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Subject:	Submission on Canterbury Land and Water Regional Plan
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SUBMITTER ID: 0270

Please find attached a submission on behalf of Fonterra Co-operative Group Limited.

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on behalf of
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logo.jpg

Celebrating 10 years of Partnership

what-we-do our-expertise sustainability Janette

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SUBMISSION ON PUBLICLY NOTIFIED PROPOSAL FOR PLAN UNDER CLAUSE 6 OF SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT

To Canterbury Regional Council

1. Name of submitter:

Fonterra Co-Operative Group Limited.

2. This is a submission on the following proposed plan (the proposal):

The Canterbury Land and Water Regional Plan

3. Fonterra could not gain an advantage in trade competition through this submission.

4. Executive Summary

4.1 Fonterra welcomes the opportunity to submit on the Proposed Canterbury Land and Water Regional Plan (the "Plan"). Fonterra appreciates the collaborative process under which the Plan has been developed to date, and the intention to continue this collaboration throughout the development of sub-regional provisions.

4.2 Fonterra supports Environment Canterbury's efforts to put in place a land and water management regime that seeks to either maintain or improve freshwater quality in Canterbury, using the approach under the Canterbury Water Management Strategy ("CWMS") which seeks to maximise opportunities for the environment, economy and community of Canterbury in the years ahead. The key elements of Fonterra's submission seek to:

(a) Give recognition to the importance of agriculture and the production of food in supporting social, economic and cultural wellbeing in the Canterbury Region;

(b) Ensure necessary flexibility for decision making on resource consents for land use change during the interim period to 2017, so as to incentivise investment in water augmentation and use which is environmentally responsible (including in nutrient management), and advance the water management outcomes in Policy 4.1 (rather than shutting down these incentives and locking in a status quo position to the detriment of the wellbeing of Regional communities);

(c) Protect against the discharge of treated effluent to surface water

(d) Allow flexibility and scope for sound science and technology to continue to inform the setting of environmental controls;

(e) Enable emerging primary sector initiatives that meet the objectives of a Farm Environmental Plan to be recognised as partially satisfying requirements, reducing both Council and farmer compliance time and costs; and

(f) Incentivise farmers to operate with evolving industry articulated good management practice with respect to effluent management.

4.3 This submission is divided into three sections:

(a) BACKGROUND on Fonterra Co-operative Group and its connections with the Canterbury community;

(b) OVERVIEW providing rationale on the key elements of the Fonterra submission;

(c) DETAILED submission covering all matters, in respect of both farming practice and factory operations, and providing the specific relief sought.

5. Background

Fonterra Co-operative Group

5.1 Fonterra Co-operative Group is the world's largest milk processor and dairy exporting company, 100% owned by 10,578 New Zealand dairy farmers. Fonterra's 17,300 staff work across the dairy spectrum, from advising farmers on sustainable farming and milk production, to ensuring Fonterra meets exacting quality standards and delivers dairy nutrition every day in more than 100 markets around the world.

5.2 Fonterra collects more than 16 billion litres of milk from New Zealand, exporting more than 2.4 million tonnes of dairy product annually. Globally Fonterra processes more than 22 billion litres of milk and owns leading dairy brands in Australasia, Asia, the Middle East and Latin America. In the 2012 financial year, Fonterra's global revenue was just under $20 billion.

Social and economic contribution

5.3 The dairy sector provides 25% of New Zealand's export returns and directly accounts for 2.8% of New Zealand's GDP (a contribution to the economy 40% larger than the combined electricity, gas and water sectors). Dairy benefits the health of the economy through:

(a) **Rural income**: Canterbury hosts 922 dairy herds, which produce over 17% of New Zealand's annual milk solids. The New Zealand Institute of Economic Research calculated the value of dairy production in Canterbury at $2.3 billion for the 2010/11 season.

(b) **Jobs** provided to local workers: the dairy sector employs over 6,100 people directly in Canterbury, excluding those who are self-employed. The sector also indirectly supports many more jobs in supplying industries. For Ashburton, around one in every ten people in employment is employed within dairying, and in Waimate, nearly one in every four.

(c) Purchase of **goods and services**: the average dairy farmer spends well over half of their income on goods and services to support on-farm operations. Many of these goods and services will come from urban areas.

(d) **Export growth**: The dairy sector's strong export growth over the past decade has improved the country's balance of trade and allowed for increased consumption spending. This export growth reduced New Zealand's net foreign liabilities to GDP ratio by over 1%. Together with the exchange rate appreciation, this has saved Kiwi households a cumulative $1.2 billion in interest repayments on foreign debt over the past decade.

(e) **Research** investment: Fonterra is the largest investor in food research and development in New Zealand, contributing around $100 million per annum,

and with the rest of the dairy sector provides a key market driver for high quality scientific research and academic institutions, such as Lincoln University.

5.4 Fonterra is proud to be located in the Canterbury Region and, like many others, contributed as it could, following the Christchurch earthquakes. Fonterra tankers brought in fresh drinking water to Christchurch city residents, and Fonterra's Urban Search & Rescue personnel participated in emergency efforts. The dairy industry will continue to be an important part of the Region's earthquake recovery, as it supports rural economic growth and ongoing infrastructure needs such as via the Port of Lyttleton.

5.5 Fonterra owns, operates or has interests in the following Canterbury sites:

Kaikoura, Kaikoura	Production site
Culverden, Hurunui	Production site (reverse osmosis)
Darfield, Selwyn	Production site
Plains, Christchurch	Production site
Clandeboye, Temuka	Production site
Studholme, Waimate	Production
South Street, Ashburton	Depot
Lyndon Street, Culverden, Hurunui	Depot
Old North Road, Washdyke, Timaru	Depot
Meadows Road, Timaru	Depot
Halswell Junction Road, Christchurch	Cool store and ambient storage site
Halwyn Drive, Christchurch	Depot
Portside Logistics Hayes Street, Timaru	Ambient (not chilled) storage
R & M Storage, Timaru	Ambient storage
PrimePort Dairy Store, Timaru	Ambient storage
Timaru Railhead	Ambient site – NZ Port
Lyttelton Load port	Ambient site – NZ Port

5.6 Clandeboye is one of Fonterra's largest manufacturing sites, processing more than 40 per cent of all the milk collected by the Fonterra in the South Island. Clandeboye employs 765 people, and makes milk powder, cream, cheese and protein products for New Zealand and export, filling more than 113,000 containers each year.

5.7 The Darfield site started operating in August this year. Fonterra employs 80 staff and processes approximately 2.5 million litres of milk per day at this site. The decision to build at Darfield reduces transport movements by approximately 20,000km/day compared to further developing the Clandeboye site. Construction of a second stage will start later this year, further improving transport efficiencies and starting to use rail to bring boiler fuel into the site and take product to port.

5.8 Fonterra recently purchased the New Zealand Dairies' Studholme site. The site has become the Co-operative's 27th processing factory in the country and accepts about 800,000 litres of milk a day from former NZDL suppliers as well as Fonterra shareholders.

5.9 Each of Fonterra's plants works actively in the community, including sponsorship of local initiatives through our Grass Roots funding programme.

Care for the environment

5.10 Land and water are essential resources to Fonterra and its farmers, and we recognise that maintaining a healthy and functioning environment, including healthy waterways and water flow, is important for an enduring and successful dairy industry.

5.11 Fonterra also recognises the importance of healthy waterways to all New Zealanders, our farmers, iwi and communities alike, for its ability to sustain life, ecosystems, communities and livelihoods, and recreational and cultural values.

5.12 Fonterra has developed a programme called **"Supply Fonterra**", which is the design, development and delivery of a farmer-facing package of continuous improvement initiatives that cross regulatory, compliance and market requirements for Fonterra farmers. Supply Fonterra:

(a) Clearly states minimum standards and recommended good practices;

(b) Supports farmers through on-farm change with one-to-one support;

(c) Facilitates access to education and resources; and

(d) Accelerates knowledge transfer.

5.13 The 'environment' component of Supply Fonterra has three parts currently:

(a) Effluent management – assisting farmers to have effluent management systems capable of 365 day compliance with regulatory requirements;

(b) Waterway management – establishing the Fonterra requirement for all waterways (as defined) to be fenced, together with advice on fencing options, riparian margins and reducing overland flow to water;

(c) Nitrogen management - recording nutrient management information giving farmers an ability to understand their own farm's modelled nitrogen loss relative to other farms with similar geographical & climatic conditions.

5.14 Fonterra is also partnering with DairyNZ and other New Zealand dairy companies to make a dairy sector commitment to continuous improvement on waterway management, in the **Sustainable Dairying: Water Accord**, due to be completed this year.

5.15 In 2011, Fonterra contributed $1.3 million to the enhancement of **Te Waihora/Lake Ellesmere**, joining Government, Ngāi Tahu, Environment Canterbury, Selwyn District Council, Lincoln University and the local community to address the water quality issues of the fifth largest lake in the country.

5.16 Since establishment in August 2009, Fonterra's **Catchment Care** programme has seen over 1.8 million square metres of land improved. Canterbury initiatives to date have included Black Stream, Greenstreets Ashburton and Poynter's Nature Reserve in the Lower Waimakariri Regional Park. Fonterra is presently reviewing how to best use its resources for positive environmental impact in key catchments and will make further announcements in the new year.

6. Overview of Submission on the Canterbury Land and Water Regional Plan

6.1 The Plan presents the resource management issues to be addressed in the Canterbury Region in a clear, user-friendly way.

6.2 The Plan has been prepared using a collaborative approach in which Fonterra has been meaningfully engaged. Fonterra records its appreciation and ongoing support for and commitment to these collaborative processes for water management.

6.3 Fonterra acknowledges Environment Canterbury's efforts to put in place a land and water management regime that achieves the purposes set out in the RMA and the Government's 2011 National Policy Statement on Freshwater to either maintain or improve freshwater quality in Canterbury. Freshwater is essential to Fonterra, our farmers and the wider community in Canterbury and we want to work supportively in efforts to improve the health of waterways in Canterbury.

6.4 Fonterra particularly appreciates the approach developed under the CWMS to foster a more collaborative and integrated approach to water management that seeks to maximise opportunities for the environment, economy and community of Canterbury in the years ahead.

6.5 In Fonterra's view, a successful water management regime will:

(a) Support farmers to move towards farming practices that improve the health of Canterbury waterways;

(b) Balance environmental, social, cultural and economic values;

(c) Protect existing investments and allow responsible growth;

(d) Establish a practical pace of change and transition for farmers;

(e) Be simple, practical and easily implementable;

(f) Recognise that optimal mitigation measures differ by farm and by catchment;

(g) Be based on sound science that the farming and wider community can understand;

(h) Anticipate the role of ongoing collaboration and adaptive management; and

(i) Maximise returns to the community within the limits that are in place.

6.6 While we move through the process of setting limits, Fonterra supports the Council working with industry, researchers, farmers and the community to ensure that the momentum towards efficient farming practices that optimise water health and farm profitability is maintained and accelerated where needed.

