

**From:** [Sue Ruston](#)  
**To:** [Mailroom Mailbox](#)  
**Subject:** CLWRP - PC5 - Submission - Fonterra  
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**Attachments:** [CLWRP - PC5 - Submission - Fonterra - FINAL.pdf](#)

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Please find attached Fonterra's submission on CLWRP Plan Change 5.  
Best regards

Sue Ruston

Environmental Policy Manager - South Island

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# FONTERRA SUBMISSION ON THE PROPOSED PLAN CHANGE 5 TO THE CANTERBURY LAND AND WATER REGIONAL PLAN

**To:** Environment Canterbury

**Submitter** **Fonterra Co-operative Group Limited**

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I confirm that I am authorised on behalf of Fonterra to make this submission.

Fonterra wishes to be heard in support of this submission.

If other parties make similar submissions, Fonterra would consider presenting a joint case with those parties at the hearing.

Fonterra will not gain a trade competition advantage through this submission. Fonterra will be directly affected by adverse effects that will result if Proposed Plan Change 5 becomes operative in its current form. These adverse effects do not relate to trade competition or the effects of trade competition.

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## 1. Introduction

### About Fonterra

- 1.1 A description of Fonterra, the benefits of dairy activities within the Canterbury Region, and Fonterra's commitment to environmental initiatives within the Canterbury Region have all been described in earlier submissions on Variation 1, 2 and 3 and will not be repeated here.

## 2. Scope and nature of submission

- 2.1 This submission relates to the whole of Proposed Plan Change 5 ("**Plan Change 5**") of the Canterbury Land and Water Regional Plan ("**CLWRP**").
- 2.2 Fonterra generally supports Plan Change 5, subject to amendments being made to address the matters set out below and in the table **attached** as **Schedule 1**. If those changes are not made, Fonterra opposes Plan Change 5.

### **3. Reasons for submission**

- 3.1 The reasons for this submission are that, unless Plan Change 5 is amended to address Fonterra's concerns set out below and in the table **attached** as **Schedule 1**, Plan Change 5:
- (a) will not promote sustainable management of resources, and will not achieve the purpose of the Resource Management Act 1991 ("**RMA**");
  - (b) is contrary to Part 2 and other provisions of the RMA;
  - (c) will not meet the reasonably foreseeable needs of future generations;
  - (d) will not enable social, economic and cultural well being;
  - (e) is otherwise contrary to the purposes and provisions of the RMA and other relevant planning documents including the National Policy Statement for Freshwater 2014 and Operative Canterbury Regional Policy Statement 2013;
  - (f) is inappropriate and inconsistent with the purpose and principles of the RMA; and
  - (g) does not represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of other available means, and is therefore not appropriate in terms of section 32 and other provisions of the RMA.
- 3.2 In particular, and without limiting the generality of paragraph 3.1 above or Schedule 1 attached, the further reasons for Fonterra's submission are set out below:

#### **Proposed Farm Portal**

- 3.3 At the heart of Plan Change 5 is the proposed "Farm Portal" concept. The Farm Portal is a nutrient management database accessible online that is used to calculate a Baseline Good Management Practice Loss Rate ("**Baseline GMP Loss Rate**") and Good Management Practice Loss Rate ("GMP Loss Rate") for a particular farming property.
- 3.4 The Portal relies on a series of "modelling proxies" that have been developed to estimate nitrogen and phosphorus loss from typical Canterbury farms operating at Good Management Practices ("**GMP**"). To calculate the Baseline GMP Loss Rate and GMP Loss Rate for a particular property, the modelling proxies in the Portal are applied directly to a farm's OVERSEER file.
- 3.5 In respect of the Farm Portal and the modelling proxies, Fonterra says that:
- (a) The proposed Farm Portal is a potentially useful way to determine GMP loss rates. In particular, determining GMP loss rates for nitrogen in quantitative terms is important for equity reasons.
  - (b) The modelling proxies have not been subject to appropriate levels of testing to establish, with a high degree of certainty, that the Baseline and GMP loss rates they may generate for particular properties will be accurate.

- (c) Fonterra's concerns about the accuracy of the modelling proxies has been exacerbated by Canterbury Regional Council declining requests for access to a tool held by the Council that can provide information on how the proxies adjust particular files.

### **The need for an alternative consenting pathway**

- 3.6 Plan Change 5 does not propose any alternative consenting pathway to that provided by the Farm Portal. Fonterra considers that for two reasons it is essential that an alternative consenting pathway be provided:
  - (a) first, because of the concerns about the reliability of the Farm Portal calculations, described above; and
  - (b) second, irrespective of those concerns about reliability, there will always be "outlier" farms and farming systems that, for potentially any number of reasons, are not able to be reliably modelled by OVERSEER and for which the proposed Farm Portal will therefore calculate inappropriate Baseline GMP and GMP Loss Rates.
- 3.7 Fonterra accepts that any alternative consenting path to the Farm Portal must be tightly prescribed.

### **Section 32 report**

- 3.8 Fonterra is concerned that the Council's section 32 report is deficient, particularly its assessment of the "risk of acting or not acting" under section 32((2)(c) of the RMA.
- 3.9 As described above, Fonterra has concerns about the accuracy of the Farm Portal's modelling proxies. It is therefore also concerned that no analysis has been carried out in preparing the section 32 report as to the risks associated with enabling a tool that will, in some cases, generate Baseline and GMP Loss Rates that are considerably unrepresentative. The section 32 report should have included a sensitivity analysis, weighing the suggested benefits of the Farm Portal, as against the various potential costs that may arise, depending on how "inaccurate" the Portal's modelling proxies might prove to be. That this critical analysis has not been undertaken is another reason why a "safety valve" for the Farm Portal, in the form of the proposed alternative consent pathway, must be provided for in the Plan Change.

### **Good Management Practice Loss Rate**

- 3.10 Under many of the provisions of Plan Change 5, farming activities may only be consented if their nitrogen loss rate does not exceed their nitrogen baseline (until 30 June 2020), or their Baseline GMP Loss Rate (after 1 July 2020). However, the concept of the Good Management Practice Loss Rate also applies. If a farm's Good Management Practice Loss Rate is less than the nitrogen baseline (or after June 2020, the GMP Baseline) then that farm must comply with that lower rate. In that way the Good Management Practice Loss Rates act as a "sinking lid" on nitrogen discharges.
- 3.11 Fonterra agrees that farmers should be required to make GMP improvements over time so as to reduce their nitrogen loss rates and thereby help to maintain or improve the overall water quality of the region. However, there is a fundamental problem with how Plan Change 5 proposes to achieve that outcome.
- 3.12 A number of situations may leave a farmer having to temporarily reduce stock numbers (e.g. health of herd or farmer, periods of low economic returns etc). When stock numbers are temporarily reduced the four year rolling average will reduce and a farmer will then not be able

to return to the GMP Baseline. This could leave farmers unable to service debt. It is also an inequitable method of reducing N loss in a catchment. Fonterra understood that 'ramp-backs' in N loss (beyond GMP) were to be set through sub-regional chapters. What is proposed appears to be an unnecessary step in the region wide rules.

