an issue is identified a Sustainable Dairying Advisor will meet with the farmer and formulate an agreed Environmental Improvement Plan (EIP). The EIP will be followed up with the farmer to ensure that the actions agreed are completed, and the minimum standard achieved. There are a series of tangible consequences where a farmer fails to remedy the situation or work with the Sustainable Dairying Advisor to develop an EIP. The final sanction is the non-collection of milk.

PART A SPECIFIC SUBMISSIONS - TABLE A

Table A: Specific Submissions

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
A1	15-1 – 15-	Introductory narrative to Section 15	Oppose	Fonterra submits that while the introductory narrative appropriately describes the physical characteristics and cultural values of both South Coastal Canterbury and the Lower Waitaki-South Coastal Canterbury Zone Committee solutions package, it does not fully acknowledge the social and economic values and the importance of agriculture to the well-being of people and communities.	<p>Add two new paragraphs to the introductory narrative before the description of the Lower Waikati-South Coastal Canterbury Zone Committee process (i.e. between the first and second paragraphs on page 15-3) and key actions as follows:</p> <p><u><i>The Lower Waitaki-South Coastal Canterbury Area that is addressed in this section includes a diverse range of farming, industrial and township based activities. The sub-region is of significant economic, social and cultural importance to the wider Canterbury and Otago Regions.</i></u></p> <p><u><i>The South Coastal Canterbury area is an important area for agriculture and food production which provides significant employment, both on farm and in processing and service industries. The social and economic well-being of the community is reliant on the agricultural industry and associated processing and it is important that it is retained so that the community can thrive</i></u></p>
SECTION: Definitions					
A2	15-4	Existing farming activity	Oppose	Fonterra recognises what Variation 3 is attempting to achieve by defining “existing farming activities”. However, Fonterra does not consider the definition	Delete the definition of “existing farming activity”

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				is workable. The obvious question is what is a “farming activity” that was in existence at 1 May 2015? Does it need to be precisely the same activity (for example the same type of stock, the same stocking rates, the same feed, the same crops over the same area/on the same paddocks etc.)? If not, what level of change is required before a farming activity is regarded as a “new activity”. While a more detailed definition might be possible to draft, Fonterra does not consider the definition necessary since it only has application within one rule. As noted elsewhere in the submission, Fonterra considers the rules can be drafted to have the effect intended without use of these terms.	
A3	15-4	New farming activity	Oppose	Consistent with the above comments on “Existing farming activity”, Fonterra considers the definition of “New farming activity” unnecessary and unworkable. Fonterra otherwise repeats its comments in respect of “Existing farming activity”.	Delete the definition of “new farming activity”.
A4	15-4	New definition: Individual Farming activity	Support	In order to be able to simplify Rule 15.2.2 (in particular) it would be useful to define an “Individual farming activity”. This will distinguish individual farming activities from those farms operating as part of farming enterprises or nutrient user groups	Insert a new definition for Individual farming activity as follows: <u><i>Individual farming activity means a farming activity undertaken on land that is not part of a Nutrient Management Group or Farming Enterprise nor a property that is supplied with water by an irrigation scheme.</i></u>
SECTION: Policies – Managing Land use to Improve Water Quality					
A5	15-5	15.4.2	Oppose	The water quality outcomes for the Northern Streams, Waihao-Wainono and Morven-Sinclairs	Combine Policies 15.4.1 and 15.4.2 as follows: <u><i>Achieve the water quality outcomes for the</i></u>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				<p>Area are set out in Tables 15(a), 15(b), 15(c), 15(d), and 15 (e) (although in the latter tables the outcomes are described as “limits”).</p> <p>Appropriately, the tables cover a range of water quality attributes not directly related to the nitrogen load (including, for example, siltation, E.coli, temperature etc).</p> <p>Despite that, Policy 15.4.2 proposes to “achieve the water quality outcomes ...by not exceeding the nitrogen load limits of Tables 15(o) and 15(p)”.</p> <p>While the intent is supported, the policy does not appropriately reflect the wider matters that contribute to nutrient loss (noting, for example, the water quality outcomes sought under Variation 3 will not be met by restricting nitrogen alone).</p> <p><i>NB Fonterra has a more fundamental concern about the level at which load limits have been set and their continuing appropriateness derived, as they are, from the existing load as modelled using OVERSEER® and the LUT. This issue is discussed in relation to Tables 15(o) and (p).</i></p>	<p><u>South Coastal Canterbury Area by:</u></p> <p>a) <u>Reducing losses of microbes, phosphorus and sediment;</u></p> <p>b) <u>Enabling the Wainono Restoration Project; and</u></p> <p>c) <u>Limiting the aggregate nitrogen discharge from farming activities to the load limits specified in Tables 15(o) and 15(p).</u></p>
A6	15-5	15.4.3	Oppose	<p>Policy 15.4.3 refers to “avoiding the movement of nitrogen between the Plains Areas and the Hill Areas.”</p> <p>The expression “movement of nitrogen” is unclear and capable of multiple interpretations. For example, it could mean that nitrogen fertiliser is not to be moved between these areas or that stock feed containing nitrogen is not to be moved between these areas. Alternatively it could be referring to farmers shifting where nitrogen loss</p>	Clarify the intent of Policy 15.4.3 when it refers to “movement of nitrogen” and use alternative terminology in the policy to explain that intent.

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				<p>occurs by moving stock for wintering. Another interpretation might relate to the ability to share nitrogen loss entitlement across the Plains Area/Hill Area boundary through the use of the farming enterprise or nutrient user group mechanisms.</p> <p>In any event, nitrogen does move between these areas through natural hydrological processes and it is inappropriate to suggest that Ecan can avoid that occurring.</p>	
A7	15-5	15.4.4	Oppose	<p>Policy 15.4.4 focuses on the specific actions required from farming activities to improve water quality. However, the policy commences the same as Policy 15.4.1 (noting both policies address requirements on farming activities). Fonterra considers it would make the plan easier to follow if all matters relating to requirements of farming activities in relation to general water quality improvements were consolidated into Policy 15.4.4.</p> <p>Policy 15.4.4 and Policy 15.4.1 both focus on the actions that farming activities will need to do to improve water quality in the catchment.</p> <p>Rather than two policies, which both commence with identical wording (“<i>Improve water quality in the South Coastal Canterbury Area by...</i>”), Fonterra suggests that it would be more logical to group all actions relating to farming activities into one single policy.</p> <p>The reference requiring all farming activities to “operate at good management practice” (15.4.4.a) is vague, and departs from the approach adopted by Commissioners in relation to Variation 1 (where</p>	<p>Redraft Policy 15.4.4 as follows:</p> <p><u><i>Reduce the impact of farming activities on water quality of the South Canterbury Area by requiring:</i></u></p> <p>a) <u><i>all farming activities to adopt the Good Management Practices set out in Schedule 24b unless alternative practices are more appropriate; and</i></u></p> <p>b) <u><i>the preparation and implementation of a Farm Environment Plan for the use of any land by any farming activity requiring a resource consent; and</i></u></p> <p>c) <u><i>the exclusion of intensively farmed stock from drains (in addition to the region-wide stock exclusion provisions).</i></u></p> <p>Delete Policy 15.4.1</p>