6.7 Fonterra also supports the opening paragraph of the Plan, which recognises that the current environment has been modified by both past and current activities, many of which cannot be remedied easily or immediately. The range of responses required will need to be prioritised through the collaborative community process, with a mind to not loading all the burden of redress immediately on existing land owners and rate payers.

Recognition of the importance of agriculture and the production of food in supporting social, economic and cultural wellbeing in the Canterbury region

6.8 The RMA and CWMS seek to achieve balance across environmental, economic and social values.

6.9 The economic, social, and cultural wellbeing of the people and communities of Canterbury is strongly tied to continuing investment in food production. The value of

dairy farming and production alone to Canterbury was calculated by the New Zealand Institute of Economic Research as $2.3 billion last year. This comprises direct revenue brought in by farmers, on top of which come jobs, support industries and spending effects. Water and land are the essential natural resource ingredients for agriculture, therefore the success or otherwise of the community's investment in agriculture is critically dependent upon balanced and effective land and water management.

6.10 Fonterra therefore seeks changes to the Objectives in Section 3 of the Plan. The intention of those changes is to ensure that the Plan's statement of the objectives for the Region properly and clearly enunciates:

(a) The social and economic benefits that derive from agricultural land and water use for primary production and food production;

(b) The importance of allowing existing and future water takes, storage, distribution and irrigation in order to continue to yield those benefits.

Land use change during the interim period to 2017, where applicants can demonstrate they will manage nutrient loss and advance water management outcomes

6.11 Fonterra appreciates Environment Canterbury's consideration of existing farming operations, which have been categorised as "permitted" activities during the five year period to 2017.

6.12 This was an important recognition of existing operations and investment, giving time for assessments as to where individual operations are currently, and where they may need to be in the coming years. Fonterra is keen to work with the Council, DairyNZ and others to assist farmers in this process and better develop industry defined "good management practice"

6.13 Fonterra also appreciates that Environment Canterbury chose not to impose nitrogen loss targets through regional "Look Up" Tables from the outset, given the importance of ensuring that these are accurate to the level required given their potential effect on farming operations.

<u>Support sub-regional limit setting</u>

6.14 Fonterra believes water quality limit setting will achieve the best outcomes if it occurs at the sub-regional level, where the catchment specific data can be given the necessary scrutiny and community values determined in accordance with the collaborative process. The process for this has are already been set up and will progress over the coming years.

6.15 However, Fonterra understands the desire of the Council to avoid further impairment to the environment until such time as the sub-regional limits are established; resulting in the establishment of the **nutrient allocation zone maps** and the **interim nutrient limits** set out in Policy 4.1 and Table 1.

<u>Summary of concerns about the interim regime</u>

6.16 Much of the detail of Section 7 of this submission focuses on the "Interim Period" regime, i.e. especially the Policies and accompanying Rules and how they will impact land use change and other activities during the five year period to 2017. How this regime is balanced will be crucial to whether the Plan has the consequence of incentivising environmentally sound agricultural investment in the Region or stymieing

it. Fonterra is concerned that key elements of the Policies and Rules of the Plan will likely mean the latter, rather than the former. Fonterra's key concerns are as follows:

(a) The Strategic Policies do not appear to recognise the need for progression over time.

(b) There is concern within our farmer base that the zone maps have been developed without transparency on how the zones have been determined and therefore how they relate to the required water quality outcomes in Table 1. These questions around scientific robustness affect 'buy-in' from farmers and the lack of transparency could make the consenting process unduly difficult.

(c) The associated Rules categories do not allow for the fact that the science and analysis underpinning them (e.g. as reflected in Table 1) remains limited and imprecise.

(d) The singular focus on management of nitrogen in the Policies could mean a very restrictive interim process that does not ultimately address the water quality issues that the community determines are most important. For example, areas will require other additional actions to meet ultimate water quality outcomes, such as grass or planted buffers to minimise fine sediment loss, increased water use efficiency to reduce impacts of irrigation on hydrology and riparian planting for shade cover and weed reduction.

(e) There is an imbalance overall in how these Policies (and associated Rules) expect different outcomes in rural and urban areas and this leads to distortions and in particular to comparative disadvantage to agricultural production and processing.

6.17 Fonterra therefore submits that until such time as the sub-regions determine their limits, the interim period should provide some flexibility to enable farmers to change their land use in circumstances where it is not practicable to reduce nutrient losses (as will be the case where, for instance, a farm converts from sheep farming to dairy farming). That exception should be subject to provisos, namely that they are able to prove they:

(a) Demonstrate industry articulated good management practice for nutrient management; and

(b) Advance overall water management outcomes of Policy 4.1 through enhanced environmental management of the various contaminants that affect the outcomes listed in Table 1.

6.18 This allows the land to move to the highest economic use, while advancing the environmental outcomes of Table 1 during the interim period. Once sub-region limits are set, all land owners in the catchment, not just those seeking to change their land use, will bear the burden agreed for them by the community process.

6.19 Key elements of the flexibility Fonterra seeks in the planning regime are as follows:

(a) *Definitions:* Amend the criteria for defining "land use change" to recognise OVERSEER's margin of error.

(b) *Policy:* Explicitly recognise in Policy 4.1 that it is something that is to be achieved over time, and broaden the focus of Policies 4.31, 4.32 and 4.34 towards nitrogen loss minimisation such that where maintenance of or reduction from existing levels is impracticable in view of the nature of the land use change, that such change can still be approved in the "red zone"

catchments provided that industry defined good management practice is demonstrated and there is an overall advance of the Policy 4.1 outcomes.

(c) *Rules 5.43 to 5.45:* Re-classify the activities status for land use change prior to 2017, so that:

(i) land use change in the red zone and lake zones becomes a discretionary activity, giving the Council the ability to allow land use change when good management practice is demonstrated or otherwise decline consent;

(ii) land use change in orange zoned areas becomes a restricted discretionary activity, reflecting the fact that the impacts on water quality are a relatively narrow focus, while maintaining the Council's ability to refuse conversions in appropriate cases; and

(iii) those farms in green or pale blue zones are able to change land use as a controlled activity, allowing the Council the ability to track and manage land use while maintaining certainty and low administrative costs for farmers, reflecting the zones' low risk status.

Expand the focus on addressing water quality issues beyond nitrate loss

6.20 As referred to above, Fonterra seeks that the Plan provides for actions that would improve water health beyond nitrate loss.

6.21 Fonterra suggests a number of changes to Tables 1a-c in the submission below that reflect this. Fonterra also seeks that the definition of 'good management practice nitrogen limit' be broadened to 'good practice' more generally, with a focus of water quality and establishing the following defining principles for 'good practice':

(a) Minimise inefficiencies in terms of resource use;

(b) Take a systems approach to individual farms and to catchments with inter-related land uses;

(c) Allow sufficient flexibility to provide for the diversity of these systems;

(d) Is informed by appropriate expertise;

(e) Does not result in unreasonable costs for resource users.

Drive water use efficiency in fully and over-allocated catchments by continuing to allow the transfer of water without reducing volumes

6.22 The current proposal in the Plan is to require the surrender of water volumes when consents are transferred. This may create a disincentive for the efficient use of water and slow the movement of water to the greatest value use.

6.23 Allowing water to move to its highest value use over time drives allocative and technical efficiency. Water use efficiency is a principal driver for the achievement of Canterbury's water quality objectives, as it is linked to reduced nutrient loss through reduced drainage and/or surface run-off. It also decreases the Region's overall water infrastructure requirements (in-take, storage and distribution), aiding both the hydrological achievability and financial viability of improved water reliability and increased irrigated area.

6.24 Fonterra recognises there is a need to address over allocation, however it does not consider that the surrender of rights represents the sole appropriate response. Principally, over-allocation should be dealt with at a catchment specific level, and in many cases may include the creation of 'new water' through water use efficiency gains and infrastructure development.

Enable emerging primary sector initiatives that meet the objectives of a Farm Environmental Plan to be recognised as equivalent

6.25 Fonterra supports the concept that farmers should be able to describe the land and water on the property, assess the water risks and identify management and mitigation plans.

6.26 There are industry developed tools that are already working to assist farmers in this area, such as "Supply Fonterra" described in paragraphs 5.12 and 5.13 above. Schedule 7 should enable emerging primary sector initiatives that meet its objectives to be recognised as equivalent to or partially satisfying the requirement to produce a farm environment plan.

6.27 Fonterra's submission in this area seeks two things:

(a) The Plan should give explicit recognition to non-regulatory methods. The ones Fonterra mentions here are not examples of LTCCP methods, and hence there is a purpose for their recognition in the Plan;

(b) Fonterra seeks that Supply Fonterra farmers be exempt the auditing requirements specified for Environmental Plans, as this is effectively built into such farmer's supply arrangements.

Incentivise farmers to operate at evolving good industry practice with respect to effluent management

6.28 The Plan's proposed rules around management of farm dairy effluent do not recognise current and likely future good practice for effluent management, and Fonterra seeks that these are reconsidered.

Protect against the discharge of effluent to surface water

6.29 Fonterra's position is that the discharge of dairy shed effluent to surface water is undesirable. It notes that a present weakness of the Plan is that it does not specifically address this issue. As such, these activities would appear to be classified as discretionary, as the Plan stands. Fonterra considers that is inappropriate, and seeks a non complying activity rule.

7. The specific parts of the Plan that Fonterra's submission relates to are:

7.1 General Submission

(a) Fonterra's submission is that:

(i) In terms of the various concerns summarised above and in addition to the specific submissions below, Fonterra submits that to the extent Fonterra has expressed concerns and seeks relief, the Plan:

(A) Does not accord with the relevant requirements of the RMA, specifically as specified in sections 30, 32, 66, 67, 68, 69, and 70, and

(B) falls short in terms of the requirements of Part 2.

(ii) Fonterra has endeavoured to be as constructive as possible in compiling this submission and has suggested relief that would address its concerns. Inevitably, other forms of wording may also address the company's concerns adequately.

(b) Fonterra seeks the following decision from Environment Canterbury:

Such other or further relief as is required to address the substance of the submissions made in the whole of this submission.

SECTION - INTRODUCTION

7.2 The Plan's lack of a section as to a dairy farming and nutrient management advisory panel

(a) Fonterra's submission is that:

(i) The Council may gain considerable value from forming a Dairy Farming and Nutrient Management Advisory Panel. This Panel could assist the Council to set the boundaries of "good practice" and help set expectations around Farm Environment Management Plans.

(ii) One area where collaboration as between the Council and primary production sector groups such as Fonterra, Dairy NZ may be particularly valuable is in working in leadership so that systems and resources are available for the development and implementation of Farm Environmental Management Plans. This is particularly mindful of the need for coordination in securing the right technical resources for farmers working with the Plan.

(iii) The RMA intends that plans specify both regulatory and non regulatory methods for implementing a Plan's policies (section 67(2)).

(b) Fonterra seeks the following decision from Environment Canterbury:

Include in the Section 1.3 of the Plan a new subsection which refers to the Council's intention to form in conjunction with Fonterra, Dairy NZ, and other relevant primary production sector groups, and relevant other expertise if required, a Dairy Farming and Nutrient Management Advisory Panel for the purposes of assisting to set the boundaries of "good practice" and help set expectations around Farm Environment Management Plans.