- 3.13 Fonterra considers that a solution to this problem would be to delete all reference to the Good Management Practice Loss Rates and rely simply on the Baseline GMP (this is our preferred option); or, alternatively, to amend the definition of Good Management Practice Loss Rates such that the rate is calculated as the *highest* annual rate (as modelled by the Farm Portal) over the most recent four year period (rather than the average).

#### **Farm Enterprise Rules**

- 3.14 Under Plan Change 5, *farming* activities that meet certain identified criteria are controlled activities, whereas *farming enterprise* activities that meet those same criteria are discretionary activities.
- 3.15 Fonterra considers the proposed distinctions between the activity status of farming and farm enterprise activities are unjustified. Farming enterprise activities that meet the same criteria as farm activities should be afforded the same controlled activity status. Fonterra accepts control will need to be exercised over the adverse effects (if any) that may arise where the proposal is to increase the nitrogen loss on one farm property within a farming enterprise, while correspondingly reducing nitrogen loss on another farm property within that same farm enterprise. This can be achieved by controlling the extent to which any single farm property within a farming enterprise can exceed the Baseline GMP Loss Rate.

#### **New Policy 4.11 - Consent duration**

- 3.16 New Policy 4.11 seeks to limit the duration of any resource consent granted under the CLWRP nutrient management rules to five years past the expected notification date of any Plan Change that will introduce new provisions into sections 6-15 of the CLWRP. That limit is understandable where a Plan Change is likely to introduce requirements for reductions in nutrient losses (where, for example, a particular sub-region of freshwater management unit is fully or over-allocated for nutrients).
- 3.17 However, Fonterra considers such a restriction is unnecessary in the context of resource consents for farming activities in the Green Nutrient Allocation zone. The purpose of this zone is to demarcate where the Water Quality Outcomes in the CLWRP are being met and, therefore, where reductions in nutrients losses are not required. This, in turn, means that at least some future growth in farming activities is envisaged in the zone, which is not considered to be fully or over-allocated in terms of nutrients. As such, proposed plan changes that may impact upon Green zoned areas are unlikely to introduce rules requiring reductions in nutrient losses that need to be reflected in resource consents. Fonterra therefore considers that durations of up to 15 years for resource consents for farming activities in the Green Nutrient Allocation zone can be safely provided for, particularly bearing in mind the need under the RMA to also enable the region's social and economic well-being.

#### **New definition of "winter grazing"**

- 3.18 Fonterra considers that the proposed definition of "winter grazing" is too broad and fails to distinguish between high-risk winter grazing (being winter grazing to bare soil) and low-risk winter grazing (including, for example supplementary feed fed out on pasture or the break feeding of cereal crops that does not involve bared soil). The intention of Variation 5 is to appropriately control those farming activities which are of high-risk of nutrient (nitrogen and phosphorus), sediment and faecal losses to freshwater waterways. Those winter-grazing

activities that are of low-risk of such losses should therefore be excluded from the proposed definition.

#### **New Policy 4.38AB - Permitted baseline**

3.19 New proposed Policy 4.38AB provides:

When considering any application for resource consent for the use of land for a farming activity, the consent authority must not disregard any adverse effect of the proposed activity on water quality on the basis that this Plan permits an activity with that effect.

3.20 Accordingly, new Policy 4.38AB explicitly directs decision-makers to disregard the "permitted baseline" when determining applications for resource consent. Fonterra considers that this direction is *ultra vires*. Section 104(2) of the RMA provides a statutory discretion to decision-makers on resource consent applications, who "may" disregard an adverse effect of a proposed activity on the environment if the relevant plan permits an activity with that effect. Provisions in regional plans cannot take away a statutory discretion in the RMA, which has been given to decision-makers by Parliament. Provisions can guide how a statutory discretion might be exercised in particular circumstances, but they cannot purport to prevent that discretion from being exercised at all. New Policy 4.38AB must therefore be deleted.

#### **4. Relief sought**

4.1 Fonterra seeks the following decision on submissions on Plan Change 5:

(a) That:

- (i) The Farm Portal and the modelling proxies be amended so as to more accurately calculate expected Nitrogen losses. [In the absence of being able to review the modelling proxies, Fonterra opposes the entirety of Schedule 28]
- (ii) An alternative consenting pathway is provided that is able to be used, at a landowner's election, rather than relying upon the Portal. [The proposed provisions describing this pathway are set out in Schedule 1]
- (iii) The policies, rules and associated definitions be amended so as to remove the reliance on the Good Management Practice Loss Rates. Or, alternatively that the Good Management Practice Loss Rates be determined with reference to the *highest* annual discharge of nitrogen (at GMP) over the preceding four-year period.
- (iv) The rules be amended to provide a controlled-activity status for farming enterprise activities, where those activities meet the same criteria for farming activities.
- (v) If Plan Change 5 is to specify likely consent durations (rather than leaving it entirely to the consent authority's discretion), then a 15 year period should be provided for instead of 5 years, within the Green zone.
- (vi) The definition of "winter grazing" be amended in accordance with Schedule 1.
- (vii) Policy 4.38AB be deleted.

(b) Otherwise the proposed provisions be retained, deleted or amended, as set out in Fonterra's submission (set out above and below in the **attached Schedule 1**) so as to provide for the sustainable management of Canterbury's natural and physical resources and thereby achieve the purpose of the RMA. Note that, because two

alternate forms of relief are proposed in (iii) above, neither option is incorporated in Schedule 1 at this stage.

- (c) Such further or other consequential or alternative relief as may be necessary to fully give effect to the relief sought in this submission.