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				the requirement to adopt good management practice was linked directly to the scheduled practices).	
A8	15-5	15.4.5	Oppose	<p>As noted in the comments on the definitions of “Existing farming activity” and “New farming activity” (refer to Submission Points A2 and A3), Fonterra has doubts about the workability and need for references to existing or new farming activities - and in particular, the lack of clarity regarding the point at which an on farm change will trigger reclassification as a “New farming activity”). Furthermore:</p> <ul style="list-style-type: none"> Fonterra considers that the policy should focus on “managing nitrogen losses”. Other policies already focus on “improving water quality”; It would be helpful to more clearly differentiate between the pre-2030 and post-2030 regime; and the policy needs to link to other policies providing guidance on when and how a departure from the general policy approach outlined in Policy 15.4.5 will be considered. 	<p>Reword Policy 15.4.5 as follows:</p> <p><u>Manage nitrogen losses from farming activities</u> <u>Improve water quality in the Northern Streams Area and Waihao-Wainono Area by requiring:</u></p> <p><u>(a) From 15 May 2015 enabling farming activities to operate in accordance with the greater of the nitrogen baseline or the flexibility cap relevant to the respective area except where provided for in accordance with Policy 15.4.6; and</u></p> <p><u>(ab) From 1 January 2030 reduce discharges of nitrogen in the catchment by requiring all existing farming activities that have a nitrogen baseline greater than the flexibility cap to except those on extremely light soils as shown on the Planning Maps, to comply with the maximum cap annual nitrogen loss rate set out in Table 15 (n) except where provided for in accordance with Policy 15.4.7;</u></p>
A9	15-5	15.4.6	Oppose	<p>Policy 15.4.6 needs to more clearly state under what situations a farming activity will be able to operate above the greater of the baseline or flexibility cap in the period before 2030 as the notified version is unclear in this regard. Fonterra believes that specific recognition should be given to those farms that may have lawfully increased their nitrogen discharge by up to 5kgs N/ha/yr over</p>	<p>Reword Policy 15.4.6 as follows:</p> <p><u>In the Northern Streams Area and Waihao-Wainono Area, improve water quality while allowing for the continued operation of existing farming activities above the greater of their nitrogen baseline or flexibility cap where those activities are located within the Orange or</u></p>

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				<p>the past 18 months under the provisions of the pLWRP (on the basis that they are located in the Orange or Green nutrient allocation zones of the pLWRP).</p> <p>While Fonterra accepts that such farms ought to be subject to consent under the general framework of the Plan, it considers that a pathway should be provided for those farms to commence within this new regime at whatever leaching rate that was lawfully established as at the date of notification (before they are required to reduce their nitrogen loss to be consistent with the maximum nitrogen loss rates that apply for the longer term).</p>	<p><u>Green nutrient allocation zone and lawfully increased their nitrogen loss above their nitrogen baseline and flexibility cap before 15 May 2015 provided:</u></p> <p>a) <u>The increase in nitrogen loss beyond the nitrogen baseline does not exceed 5kg nitrogen per hectare per annum; and</u></p> <p>b) <u>the farming activity is operated in accordance with a Farm Environment Plan that sets out actions to be implemented to ensure long-term compliance with the maximum annual nitrogen loss rate in Table 15(n).</u></p>
A10	15-5	15.4.7	Oppose	<p>Come 2030, there are likely to be farms that have been unable to reduce their nitrogen loss rates from high baseline rates to the maximum loss rate. Fonterra considers it appropriate that the policy framework sets out clearly how such farms will be dealt with at that time.</p> <p>Fonterra considers it appropriate that those farms are subject to a restricted discretionary activity (RDA) consent requirement. Accordingly, the policy framework needs to set out the matters that will be relevant for decision-makers to consider when determining such RDA consent applications. As proposed, Policy 15.4.7 fails to do that.</p>	<p>Delete Policy 15.4.7 and replace with the following</p> <p><u>If the maximum annual nitrogen loss rates required in Policy 15.4.5(b) are unable to be achieved by 1 January 2030, any extension of time to achieve the reductions will be considered having regard to:</u></p> <p>a) <u>The nitrogen baseline and the level of any enduring nitrogen loss rate reduction already achieved from that baseline; and</u></p> <p>b) <u>The capital and operational costs of making nitrogen loss rate reduction and the benefit (in terms of maintaining a farming activity's financial viability) of spreading that investment over time; and</u></p> <p>c) <u>The nature, sequencing, measurability and enforceability of any steps proposed to achieve the nitrogen loss rate reductions.</u></p>

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A11	15-6	15.4.30	Oppose	<p>Policy 15.4.30 states that transfers are only provided for through transfer to a new owner of the same property or for community water supply. Fonterra opposes this policy.</p> <p>As a general principle, Fonterra supports water transfers as an important mechanism to achieve allocative efficiency.</p> <p>While it is accepted that in fully allocated catchments/groundwater zones transfers (especially in relation to irrigation) ought not allow for previously unused water to be used or used more regularly, that ought not translate to a general prohibition on transfers</p> <p>Furthermore, it is inappropriate to signal that the means to meet environmental flow and allocation limits is to prohibit transfers. The Council is required under the NPSFM to provide for transfers. The means to meet environmental flow and allocation limits is to grant and decline consents to take water on the basis of those limits. Where there is a situation of over allocation the Council is required to consider the most effective and efficient means to reduce that over allocation. Fonterra is not aware that such an evaluation has been undertaken.</p>	<p>Amend policy 15.4.30 to enable transfers provided that they do not result in additional water use on catchments/ zones that are fully or over allocated.</p> <p>Fonterra seeks the following wording:</p> <p><u>Enable the transfer of ground and surface water permits except to the extent that such transfers would result in environmental flow and allocation limits being exceeded or further exceeded.</u></p> <p>Should the Council not make such a change, the policy should (as set out in Part B of this submission), as a minimum, provide for transfers where <u>the transferred water is, or will following transfer, be used for an industrial or trade process and result in a neutral or positive water balance.</u></p> <p>Such a change would be consistent with the Commissioners' decision on Variation 1.</p>
A12	15-9	15.4.35 (along with Policies, 15.4.20, 15.4.21, 15.4.23 – see Part B of this submission)	Oppose	<p>Policy 15.4.35 proposes common catchment expiry dates and a ten-year consent duration (in fully allocated catchments). Fonterra has two main concerns with this policy.</p> <p>First, it is not clear what activities this policy applies to. It is expressed without qualification and hence must logically apply to all consents granted</p>	<p>Policy 15.4.35 should be deleted.</p> <p>In the event that Council determines not to delete this policy, Fonterra requests the following amendment:</p> <p><u>Integrated catchment management is facilitated by:</u></p>

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				<p>with a fixed-term duration. This includes land use (and discharge) consents under rules 15.5.1 to 15.5.21. It is unclear why common expiry is proposed for land use consents or what benefit will be gained by common catchment expiry.</p> <p>Secondly, common catchment expiry is only necessary if there is some intention of changing the basis of allocation at the common catchment expiry date (i.e. ending the first in first served regime and prioritising amongst applications lodged at the same time). This is not proposed under Variation 3.</p> <p>The costs associated with common catchment expiry (and subsequent 10-year consents) are apparent but the benefit (or additional risk) associated with that proposal cannot be assessed because the approach to consenting at the common catchment expiry date is unstated.</p> <p>Furthermore, Fonterra points out that ECan is obliged to process consents within statutory timeframes or provide discounts to consent applicants (<i>under the Resource Management (Discount on Administrative Charges) Regulations 2010</i>). The Co-operative is aware that this has dissuaded other councils from applying common catchment expiry dates when that would lead to large numbers of consents requiring processing at the same time.</p>	<p><u>(a) applying a common catchment expiry to all consents to take and use surface or ground water for irrigation of:</u></p> <p>...</p> <p>If the primary relief (i.e. deletion of Policy 15.4.35) is accepted, undertake consequential amendments to Policies, 15.4.20, 15.4.21, 15.4.23 as required to deal with concerns around common catchment expiry.</p>
SECTION: Rules					
A13	15-10	15.5.2	Oppose	The construction and application of this rule is extremely complex, and consequently it is very	Redraft rule 15.5.2 into four separate rules as follows.