7.3 1.2.6 Managing New and Existing Activities (Page 1-6)

(a) Fonterra's submission is that:

Some land owners have made significant investment in converting their land to dairying and have now commenced this conversion in reliance on current authorisation of this. Such land owners ought to be able to complete that conversion without being required to apply for "non-complying" resource consent.

(b) Fonterra seeks the following decision from Environment Canterbury:

Later in this submission exemptions from specified rules are sought for such land owners. This section of the Plan should foreshadow the issue.

7.4 1.3 Key Management Responses for Land and Water (Page 1-6 to 1-11)

(a) Fonterra's submission is that:

(i) Fonterra reiterates its appreciation for the Council's initiative in adopting a collaborative approach to the preparation of the Plan. Fonterra strongly supports recognition of collaboration as a tool. Fonterra would like to see further emphasis given to the collaborative approach of the CWMS and Zone Plans in this section.

(ii) Under "key partnerships", Fonterra would like to see primary production sector groups included. Groups such as Fonterra, Dairy NZ, Federated Farmers, Horticulture NZ and others take stewardship, good practice leadership, and other resource management actions in relation to land and water very seriously. These things help advance the intentions of the Plan and its implementation.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend this section to include clear reference to the collaborative, integrated approach of the CWMS and Zone Plans as the basis for key partnerships and for defining preferred Plan provisions.

(ii) Include reference to primary production sector groups (such as those listed) as key partners and give recognition to the role they will play in implementing the Plan through their role in helping day to day management of land and water.

7.5 1.3.2 Key Approaches (Page 1-12)

(a) Fonterra's submission is that:

(i) This section helpfully explains the underpinning concept of the Plan of "parallel processes". It cites the example "*at the same time as water storage and water efficiency options are being pursued, so are actions to deal with environmental issues*". It explains how this is based on management to "*achieve a range of social, cultural, environmental, and economic outcomes, essentially at the same time*".

(ii) Fonterra supports and endorses that intention. However, the success or otherwise of it is critically dependent upon the balance that the Plan strikes in its objectives, policies and rules.

(iii) In this respect, a matter of particular concern for Fonterra is the nutrient management requirements. Effective management of nutrient loss is acknowledged as an important aspect of the Plan's parallel process regime. However, Fonterra is concerned that environmental benefits from water augmentation may be foregone unless nutrient management requirements are carefully set. That is, investment requires new water, and nutrient management has a direct bearing on whether or not it is viable to invest in securing new water. If nutrient management limits or controls are set too high, they will make it uneconomic to pursue new water, and hence deny opportunity for responsible conversion of land to best use. This will have a flow on consequence for community economic and social wellbeing, as well as denying opportunity for environmental benefits. The importance of balanced regulation, especially of nutrient management, is of particular importance for Canterbury, given its significant rural economy and the

need for irrigation investment to augment water needed for development of that rural economy.

(iv) Later in this submission, Fonterra identifies aspects of the nutrient management regime which it is concerned need to be modified so that they achieve the parallel process balance intended.

(b) Fonterra seeks the following decision from Environment Canterbury:

In addition to the other relief specified elsewhere in this submission, include an additional paragraph to display awareness of the strategic balance to be sought and achieved between "new water" proposals, funding and environmental expectations.

SECTION - DEFINITIONS

7.6 Definitions "Changed (in terms of Rule 5.42 to 5.45)" (Page 2-5)

(a) Fonterra's submission is that:

(i) The definition has an important relationship to the rules in relation to land use change in that it defines what "changed in land use" means. It defines "changed" (in terms of the specified rules) as arising from one of two specified scenarios. Fonterra has concerns about aspects of the definition.

(ii) An overriding concern is the definition tends to favour those with higher existing N losses.

(iii) Fonterra has a number of concerns about Scenario 2 of the definition.

(A) The definition is unduly narrow. Farming is a flexible activity hence reasonable flexibility is important in this definition. The present definition could mean, for example, that a sheep and beef farmer who elects to grow a different fodder crop in any one year may breach this threshold.

(B) The measurement time frame works against those who may operate mixed cropping land uses.

(C) The definition fails to account for the margin of error in Overseer – this is greater than the specified limit of not more than 10% increase in the loss of nitrogen over the average for the period 1 July 2011 - 30 June 2013, referred to in the definition.

(iv) Fonterra has a further concern about Scenario 1 of the definition, which defines a change of land use to also to mean one arising from a resource consent "to use, or increase the volume of, water for irrigation on a property". Applying a volume of water threshold is problematic. It may, for example, result in outcomes inconsistent with the CWMS target for water use efficiency and water quality. Often the extra volume will be to improve reliability of supply and may also improve environmental performance. More particularly, it may enable "as and when" irrigation as opposed to "just in case".

(b) Fonterra seeks the following decision from Environment Canterbury:

Fonterra seeks that the definition be amended to address the concerns noted. In particular, Fonterra seeks that the definition be amended so that:

(A) The percentage specified in Scenario 2 is adjusted to account for the margin of error in Overseer.

(B) The definition, in so far as it applies to additional water, refers to "additional irrigated area".

(C) The definition provides a more generous benchmark timeframe (such as six years) when a land owner provides evidence of a long term approach to mixed cropping land uses.

7.7 Definitions "Environmental Management Strategy for Irrigation" (Page 2-7)

(a) Fonterra's submission is that:

The definition ties practice to a single reference text which may quickly become outdated. The definition should allow the operation of clause 30 of Schedule One to the RMA to enable this definition to remain up to date.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the definition to read:

"*means an environmental management plan for an irrigation scheme using the methodology described in C Mulcock, S Cumberworth and I Brown "An Environmental Management System for Irrigation Schemes in New Zealand" (June 2009) and any subsequent amendment to or replacement of that document*".

7.8 Definitions: "Outdoor intensive farming" (Page 2-11)

(a) Fonterra's submission is that:

The definition focuses on livestock and irrigation. Intensive land use may equally cover dry land farming and arable and horticultural uses.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend definition to more equitably address all intensive land use practices by including reference to intensive arable and horticulture land uses.

SECTION 3 – OBJECTIVES

7.9 Objectives 3.1 – 3.23 (Pages 3-1- 3-2)

(a) Fonterra's submission is that:

(i) Fonterra is concerned about the potential for the objectives to result in outcomes that will prejudice existing and potential food production and processing and in turn prejudice the social and economic wellbeing of communities of the Canterbury Region, and nationally. That concern arises from the following related causes:

(A) The lack of any express direction against an approach of simply tallying up objectives in support of or against any

application, when considering an application by reference to these objectives, together with

(B) The predominance of objectives that address protection of natural resources and iwi values, as compared with the relatively few that acknowledge the importance of enabling and encouraging resource use and development opportunities (including as to the protection and efficient use of land with high food production potential), together with

(C) The way those few objectives relating to agriculture are expressed, both in terms of their lack of reference to relevant specifics and their relative lack of balance (by contrast, for example, to community water supply).

(ii) Section 1.3.2 of the Plan discussed the underpinning significance to the Plan of the CWMS. Fonterra is concerned that the listed Objectives do not reflect the balance of objectives recorded in the CWMS.

(iii) Fonterra is also concerned that the Objectives do not fully reflect the purpose and principles of the RMA. This imbalance has particular significance in terms of Part 2, given that agriculture is a significant contributor to social and economic wellbeing of communities of the Canterbury Region.

(iv) Fonterra considers that to rectify these matters, Objectives need to be added that:

(A) Give due recognition to agricultural land and water use. That needs to encompass both the production and processing aspects and infrastructure.

(B) Acknowledge the importance of enabling transition in land use that best enables social and economic wellbeing.

(v) Fonterra is also concerned that the Objectives do not give due recognition to the investment certainty importance of the renewal of resource consents for processing and ongoing capacity to dispose of wastewater and stormwater to land and water.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Add a note to the introduction of the Objectives section clarifying that the sum of the objectives does not outweigh the importance of individual Objectives and that in any particular case some Objectives may be more relevant than others.

(ii) Add the following Objectives or others like them that address the issues identified in this submission:

"The value of agricultural use of land and water (including water's assimilative capacity), in terms of both primary production and food processing, and the associated social and economic benefit derived by Canterbury communities is recognised.

The value of agriculture to community well-being is able to be maximised through land use and associated discharges that allows for water storage, conveyance and irrigation infrastructure to be used to yield greatest social and economic benefit.

Recognise that existing water takes and discharges contribute to social and economic well-being and in some cases significant investment relies on the continuation of those takes and discharges, including rural-based activities such as agriculture and perishable food processing.

Recognise that existing water takes and rights to discharge treated wastewater contribute to social and economic wellbeing. Significant investment is made based on the reliability of these water takes and discharge rights including that related to regionally and nationally significant, capital intensive, large scale facilities which process perishable products such as those from dairy farms".

SECTION 4 – POLICIES

7.10 Strategic Policies 4.1-4.8 (Page 4-1), ,Tables 1a – 1c (Pages 4-2 – 4-4), Policies 4.28 –4.36 (and Allocation Zone Map (Pages 4-7 – 4 -9) and new definition of industry articulated good management practice

(a) Fonterra's submission is that:

(i) Fonterra has a number of concerns with this set of Policies, the associated Tables 1a to 1c, and the Allocation Zone Map, that are best addressed together. This set of concerns is also related to associated Rules, addressed later in this submission.

(ii) Starting with Policy 4.1, Fonterra is concerned that the wording of this Policy fails to acknowledge that there is a need for progression over time. Fonterra considers this could be overcome if the Policy were to commence "*Over time*", and Fonterra requests that change accordingly.

(iii) Fonterra has a related concern about the effect of various policies for the period up until 1 July 2017 (the *Interim Period*). In particular, these concern Nutrient Discharge – Region Wide Policies 4.31 and 4.32 and Nutrient Zones Policies 4.34, 4.35 and 4.36. These concerns are also related to Fonterra's concerns, addressed later in this submission, as to related rules.

(A) Policy 4.31 addresses minimisation of loss of nitrogen to water from any change in farming activities in an area coloured red on the Planning Maps. The policy specifies two alternative means for minimisation. The first is "*by demonstrating the nitrogen loss from the proposed activity, when assessed in combination with the effects of other land uses or discharges, will not prevent the water quality outcomes of Policy 4.1"*. The second alternative is *"or the nitrogen discharges from the property are a significant and enduring reduction from existing levels*".

(B) Policy 4.32 refers to "*minimise the risk of the outcomes in Policy 4.1 not being achieved, where there is no industry*

articulated good industry practice nitrogen discharge limit for a particular industry sector included in this Plan prior to 1 July 2017". Fonterra (and it is understood, also DairyNZ) commit to working with the Council to define industry good nutrient management practice for inclusion in the Plan. The sector has developed a protocol to ensure the results of the application of Overseer to dairy farms are consistent and constantly updated to reflect real time measurement. Fonterra urges the Council to build their expectations with those protocols as a base.