Sue Ruston  
Environmental Policy Manager  
Fonterra

11 March 2016

## SCHEDULE 1

### REGION WIDE PROVISIONS - Table A

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
<b>Use of Farm Portal to define the GMP Loss Rate and Baseline GMP Loss rate and associated polies and rules the rely on those terms</b>					
1	Multiple	Definition of farm portal and all other definitions, policies and rules that rely on the farm portal including Schedule 28	Oppose	<p>The concept of a farm portal is central to the approach advanced by Plan Change 5. In general terms Fonterra continues to support the concept of a farm portal, particularly as determining good management practice (GMP) nitrogen loss in quantitative terms is important for equity reasons. However, the farm portal, like any other part of the plan, or any document relied on by the plan, needs to be able to be fully understood and open to scrutiny as part of the submissions process. It effectively sets limits, by way of the "modelling proxies" that have been developed to estimate nutrient loss from typical Canterbury farms operating at GMP. Submitters are entitled to know and understand what those limits are, and what the effect of those limits, will be. To that end, the farm portal is available on the internet and Schedule 28 does include the Good Management Practice modelling rules. However, the API tool is not available at this point meaning that Fonterra is unable to determine what changes have been made to OVERSEER files through the portal to make those files comply with the modelling rules of Schedule 28. Fonterra is therefore unable to determine the practicality or reasonableness of the farm portal's calculation of a GMP loss rate.</p>	<p>In general terms Fonterra seeks the following relief:</p> <ol style="list-style-type: none"> <li>1. Retain the Farm Portal but review the proxies in Schedule 28 and amend as necessary to ensure that the Farm Portal will produce reliable and realistic GMP loss rates. (Fonterra will be able to assist with this task once Environment Canterbury makes the API tool available. In the absence of being able to review the impact of the Farm Portal's modelling proxies, Fonterra opposes the entirety of Schedule 28)</li> <li>2. Provide an alternative pathway for considering consent applications for farming activities to farm at GMP that does not rely on the Farm Portal.</li> </ol> <p>A suggested means of giving effect to this relief is detailed in respect of the individual provisions set out below.</p>

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				<p>Accordingly, Fonterra is unable to assess the appropriateness of the proxies set out in the Schedule 28.</p> <p>Fonterra's preliminary understanding of the farm portal is that it will generate baseline GMP loss rates significantly below nitrogen baseline, contrary to the understanding Fonterra had when considering the provisions of the LWRP and subsequent variations and plans changes (accepting that those proposals do not directly rely on the portal at this point).</p>	
<b>Definitions</b>					
2	3-2	New definition <b>Loss Rate Assessed as Good Management Practice</b>		Definition is required to provide alternative pathway to that provided by the farm portal (see submission point 4 below for detail as to the alternative consent pathway proposed y Fonterra).	<p>Add a new definition of <b>Loss Rate Assessed as Good Management Practice</b> as follows:</p> <p><i><u>Means the average nitrogen loss rate below the root zone that is estimated by OVERSEER to occur over the most recent four year period based on the farm property adopting Good Management Practices.</u></i></p>
3	3-2	New definition <b>Loss Rate Assessed as Baseline GMP</b>		Definition is required to provide alternative pathway to that provided by the farm portal.	<p>Add a new definition of <b>Loss Rate Assessed as Baseline GMP</b> as follows:</p> <p><i><u>Means the average nitrogen loss rate below the root zone that is estimated to by OVERSEER have occurred over the baseline period based on the farm property adopting Good Management Practices.</u></i></p>
<b>Policies</b>					
4	4-3	Policy 4.36 (bb)	Oppose	The policy bases management around the concept of <b>Good Management Practice Loss Rates</b> . The	Amend Policy 4.36 (bb) to read: <i>(bb) farming activities with the potential for</i>

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				<p>determination of GMP Loss Rates are made through the farm portal, by applying the portal's modelling proxies to a farm's OVERSEER file. Fonterra supports the concept of the farm portal but opposes the specific proposal identified in PC5 at this stage due to uncertainties as to the Farm Portal's reliability (as discussed in submission 1 above).</p> <p>Furthermore, even when and if the Farm Portal is demonstrated to be based on appropriate proxies, there are likely to be "outliers" that are not able to be reliably modelled by OVERSEER (because, for example, some farms may be early adopters of new technology), such that the farm portal cannot properly determine a GMP rate for those farms. Hence, Fonterra seeks an <u>alternate pathway</u> for farms to demonstrate that they are operating at GMP (through the consent process) without reliance on the farm portal.</p> <p>This alternative pathway is given effect to by giving farmers the opportunity on a resource consent application to demonstrate that their nitrogen loss rate represents GMP, on the basis that they can demonstrate that they are applying Good Management Practices (as described in the document entitled <i>Industry-agreed Good Management Practices relating to Water Quality</i> – dated 18 September 2015).</p> <p>In addition, it is not clear what "more significant" means in the context (more significant than what?).</p>	<p><del>more</del> significant nutrient losses, managing their nitrogen loss in accordance with Good Management Practice Loss Rate <u>or the Loss Rate Assessed as Good Management Practice</u> and being subject to a resource consent process.</p>
5	4-3	Policy 4.37 (a)	Oppose	The policies need to provide for the alternate pathway, which the amendments proposed are	Amend Policy 4.37 to read: <i>Freshwater quality is improved within the Lake</i>

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				directed at.	<p>Zone and Red Nutrient Allocation Zone by:</p> <ul style="list-style-type: none"> <li>(a) avoiding the granting of any resource consent that will allow the nitrogen losses from a farming activity to exceed the Baseline GMP Loss Rate <u>or, alternatively, the Loss Rate Assessed as Baseline GMP</u> except where Policy 4.38A applies; and;</li> <li>(b) including on any resource consent granted for the use of land for a farming activity, conditions that: <ul style="list-style-type: none"> <li>(i) limit the nitrogen loss calculation for the farming activity to a rate not exceeding the Baseline GMP Loss Rate <u>or Loss Rate Assessed as Baseline GMP</u>; and</li> <li>(ii) require activities to operate at or below the Good Management Practice Loss Rate <u>or Loss Rate Assessed as Good Management Practice</u> , in any circumstances where that Good Management Practice Rate <u>or Loss Rate Assessed as Good Management Practice</u> is less than the Baseline GMP Loss Rate <u>Loss Rate Assessed as Baseline GMP</u>; and</li> </ul> </li> <li>(c) requiring a Farm Environment Plan as part of any application for resource consent to use land for a farming activity, and requiring that Farm Environment Plan to: <ul style="list-style-type: none"> <li>(i) describe the specific on-farm actions that will be undertaken (and the timeframe within which these actions will be undertaken) to implement the Good Management Practices; and</li> <li>(ii) provide an explanation of how these on-farm actions will ensure progress</li> </ul> </li> </ul>