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				<p>difficult to understand it.</p> <p>This complexity in part arises through trying to distinguish between existing and new farming activities. This is a level of complexity that does not appear to be necessary as it is difficult to envisage a new farming activity that would not result in a farming activity exceeding the nitrogen baseline and/or flexibility cap that applies to the existing farming activity (which is generally prohibited). As noted earlier, Fonterra considers the definitions of those terms unworkable.</p> <p>Complexity also exists because of:</p> <ul style="list-style-type: none"> the need to be clear that the rule does not apply to Nutrient User Groups and Farm Enterprises; the need to distinguish the activity status for those exceeding the nitrogen baseline in the Northern Streams Area; the need to distinguish between the regime that applies in the Morven-Sinclairs Area and elsewhere; and The need to ensure the correct limits from Tables 15(m) are applied. <p>Fonterra considers that these matters can be made clear by creating separate rules for each of the areas.</p> <p>Fonterra also considers the rules contain a number of anomalies which may be unintended. This includes the apparent ability of farms in the Waihao-Wainono Plains area that do not meet the (raised) flexibility caps in the year following</p>	<p><u>Rule 15.5.2</u></p> <p><u>The use of land for an Individual Farming Activity in the Waihao-Wainono Plain is a permitted activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>The nitrogen loss calculation does not exceed the greater of the nitrogen baseline or</u> <ol style="list-style-type: none"> <u>10kg nitrogen per hectare per annum;</u> <u>When augmentation has occurred in the preceding year:</u> <ol style="list-style-type: none"> <u>15 nitrogen per hectare per annum; or</u> <u>17 nitrogen per hectare per annum if after 1 January 2030; and</u> <u>From 1 January 2030, the nitrogen loss calculation does not exceed the maximum nitrogen loss rate set out for the relevant soil type set out in Table 15(n); and</u> <u>The farming activity is operating at good management practice as set out in Schedule 24b.</u> <p><u>Rule 15.5.2A</u></p> <p><u>The use of land for an Individual Farming Activity in the Waihao-Wainono Hills is a permitted activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>The nitrogen loss calculation does not</u>

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				<p>augmentation to apply for consents as restricted discretionary activities, while failure to meet the flexibility cap from the same area before augmentation would be prohibited.</p> <p>Fonterra has also noted that some farms are located in the “Orange” and “Green” nutrient management zones as identified in the pLWRP. Accordingly, it is possible that farms within these areas will have lawfully increased their nitrogen loss rates by up to 5kgs N/ha/yr under the permitted activity rules of that plan. If that is the case they would become prohibited activities under the Variation. Fonterra considers that unreasonable and it proposes that any such farms should become restricted discretionary activities.</p> <p>Finally, Fonterra considers that the term “maximum cap” is an unnecessary new term and should be replaced by the term “maximum nitrogen loss rate”.</p>	<p><u>exceed the greater of the nitrogen baseline or 5kg N/ha/yr; and</u></p> <ol style="list-style-type: none"> <u>From 1 January 2030, the nitrogen loss calculation does not exceed the maximum nitrogen loss rate set out for the relevant soil type set out in Table 15(n); and</u> <u>The farming activity is operating at good management practice as set out in Schedule 24b.</u> <p><u>Rule 15.5.2B</u></p> <p><u>The use of land for an Individual Farming Activity in the Northern Streams Plains is a permitted activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>The nitrogen loss calculation does not exceed the greater of the nitrogen baseline or,</u> <ol style="list-style-type: none"> <u>15kg nitrogen per hectare per annum or</u> <u>17kg nitrogen per hectare pr annum if after 1 January 2030; and</u> <u>From 1 January 2030, the nitrogen loss calculation does not exceed the maximum nitrogen loss rate set out for the relevant soil type set out in Table 15(n); and</u> <u>The farming activity is operating at good management practice as set out in Schedule 24b.</u>

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					<p><u>Rule 15.5.2C</u></p> <p><u>The use of land for an Individual Farming Activity in the Northern Streams Hill is a permitted activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>1. The nitrogen loss calculation does not exceed the greater of the nitrogen baseline or 5kg nitrogen per hectare per annum; and</u> <u>2. From 1 January 2030, the nitrogen loss calculation does not exceed the maximum nitrogen loss rate set out for the relevant soil type set out in Table 15(n); and</u> <u>3. The farming activity is operating at good management practice as set out in Schedule 24b.</u> <p><u>Rule 15.5.2D</u></p> <p><u>The use of land for an Individual Farming Activity in the Morven Sinclairs Area is a permitted activity provided the following conditions are met:</u></p> <ol style="list-style-type: none"> <u>1. The nitrogen loss calculation does not exceed the nitrogen baseline; and</u> <u>2. The farming activity is operating at good management practice as set out in Schedule 24b.</u> <p>As proposed elsewhere in this submission, create a definition of “Individual farming activity” to differentiate farming activities that are part of a Farming Enterprise or Nutrient User Group.</p>

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A14	15-11 15-32	15.5.3 and Table 15(n) (along with Rules 15.5.4 and 15.5.5)	Oppose	<p>For the reasons discussed in respect of Rule 15.5.2, Rule 15.5.3 requires substantial amendment.</p> <p>In addition, Fonterra notes that, similar to Rule 15.5.2. the construction of this rule is complex and by using the definition of <i>Individual farming activity</i> the rule could be simplified (as could Rules 15.5.4 and 15.5.5).</p> <p>Furthermore, the scope of this rule is unclear. In particular, while Rule 15.5.2 states that a farming activity can exceed its relevant flexibility cap as a permitted activity (provided it does not exceed its nitrogen baseline) Rule 15.5.3 appears to contradict that by requiring restricted discretionary consent when Column B, C, E, F flexibility caps (as set out in Table 15(o) are exceeded. This appears to be a drafting error (as is the reference to “Rule 15.4.2”).</p> <p>Fonterra is also concerned that matter of discretion 1 refers to whether the catchment load will be exceeded. The loads are modelled and their continuing appropriateness is subject to improvements in modelling (including through OVERSEER® updates). Fonterra is concerned that Rule 11.5.3 locks-in the loads of Table 15(p) effectively inhibiting the questioning and recalculation of the appropriate load through the consenting process.</p> <p>Fonterra’s relief with regard to this matter is partly set out in relation to Table (p). However, Fonterra considers that matter of discretion 1 ought to be amended to allow current best information to be</p>	<p>Redraft Rule 15.5.3 as follows:</p> <p>Rule 15.5.3</p> <p><u>The use of land for an individual farming activity, except any land that is part of a nutrient User Group or Farming Enterprise, or land that is within the command area of an irrigation Scheme where the nutrient loss from the farming activity is being managed by the scheme and any land within the command area of an irrigation scheme where the nutrient loss is not being managed by the scheme, that:</u></p> <p><u>1. Does not meet any of the conditions 1(a), 1(c) or 4 of Rule 15.5.2, the following:</u></p> <p><u>a) Condition 2 or 3 of Rule 15.5.2; or</u></p> <p><u>b) Condition 2 or 3 of Rule 15.5.2A; or</u></p> <p><u>c) Condition 1, 2 or 3 of Rule 15.5.2B; or</u></p> <p><u>d) Condition 2 or 3 of Rule 15.5.2C; or</u></p> <p><u>e) Condition 1 or 2 of Rule 15.5.2D; or</u></p> <p><u>2. Is within the Orange or Green nutrient allocation zone and does not meet any of the following:</u></p> <p><u>a) Condition 1, 2 or 3 of Rule 15.5.2; or</u></p> <p><u>b) Condition 1 of Rule 15.5.2A; or</u></p> <p><u>c) Condition 1 of Rule 15.5.2C, is a restricted discretionary activity</u></p>