(C) Policy 4.32 is then similarly phrased to Policy 4.31. That is, it requires all farming activity and any proposal to demonstrate one or other of the above quoted requirements regarding nitrogen loss.

(D) Policy 4.34 provides for the Interim Allocation status for "any change in farming activities" within "an area coloured red or within a Lake Zone as shown on the Planning Maps". It expresses similar requirements as to nitrogen discharges to those quoted above for Policies 4.31 and 4.32, with the difference that these are expressed as both being required rather than as alternatives.

(iv) In relation to each of these Policies, Fonterra is concerned that:

(A) The rationale used to determine the Interim Period allocation status of catchment zones is poorly described and does not provide a robust, equitable, collaboratively set and peer reviewed framework.

(B) The singular focus in these Policies on nitrogen management is overly narrow and at odds with the supposed 'over – allocation' status of the catchments. Fonterra is concerned also that this narrow focus on nutrient management may contribute to a risk of failure to achieve the fresh water outcomes. One aspect of this is that the narrow nitrates focus appears to be at the expense of other water quality parameters, particularly phosphates. Also the Policy does not give due consideration to other aspects such as physical habitat management and flow management.

(C) This narrow focus of the Policy and associated zoning could have an associated detrimental consequence for future irrigation development opportunities, in conflict with the intentions of the CWMS.

(v) Such an outcome will have very significant social and economic consequences for the Canterbury Region.

(vi) Fonterra submits that such an outcome would be contrary to Part 2 of the RMA, in conflict with the CWMS, and would also work against the "parallel processes" intentions as expressed at 1.3.2 of the Plan.

(vii) Fonterra has a related concern with the considerable inconsistencies in the status assigned to catchments, as reflected in the Planning Maps. Site / location specific variations in nitrate leaching propensity are ignored because of the broad sweep of the zone areas. Many farms will cross zone boundaries. Some zones e.g. the Waipara

catchment, are largely used for forestry and vineyards. These, in the main, will not present a nutrient loss challenge.

(viii) Fonterra also notes that the accuracy of Overseer, as applied to irrigated and arable land, is constantly being refined but in some instances, is not as advanced as that applied to un-irrigated dairy farms. Moreover, it may prove difficult to access information from third parties and to assess the net impact of nitrate losses at a catchment scale or to prove "a significant and enduring reduction from existing levels".

(ix) Fonterra submits that greater flexibility is appropriate during the Interim Period, so that the Plan allows scope for what is the expressed intention of "parallel processes", namely "management of land and water to achieve a range of social, cultural, environmental, and economic outcomes, essentially at the same time", as is an objective of the Regional Policy Statement 2012.

(x) Fonterra seeks that each of these Policies be reframed such that an applicant who demonstrates "industry articulated good management practice" and offsetting measures that will materially enhance the receiving water environment in relation to other indicators in Tables 1a to 1c and other enhancement to water quality and values associated with this will be capable of meeting the Policies' expectations even if an inherent consequence of the change in farming activities (such as from sheep farming to dairy) is that nitrogen discharges will increase.

(xi) Such an approach would still require applications demonstrate sound environmental design and management. It would acknowledge, however, that there is a need to allow for adjustments to occur over time to existing practices and operations, bearing in mind social and economic wellbeing dimensions to this sustainable management issue. It would also allow more scope for evolving scientific and technical work in this area to inform standard setting.

(xii) Policy 4.36 provides a complete exemption from this approach for specified categories of discharge, namely those from a marae, from community wastewater treatment schemes, and from a hospital, school or other educational institution. An inequity of treatment is apparent between community waste-water and discharges from other selected institutions compared to those applied to the agricultural sector. Subject to that concern, if such a Policy is to remain, Fonterra submits that special provision should be also made for the discharges from regionally and nationally significant food processing facilities such as the Fonterra plants located at Clandeboye, Darfield and Studholme. This is particularly relevant for the Darfield facility located in the Selwyn-Waihora Nutrient allocation zone.

(xiii) Fonterra has overall concerns as to the way these Policies, Tables 1a – 1c, the allocation zone map and relevant rules on activities inter-relate. The fresh water numeric outcomes in Policy 4.1 and allocation zone map have a significant effect as they are linked to both the nutrient policies in Policies 4.28 – 4.36 and rules for farming activities. There is a lack of clarity in how the numeric outcomes and the allocation zone maps relate.

(xiv) Fonterra has a specific concern in relation to Policy 4.6. This refers to water quality limits set in section 6-15. The limits may or may not have been set with existing discharges in mind. For certainty, Fonterra would like to include an additional policy to reflect the protection provided to existing water takes, as recorded in Policy 4-47.

(xv) Fonterra has various concerns in regard to Tables 1a to 1c and their content:

(A) The full cost of achieving the outcomes listed in the Tables has not been determined. The section 32 assessment should be amended to quantify the cost-benefit of the allocation map and the proposed outcomes. In addition, this should qualify activity classification (as is later addressed in this submission).

(B) Weighting of various indicators is also important, and should be explicit in notes to the Tables. The Quantitative Macro-invertebrate Community Index (QMCI) is recognised elsewhere in New Zealand and internationally as a strong "integrating" indicator of in-stream ecosystem health, and thus greater comparative recognition should be explicit in notes to Table 1a to guide that it should be weighed more heavily relative to other matters that may be more transitory measures.

(C) The broad categories used to group river and lake types do not provide sufficient recognition for the resilience of individual rivers and lakes to natural and anthropocentric influences. Some of the listed numeric and narrative limits may therefore not be appropriate in selected circumstances.

(D) An overly ambitious approach has been adopted to the periphyton indicators. These should be independently reviewed and amended accordingly.

(E) Some unjustified inconsistency is apparent in the treatment of QMCI expectations for urban compared to rural streams.

(F) QMCI scores have an inherent variability. Many rivers may fail the listed threshold on occasions with no long term consequences. Hence, flexibility is important.

(xvi) Similarly, in relation to Table 1b (concerning Outcomes for Canterbury Lakes), Fonterra is concerned about the considerable uncertainty as to whether or not it will be technically feasible to meet the TLI thresholds in some coastal lakes, and the associated social and economic consequences of Policies 4.1 and 4.2 (and associated rules) in these respects. The concern is in particular with respect to Lake Te Waihora and Lake Wainono. That uncertainty arises from the fact that these lakes have already been subject to activities over a significant period of time and those activities continue to have impacts upon them.

(xvii) In relation to Table 1c (Outcomes for Canterbury aquifers), Fonterra has a further concern as to what is meant by 'average'. This is not precisely defined. Setting the average nitrate nitrogen concentration at half the drinking water standards limit may be overly conservative, depending on how the "average" is intended to be calculated.

(xviii) Fonterra is concerned that Policy 4.10(c) , by use of the word "reduce", rather than "minimise", fails to account for the fact that reduction is not always practicable.

(xix) A definition of industry articulated good management practice should be included in the Plan.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Strategic Policy 4.1 to commence "Over time" (or equivalent relief) to recognise needed flexibility to allow for progress and adaption over time and recognising limitations in the present informational base for Tables 1a to 1c and the allocation zone map.

(ii) Amend Policies 4.1, and related Policies referencing "outcomes of Policy 4.1" and activity categorizations relating to the associated Planning Maps to reflect the lack of fine grained analysis underpinning the Planning Maps, and that outcomes should be treated as targets not limits accordingly (see submissions on applicable rules).

(iii) Amend Policy 4.1 and/or the policies linked to the allocation zone map to clarify the relationship between these policies.

(iv) Amend Policy 4.6 by adding "With the exception of renewing existing discharge and water permits…"

(v) Amend Tables 1a, 1b and 1c so that they can accommodate nationally set water quality limits and standards.

(vi) Add a note to Table 1a indicating that QMCI, as a long term measure of ecosystem health, will be given particular consideration.

(vii) Add a note to Table 1a indicating that the outcomes may be breached at the catchment scale if circumstances justify it, particularly in respect of sediment load and periphyton indicators.

(viii) Amend Table 1a to ensure appropriate consistency of treatment between urban and rural streams.

(ix) Amend Table 1a to the effect that thresholds are set based on average or median QMCI values for a river rather than minimums.

(x) Amend Table 1c by including a footnote specifying how "average" will be calculated. This may be determined from a range of samples gathered from wells deemed to be representative of the groundwater zone.

(xi) Amend Policy 4.10c to read (or words to a similar effect):

"thirdly, minimise the volume or amount of the discharge; or"

(xii) Amend Policy 4.31 to read (or words to a similar effect):

"Minimise the loss of nitrogen to water from any change in farming activities in an area coloured red on the Planning Maps, by demonstrating that either

a. *the nitrogen loss from the proposed activity:*
   i. *when assessed in combination with the effects of other land uses or discharges, will not prevent the water quality outcomes of Policy 4.1 being achieved; or*
   ii. *be at, or below, the rate of loss of the activity displaced by the land use change on an on-going basis; or*

b. *where neither outcomes i. or ii. are possible, that the change in farming activity:*
   i. *will be consistent with industry articulated good industry practice for nitrogen management; and*
   ii. *overall water management outcomes of Policy 4.1 will be advanced through enhanced management of the full range of agricultural contaminants (including phosphorus, E.coli and sediment) affecting the outcomes listed in that table including through the enhanced management of the riparian margin. "*

(xiii) Amend Policy 4.32 to read (or words to a similar effect):

"To minimise the risk of the outcomes in Policy 4.1 not being achieved, where there is no industry articulated good management practice nitrogen discharge limit for a particular industry sector included in this Plan prior to 1 July 2017 then all farming activities in that industry sector will post 1 July 2017 be required to obtain a resource consent to continue the farming activity and any proposal will be required to demonstrate that:

a. *the nitrogen loss from the farming activity:*
   i. *when assessed in combination with the effects of other land uses or discharges, will not prevent the water quality outcomes of Policy 4.1 being achieved; or*
   ii. *be at, or below, the rate of loss of the activity that existed prior to 1 July 2017; or*
b. *where neither outcomes i. or ii. are possible, that the farming activity:*
   i. *will be consistent with industry articulated good industry practice for nitrogen management; and*
   ii. *overall water management outcomes of Policy 4.1 will be advanced through enhanced management of the full range of agricultural contaminants (including phosphorus, E.coli and sediment) affecting the outcomes listed in that table including through the enhanced management of the riparian margin."*

(xiv) Amend Policy 4.34 to read (or words to a similar the following effect:

"Prior to 1 July 2017, to minimise the loss of nitrogen to water from any change in farming activities in an area coloured red or within a Lake Zone as shown on the Planning Maps, an applicant for resource consent must demonstrate that the:

a. *the nitrogen loss from the change in farming activity:*
   i. *when assessed in combination with the effects of other land uses or discharges, will not prevent the water quality outcomes of Policy 4.1 being achieved; or*
   ii. *be at, or below, the rate of loss of the activity displaced by the land use change on an on-going basis; or*
b. *where neither outcomes i. or ii. are possible, that the farming activity:*
   i. *will be consistent with industry articulated good management practice for nitrogen management; and*

ii. overall water management outcomes of Policy 4.1 will be advanced through enhanced management of the full range of agricultural contaminants (including phosphorus, E.coli and sediment) affecting the outcomes listed in that table including through the enhanced management of the riparian margin."