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					<i>towards the attainment of the management objectives and targets in Schedule 7 of this plan.</i>
6	4-3	Policy 4.38	Oppose	The policy requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).	<p><i>Freshwater quality is improved within the Lake Zone and Orange Nutrient Allocation Zone by:</i></p> <p><i>(a) Restricting nitrogen losses from farming activities to the lesser of the Baseline GMP Loss Rate <u>or the Loss Rate Assessed as Baseline GMP and</u> <del>or</del> the Good Management Loss Rate except where Policy 4.38A applies; and;</i></p> <p><i>(b) including on any resource consent granted for the use of land for a farming activity, conditions that:</i></p> <p><i>(i) limit the nitrogen loss calculation for the farming activity to a rate not exceeding the Baseline GMP Loss Rate <u>or, alternatively, the Loss Rate Assessed as Baseline GMP</u>; and</i></p> <p><i>(ii) require activities to operate at or below the Good Management Practice Loss Rate <u>or Loss Rate Assessed as Good Management Practice</u> , in any circumstances where that Good Management Practice Rate <u>or Loss Rate Assessed as Good Management Practice</u> is less than the Baseline GMP Loss Rate <u>Loss Rate Assessed as Baseline GMP</u>; and</i></p> <p><i>(c) requiring a Farm Environment Plan as part of any application for resource consent to use land for a farming activity, and requiring that Farm Environment Plan to:</i></p> <p><i>(i) describe the specific on-farm actions that will be undertaken (and the</i></p>

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					<p>timeframe within which these actions will be undertaken) to implement the Good Management Practices: and</p> <p>(ii) provide an explanation of how these on-farm actions will ensure progress towards the attainment of the management objectives and targets in Schedule 7 of this plan.</p>
7	4-3	Policy 4.38AA	Oppose	<p>Fonterra considers that in the Green Nutrient Allocation Zones, which by definition are not over-allocated for nutrients, a modest increase in nitrogen loss (from Baseline GMP) should be allowed as a permitted activity</p>	<p>Amend Policy 4.38AA to read:</p> <p>4.38AA Freshwater quality is maintained within the Green and Light Blue Nutrient Allocation zones by:</p> <p>(a) restricting increases in nitrogen loss from farming activities <u>as a permitted activity</u> to no more than a total of 5kg/ha/yr above the Baseline GMP Loss Rate; and</p> <p><del>(b) including on any resource consent granted for the use of land for a farming activity, conditions that:</del></p> <p><del>(i) limit the nitrogen loss calculation for the farming activity to a rate not exceeding a total of 5kg/ha/yr above the Baseline GMP Loss Rate; and</del></p> <p><del>(ii) require farming activities to operate at or below the Baseline GMP Loss Rate, in any circumstances where that Baseline GMP Loss Rate, in any circumstance where the Good Management Practice Loss Rate is less than 5kg/ha/yr above the Baseline GMP Loss Rate; and</del></p> <p>(c) Not granting any resource consent to exceed <u>5kg/ha/yr above</u> the greater of the Baseline GMP Loss Rate and the <u>Loss Rate Assessed as Baseline GMP</u></p>

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					<p><i>unless the application for resource consent demonstrates that water quality will be maintained; and</i></p> <p><i>(d) requiring a Farm Environment Plan as part of any application for resource consent to use land for a farming activity, and requiring that Farm Environment Plan to:</i></p> <p><i>(i) describe the specific on-farm actions that will be undertaken (and the timeframe within which these actions will be undertaken) to implement the Good Management Practices: and</i></p> <p><i>(ii) provide an explanation of how these on-farm actions will ensure progress towards the attainment of the management objectives and targets in Schedule 7 of this plan.</i></p>
8	4-4	Policy 4.38A	Oppose	<p>The policy requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 3).</p> <p>The policy also requires amendment to recognise the change proposed to allow a one-off 5kg/ha/yr (from Baseline) increase in N loss from farming activities in the Green and Light Blue zones.</p>	<p>Amend Policy 4.38A to read:</p> <p><i>Within the Red, Orange, <del>Green or Light Blue</del> Nutrient Allocation Zones, only consider the granting of an application for resource consent to exceed the nitrogen baseline where:</i></p> <p><i>(a) the nitrogen baseline has been lawfully exceeded prior to 13 February 2016 and the application contains evidence that the exceedance was lawful; and</i></p> <p><i>(b) the nitrogen loss calculation that occurred remains below the lesser of the <del>Good Management Practice Loss Rate or Loss Rate Assessed as Good Management Practice</del> <del>or</del> and the nitrogen loss calculation that occurred in the four years prior to 13 February 2016.</i></p>

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<b>Rules</b>					
9	5-4	Rule 5.45A	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).</p> <p>The amendment proposed will enable an applicant to demonstrate what the baseline GMP loss rate for a particular property without using the farm portal.</p>	<p>Amend Rule 5.45A to read:</p> <p><b><i>Within the Red Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 or 3 of Rule 5.44B is a restricted discretionary activity provided the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. <i>A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></li> <li>2. <i>Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Red Nutrient Allocation Zone does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the <u>greater of the Baseline GMP Loss Rate and the Loss Rate Assessed as Baseline GMP</u> unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016, and the application for resource consent demonstrates that the exceedance was lawful.</i></li> </ol> <p>Add a new matter of discretion:</p> <p><b><u>1A. The determination of the Loss Rate Assessed as Baseline GMP.</u></b></p>
10	5-6	Rule 5.46A	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).</p>	<p>Amend Rule 5.46A to read:</p> <p><b><i>Within the Red Nutrient Allocation Zone, the use of land for a farming activity that is part of a farming enterprise is a discretionary activity, provided the following conditions are met:</i></b></p>

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					<ol style="list-style-type: none"> <li>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</li> <li>2. Until 30 June 2020, the nitrogen loss calculation does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the <u>greater of the Good Management Practice Loss Rate and the Loss Rate Assessed as Good Management Practice.</u></li> <li>3. The properties comprising the farming enterprise are in the same surface water catchment and Nutrient Allocation Zone, as shown on the Planning Maps.</li> </ol>
11	5-7	Rule 5.50A	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).</p> <p>The amendment proposed will enable an applicant to demonstrate what the baseline GMP loss rate for a particular property without using the farm portal.</p>	<p>Amend Rule 5.50A to read:</p> <p><b><i>Within the Lake Zone, the use of land for a farming activity on a property greater than 10 hectares in area is a restricted discretionary activity provided the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</li> <li>2. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Lake Zone does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the <u>greater of the Baseline GMP Loss Rate and the Loss Rate Assessed as Baseline GMP.</u></li> </ol> <p>Add a new matter of discretion:</p>