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				used regarding the appropriate leaching rate at the time of a consent application.	<p><u>provided the following condition is met:</u></p> <ol style="list-style-type: none"> <u>A Farm Environment Plan has been prepared in accordance with Schedule 7 Part A, and is submitted with the application for resource consent.</u> <p><u>The exercise of discretion is restricted to the following matters:</u></p> <ol style="list-style-type: none"> Whether the nitrogen loss from the farming activity will result in the total catchment load limits as per table 15(p) or the flexibility caps in Table 15(m) being exceeded <u>The nitrogen loss rates to be applied to the property and rate at which they should reduce to achieve the maximum nitrogen loss rate; and</u> <u>The quality of, compliance with and auditing of the Farm Environment Plan; and</u> <u>The proposed management practices to avoid or minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land; and</u> <u>The potential effect of the land use on surface and groundwater quality and sources of drinking water; and</u> <u>The appropriateness of the actions and timeframes described in the Farm Environment Plan in achieving the maximum cap loss rates nitrogen loss</u>

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					<p><u>rate in Table 15(n); and</u></p> <p>7. <u>The soil type having regard to the quality and appropriateness of any soil mapping carried out for the property; and</u></p> <p>8. <u>The potential adverse effects of the activity on Ngai Tahu cultural values; and</u></p> <p>9. <u>The matters set out in Policy 15.4.5.</u></p> <p>Or such similar wording that would allow for any updated load limit to be the relevant at the time of consent rather than (necessarily) those limits currently included in Table 15 (p).</p> <p>Make corresponding amendments to Rules 15.5.4 and 15.5.5.</p> <p>See also amendment proposed to Table 15(n).</p>
A15	15-11	15.5.5	Oppose	For reasons stated in relation to the changes made to Rules 15.5.2 and 15.5.3, consequential changes need to be made to Rule 15.5.5.	<p>Amend Rule 15.5.5 as follows:</p> <p><u>The use of land for an Individual Farming Activity, except any land that is part of a Nutrient User Group or Farming Enterprise, or land that is within the command area of an irrigation Scheme where the nutrient loss from the farming activity is being managed by the scheme and any land within the command area of an irrigation scheme where the nutrient loss is not being managed by the scheme, that is within the Red nutrient allocation zone and that does not meet one or more of conditions 1(a), 1(c) or 4 of Rule 15.5.2:</u></p> <p>1. <u>Condition 1, 2 or 3 of Rule 15.5.2; or</u></p>

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					<p>2. <u>Condition 1 of Rule 15.5.2A; or</u></p> <p>3. <u>Condition 1 of Rule 15.5.2C.</u></p> <p><i>is a prohibited activity</i></p>
A16	15-17	15.5.26	Oppose	<p>Rule 15.5.26 prohibits certain groundwater takes and the take of surface water from waterbodies not listed in Table 15(f) to 15(j).</p> <p>Although the Rule is preceded by an advice note that “Rule 5.111, 5.112 and 5.115 apply”, Fonterra remains concerned that Rule 15.5.26 will over-ride the ability to lawfully take small volumes of water under rules 5.111 and 5.112 for rural domestic and non irrigation farm purposes.</p>	<p>Amend Rule 15.5.26 as follows:</p> <p><u>Except as provided in Rules 5.111, 5.112 and 5.115, the take and use of groundwater with a direct, high or moderate stream depletion effect or the take and use of surface water from any waterbody that is not listed in Table 15(f) to 15(j) inclusive is a prohibited activity</u></p>
A17	15-21	15.5.40	Oppose	<p>Fonterra opposes the making of transfers prohibited activities as it frustrates efficient allocation. Fonterra considers that concerns about transfers contributing to over-allocation can be addressed by careful rule design.</p> <p>On the basis that transfers are contemplated under the Act, the NPSFM (Policy B3) requires councils to state criteria by which applications for approval of transfers are to be decided. Transfers should be similarly contemplated under Variation 3.</p> <p>The amendments proposed are intended to generally align with those provided for in Variation 1 to the proposed pCLWRP.</p>	<p>Draft Rule 15.5.40 as follows:</p> <p><u>The temporary or permanent transfer, in whole or in part, (other than to the new owner of the site to which the take and use of water relates and where the location of the take and use of water does not change) of a water permit to take or use surface water or groundwater that does not meet condition 1 of rule 15.5.39 a prohibited activity is a discretionary activity provided the following conditions are met:</u></p> <p><u>1. The volume of water to be transferred for annual take and use does not exceed the greater of:</u></p> <p><u>(a) the annual average volume taken and used over the period 01 July 2009 – 30 June 2013 ; and</u></p> <p><u>(b) the annual average volume taken and</u></p>

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					<p><u>used over the four-year period immediately preceding the application to transfer the water permit.</u></p> <p><u>2. In the case of a partial transfer, the total volume taken and used in all locations under the permit shall not exceed the volume described in 1 above.</u></p> <p>Add an additional Rule 15.5.40A as follows:</p> <p><u>The temporary or permanent transfer, in whole or in part, (other than to the new owner of the site to which the take and use of water relates and where the location of the take and use of water does not change) of a water permit to take or use surface water or groundwater that does not meet condition 1 or condition 2 of Rule 15.5.40 must not under section 136 of the RMA be approved, in the same was as if it were a prohibited activity.</u></p>
SECTION: Tables					
A18	15-32	Table 15(m)	Oppose	<p>For the reasons discussed in relation to Rules 15.2.2 and 15.2.3 (refer to Submission Point A13) Fonterra considers that Table 15(m) should be deleted and the relevant limits included within Rule 15.2.2 itself.</p> <p>For the reasons set out below the flexibility cap numbers should also be revised if, and when the catchment load and maximum caps are revised and following the release of new versions of OVERSEER®.</p>	Delete Table 15(m).

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A19	15-32	Table 15(n)	Oppose	<p>Table 15(n) contains the maximum caps for each soil type (as noted earlier Fonterra suggests these be referred to simply as “maximum nitrogen loss rates”).</p> <p>Fonterra supports the general concept of the maximum cap. Fonterra understands that the maximum caps, as envisaged by the Nitrogen Allocation Reference Ground (NARG), were intended to deliver a planning outcome that would, under the land uses/farming system anticipated, see the bulk of the required reductions in nitrogen loss fall on activities on <i>extra light and light soils</i>. Poorly drained and poorly drained light soils would generally be able to <i>increase</i> nitrogen loss - taking advantage of the flexibility cap.</p> <p>However, based on preliminary modelling results carried out by DairyNZ, Fonterra is concerned that the maximum nitrogen loss rates set in Table 15(n) may in fact have an unintended and perverse effect. That is, based on a study of nine farms in the area it appears that activities on poorly drained light soils will be required to make all the reductions.</p> <p>Given that such an outcome would be in direct conflict with the intent as recorded in Appendix 22 of the South Canterbury Coastal Streams Limit Setting Process Overview Report Fonterra considers that there needs to be a fundamental reconsideration at the levels at which the maximum nitrogen loss rates (and flexibility caps) are set.</p> <p>Fonterra is concerned, that the maximum loss</p>	<p>Amend Table 15(n) by adjusting the maximum caps following rerunning the models for determining the existing and required catchment load. This remodelling process should address the issues identified in this submission including the desirability of basing the initial maximum nitrogen leaching rates on the MGM.</p> <p>Fonterra considers that the maximum rates should be set at levels that deliver the outcomes as agreed by the NARG and recorded in Appendix 22 of the South Canterbury Coastal Streams limit setting, Predicting consequences of future scenarios: Process Overview Report. Norton and Robson, 2015, Report No R15/29.</p> <p>For the avoidance of doubt, it is Fonterra’s understanding that amongst other things this would allow for existing land use intensity (of up to 5 cows/ha at GMP) on poorly drained and poorly drained light soils.</p> <p>Amend Table 15(n) as follows:</p> <table><tr><th><u>Soil type as shown on Planning Maps</u></th><th><u>Soil type (S-Map+ references)</u></th><th><u>Maximum cap nitrogen loss rate</u></th><th><u>Existing farming activities</u></th></tr><tr><td><u>Extremely Light and Light</u></td><td>Timu_ 1a.2 Timu_ 1a.1 Omrk_ 8a.1 Benm_ 2a.4 Pentl_ 3a.1</td><td><u>35*</u></td><td></td></tr></table>	<u>Soil type as shown on Planning Maps</u>	<u>Soil type (S-Map+ references)</u>	<u>Maximum cap nitrogen loss rate</u>	<u>Existing farming activities</u>	<u>Extremely Light and Light</u>	Timu_ 1a.2 Timu_ 1a.1 Omrk_ 8a.1 Benm_ 2a.4 Pentl_ 3a.1	<u>35*</u>	
<u>Soil type as shown on Planning Maps</u>	<u>Soil type (S-Map+ references)</u>	<u>Maximum cap nitrogen loss rate</u>	<u>Existing farming activities</u>										
<u>Extremely Light and Light</u>	Timu_ 1a.2 Timu_ 1a.1 Omrk_ 8a.1 Benm_ 2a.4 Pentl_ 3a.1	<u>35*</u>											