(xv) Delete Policy 4.36 or amend it by adding wording to the following effect:

> *"discharges from existing regionally and nationally significant large scale and capital intensive facilities which process perishable food products"*

as a first priority.

(xvi) Define industry articulated good management practice as follows:

> *"in so far as it applies to land use change in an area coloured red or within a Lake Zone means on farm practice that results in N loss measured by Overseers 6 compliant with the N discharge limits set in Schedule 8; or where no such limits are set, practices determined by the Dairy Industry Advisory Committee as being good management practice having regard to the levels of N loss being achieved by the best performing (upper quartile) existing farms of the same or similar type, scale and location."*

Or words to like effect.

7.11 Policy 4.10 Discharge to Water (Page 4-5)

(a) Fonterra's submission is that:

Fonterra's concerns about Policy 4.10 are in relation to its dairy processing sites. Policy 4.10 refers to measures to reduce the discharge of contaminants to water. Fonterra applies these measures as much as is reasonably practical at its dairy processing sites. The volume of discharge in most instances is already reduced and it may not be feasible to achieve further reductions. Fonterra seeks a Policy that allows for sensible flexibility in this respect. Reference to "minimise" would be sufficient to direct reduction where this is reasonably practicable, but allow for when it was not. A minor amendment to the Policy is, therefore, proposed.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.10c) to read (or words to a similar effect):

> *"thirdly, minimise the volume or amount of the discharge;"*

7.12 Policy 4.11 Discharge to Land (Page 4-5)

(a) Fonterra's submission is that:

Policy 4.11(c)(v) requires that any discharge of a contaminant to land will "not have any adverse effects on the drinking water quality of groundwater". It may well be that discharges to land have some effect but not sufficient to cause concern. The Policy would be clearer if it referenced applicable drinking water standards.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.11(c)(v) to read (or words to a similar effect):

> *"not result in the drinking water quality of the groundwater breaching applicable standards".*

7.13 Policy 4.26(b) Livestock Exclusion (Page 4-7)

(a) Fonterra's submission is that:

The Policy states "… stock is excluded from sensitive sites…". There is no definition of what constitutes a "sensitive site". There are related issues, addressed later in this submission, concerning the associated rule. For the rule, and this policy, to be appropriately consistent, Fonterra considers that "sensitive site" should be replaced by "active bed" which will be defined (see related submission on this).

(b) Fonterra seeks the following decision from Environment Canterbury:

In association with other relief sought, amend Policy 4.26(b) by replacing the words "*sensitive sites*" with "*the active bed of any water body*".

7.14 Policies 4.28 and 4.29 Nutrient Discharges - General (Page 4-7)

(a) Fonterra's submission is that:

These Policies refer only to nutrient discharge allowances (NDAs), as the sole means for management of nutrient discharges in implementation of collaboratively set nutrient discharge allowances. Fonterra is concerned that this sole reliance on NDAs is overly narrow. There are a range of methods to achieve desired water quality limits of which NDAs are but one.

(b) Fonterra seeks the following decision from Environment Canterbury:

In Policies 4.28 and 4.29, replace the phrase "*nutrient discharge allowances*" with "*methods to achieve water quality limits*".

7.15 Policy 4.37 Nutrient discharges – Sub Regional Chapters (Page 4-9)

(a) Fonterra's submission is that:

The National Policy Statement for Freshwater Management (NPS) refers to "water quality limits" for the catchment, not nutrient load limits or nutrient allowance(s). Fonterra seeks that the policy be consistent with the NPS.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the policy to refer to "*water quality limits*" rather than "*nutrient load limits*" and "*nutrient allowances*".

SECTION – ABSTRACTION OF WATER

7.16 Policy 4.46 (Page 4-10)

(a) Fonterra's submission is that:

Policy 4.46 is to enable the taking of water for group or community drinking water supplies by not requiring compliance with any minimum or residual flow or partial restriction conditions and the environmental flow and allocation regime or groundwater allocation block. The proviso to this is that the water supply is managed to restrict the use of water from those supplies during times of low flow or water levels. In the context of this Plan, Fonterra has concerns about this Policy in two respects:

(A) The Policy does not require nor incentivise measures to ensure efficiency in water usage (unlike Policy 4.47), hence potentially giving rise to unnecessary wastage of resource in short supply. The Policies should be consistent.

(B) The Policy should be expanded so that it also enables usage for stock water supplies also, for animal welfare purposes. Policy 4.47 does relate to this topic, but does not express an enablement. Making this amendment would be consistent with the priorities defined in the Canterbury Water Management Strategy for water use. It also reflects Section 14(3)(b) of the RMA.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Policy 4.46 to include reference to "efficiency, where reasonably practicable".

(ii) Amend Policy 4.46 to include reference to stock water.

7.17 Policy 4.47 (Page 4-10)

(a) Fonterra's submission is that:

The requirements of provision (b) demand significant and enduring improvements in the efficiency of water use and reductions in adverse effects. Such measures are already optimized as much as is reasonably practicable within Fonterra milk processing facilities and many dairy farming operations. It may not be feasible to achieve any further improvements.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.47b) by adding reference to "*…where reasonably practicable*".

7.18 Policy 4.52 Water Transfer (Page 4-11)

(a) Fonterra's submission is that:

Policy 4.52 is concerned with the discharge of water resulting from moving water from one catchment or water body to another. It specifies certain outcomes. One, in Policy 4.52(b) is to the effect that the discharge does not adversely affect Ngai Tahu values. These values are not clearly defined. Fonterra is concerned that, given this is a directive Policy, it is important that its application is as clear as is possible as to the nature of the values intended

to be addressed. Otherwise, this is left to subjective and potentially uncontestable judgment rather than objective assessment. In addition, Fonterra considers that the Policy is overly loose in simply referring to "adversely affected", in that this would capture effects regardless of how minor these were. Fonterra considers the Policy should only address "significant" effect on these, more clearly defined, values.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Policy 4.52 b) to enable reference or cross-reference (perhaps to an appendix) to the values to be taken into account when making water transfers between catchment.

(ii) Amend policy to include reference to avoidance of "significant" effect on these values.

7.19 Policy 4.53 Water Transfer (Page 4-11)

(a) Fonterra's submission is that:

(i) Policy 4.53 refers to water introduced from outside a catchment, and is to the effect that this water is not available for abstraction unless a new or revised environmental flow and allocation regime is introduced via a plan change. Fonterra questions the value and purpose of this Policy. If what is sought is to ensure additional storage and transfer schemes do not compromise the CWMS plans around regionally integrated supply and distribution infrastructure, Fonterra respectfully observes that such an intention would be flawed in that it assumes that just because there is a transfer of water between two catchments, the prospect of regionally integrated water infrastructure is compromised. It would also assume that a similar scheme that transfers water within a catchment would not compromise this goal, which is not necessarily the case.

(ii) Aside from this concern as to the uncertain intention behind the Policy, a related concern is that the Policy is more restrictive in its expression than the related Rule 5.96. This Rule is worded so that the Council would make a decision on the potential of the proposed scheme to compromise a regionally integrated water system regardless of whether or not it involves a transfer out of catchment. This is a more pragmatic approach to the issue. The Policy should reflect this approach.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.53 to allow for new schemes to be implemented without a new or revised allocation where there is no significant impact on regionally integrated supply and distribution networks.

7.20 Policy 4.61 Water Restrictions (Page 4-12)

(a) Fonterra's submission is that:

(i) Policy 4.61 is to prevent flow falling below a minimum flow for a catchment, due to abstraction. It describes various requirements for partial restriction regimes, one of which (in paragraph (c)) provides for the sharing of water through partial restrictions during times of low flow. Fonterra supports this approach, but notes it is not practical to

impose partial restrictions on the rate of take for many irrigation systems. The management of flows may need to be managed via total volume restrictions. In smaller catchments, this can be managed by agreement between the irrigators (as per Policy 4.74). In larger catchments this may be best managed or facilitated by the Council.

(ii) Hence, it is too restrictive for the Policy to refer to pro rata restriction alone, without contemplating the potential for issues of efficiency, equity and other circumstances that would make departure from this appropriate.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend subsection 4.61 (c) to read (or words to a similar effect):

"*unless specified in a relevant sub-regional section, be based on a stepped or pro rata restriction regime that applies equally to all takes within an allocation block (or an alternative restriction regime where efficiency, equity or other circumstances dictate) and does not induce [etc]*".

7.21 Policy 4.69 Efficient Use of Water (Page 4-13)

(a) Fonterra's submission is that:

Policy 4.69 is in relation to water used for irrigation and specifies use of good practice to achieve an irrigation application efficiency of not less than 80%. Fonterra supports the intent to achieve irrigation application efficiency. Fonterra notes, however, that this may be difficult for some land owners to achieve in the short term – particularly if they have significant sunk capital in existing irrigation systems. A pragmatic approach should be adopted, including allowance for appropriate transition times.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.69 to read (or words to a similar effect):

"*Water used for irrigation is applied using good-practice that over time achieves an irrigation application efficiency of not less than 80% (with the duration of time being determined by reference to the need to allow for transition)"*.

7.22 Policy 4.72 Transfer of Water Permits (Page 4-13)

(a) Fonterra's submission is that:

Policy 4.72 concerns transfer of water permits. The Policy appears to be inconsistent with Rule 5.107 which refers to the annual or seasonal volume.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the Policy to make it consistent with the wording in Rule 5.107.

7.23 Policy 4.73 Transfer of Water Permits (Page 4-13)

(a) Fonterra's submission is that:

(i) Policy 4.73 concerns transfer of water permits in over-allocated surface water catchments or groundwater zones. The Policy includes

a proviso to its enabling intentions, namely that "there is a surrender of a proportion of the allocated water to the water body and it is not re-allocated". Fonterra is concerned that the surrender of a proportion of transferred water may not, in all instances, be the most effective means to overcome "over-allocation" challenges. The percentage to be surrendered appears arbitrary and may not be appropriate in all circumstances. Other means may be more efficient including the provision of "new water" - through storage infrastructure or technical efficiency demands.

(ii) Fonterra understands the need to reduce allocation in over allocated catchments and zones. However Fonterra has concerns that the Policy as worded will act as a strong disincentive against transfer and therefore will constrain the social, economic and environmental opportunities which may arise from efficient water use.

(iii) Fonterra submits that there would be value in separating and applying different regimes for permanent and temporary transfers.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Policy 4.73 to create a multidimensional approach to overcoming over-allocation problems with a strong focus on efficiency gains and better recognition of the opportunities to be provided from "new water".