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					<u>1A. The determination of the Loss Rate Assessed as Baseline GMP.</u>
12	5-10	Rule 5.55A	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).</p> <p>The amendment proposed will enable an applicant to demonstrate what the baseline GMP loss rate without using the farm portal.</p>	<p><b><i>Within the Orange Nutrient Allocation Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 or 3 of Rule 5.54B is a restricted discretionary activity provided the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</li> <li>2. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Orange Nutrient Allocation Zone does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the <u>greater of Baseline GMP Loss Rate and the Loss Rate Assessed as Baseline GMP</u> unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016, and the application for resource consent demonstrates that the exceedance was lawful.</li> </ol> <p>Add a new matter of discretion:</p> <p><u>1A. The determination of the Loss Rate Assessed as Baseline GMP.</u></p>
13	5-11	Rule 5.56AA	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 4).</p>	<p>Amend Rule 5.46A to read:</p> <p><b><i>Within the Orange Nutrient Allocation Zone, the use of land for a farming activity that is part of a farming enterprise is a discretionary activity, provided the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. A Farm Environment Plan has been</li> </ol>

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					<p><i>prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></p> <ol style="list-style-type: none"> <li>2. <i>Until 30 June 2020, the nitrogen loss calculation does not exceed the nitrogen baseline, and from 1 July 2020 does not exceed the <u>greater of the Good Management Practice Loss Rate and the Loss Rate Assessed as Good Management Practice.</u></i></li> <li>3. <i>The properties comprising the farming enterprise are in the same surface water catchment and Nutrient Allocation Zone, as shown on the Planning Maps.</i></li> </ol>
14	5-12	Rule 5.58A	Oppose	<p>The rule requires amendment to provide the alternative pathway discussed in relation to policies 4.36-4.38 (see submission 5). Fonterra accepts that the concept of a “Loss Rate Assessed as Baseline GMP” (see submission 5) requires a consent process given that the assessment will involve an element of discretion inappropriate for a permitted activity. For that reason, Fonterra supports a restricted discretionary activity rule when a farm cannot meet the permitted activity condition limiting nitrogen loss to an additional 5kgs/ha/yr for the GMP Baseline but could meet that limit when assessed against a “Loss Rate Assessed as Baseline GMP”. The amendment proposed will enable an applicant to demonstrate what the baseline GMP loss rate without using the farm portal.</p>	<p>Amend Rule 5.58A to read:</p> <p><b><i>Within the Green or Light Blue Nutrient Allocation Zone the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with conditions 2 or 3 of Rule 5.57B is a restricted discretionary activity provided the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. <i>A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></li> <li>2. <i>Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Green or Light Blue Nutrient Allocation Zone does not exceed a total of 5kg/ha/yr above the nitrogen baseline, and from 1 July 2020 a total of 5kg/ha/yr above the <u>Baseline GMP Loss Rate Loss Rate Assessed as Baseline GMP</u>; unless the nitrogen baseline was lawfully exceeded prior to 13 February</i></li> </ol>

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					<p>2016, and the application for resource consent demonstrates that the exceedance was lawful; and</p> <p>Add a further matter of discretion to read:  <u>1A The estimation of the Loss Rate Assessed as Good Management Practice</u></p> <p>Amend matter of discretion 6 to read:  Methods that require the farming activity to operate at or below the <del>Good Management Practice Loss Rate</del> <u>Loss Rate Assessed as Good Management Practice</u>, in circumstances where that <del>Good Management Practice Loss Rate</del> <u>Loss Rate Assessed as Good Management Practice</u> is less than the <del>Baseline GMP Loss Rate</del> <u>Loss Rate Assessed as Baseline GMP</u> ; and</p>
<b>Schedules</b>					
15	6-11	Schedule 28	Oppose	<p>As noted in submission 1 of this submission table, Fonterra is unable to assess the appropriateness of the proxies set out in Schedule 28. In addition, some proxies (such as the fertiliser proxy) are known to be technically incorrect. For those reasons Fonterra opposes the schedule in its current form.</p> <p>It may be that prior to the hearing of this submission the API tool is made available to Fonterra and further analysis of the appropriateness of Schedule 28 will be possible identifying specific areas of concern.</p>	<p>The Farm Portal and the modelling proxies (as set out in Schedule 28) be amended so as to more accurately calculate expected Nitrogen losses</p> <p>In the absence of being able to review the modelling proxies, Fonterra opposes the entirety of Schedule 28.</p>

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<b>Other Issues - Definitions</b>					
16	3-3	Definition of <b>Winter Grazing</b>	Oppose	The definition is too broad and fails to distinguish between high risk winter grazing (being winter grazing on bare soil) and winter grazing of low risk (including, for example, supplementary feed fed out on pasture or the break feeding of cereal crops that does not involve bared soil).	Reword the definition to read as follows:  <i>means the grazing of cattle within the period of 1 May to 30 September, where the cattle are contained for break-feeding of in-situ forage <del>brassica and root vegetable</del> crops <del>or supplementray feed that has been brought onto the property</del></i>
<b>Other Issues - Policies</b>					
17	4-2	Policy 4.11	Oppose	The policies limit the duration of any consent granted to five years past the expected notification date of any plan change that will introduce new provisions into sections 6-15. That limit is understandable where a Plan Change is likely to introduce a requirement for reductions in nutrient losses (because the zone is fully or over-allocated for nutrients). However, such a restriction is unnecessary in the Green Nutrient Allocation Zone. That zone, by definition, is not fully allocated in terms of nutrients. As a result, any plan change for Green zoned areas is unlikely to introduce required for reductions in nutrient discharges that need to be reflected in consents (at least for the duration of the CLWRP).	Amend Policy 4.11 to read:  <i>The setting and attainment of catchment water and quality outcomes and limits is enabled through limiting the duration of any resource consent granted under the region-wide rules in this Plan to a period not exceeding:</i> <ul style="list-style-type: none"> <li>• <i>five years in <u>the Red or Orange</u>; or</i></li> <li>• <i><u>15 years in the Green or Light Blue zones</u></i></li> </ul> <i>past the expected notification date (as set out in the Council's Progressive implementation Programme) of any plan change that will introduce water quality or water quantity provisions into Sections 6-15 of this Plan.</i>