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				<p>rates (and the load limits from which they are derived – as discussed below) will currently be incorrect because of issues DairyNZ has identified with the modelling (see below) and because of the inherent uncertainties with current catchment modelling.</p> <p>Furthermore, it is noted that the soil type classification used in the Variation does not appear to be the soil classification system applied by farmers through OVERSEER®. The relationship between these three soils types listed and those shown on S-Maps used in OVERSEER® modelling is not clear and hence there is the potential for confusion and inconsistency (particularly when S-map classifications do not accord with the soil types mapped in Variation 3). In Fonterra’s view, these issues could be assisted by Variation 3 referring directly to the soil types as shown on S-Maps and as applied to OVERSEER® modelling, provided that the overall intent of the maximum loss rates is still met.</p>		<i>Darn_6a.2</i> <i>Darn_7a.2</i> <i>Darn_1a.2</i> <i>Raka_2a.1</i> <i>Mayf_2a.1</i> <i>Okuk_1a.1</i> <i>Ruahi_3a.2</i> <i>Waip_1a.1</i> <i>Melf_1a.1</i> <i>Eyre_3a.1</i>		
					<u>Medium</u>	<i>Kaur_2a.1</i> <i>Paha_5a.1</i> <i>Waka_6a.1</i> <i>Temp_2a.1</i> <i>Waka_1a.1</i> <i>Mayf_1a.1</i> <i>Eyre_1a.1</i> <i>Ngap_1a.1</i> <i>Fris_1a.1</i> <i>Toka_1a.1</i>	<u>25*</u>	
					<u>Poorly drained</u>	<i>Clar_1a.1</i> <i>Clar_1a.2</i> <i>Tait_6a.1</i> <i>Clar_2a.1</i> <i>Motu_3a.1</i> <i>Flax_1a.1</i> <i>Ytoh_1a.1</i>	<u>20*</u>	

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					<table><tr><td></td><td>Ytoh_3a.1</td><td></td><td></td></tr></table> <p><u>* Subject to amendment following remodelling as discussed above.</u></p> <p>+ S-Maps are found at: http://smap.landcareresearch.co.nz/home.</p>		Ytoh_3a.1		
	Ytoh_3a.1								
A20	15-33	Table 15(o)	Oppose	<p>Table 15(o) sets out nitrogen load limits for specific areas across the Northern Streams, Waihao-Wainono and Morven-Sinclairs areas. While Fonterra accepts that these load limits have generally been calculated on best available information, Fonterra is concerned that the basis upon which the current load was estimated (from which load limits were derived) contains some flaws which may have led to the current load being under-estimated.</p> <p>In particular, DairyNZ has noted that Council's modelling was based on the predominant soil type being <i>poorly drained</i>. Those soils generate low nitrogen loss rates. However, since that modelling was undertaken Landcare has updated its soil information and the predominant soil type has now become <i>poorly drained light</i>. These soils are more "leaky" for nitrogen. Hence the model is likely to have under-estimated current nitrogen losses.</p> <p>Further, Fonterra is concerned that, as with the catchment modelling used elsewhere in Canterbury there is a reliance on the LUT with an OVERSEER® 6.0 patch, whereas farmers are</p>	<p>Fonterra requests that ECan revisit the catchment modelling, with a view to recalculating catchment loads on the basis of the comments in this submission point.</p> <p>Fonterra requests that the remodelling is undertaken using the latest version of OVERSEER® (6.2).</p> <p>Fonterra also requests that the MGM is used, as this will generate more reliable estimates of the existing load.</p>				

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				<p>currently required to use OVERSEER® 6.2. The flaws and limitations of these tools are well known. As these improve the numbers generated by modelling that relies on them becomes out of date and the outputs unreliable.</p> <p>Fonterra prefers a management system where loads and limits are dynamic, changing as knowledge improves.</p> <p>Fonterra is also conscious that the MGM process is due to release its output in September 2015. Fonterra requests that decisions on the Tables 15 (n) and (o) (and flexibility caps) be deferred (if necessary) to ensure they are based on best available information.</p>	
SECTION: Schedules					
A21	Sch 3-1	Schedule 24b	Oppose	<p>Item (e) in Schedule 24b includes reference to the application, separation distances, depth, uniformity and intensity of dairy effluent disposal being checked annually in accordance with Section 4 'Land Application' in the Dairy NZ Farm Dairy Effluent Design Standard [2013].</p> <p>However, the document referred to in section (e) (ii) of this Schedule does not contain information regarding how self-assessment of effluent systems, is to be undertaken which is intended by this provision.</p> <p>Fonterra considers the appropriate document to refer to is Section 4 of the 'Land Application' in the guideline "A Farmers Guide to Managing Farm Dairy Effluent – A Good Practice Guide for Land Application Systems" [2013]. That document does</p>	<p>Delete item (e) from Schedule 24b and replace with the following:</p> <p>e) Collected Animal Effluent:</p> <p>(i) Collection, storage and treatment systems for dairy effluent installed or replaced after after 1 October 2014 meet the Dairy NZ Farm Dairy Effluent Design Standard and Code of Practice [2013].</p> <p>(ii) The application, separation distances, depth, uniformity and intensity of dairy effluent disposal is checked annually in accordance with Section 4 'Land Application' in the Dairy NZ Farm Dairy Effluent Design Standard [2013]. The animal effluent disposal system application separation distances, depth, uniformity</p>

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				<p>provide practice advice on how farmers can reliably self assess the operation of their effluent systems.</p> <p>This has previously been accepted as the appropriate reference in relation to Variation1 to the pCLWRP.</p>	<p><u>and intensity are self-checked annually in accordance with Section 4 'Land Application' in the guideline "A Farmers Guide to Managing Farm Dairy Effluent – A Good Practice Guide for Land Application Systems" [2013].</u></p> <p>(iii) Records of the application, separation distances, depth, uniformity and intensity of dairy effluent disposal, in accordance with (e)(ii), are kept and provided to the Canterbury Regional Council upon request.</p>
GENERAL: General and Consequential Amendments					
A22	All	All	-	<p>Fonterra is conscious that it has sought numerous amendments, additions and deletions in this submission. It is likely that giving affect to these submission points will necessitate various consequential amendments to ensure consistency between policies and between policies and rules.</p>	<p>Make any and all consequential amendments necessary to give full and accurate effect to this submission while retaining the Plan's internal coherency.</p>