7.24 Policy 4.76 Consent Duration (Page 4-13)

(a) Fonterra's submission is that:

(i) Policy 4.76 specifies that consents for the use of land for farming activities and associated nutrient discharges in catchments coloured red on the Planning Maps and resource consents for water take and use in catchments or groundwater allocation zones that are over-allocated will generally be subject to a 5 year duration if the consented activity "may *impede* ability of the community to find an integrated solution to manage water quality and the over-allocation of water" (emphasis added). The broad intent of this Policy is understood but the Policy fails for want of precision about what constitutes "impede".

(ii) Short duration consents may lead to sub-optimal environmental outcomes by discouraging efficient and effective (and often "expensive") infrastructure. Issues related to over-allocation would be better addressed using an appropriate suite of "adaptive" management practices.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Policy 4.76 to provide clarity about the criteria to be applied in deciding whether a land use, discharge or water take may impede community solutions.

(ii) Amend Policy 4.76 to remove the direction that resource consents for nutrient discharges or water takes in catchments that are over-allocated will generally be for 5 year duration.

SECTION: 5 – REGION-WIDE RULES

7.25 Rule 5.33 Animal and Vegetative Waste (Page 5-10)

(a) Fonterra's submission is that:

(i) Condition 1 of this Rule states the discharge of animal and vegetable waste to land must not contain any hazardous waste. The definition section of the Plan defines hazardous waste as:

> *"waste containing:*
>
> *1. a hazardous substance; or*
>
> *2. an infectious substance or material known or reasonably expected to contain pathogens, including bacteria, viruses ...that are known, or reasonably expected, to cause infectious diseases in humans and animals that are exposed to them".*

(ii) This clearly excludes disposal of the very material that the rule is designed to authorise.

(iii) In addition, this rule could be interpreted as regulating discharges from animals. If interpreted that way, discharges from animals to land as part of normal grazing practices would require regional council consent as the conditions could not be complied with e.g. the frequency is limited to no more than once every 2 months. This seems unlikely to be the intent of the Rule.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Rule 5.33 to commence:

> *"Except where it occurs directly from an animal to pasture, the discharge of solid animal waste, or vegetative material containing…"*

Or words to like effect that cure the problem identified in this submission.

(ii) Delete condition 1 from Rule 5.33.

7.26 Rule 5.34 Animal and Vegetative Waste (Page 5-10)

(a) Fonterra's submission is that:

This rule could be interpreted as regulating discharges from animals. If interpreted that way, discharges from animals to land as part of normal grazing practices would require regional council consent as the conditions could not be complied with e.g. the frequency is limited to no more than once every 2 months. This seems unlikely to be the intent of the Rule.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.34 to commence:

> *"Except where it occurs directly from an animal to pasture, the discharge of solid animal waste, or vegetative material containing…"*

Or words to like effect.

7.27 Rules 5.35 and 5.36 Stock Holding Areas and Animal Effluent (Page 5-10-5-11)

(a) Fonterra's submission is that:

(i) Rule 5.35 makes the use of land for stock holding a restricted discretionary activity (RDA). Stock holding is defined to include all hard stand areas (i.e. feed-pads, wintering pads, "milking platforms" and races used for holding cows during milking). All dairy farms have a milking shed with a hard stand area. Accordingly, all new conversions will require RDA consent under this rule.

(ii) Furthermore, there are no existing use rights for land uses controlled by the rules of the Proposed Plan. Therefore, Rule 5.35 requires all existing dairy farms that do not already hold such land use consent to gain consent. (Stockholding was a permitted activity, subject to conditions, under the Natural Resources Regional Plan).

(iii) Rule 5.35 also controls discharges from stock holding areas. Such discharges are RDA (or non-complying where they do not meet the RDA standards). Such an activity status is an unnecessary regulation of commonplace farming activities. The effects of discharges from stock holding areas can be adequately addressed through appropriate standards on a permitted activity rule,

(iv) Rule 5.36 is the default rule, where any of the standards in rule 5.35 cannot be met. There is no justification for the stringent non-complying activity status currently proposed, particularly when it affects an activity so vital to the social, economic and cultural wellbeing of the Region. RDA status can appropriately manage applications to breach the standards of rule 5.35, leaving room for the Council to consider relevant matters and decline consent if appropriate.

(v) This rule also covers the collection, storage and treatment of effluent and the disposal of effluent to land and classifies these activities as a RDA.

(vi) The scientific understanding of how to minimise the environmental impacts of dairy shed effluent disposal has increased significantly in recent years. The basic premise of this understanding is that pasture nutrient uptake is enhanced and the risks to the environment minimised if effluent is applied to the soil:

(A) at the right depth;

(B) at a rate at which the soil can absorb it;

(C) when the soil isn't saturated; and

(D) with appropriate separation distances from waterways.

(vii) Achieving these outcomes requires a significant investment in effluent storage and disposal systems.

(viii) Fonterra supports this science and has invested significant resource into supporting farmers to install the required infrastructure such as stormwater runoff controls for sheds and races, appropriately sized, storage facilities and low application rate/depth irrigation systems. In Canterbury this has been hindered by shifting regulatory requirements

and an increasingly complex consenting regime, which has resulted in significant variation in the requirements applied across Canterbury. Additionally, the storage rules imposed by the Natural Resources Regional Plan required at least 3 days of effluent storage to be installed in order to qualify as a permitted activity. This is significantly less than current good practice and has resulted in farmers investing in systems that are unlikely to be fit for purpose in the long term.

(ix) This means that all farms that have an existing discharge permit for discharges to land will now also require an additional land use consent for the same activity.

(x) Fonterra would like to see a planning framework that incentivises farmers to invest in good practice effluent systems and delivers a more consistent and stable set of rules than have existed to date. This could be achieved by providing a permitted activity status to those dairy farms that have invested in the right infrastructure, and can comply with a set of conditions that reflect good practice. Farms that do not satisfy these requirements would still be required to apply for resource consent, which could be the subject of appropriate conditions or declined if appropriate. The benefits of this approach are:

(A) a consistent set of conditions is applied for all farms operating as permitted activity;

(B) it incentivises farmers to invest in their effluent systems by removing the cost and time of a consent application;

(C) monitoring costs for these permitted activities can be recovered through the Local Government Act as a fixed charge;

(D) there is no loss of control over the activity as the permitted activity conditions can reflect the current scientific understanding; and

(E) when changes are required they can be implemented via one Plan change instead of needing to review all existing consents.

(xi) In summary, the approach proposed in the Proposed Plan is sub-optimal in the following aspects:

(A) it requires all farmers to go through a costly and complex consenting process that delivers the same controls as those which could be imposed by a permitted activity (it is rare that a dairy shed effluent consent contains controls beyond the standard requirements);

(B) it combines all land-use controls for stock holding areas, collection, treatment and storage with the discharge components; and

(C) this means that all farms that have an existing discharge permit will now also require additional land use consent to authorise the land use requirements and the rule provides no clear guidance on how appropriate effluent storage volumes will be determined.

(xii) Condition 2a) of the Rule requires (in part) that the discharge is not direct to a surface water body. This is redundant as the Rule only relates to discharges to land. Furthermore, a discharge direct to surface water would be in breach of section (15)(1)(a) of the RMA.

(xiii) Condition 2b) of the Rule requires that the discharge does not occur beyond the property boundary. There are situations that arise where effluent is appropriately discharged beyond the property boundary with agreement between the land owners. This condition would result in the activity being classified as non-complying without any effects basis.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Rule 5.35 to provide:

"The use of land for a stock holding area, the use of land for the collection, storage and treatment of animal effluent and the subsequent discharge of animal effluent or water containing animal effluent and other contaminants onto or into land where a contaminant may enter water is a permitted activity, provided the following conditions are met:

1. The stock holding area, collection, storage and treatment of animal effluent is not within:

(a) 20 m of a surface water body, a bore used for water abstraction or the Coastal Marine Area;

(b) a group or community drinking water supply protection area as set out in Schedule 1; and

2. The discharge of animal effluent or water containing animal effluent and other contaminants:

(a) is not directly to, or within, 20 m of a surface water body (other than a wetland constructed primarily to treat animal effluent), a bore used for water abstraction or the Coastal Marine Area;

(b) does not occur beyond the boundary of the site;

(c) does not occur within a group or community drinking water supply protection area as set out in Schedule 1

(d) has backflow prevention installed if the animal effluent or water containing animal effluent is applied with irrigation water; and

(e) is not to potentially contaminated land"

3. There shall be no discharge of liquid animal effluent, washdown water or stormwater containing animal effluent onto land except by means of an authorised animal effluent collection and storage and discharge system.

4. The base of any stock holding area located on land over an unconfined or semi-confined aquifer shall be

sealed with a synthetic liner or concrete or compacted clay or other material of low permeability, such that seepage into land shall not exceed one millimetre per day."

Or words to like effect.

(ii) Or otherwise amend Rule 5.35 to establish a permitted activity for the activities presently addressed within the rule with appropriate standards ,for example that require that the activity is not within a community drinking water supply protection area, and is subject to the following controls: sealing standard for stock holding areas and effluent storage facilities, a maximum depth of effluent application based on soil type; timing of effluent application. (i.e. not onto saturated soils); no ponding of effluent or runoff from the disposal area; a minimum effluent storage capacity based on a set return period; separation distances between waterways and groundwater bores and; provision for backflow prevention where this is required.

(iii) Amend Rule 5.36 from non-complying to restricted discretionary activity status, with the Council's discretion restricted to matters to do with water quality such as:

(A) The proposed management practices to avoid or minimise the discharge of nitrogen, phosphorus, sediment and microbiological contaminants to water from the use of land;

(B) The potential effects of the land use on surface and groundwater quality, and sources of drinking water;

(C) The contribution of nutrients from the proposed activity to the nutrient allocation status of the management zone.

(D) The extent to which the proposed activity will prevent or compromise the attainment of the environmental outcomes sought by, or is inconsistent with, the objectives and policies of this Plan relating to nutrient management and water quality

(iv) Should the Council choose not to adopt such a framework, Fonterra requests the following changes be made to the proposed rules:

(A) the inclusion of a permitted activity that addresses all of the land use requirements that are in the proposed rule that apply to all existing farms as a minimum;

(B) the provision of additional guidance on how appropriate effluent storage volumes will be determined;

(C) the inclusion of a rule that makes the discharge of dairy shed effluent to surface water a non-complying activity; and

(D) removal of condition 2 (b) from rule 5.35.

7.28 New Rule Dealing with Discharges of Effluent to Surface Water

(a) Fonterra's submission is that:

The Plan does not specifically address the discharge of effluent to surface water, and as such, this would be classified as a discretionary activity under general rule 5.6. It is Fonterra's position that the discharge of dairy shed effluent to surface water is undesirable and as such, it should be classified as a non-complying activity in the Canterbury Region.

(b) Fonterra seeks the following decision from Environment Canterbury:

The inclusion of a non-complying activity rule for the discharge of dairy shed effluent to surface water.

7.29 Rules 5.39 to 5.46 Farming/Nutrient Management (Page 5-11 to 5-13)

(a) Fonterra's submission is that:

(i) The heading refers to "farming". The subject matter is nutrient management. The heading should be changed to "Nutrient Management".