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18	4-4	Policy 4.38AB	Oppose	<p>Policy 4.38AB explicitly directs decision-makers to disregard the "permitted baseline" when determining applications for resource consent. Fonterra considers that this direction is ultra vires. Section 104(2) of the RMA provides a statutory discretion to decision-makers on resource consent applications, who "may" disregard an adverse effect of a proposed activity on the environment if the relevant plan permits an activity with that effect. Provisions in regional plans cannot take away a statutory discretion in the RMA, which has been given to decision-makers by Parliament. Provisions can guide how a statutory discretion might be exercised in particular circumstances, but they cannot purport to prevent that discretion from being exercised at all.</p>	Delete Policy 4.38AB
<b>Other Issues - Farm Enterprise Rules</b>					
19	5-7, 5-11 and 5-13	Rules 5.46A, 5.56AA and 5.58A	Oppose	<p>The Rules of Part A of Plan Change 5 make farming enterprises discretionary activities provided:</p> <ul style="list-style-type: none"> <li>• a Farm Environment Plan is prepared;</li> <li>• the nutrient loss calculation for the farm enterprise does not exceed the nitrogen Baseline and from 1 July 2020 the Good Management Practice Loss Rate (in the Red Zone) or Baseline GMP Loss Rate (in the Orange zone, Green or Light Blue Zone); and</li> <li>• properties comprising the farming enterprise are in the same surface water catchment and Nutrient Allocation Zone</li> </ul>	<p>Amend Rules 5.46A, 5.56AA and 5.58A so that the use of land for a farming activity as part of a farming enterprise is a controlled activity, with control reserved over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u>The commencement date for the first audit of the Farm Environment Plan; and</u></li> <li>2. <u>The content, quality and accuracy of the OVERSEER® budgets provided with the application for resource consent; and</u></li> <li>3. <u>The timing of any actions or good management practices proposed to achieve the objectives and targets described in Schedule 7; and</u></li> <li>4. <u>The extent to which any parcel of land within the farming enterprise may exceed the Baseline GMP Loss Rate; and</u></li> </ol>

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				<p>Fonterra considers that farming enterprises meeting these criteria could, and should, be controlled activities. Other farming activities that meet the same criteria are controlled-activities (eg proposed Rule 5.44B). Fonterra accepts that the Council will need to assess the extent of adverse effect (if any) of increasing nitrogen loss on one farm property while reducing nitrogen loss on another within the same farm enterprise. This can be achieved by exercising control over the extent to which any single property is allowed to exceed the Baseline GMP Loss Rate.</p>	<ol style="list-style-type: none"> <li>5. <u>Methods that limit the nitrogen loss calculation for the farming enterprise to a rate not exceeding the Baseline GMP Loss Rate; and</u></li> <li>6. <u>Methods that require the farming enterprise to operate at or below the Good Management Practice Loss Rate, in any circumstance where that Good Management Practice Loss Rate is less than the Baseline GMP Loss Rate; and</u></li> <li>7. <u>Methods to avoid or mitigate adverse effects of the activity on surface and groundwater quality and sources of drinking water; and</u></li> <li>8. <u>Methods to address any non-compliance identified as a result of a Farm Environment Plan audit, including the timing of any subsequent audits;</u></li> <li>9. <u>Reporting of nutrient losses and audit results of the Farm Environment Plan to the Canterbury Regional Council; and</u></li> <li>10. <u>Methods to prevent an exceedance of any relevant nutrient load limit set out in Sections 6 to 15 of the Plan.</u></li> </ol>
20		New discretionary activity rule for farming enterprises	Support	<p>Consistent with other parts of this submission, Fonterra considers that an alternative consenting pathway should be provided for farming enterprises that, for various reasons, cannot rely on the Farm Portal to accurately estimate their GMP Loss Rate or the Baseline GMP Loss Rate. This can be achieved by a discretionary activity rule for each nutrient management zone that uses the term <i>Loss Rate Assessed as Good Management Practice</i> and <i>Loss Rate Assesses and GMP Baseline</i> (as proposed to be defined) in substitute for the terms “Good Management</p>	<p>Include new discretionary activity rules for farming enterprises to provide an alternative consent pathway to the Farm Portal.</p>

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				Practice Loss Rate” or “Baseline GMP Loss Rate”.	

## PART B - WAITAKI

### SPECIFIC SUBMISSIONS – TABLE B

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<b>Use of Farm Portal to define the GMP Loss Rate and Baseline GMP Loss rate and associated polies and rules the rely on those terms</b>					
21	4-8	Policy 15B.4.13	Oppose	<p>The Policy refers to Good Management Practice Loss Rate which is a concept entirely dependent on the Farm Portal. To ensure that there is the alternative pathway sought by Fonterra, the policy needs amendment.</p> <p>Also, the relationship between these policies 15B.4.13, 15B.4.14 and 15B.4.15 is unclear. Policy 15B.4.13 purports to apply to granting of resource consents to exceed the nitrogen baseline anywhere in the Waitaki sub region. However it is apparent from Policies 15B.4.14 and 15B.4.15 that Policy 15B.4.13 does not stand alone and is subject to the more specific requirements set out in those later policies. Fonterra considers that it would be helpful if that were made clearer.</p>	<p>Amend Policy 15B.4.13 (b) to read:</p> <p><i>The nitrogen loss calculation remains below the lesser of the Good Management Practices Loss rate or the <u>Loss Rate Assessed as Good Management Practice (whichever is applicable)</u> or the nitrogen loss that occurred in the four years prior to 13 February 2016</i></p> <p>Amend Policy 15B.4.13 by adding the following part:</p> <p><i>(c) <u>Policy 15B.4.14 or Policy 15B.4.15 apply</u></i></p>
22		Policy 15B.4.14	Oppose	See submission 5 above. Policy needs to provide for consenting pathway that does not rely on the Farm Portal	<p>Amend (b) to read:</p> <p><i>The nitrogen losses from the farming activity</i></p>

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					<i>remain below the Good Management Practice Loss Rate <u>or the Loss Rate Assessed as Good Management Practice</u> for the farming activity proposed at the time the water permit was granted.</i>
23	4-9	Policy 15B.4.15	Oppose	See submission 5 above. Policy needs to provide for consenting pathway that does not rely on the Farm Portal.	Amend (b) to read:  <i>The farming activity will be managed so that the nitrogen loss calculation remains below the Good Management Practice Loss Rate <u>or the Loss Rate Assessed as Good Management Practice</u>.</i>
24	4-10	Policy 15B.4.19 and Policy 15B.4.19	Oppose	There is minor inconsistency in the wording of policies 15B.4.19 and 15B.4.20 in that one refers to “water quality” the other to “freshwater quality”. The distinction is not obvious and may be unintended. Both policies purport to set out the general course of action to maintain water quality.	Combine the Policies 15.4.19 and 15B.4.19 or make the distinction between these policies more apparent (by referring to aquaculture and farming activities respectively).
25	4-10	Policy 15B.4.20 (c)	Oppose	The concept of Good Management Practice Loss rate relies on the farm portal. As outlined in Part A of this submission, Fonterra considers that PC5 should provide an alternative consenting pathway for activities that do not rely on the farm portal.	Amend Policy 15B.4.20 (b) to read:  <i>Avoiding the granting of any resource consent that will allow nitrogen losses from farming activities in the Ahuriri Zone or Upper Waitaki Hill Zone to exceed the Baseline GMP Loss Rate <u>or, alternatively Loss Rate Assessed as Baseline GMP</u>, except where Policy 15B.4.13 applies.</i>  Amend Policy 15B.4.20 (c) to read:  <i>Including, on any resource consent granted for the use of land for a farming activity, conditions that require farming activities to operate at or below the Good Management Practice Loss Rate <u>or Loss Rate Assessed as Good Management Practice</u>, in any circumstance where that Good</i>