PART B - MANUFACTURING ISSUES

6. OVERVIEW OF DAIRY PROCESSING-RELATED ISSUES

- 6.1 As with Fonterra's on-farm interests, there is much within the plan that is supported from a manufacturing perspective. However, Fonterra also have a number of concerns. Its specific concerns and relief sought in relation to its manufacturing interests are detailed in **Table B of Part B Specific Submissions** that follow.
- 6.2 The relief sought addresses a number of substantive and technical issues. Amongst these there are several common themes that underpin Fonterra's submission. These include the following:
- The importance of recognising the positive aspects of catchment use as a location of important (and increasingly important) primary sector processing. This can largely be addressed by amending the introductory narrative within the Variation as proposed in Part A of this submission.
 - The proposal to move to a common catchment expiry regime. Fonterra's manufacturing interest in this issue centres around consent duration in the event that Council retains common catchment expiry and the maximum 10 year consent term. Should that occur, Fonterra's Studholme site could be granted very short duration consents which would be inappropriate given the significant capital investment and the need for long-term security in recognition of that investment
 - The need to clarify the controls that apply to sewage discharge to land associated with the Studholme site. As proposed, rules relating in discharges from community wastewater schemes and domestic wastewater schemes are unclear with the result that Studholme's domestic wastewater discharge (and indeed potentially all other industrial and domestic wastewater discharges) would need to share the small nitrogen allocation made available for the Waimate community scheme. Fonterra considers that is neither intended nor appropriate.
 - The need for the Variation to recognise that Schedule 10 focuses on determining reasonable use for *irrigation* take and use. The tests for reasonable and demonstrated use contained therein are not practically or appropriately applied to industrial takes. This point has been previously recognised by the Council in the context of the decisions version of Variation1.
 - The need to acknowledge that industrial takes and discharges can be neutral or positive in water balance terms and that this should be recognised in the policy and rule framework. Similarly, the discharge of nitrogen from wastewater from an industrial site need not increase nitrogen load if it replaces a discharge that has a greater nitrogen load contribution. Again, these points have been previously recognised by the Council in the Variation 1 context.

7. FONTERRA'S MANUFACTURING OPERATIONS IN SOUTH CANTERBURY

- 7.1 In the Waitaki and South Canterbury Coastal zone, Fonterra owns and operates the Studholme Manufacturing Site (Studholme Site). This 13 hectare site (55 hectares including the Fonterra wastewater treatment and irrigation farm) is located about six kilometres east of the Waimate Township on State Highway 1.

- 7.2 Fonterra purchased the Studholme Site in 2011. Today, the site processes up to 900,000 litres of milk per day during the peak period into almost 30,000 metric tonnes of whole milk powder each year. This powder is transported to third party stores where it is packed into containers, and subsequently taken to the Port of Lyttelton for export.
- 7.3 Milk supplied to the site is sourced from shareholding farmers in South Canterbury and North Otago. The site primarily operates between August and June each year, in step with the area's milk curve. However, it can, and has the ability to process milk through the winter months.
- 7.4 Almost 50 operational staff and 15 tanker drivers are employed at the site.
- 7.5 The site holds a number of consents enabling its processing activities, some of which have not been fully maximised.
- 7.6 In addition to the full utilisation of the existing consents, additional expansion (which requires further resource consents) is proposed for the Studholme processing site and is discussed later in this submission.

Existing consents

- 7.7 The Environment Canterbury consents in relation to the Studholme Site that are relevant to Variation 3 are summarised in **Table 1** below.

Table 1: Current Studholme take and discharge (to land and water) consents

CONSENT NUMBER	CONSENT DETAILS	EXPIRY DATE
CRC131833	To discharge evaporator condensate and stormwater to a wetland and to Waimate Creek.	2026
CRC131835	To discharge up to 6,000m ³ /day of condensate and wastewater to land between Waimate Highway and Hannaton Road.	2026
CRC131344	To take and use water from two bores at a rate not exceeding 30 litres per second, with a combined volume not exceeding 17,500m ³ in any period of seven consecutive day, and 400,000m ³ between 1 July and the following 30 June. Water under this consent is only used for the processing of milk, processing plant cleaning, ancillary plant and equipment cleaning and factory service requirements, dilution of wastewater, and fire-fighting capability.	2038
CRC131345	To discharge human wastewater from the Studholme Hotel at 3m ³ per day.	2041

Proposed Expansion of the Studholme Site

- 7.8 In October 2014, Fonterra announced its plans to apply for resource consents to substantially expand the Studholme site's processing capacity over two stages. This would include the addition of two new dryers that are capable of processing an additional 9,000,000 litres per day, two new coal-fired boilers, a large drystore with associated rail sidings and loading facilities, and a new milk reception and tanker wash.

- 7.9 Operational staff at the site will increase to 125 along for Stage 1 of the expansion, and to 250 once the second stage of the expansion is complete.
- 7.10 With regard to Variation 3, consent applications will be lodged shortly proposing to:
- Expand the site to include the new dryers, boilers, drystore and associated infrastructure referred to above;
 - Treat all wastewater through a new wastewater treatment plant;
 - Expand the existing stormwater storage pond to provide capacity for extreme weather events;
 - Establish a new sewerage system which includes a 4,000 m² disposal field (at which time the existing septic tank system at the site will be decommissioned);
 - Discharge wastewater and clean process water to the ocean via an outfall structure;
- 7.11 Following expansion, condensate and wastewater will continue to be discharged to land (under the existing consents) as required and to cover contingency events and to provide for beneficial agricultural production.
- 7.12 If the expansion occurs, no increase in the existing consented water take volume as additional water requirements for the site can be met through the recycling of condensate (via a reverse osmosis process).
- 7.13 It is important to note that Fonterra is still to lodge the resource consent applications (and/or variations) with the Regional Council, and there is no guarantee that even if consented the proposed expansion will occur. Therefore, it is important that Variation 3 appropriately provides for both:
- The full implementation of Fonterra's existing consents (this includes, for example, the discharges to land up to the current consented limits); and
 - The proposed expansion of the site as announced in October 2014.

PART B SPECIFIC SUBMISSIONS – TABLE B

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
B1	15-1-15-3	Introductory Section	Oppose	<p>The introductory section of Chapter 15A does not recognise the importance of processing facilities which are present within the zone.</p> <p>There is also a lack of recognition of farming, industrial and township based activities in the Introductory section. Fonterra seeks that all values are appropriately recognised.</p>	<p>Add two new paragraphs to the introductory narrative before the description of the Lower Waikati South Canterbury Zone Committee process (i.e. between the first and second paragraphs on page 15-3) and key actions as follows:</p> <p><u><i>The Lower Waitaki South Coastal Canterbury Area that is addressed in this section includes a diverse range of farming, industrial and township based activities. The sub-region is of significant economic, social and cultural importance to the wider Canterbury and Otago Regions.</i></u></p> <p><u><i>The South Coastal Canterbury area is an important area for agriculture and food production which provides significant employment, both on farm and in processing and service industries. The social and economic well-being of the community is reliant on the agricultural industry and associated processing and it is important that it is retained so that the community can thrive.</i></u></p>
B2	15-8	Policy 15.4.20		<p>This policy currently anticipates that <u>ALL</u> groundwater takes will be consented on the basis of “reasonable or demonstrated use”. However, this is to be determined with reference to Schedule 10 which applies only to irrigation.</p> <p>Schedule 10 will not be relevant to industrial takes (such as those relating to Fonterra) and there will</p>	<p>Amend Policy 15.4.20 as follows:</p> <p><u><i>Groundwater is sustainably managed within the Waihao Groundwater Allocation Zone by:</i></u></p> <p>a) <u><i>for irrigation takes, using reasonable or demonstrated use calculated in accordance with Schedule 10 to establish annual volume and maximum rate of take conditions and;</i></u></p>