(ii) These Rules require farmers to record the annual amount of nitrogen lost from land for the period 1 July to 30 June in the subsequent year. This time period is out of synch with the reporting year for nitrate loss established between Fonterra and Fertilizer Companies. This reporting year runs from 1 June to 31 May the subsequent year. This reporting period has been adopted to line up with the dairy season and the time when farms change hands and share-milkers shift properties.

(iii) Protocols will need to be established to ensure consistent use of Overseer. Fonterra has already established such a protocol as part of its Supply Fonterra programme. This protocol should be adopted as part of the Plan.

(iv) The use of the term "calculated" as opposed to "estimated" within the Rules implies that an absolute value can be generated. This is not the case. Overseer is designed to provide average long-term estimates of nutrient flow.

(v) The approach focuses substantially on nutrient loss. Animal welfare and soil pugging/conservation matters need to be taken into account including when considering optimal land use and the question of the suitability of the land for winter grazing.

(vi) Various of the Rules refer to a Farm Management Plan being "prepared and implemented" in accordance with Schedule 7. Schedule 7 sets out how a Plan is prepared, but is silent as to its implementation. In addition, any environmental issues should be dealt with under the relevant discharge rules, rather than through a retrospective change in land use status should a non-compliance arise.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend the heading used in this section to "Nutrient Management" rather than "Farming".

(ii) Amend Rules 5.39-5.46 to require reporting for the period from 1 June to 31 May the subsequent year to line up with the dairy season or to allow flexibility of reporting period.

(iii) Amend Rules 5.39-5.46 to enable provision of information prepared as part of the Fonterra's Supply Fonterra Protocols for Overseer to be viewed as sufficient to satisfy the requirement to keep a record of the annual amount of nitrogen loss from the land. Also allow for updated versions of this document to be incorporated as it changes over time by including in the Rules reference to any subsequent amendment or replacement of that document in order to allow the operation of clause 30 of the First Schedule to the Act.

(iv) Replace the word "calculated" as it applies to the use of Overseer in Rules 5.39, 5.40, 5.42, and 5.46 with "estimated".

(v) Delete the words "and implemented" as they apply to Farm Environment Plans in Rules 5.40, and 5.42.

7.30 Rule 5.41 Existing Farming (Page 5-12)

(a) Fonterra's submission is that:

Rule 5.41 is supported except that the matter of discretion 4 is unnecessary and duplicative of matters 1-3. By including this matter there is an inference that it adds something in addition to matters 1-3. The sub-regional policies of this plan are not yet developed and hence it is unclear what the effect of this provision will be.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.41 to delete discretion 4.

7.31 Rules 5.42-5.45 Existing Farming (Pages 5-12-5-13) and Definition of "Changed" (Page 2-10)

(a) Fonterra's submission is that:

(i) Rule 5.42 is supported to the extent that it provides for change/intensification of land use as a permitted activity subject to conditions.

(ii) The rules use the term "change" while the glossary definition refers to "changed".

(iii) Reference is also made to "existing farming activity" but this term is not defined. Other rules refer to "a farming activity existing at 11 August 2012" but that qualification cannot apply under Rule 5.42 because the definition of "changed" refers to 1 July 2011 – 30 June 2013 as the base period – particularly as this conforms with the Fonterra reporting period. Reference to "existing" in that context is confusing and unnecessary.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend Rules 5.42-5.45 to commence:

"Prior to 1 June 2017 the use of land for a change to a farming activity …"

(ii) Amend the definition in section 2.10 to refer to "change" rather than "changed".

7.32 Rule 5.43 Land Use Change in Blue or Green Zones (Page 5-12)

(a) Fonterra's submission is that:

This rule makes a change to a land use (prior to 1 July 2017) in pale blue or green areas (i.e. areas unclassified or where water quality outcomes are met) a RDA. If an area is under-allocated for nutrients a change in land use should be a controlled activity at most. The impacts of such changes in land use will be minor.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.43 to make a change in land use in areas which are under-allocated for nutrients a controlled activity. The Council could retain control over the matters currently listed as matters over which discretion is reserved.

7.33 Rule 5.44 Land Use Change in Orange Zone (Page 5-13)

(a) Fonterra's submission is that:

Rule 5.44 makes a change in land use before 2017 a discretionary activity if it is within the orange (water quality at risk) area. Given the narrow focus on water quality (as opposed to other issues) a more appropriate classification would be RDA.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend rule 5.44 to make a change in land use in at risk areas a RDA.

(ii) Restrict the Council's discretion to the matters currently listed in Rule 5.43.

7.34 Rule 5.45 Land Use Change in Red Zone and Lake Zone (Page 5-13)

(a) Fonterra's submission is that:

(i) The current approach in this rule does not take sufficient account of the potential to apply site specific mitigations which are focused on the most relevant issues and location specific circumstances – these are not always related to nutrient management. Change to a land use can occur without additional negative effect on water quality.

(ii) To the extent that the s32 document addresses the social and economic consequences of the rule, they have been underestimated. This rule would classify as non-complying land use change such as conversion to dairying where the land owner did not hold a water permit, or where that permit did not contain conditions dealing with leaching of N.

(iii) Land users whose water permits do not currently limit the discharge of nitrogen should be given a reasonable opportunity to demonstrate they can apply the same (or better) practices to manage water quality as those located in the area covered by consented irrigation schemes. This can occur satisfactorily within the framework of a discretionary activity consent, without the need to tilt the balance in the way occasioned by non-complying activity status.

(iv) The regime is an "interim" one. Zone Implementation Plans are in development. These are being developed through a collaborative process and many are likely to be completed within five years. Moreover, designating land use change as "non-complying" may inappropriately influence the subsequent decisions made by Zone Committees as it may set an expectation for how land use change should be managed.

(v) A non-complying activity status actively discourages land owners from applying for a consent to change a land use and creates a strong barrier to the grant of consent.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Make the activity status of land use change in red and lake zones discretionary.

(ii) Require an assessment of the activity against the fresh water objectives and policies relevant to the catchment within which the land use change is proposed.

7.35 New Rule for Land Use Change that has Commenced

(a) Fonterra's submission is that:

A number of landowners had started the process of converting their land to dairy use before notification of the Proposed Plan. This conversion process should be complete over the 2012-2013 summer period. The Plan should allow those conversions to proceed without intervening regulation.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Include a new permitted activity rule:

> *"Prior to 1 July 2017, the use of land for a change to an existing farm activity is a permitted activity if building consents for a dairy shed were obtained prior to 1 January 2013."*

Or words to like effect; or

(ii) Include a new permitted activity rule where the land owner can show a financial commitment to change entered into before 11 August 2012; or

(iii) Include a new permitted activity rule that permits the use of land for a change to an existing farm activity on listed or scheduled properties, where evidence shows that land use change on those properties commenced before notification of the Plan.

Or similar amendment.

7.36 Rules 5.46-5.49 Farming after 2017 (Page 5-13)

(a) Fonterra's submission is that:

(i) Rules 5.47-5.49 make a change of land use from 2017 too onerous. An application for a change in land use should be considered on the same consent category basis as that applied before 2017 – noting that decisions will be assisted by industry derived "look up" tables reflected agreed "good management practice".

(ii) Once the "look up" tables have been populated, a suitable transition period will need to be agreed to enable land owners to meet expectations.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend rules 5.47-5.49 so that the consent categorisation is consistent with that applying prior to 1 July 2017 as proposed in this submission (see above) i.e. Rule 5.47 would be controlled, Rule 5.48 would be RDA and Rule 5.49 would be discretionary.

(ii) Provide for the definition of a five year "transition" period within which land owners may transition toward the values listed in the "look up" tables.

7.37 Rule 5.57 Discharge of Water from Drains (Page 5-14)

(a) Fonterra's submission is that:

This rule is supported to the extent that it permits discharges from drainage systems predating 2004 but drainage systems have been established since this date. The reason for selecting 2004 is not apparent.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the rule to apply to drains installed prior to11 August 2012 – the date of the notification of the Plan.

7.38 Rule 5.69 and 5.70 Industrial and Trade Wastes (Page 5-16)

(a) Fonterra's submission is that:

(i) Rules 5.69 and 5.70 provide for the discharge of any liquid or sludge from an industrial or trade process (excluding sewage) into or onto land in circumstances where a contaminant may enter water. There do not appear to be any corresponding rules providing for the discharge of contaminants from an industrial or trade process to waterways. Fonterra considers that for greater certainty, such activities should be clearly provided for as a discretionary activity. This would also be consistent with the provisions of Policy 4.10 which clearly contemplate the discharge of contaminants to waterways and groundwater (subject to a series of "measures" that minimise the effects). Fonterra would be unable to operate a significant number of plants if access to waterways for various discharges could not occur. It is not feasible for these sites to convert to a full land based wastewater application regime. Constraints include unsuitable and wet soils, access to sufficient land and climatic conditions, which combined or separately present an unsustainable position.

(ii) Fonterra's processing infrastructure is regionally and nationally significant and the ability to be able to dispose of its wastewater (and other byproducts) to land and/or waterways is paramount with significant investment decisions made on this basis. If Fonterra lost the ability to dispose of its wastewater (and other byproducts) to land and/or water, it would be unable to continue to operate its dairy manufacturing sites. Accordingly, Fonterra seeks greater certainty of the ability to renew discharge permits from existing dairy manufacturing sites, and in this regard given the narrow focus on water quality, it is considered that a RDA status is sufficient.

(iii) In relation to Rule 5.70, a RDA status is considered sufficient given the narrow focus of this rule on water quality.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Change the activity status of Rule 5.70 to a RDA with the Council restricting discretion to the following matters:

(A) the proposed management practices to avoid or minimise the discharge of nitrogen, phosphorous, and microbiological contaminants to water from the use of land; and

(B) the potential effects of the land use on surface and groundwater quality, and sources of drinking water

(ii) Include the following new Rules in the "Industrial and Trade Wastes" Section:

"5.70A Unless renewing an existing lawfully established discharge permit, the discharge of any contaminants from an industrial or trade process, into a river, lake, wetland or artificial watercourse, is a discretionary activity (refer Policy 4.10);

5.70B the replacement of a lawfully established discharge permit for the discharge of any contaminants from an industrial or trade process, into a river, lake, wetland or artificial watercourse, is a RDA.

The Council will restrict discretion to the following matters:

1. *the proposed management practices to avoid or minimise the discharge of nitrogen, phosphorous, and microbiological contaminants to water from the use of land; and*

2. *measures to avoid, remedy or mitigate adverse effects on aquatic ecosystems, water quality and sources of drinking water."*

7.39 Rule 5.72 Discharge of Stormwater (Page 5-17)

(a) Fonterra's submission is that:

Fonterra supports the permitted activity status of the discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter water as this adequately

provides for stormwater discharges to land and waterways typically associated with dairy manufacturing sites.

(b) Fonterra seeks the following decision from Environment Canterbury:

Retain Rule 5.72.