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					<i>Management Practice Loss Rate or <u>Loss Rate Assessed as Good Management Practice</u> is less than either the Baseline GMP Loss Rate or the Upper Waitaki Nitrogen Headroom Limit.</i>
26	4-11	Policy 15B.4.22 (a) and (b)	Oppose	The provision requires that nitrogen losses do not exceed the average loss rate occurring over the period 2011-2015. It is not clear however whether the average is the average on the particular property for which consent is sought or the wider Ahuriri zone or some other area.	Clarify that the average is to be 2011-2015 calculated for the property for which consent is sought
27	4-11	Policy 15B.4.24	Oppose	See submission 5 above. Policy needs to provide for consenting pathway that does not rely on the portal.	Amend Rule 15B.4.24 to read: <i>Freshwater quality is maintained within the Hakataramea Freshwater Management Unit by:</i> (a) <i>avoiding the granting of any resource consent that will allow nitrogen losses from farming activities in the Hakataramea Freshwater Management Unit to exceed the Baseline GMP Loss Rate <u>or Loss Rate Assessed as Baseline GMP</u>, except where Policy 15B.4.13 and 15B.4.15 apply; and</i> (b) <i>restricting, in the Hakataramea River Zone, nitrogen losses from the portion of the property irrigated or used for winter grazing to 90% or less of the Good Management Practice Loss Rate <u>or Loss Rate Assessed as Good Management Practice</u>.</i> (c) <i>requiring, in the Hakataramea Hill Zone and the Hakataramea Flat Zone, farming activities to operate at the Good Management Practice Loss Rate <u>or Loss Rate Assessed as Good Management Practice</u>, where that loss rate is less than the Baseline GMP Loss rate <u>or Loss Rate Assessed as Baseline GMP</u>.</i>

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28	4-11	Policy 15B.4.25	Oppose	<p>The policy refers to the “agricultural nitrogen load limit” and suggests that this is calculated in accordance with Schedule 27. Schedule 27, by contrast, refers to the “on-land nitrogen load”. The differing use of terminology is potentially confusing. See submission 5 above. Policy needs to provide for consenting pathway that does not rely on the portal.</p> <p>Also, Policy 15B.4.25 (c) refers to “<i>circumstances where that Good Management Practice Loss Rate is less than either the Baseline GMP Loss Rate or the agricultural nitrogen load limit as calculated in accordance with Schedule 27</i>”.</p> <p>It is unclear how a Baseline GMP Loss Rate can be less than the agricultural load limit as the Baseline GMP is a N Loss rate in kgs/ha/yr while the “<i>agricultural nitrogen load limit calculated in accordance with Schedule 27</i>” is a load expressed in tonnes per year. The policy requires a comparison on two conceptually different things.</p>	<p>Standardise the use of terminology in Policy 15B.4.25 and Schedule 27.</p> <p>Make change to Policy 15B.4.25 (c) as proposed above for Policy 15B.4.24 (c), however, clarify the applicability of the agricultural load limit in the context of this policy.</p>
29	4-12	Policy 15B.4.26	Oppose	<p>See submission 5 above. Policy needs to provide for consenting pathway that does not rely on the portal.</p>	<p>Amend (b) to read:</p> <p><i>(b) restricting nitrogen losses from the part of the property in the Greater Waikakahi Zone that is irrigated or used for winter grazing to no more than 90% of the Good Management Practice Loss Rate or <u>Loss Rate Assessed as Good Management Practice.</u></i></p> <p>Make change as proposed for Policy 15B.4.25 (c)</p>
<b>Rules</b>					
30	4-18	15.B.5.16	Oppose	<p>See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the</p>	<p>Amend Rule 15B.5.16 to read:</p>

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				portal.	<p><b><i>Within the Ahuriri Zone or Upper Waitaki Hill Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition <u>2</u> or 3 of Rule 15B.5.15 is a restricted discretionary activity provide the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. <i>A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></li> <li>2. <i>Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Ahuriri Zone or Upper Waitaki Catchment Zone Zone does not exceed the nitrogen baseline, and from 1 July 2020 the <del>Baseline GMP Loss Rate Loss Rate</del> Assessed as GMP Baseline; unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that the exceedance was lawful.</i></li> </ol> <p>Add a further matter of discretion to read:  <u><i>1A The estimation of the Loss Rate Assessed as GMP Baseline</i></u></p>
31	4-22	Rule 15B.5.20	Oppose	Condition 2 states that “the nitrogen loss calculation ...does not exceed the Upper Waitaki Headroom” . However the nitrogen loss calculation is expressed as kg/ha/yr whereas the Upper Waitaki Headroom is expressed in tonnes/year. It is assumed that the condition intends to say that “ <i>the nitrogen loss calculation for</i>	Clarify if Rule 15B.5.20 is intended to say “ <i>the nitrogen loss calculation for the property would not cause, the Upper Waitaki Headroom to be exceeded</i> ”.