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				<p>be different considerations in terms of what might be reasonable. A good example is the long lead times and 'staged' nature of development which may mean water is required, but not taken, for a number of years after initial consenting.</p> <p>it is noted that the relationship of non-irrigation takes to Schedule 10 was addressed by the Council in the context of the decisions version of Variation 1 to the pCLWRP and Fonterra seeks that the same approach should be adopted in Variation 3.</p> <p>Fonterra is also opposed Policy 15.4.20(d) on the basis that aligning the term of the consent with Policy 15.4.35 can lead to unreasonably short duration consents– especially in the case of large and enduring infrastructure such as that operated by Fonterra.</p>	<p>b) <u>for other takes, despite Policy 4.50(b)(i), establishing annual volume and maximum rate of take conditions on the basis of the amount of water that is reasonable and demonstrates efficiency use of water for the particular end use; and</u></p> <p>c) <u>not exceeding the applicable allocation limit set out in Table 15(k).</u></p> <p>(d) aligning the term of the resource consent with Policy 15.4.35</p>
B3	15-8	Policy 15.4.21	Oppose	<p>The comments made above in relation to Policy 15.4.20 apply also to Policy 15.4.21</p> <p>In respect of the deletion of Policy 15.4.21(d), Fonterra repeats its comments in respect of Policy 15.4.35.</p>	<p>Amend policy 15.4.21 to read:</p> <p><u>Outside the Waihao Groundwater Allocation Zone groundwater is sustainably managed by only granting resource consents that replace a lawfully established groundwater take where:</u></p> <p>a) <u>for irrigation takes, the annual volume and maximum rate of take—is based on reflects reasonable or demonstrated use calculated in accordance with Schedule 10 and;</u></p> <p>b—T<u>here is no increase in the area of land to be irrigated</u></p> <p>b) <u>for other takes, despite policy 4.50(b)(i), the rate and volume of take reflects the amount of water that is reasonable and demonstrates efficient use of water for the particular end use.</u></p>

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					e) the term of the consent aligns with Policy 15.4.35.
B4	15-8	Policy 15.4.22	Oppose	The comments made above in relation to Policy 15.4.20 apply also to Policy 15.4.22.	Amend Policy 15.4.22 as follows: <u>Any application for a change in consent conditions concerning annual volume or rate of take or timing of the take shall be assessed, if it is an irrigation take, against reasonable or demonstrated use calculated in accordance with Schedule 10 or, if it is not an irrigation take, on the basis of the amount of water that is reasonable and demonstrates efficient use of water for the particular end use.</u>
B5	15-8	Policy 15.4.23	Oppose	The comments made above in relation to Policy 15.4.20 (reasonable and demonstrated use) apply also to Policy 15.4.23. In addition, for the reasons discussed in relation to Policy 15.4.35, as a matter of principle, Fonterra does not support reference to the term of consents aligning to Policy 15.4.35 (common catchment expiry). (although this policy does not directly affect Fonterra's Studholme site as it is supplied by groundwater Fonterra seeks consistency throughout Variation 3 (and the wider pCLWRP)).	Amend Policy 15.4.23 as follows: Surface water flows are improved by enabling an applicant to take deep groundwater provided the applicant holds a lawfully established surface water take or stream depleting groundwater take for an equal or greater rate and volume than is sought from the deep groundwater, and the surface water take or stream depleting groundwater take is surrendered provided: (a) there are no stream depleting effects; and (b) the allocation limit described in Table 15(l) is not exceeded; and or <u>(c) the take for an industrial or trade process and the subsequent use of water and an associated discharge to land results in a neutral or positive water balance; and</u> <u>(e)(d) The annual volume and maximum rate of take, for the purpose of irrigation, is based upon reasonable or demonstrated</u>

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					<u>use calculated in accordance with schedule 10; or</u> <u>(e) The annual volume and maximum rate of take, for a purpose other than irrigation, is based upon amount of water that is reasonable and demonstrates efficient use of water for the particular end use.</u> <u>(d) The term of the consent aligns with policy 15.4.35</u>
B6	15-8	Policy 15.4.24	Oppose	<p>The comments made above in relation to Policy 15.4.20 (reasonable and demonstrated use) apply also to Policy 15.4.23.</p> <p>In addition, the Council's decision version of Variation 1 accepts that consents for non consumptive takes (where there was a positive or neutral water balance) should able to be granted when allocation limits were exceeded (and that that could occur with industrial takes).</p> <p>Fonterra considers that this principle should be reflected in Policy 15.4.24.</p>	<p>Amend Policy 15.4.24 as follows:</p> <p><u>Achieve the surface water and groundwater outcomes by only granting resource consents to take and use water where it is demonstrated that:</u></p> <ul style="list-style-type: none"> a) <u>the water permit will not exceed the allocation limits in Tables 15(f) to 15(i); or</u> <u>and</u> b) <u>the take is for an industrial or trade process and the subsequent use of water and an associated discharge to land results in a neutral or positive water balance; and</u> c) <u>the volume and rate of water to be taken for the purpose of irrigation is reasonable, determined in accordance with Schedule 10 and, for water taken for other uses, the volume and rate of water taken is reasonable and demonstrates efficient use of water for the particular end use.</u>
B7	15-9	Policy 15.4.30	Oppose	<p>As noted in Table A, Fonterra generally supports transfers of water permits as a means to enable efficiency allocation.</p> <p>The relief Fonterra seeks in relation to Policy 15.4.30 is set of in Table A. For clarity, Fonterra</p>	<p>If Council decides not to grant the relief set out in Table A, Amend Policy 15.4.30 as follows:</p> <p><u>Meet environmental flow and allocation limits by only allowing the transfer of water permits (other than to the new owner of the same</u></p>

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				<p>seeks that the policy provide for transfers when there would be no increase in the use of water (based on a four year average). Fonterra believes that will give greater flexibility to irrigators.</p> <p>In addition, Fonterra's manufacturing interests, would be served by ensuring that, as a minimum, the exception provided in the policy for community water supplies also be extended to industrial or trade processes where the take would be effectively non consumptive. As noted in the context of Variation 1, water take and use at Fonterra milk processing sites can result in a neutral or positive water balance. This should be recognised in policy 15.4.30.</p>	<p><u>property at the same location), to occur where:</u></p> <p>a) <u>the transferred water is to be used for a community water supply; or</u></p> <p>b) <u>the transferred water is, or will following transfer, be used for an industrial or trade process and result in a neutral or positive water balance</u></p>
B8	15-9	Policy 15.4.35	Oppose	<p>Fonterra opposes common catchment expiry on all discharges and takes as it considers that this would lead to unreasonably short consent durations for consents associated with Fonterra's Studholme manufacturing site.</p> <p>For example, the Studholme site's discharge to land consent expires in 2026.</p> <p>Policy 15.4.35 would require that the replacement consent would only be issued until 2030. That would be a mere four-year consent duration, requiring recent to be sought again in 2030.</p> <p>Similarly, the Studholme site's groundwater take consent expires in 2028. The common expiry date for the Waihao-Wainono area is 2030 (and then 2040).</p> <p>Although Policy 15.4.35 states that consents granted within three years of the common expiry date will be aligned with the following common</p>	<p>Accept the relief sought in Table A above by deleting Policy 15.4.35.</p> <p>In the event that Council determines not to delete this policy, Fonterra requests the following amendment:</p> <p><u>Integrated catchment management is facilitated by:</u></p> <p><u>(a) applying a common catchment expiry to all consents to take and use surface or ground water of:</u></p> <p>In addition, If that relief is not accepted amend policy 15.4.35 by adding a further matter as follows:</p> <p><u>(d) Despite (a) to (c) above enable consents to be granted for large capital intensive activities for up to 35 years.</u></p>