7.40 Rule 5.87 Abstraction from Groundwater (Page 5-21)

(a) Fonterra's submission is that:

This rule provides for the abstraction of groundwater at a rate of less than 5 l/s and 100 m3 per day as a permitted activity. Fonterra supports the introduction of this rule but considers that it would be more equitable to allocate water in a series of steps, based on property size.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.87 by structuring the allocation in a series of steps, for example:

Property Size	Maximum Volume
20-100 ha	50 m3
100-200 ha	100 m3
200 ha +	150 m3

Or similar amendment.

7.41 Rule 5.96 Take and Use of Surface Water (Page 5-23)

(a) Fonterra's submission is that:

Rule 5.96(1) and (2) mean that all lawfully established surface water permits can be renewed as a RDA, except where the take is from a natural wetland, hāpua or a high naturalness river. RDA status for lawfully established surface water takes is supported by Fonterra.

(b) Fonterra seeks the following decision from Environment Canterbury:

Retain Rule 5.96.

7.42 Rule 5.97 Take and Use of Surface Water (Page 5-23)

(a) Fonterra's submission is that:

(i) It is inappropriate to require all takes and uses of surface water that do not comply with the requirements of conditions 2 or 3 of Rule 5.96 to obtain non-complying activity consent. This rule may apply to all takes, regardless of size, regardless of impact on environmental flows or any other effects and in all catchments, not just those that are over allocated.

(ii) Such a requirement creates an additional hurdle for applicants and significantly increases costs without achieving commensurate environmental benefit. The non-complying category may discourage potential investment in irrigation schemes given obtaining consent under this category is difficult. This rule would unduly hinder people

and communities in the Canterbury Region making use of water resources to provide for their social, economic and cultural wellbeing.

(iii) A discretionary activity status is more appropriate, as it would enable the Council to properly evaluate any proposal in a relatively neutral framework and, if appropriate, grant resource consent.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.97 to provide discretionary rather than non-complying activity status.

7.43 Rule 5.102 Take and Use of Groundwater (Page 5-24)

(a) Fonterra's submission is that:

(i) It is inappropriate to require all takes and uses of groundwater outside a Groundwater Allocation Zone to obtain non-complying activity consent. This rule may apply to all takes, regardless of size, regardless of impact on environmental flows or any other effects.

(ii) Such a requirement creates an additional hurdle for applicants and significantly increases costs without achieving commensurate environmental benefit. This rule would unduly hinder people and communities in the Canterbury Region making use of water resources to provide for their social, economic and cultural wellbeing.

(iii) A discretionary activity status is more appropriate, as it would enable the Council to properly evaluate any proposal in a relatively neutral framework and, if appropriate, grant resource consent.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend Rule 5.102 to provide discretionary rather than non-complying activity status.

7.44 Rule 5.105 Non Consumptive Use of Groundwater (Page 5-25)

(a) Fonterra's submission is that:

(i) Many dairy farms make non-consumptive use of groundwater for milk cooling purposes within the farm dairy. The water is either returned to groundwater or has a subsequent use as washdown water, thereby making two uses of the same volume of water. As a commercial use, this is excluded from enjoying permitted activity status. This exclusion does not appear to be related to any effects on the environment.

(ii) If such use were provided for by the Rule, there would be scope for farmers who do not make such use of groundwater to improve their efficiency by reusing cooling water for yard wash and reduce the total amount of water used in the farm dairy.

(b) Fonterra seeks the following decision from Environment Canterbury:

Delete condition 2 from Rule 5.105 or make such other amendment to the Rule to allow use of groundwater for farm dairy milk cooling purposes.

7.45 Rule 5.107 Transfer of water permits (Page 5-25)

(a) Fonterra's submission is that:

(i) Condition 5 of this rule requires the surrender of various proportions of water when and if water is transferred. The surrender provisions appear arbitrary and are not supported by evidence which confirms "surrender" on transfer as the best means to overcome "over allocation". Other means may be more efficient including storage or the achievement of higher levels of technical efficiency. The provisions will act as a strong disincentive against transfer and therefore will constrain the social and economic opportunities which may arise from efficient water use. The provision will work against achievement of "dynamic efficiency".

(ii) As an example, Fonterra has a water permit which allows for staged development of the Darfield Dairy Factory. While not clear in the Plan, according to the Groundwater Allocation Summary Table (dated 26 September 2012) on Environment Canterbury's website, the Selwyn-Waimakariri Groundwater Allocation Zone is over-allocated. Accordingly, if Fonterra wanted to make a temporary transfer of part of its water permit prior to full development of the Darfield Dairy Factory site, then under Rule 5.107, it could be required to surrender between 25% and 50% of the water permit which could jeopardise future expansion plans. This would not be a viable option for Fonterra.

(iii) Alternatively, if Fonterra wanted to further expand the Darfield Dairy Factory in the future which required quantities of water beyond that allocated in the existing water permit, the only alternative may be to seek a water permit transfer from a nearby landowner who has a surplus capacity. Given that Fonterra would be unable to secure resource consent for a new source of water (due to the over-allocation status), it seems overly restrictive and inefficient that between 25% and 50% of any surplus water under an existing water permit would be made unavailable (unless Fonterra went through the difficult process of seeking a non-complying activity water permit under Rule 5.108). Such a scenario could jeopardise any future expansion of the dairy factory.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Delete condition 5 of rule 5.107.

(ii) In the absence of the above, amend condition 5 of rule 5.107 as follows:

> *"With the exception of regionally and nationally significant large scale, capital intensive industrial facilities that process perishable products, such as dairy processing facilities…"*

7.46 Rule 5.132 Use of bed for HEP (Page 5-30)

(a) Fonterra's submission is that:

This rule appears to favour hydro electric power generation. Equal provision should be made for existing irrigation structures.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the rule to include provision for irrigation structures.

7.47 Rule 5.133 Stock Exclusion (Page 5-30), and New Definition of "Active Bed"

(a) Fonterra's submission is that:

(i) Rule 5.133 prohibits the use and disturbance of the bed of a lake or river by outdoor intensively farmed livestock. While Fonterra supports measures to exclude stock from waterways it has concerns that because of the broad reach of the statutory definition of "bed", this rule would prohibit stock accessing bridge approaches on rivers in some situations.

(ii) While it is advisable that stock bridges extend across the entire bed of the river there are situations where this is not practical (e.g. where the bed is much wider than the active stream) and the approaches to the bridge may be within the defined 'bed' of the river.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Add an exemption to the rule for access across the bed of a river for the purposes of conveying stock over a bridge or culvert structure or

(ii) Include a new definition of "active bed" in the definitions section of the Plan:

> *"**Active bed** means that part of a river bed permanently covered by water and any area adjacent to, or within, a braided river system that is not covered by permanently flowing water but which is predominantly unvegetated and comprises sand, gravel, boulders or similar material."*

(iii) And amend Rule 5.133 to commence:

> *"The use and disturbance of the active bed of a lake or river or a wetland…."*

7.48 Rule 5.162 – 5.167 Hazardous Substances (Pages 5-37-5-38) and Schedule 4 – Hazardous Substances (Page 16-7)

(a) Fonterra's submission is that:

(i) These rules make reference to hazardous substances listed in Part A of Schedule 4 to the Plan. That Schedule provides a definition of hazardous substance by reference to the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001 as well as components of the definition of hazardous substance found in the Hazardous Substances and New Organisms Act 1996. This is a very complex approach. It leaves open the possibility that milk is defined as a hazardous substance (as it can be ecotoxic).

(ii) If milk is so defined, then the use of land for the storage in a portable container of milk in excess of 2,000 litres requires a resource consent. By way of context, farm tanks typically contain 3,000 to 5,000 litres of milk and milk tankers contain 28,000 litres of milk. Having a milk

tanker visit a site could require a resource consent under Rules 5.162 and 5.163.

(iii) In addition, Rule 5.164 would cover Fonterra's milk processing sites. Various of the conditions could not be complied with (for example the obligation under Rule 5.164(4)(b) to undertake stock reconciliation within 24 hours of a substance being delivered and thereafter on a fortnightly basis). Accordingly, Fonterra's milk processing activities would fall to be considered as a discretionary activity.

(iv) Similarly, under Rule 5.166, a farmer or Fonterra would need to report to the Council at least one week before decommissioning of any milk storage tanker. Other information must be provided after the decommissioning in order to enjoy permitted activity status. If this information is not provided either in advance or afterwards, then discretionary activity consent must be obtained.

(v) It appears that milk storage has been inadvertently captured by these rules.

(vi) Fonterra accepts that because of its ecotoxic properties and for other reasons, milk should be appropriately stored so that it is not released to the environment. If it is so released, then that is addressed through other rules in the Plan that relate to discharges to land and water. Those controls are appropriate. It is not necessary that additional controls on milk be imposed inadvertently through the Hazardous Substances Rules regime.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the Hazardous Substances Rules, Schedule 4, and/or the Definitions section of the Plan so that milk is not captured by the Hazardous Substances Rules, for example by amending the Hazardous Substances Rules to commence:

"Nothing in Rules 5.162-5.167 applies to the storage, transport, use and processing of milk or milk products.".

SCHEDULES

7.49 Schedule 7 – Farm Environment Plans (page 16-13) and Rules 5.40, 5.42, 5.46

(a) Fonterra's submission is that:

(i) Fonterra supports the voluntary use of farm planning tools to support farm decision –making. As explained in the introduction to this submission, Fonterra is currently operates a "Supply Fonterra" programme, which is detailed in sections 5.12 and 5.13 of the submission.

(ii) The Supply Fonterra programme has an audit component, with annual audits. Where a farmer is part of this regime, it is submitted that an additional audit is not required. This requirement is found in Conditions of Rules 5.40, 5.42 and 5.46. An audit is required for the first three years by a Plan Auditor. This imposes a heavy and (where already being audited under Supply Fonterra) unnecessary administrative burden on farmers.

(b) Fonterra seeks the following decision from Environment Canterbury:

(i) Amend schedule 7 to make clear that a farmer's Supply Fonterra documentation will satisfy a number of the requirements of the Farm Environment Plan.

(ii) Through amendments to the Rules, the definitions and Schedule 7, make clear that a farmer participating in the Supply Fonterra programme need not have any additional audit requirements.

7.50 Schedule 8 – Industry Derived Nitrogen Discharges (Page 16-14)

(a) Fonterra's submission is that:

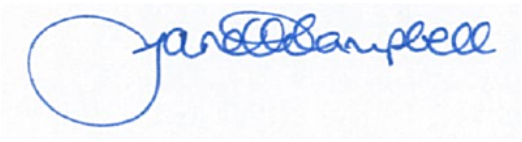
Fonterra is collaborating with DairyNZ and other primary sector stakeholders to define good management practice. It is essential good practice is not restricted to a narrow definition of nitrogen loss. The focus should be on general resource use efficiency, inter-related catchment land uses, most efficient interventions, flexibility and innovation. In most instances, a regime based on discharge allowances will not be required.

(b) Fonterra seeks the following decision from Environment Canterbury:

Amend the title and intent of Schedule 8 to reflect 'good management practice" in the broadest sense. Delete reference to discharge allowances because this approach will not be required in most circumstances.

8. Fonterra wishes to be heard in support of its submission.

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



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