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				<p>expiry date, the ten-year maximum consent term for fully allocated catchment would apply.</p> <p>Fonterra considers that outcome is unreasonable as it would fail to provide sufficient long-term certainty for the site's operations.</p> <p>Even the maximum of 10 years is insufficient certainty for large capital intensive activities such as dairy processing sites.</p>	
B9	15-13	Rules 15.5.15 and 15.5.16	Oppose	<p>The definition of <i>community waste water treatment system</i> refers to treatment systems <i>owned and operated by ...companies ... that serve more than one site</i>. "Site" is defined to be land held within a separate certificate of title.</p> <p>The Studholme site comprises multiple certificates of title. For that reason Fonterra is concerned that the Studholme site's treatment system could be defined as a community treatment system and its N discharge would need to fit within the allocation provided in Table 15(o) – in accordance with condition 1.</p> <p>Table 15(o) does not provide for either the current or soon to be expanded Studholme sewage discharge.</p> <p>Furthermore, as drafted, the rule appears to require all community wastewater <u>and</u> domestic wastewater discharges to meet the community sewage system limit of Table 15(o). Clearly that limit should only apply to community wastewater systems (of which we understand only Waimate has been provided for).</p>	<p>Amend Rule 15.5.15 as follows:</p> <p><u><i>The use of land for a community wastewater treatment system and the discharge of sewage sludge, bio-solids and treated sewage effluent from a community wastewater treatment system and the discharge of sewage sludge and bio-solids from a domestic on-site wastewater treat system into or onto land, or into or onto land in circumstances where a contaminant may enter water is a discretionary activity provided the following conditions are met:</i></u></p> <p><u><i>1. The discharge is from a community wastewater treatment system and, in addition to the all lawfully established existing wastewater treatment system discharges does not exceed the nitrogen load limit in Table 15(o) for community sewage systems; and-or</i></u></p> <p><u><i>2. The discharge is from a domestic on-</i></u></p>

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				It is noted that the pCLWRP provides an appropriate definition of “property” that is useful in informing the correct application of the rules.	<p><u>site wastewater treatment system or community wastewater system serving a single property; and</u></p> <p><u>3. The best practicable option is used for the treatment and discharge.</u></p> <p>Alternatively, Fonterra seeks that the Variation 3 be amended to include:</p> <ul style="list-style-type: none"> • a new defined term “industrial or trade process wastewater system”; • reference in Rule 15.5.2 to discharges from industrial or trade process wastewater systems being a discretionary activity; and • either: <ul style="list-style-type: none"> ○ a specific nitrogen load limit in Table 15(o) for industrial or trade process wastewater system sufficient to provide for the sewage discharge from the Studholme site; or ○ a combined nitrogen load limit in Table 15(o) to include waste water and sewage from the for industrial or trade process wastewater system.
B10	15-13	Rules 15.5.17 and 15.5.18	Oppose	<p>Rule 15.5.17 and 15.5.18 are intended to <i>inter alia</i> provide for the disposal of industrial or trade wastes that will be used as a fertiliser substitute for farming operations.</p> <p>Fonterra notes that the wording used for Rule 15.5.17 largely mirrors the wording recommended by the Hearings Commissioners for Variation 1 (Rule 11.5.25). It is noted, however, that:</p> <ul style="list-style-type: none"> • there appears to be no corresponding policy 	<p>Amend Rule 15.5.17 as follows:</p> <p><u>Despite Rules 15.5.1 to 15.5.12, the discharge of any wastewater, liquid waste or sludge waste from an industrial or trade process, including livestock processing, excluding sewage, into or onto land, or into or onto land in circumstances where a contaminant may enter water is a discretionary activity provided the</u></p>

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				<p>included in Variation 3</p> <ul style="list-style-type: none"> there is no provision for expansion of the discharge area. (In their Variation 1 decision commissioners accepted that expansion of discharges areas was acceptable where the nitrogen loss would be no greater than the discharge from the land use been replaced. there is an opportunity to clarify that the phrase “all lawfully established discharges” in condition 1 refers to “all lawfully established industrial and trade waste discharges” 	<p><u>following conditions are met.</u></p> <p><u>1. The discharge in addition to all lawfully established existing discharges from trade and industrial processes does not exceed the nitrogen load limit in Table 15(o) for industrial or trade processes; or</u></p> <p><u>2. The nitrogen loss from the discharge in combination with any other activity, including farming, occurring on the land, is less than any authorised nitrogen loss from the activity that is being replaced; and</u></p> <p><u>23. For all discharges, the best practicable option is used for the treatment and discharge.</u></p> <p>Include a new policies as follows:</p> <p><u>Policy 15.4.13A</u></p> <p><u>Require any person discharging wastewater, liquid waste or waste sludge from an industrial or trade process into or onto land to adopt the best practical option to manage the treatment and discharge of contaminants and not exceed the nitrogen load limit for industrial and trade processes in Table 15(o) unless Policy 15.4.13B applies.</u></p> <p><u>Policy 15.5.13B</u></p> <p><u>Enable the discharge of wastewater, liquid waste or waste sludge from an industrial or trade process into or onto land which cumulatively will result in the exceedance</u></p>

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					<u>of the nitrogen load limit for industrial and trade processes in Table 15(o) only in circumstances where the loss of nitrogen from the land, being from both the discharges and any farming activity occurring on the land, does not exceed any authorised discharge of nitrogen from the land that was occurring prior to the discharge of wastewater.</u>
B11	15-33	Table 15(o)	Support	<p>Table 15(o) provides an allocation limit of 40 tonnes N/yr to dairy processing in the Waihao-Wainono Area. Based on preliminary modelling undertaken Fonterra agrees that this is the appropriate allocation based on Studholme's existing consented discharge and, notwithstanding the current application (not yet granted) for an ocean outfall, considers that that allocation remain appropriate in the long-term. This will enable operational flexibility for the Studholme site and is consistent with the consent already held by Fonterra for 624 ha of wastewater irrigation which does not expire until 2026.</p> <p>Fonterra also seeks certainty with regard to ensuring the load assigned to the Fonterra Studholme site is specifically available for it (and cannot be eroded by activity elsewhere).</p>	<p>Retain the 40 tonne N/yr load limit for milk processing wastewater in the Waihao-Wainono Area and identify it as relating to the Studholme processing site:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>40 (Studholme milk processing wastewater) 2 (Waimate community sewage)</p> </div> <p>If Fonterra's preferred relief on Rule 15.5.15 and 15.5.16 is not accepted then Table 15(o) will require further amendment to either provide a specific load for the discharge of sewage associated with any Studholme 'industrial or trade process wastewater system' (or a small increase in the 40 t/yr load to cover such discharges, on the basis they are included within "Studholme milk processing waste water").</p>
GENERAL: General and Consequential Amendments					
B12	All	All	-	Fonterra is conscious that it has sought numerous amendments, additions and deletions in this submission. It is likely that giving affect to these submission points will necessitate various	Make any and all consequential amendments necessary to give full and accurate effect to this submission while retaining the Plan's internal coherency.

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				consequential amendments to ensure consistency between policies and between policies and rules.	