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				<i>the property would not cause, the Upper Waitaki Headroom to be exceeded". Clarification is required.</i>	
32	4-25	Rule 15.B.5.26	Oppose	See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the portal.	<p>Amend Rule 15B.5.26 to read:</p> <p><b><i>Within the Hakataramea River Zone or Hakataramea Hill Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 or 3 of Rule 15B.5.25 is a restricted discretionary activity provide the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. <i>A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></li> <li>2. <i>The nitrogen loss calculation for the part of the property within the Hakataramea River Zone or Hakataramea Hill Zone does not exceed:</i> <ol style="list-style-type: none"> <li>(a) <i>Until 30 June 2020, the nitrogen loss baseline, unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that the exceedance was lawful; and</i></li> <li>(b) <i>From 1 July 2020:</i> <ol style="list-style-type: none"> <li>(i) <i>either the <u>greater of</u> Baseline GMP Loss Rate <u>and the Loss Rate Assessed as GMP Baseline; or the greater of the</u> Good Practice Management Loss Rate <u>and the Loss Rate Assessed as Good Management Practice</u>; unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that</i></li> </ol> </li> </ol> </li> </ol>

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					<p><i>the exceedance was lawful.</i></p> <p><i>(ii) for that portion of the property in the Hakataramea River Zone <del>and</del> that was used for winter grazing or irrigation in the four years prior to 1 July 2020, 90% of <del>that</del> <u>the greater of the Good Management Practice Loss Rate <del>figure and the Loss Rate assessed as Good Management Practice.</del></u></i></p> <p>Add a further matter of discretion to read:  <u><i>1A The estimation of the Loss Rate Assessed as Good Management Practice</i></u></p>
33	4-26	Rule 15B.5.27	Oppose	See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the farm portal.	<p>Amend Rule 15B.5.27 2. (b) to read:</p> <p><i>(b) From 1 July 2020:</i></p> <p><i>(i) either the <u>greater of</u> Baseline GMP Loss Rate <u>and the Loss Rate Assessed as GMP Baseline</u>; or the <u>greater of the</u> Good Practice Management Loss Rate <u>and the Loss Rate Assessed as Good Management Practice</u>; unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that the exceedance was lawful.</i></p> <p><i>(ii) for that portion of the property in the Hakataramea River Zone <del>and</del> that was used for winter grazing or irrigation in the four years prior to 1 July 2020, 90% of <del>that</del> <u>the greater of the Good Management Practice Loss Rate <del>figure and the Loss Rate assessed as Good Management</del></u></i></p>

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					<u>Practice.</u>
34	4-27	Rule 15B.5.31	Oppose	See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the farm portal.	<p>Amend Rule 15B.5.31 to read:</p> <p><b><i>Within the Hakataramea Flat Zone or, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 or 3 of Rule 15B.5.25 is a discretionary activity provide the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</li> <li>2. Until 30 June 2020, the nitrogen loss calculation for the part of the property within the Hakataramea Flat Zone does not exceed the nitrogen baseline, and from 1 July 2020 the <del>Baseline GMP Loss Rate</del> <u>Loss Rate Assessed as GMP Baseline</u>; unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that the exceedance was lawful.</li> </ol> <p>Add a further matter of discretion to read:</p> <p><u>1A The estimation of the Loss Rate Assessed as Good Management Practice</u></p>
35	4-29	Rule 15B.5.35	Oppose in part	Matter of discretion 5 is unclear. We understand that the load limit calculated in accordance with Schedule 27 is in terms of tonnes/yr whereas the nitrogen loss calculation is in kgs/ha/yr. It is not clear how a Good Management Practice Loss Rate can be compared to the agricultural nitrogen load	Amend matters of discretion 4 and 5 to clarify how a GMP Loss Rate can be less than a nitrogen load limit expressed in tonnes per year.

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				<p>limit (to be assessed as either above or below it) when these are two conceptually different things.</p> <p>Matter of discretion 4 raises a similar issue</p>	
36	4-29	Rule 15B.5.40	Oppose	See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the farm portal.	<p>Amend Rule 15B.5.26 to read:</p> <p><b><i>Within the Greater Waikakahi Zone, the use of land for a farming activity on a property greater than 10 hectares in area that does not comply with condition 2 or 3 of Rule 15B.5.39 is a discretionary activity provide the following conditions are met:</i></b></p> <ol style="list-style-type: none"> <li>1. <i>A Farm Environment Plan has been prepared for the property in accordance with Part A of Schedule 7 and is submitted with the application for resource consent; and</i></li> <li>2. <i>The nitrogen loss calculation for the part of the property within the Greater Waikakahi Zone does not exceed:</i> <ol style="list-style-type: none"> <li>(a) <i>Until 30 June 2020, the nitrogen loss baseline, unless the nitrogen baseline was lawfully exceeded prior to 13 February 2016; and the application for resource consent demonstrates that the exceedance was lawful; and</i></li> <li>(b) <i>From 1 July 2020:</i> <ol style="list-style-type: none"> <li>(i) <i>either the <u>greater of</u> Baseline GMP Loss Rate <u>and the Loss Rate Assessed as GMP Baseline</u>; or the <u>greater of the</u> Good Practice Management Loss Rate <u>and the Loss Rate Assessed as Good Management Practice</u>; and</i></li> <li>(ii) <i>for that portion of the property in the Greater Waikakahi Zone and that was used for winter grazing or irrigation in the four years prior to 1 July 2020,</i></li> </ol> </li> </ol> </li> </ol>

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					<p>90% of <del>that the greater of the</del> <u>Good Management Practice Loss Rate figure and the Loss Rate assessed as Good Management Practice.</u></p> <p>Add a further matter of discretion to read:  <u>1A The estimation of the Loss Rate Assessed as Good Management Practice.</u></p>
37	4-31	Rule 15B.5.45	Oppose	See submission 3 above. Policy needs to provide for consenting pathway that does not rely on the farm portal.	<p>Amend Matters of Discretion 7 to 9 to read:</p> <p>7. Methods that limit the nitrogen loss calculation for the farming activity to a rate not exceeding <u>the greater of the</u> Baseline GMP Loss Rate <u>and the Loss Assessed as the Baseline GMP</u>; and</p> <p>8. Methods that require the farming activity to operate at or below the <u>greater of the</u> Good Management Practice Loss Rate <u>and the Loss Rate Assessed as Good Management Practice</u>, in circumstances where <u>the greater of the</u> Good Management Practice Loss Rate <u>and the Loss Rate Assessed as Good Management Practice</u> is less than the <u>greater of the</u> Baseline GMP Loss Rate <u>and the Loss Rate Assessed as Baseline GMP</u>.</p> <p>9. Methods to ensure compliance with the Good Management Practice Loss Rates <u>or Loss Rates Assessed as Good Management Practice</u> for the farming activity, inclusive where relevant, of any nitrogen received from any industrial discharge</p>
<b>Other issues</b>					

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38	4-6	Policy 15B.4.2	Oppose	The intent of this policy is unclear to Fonterra. Fonterra supports the taking into account of iwi management plans (IMPs) by regional and district plans as a legitimate means to recognise and provide for iwi interests and values. However, it is unclear which IMPs are recognised and whether the policy relates only to those IMPs that currently exist, or whether it also relates to future, as yet unwritten, IMPs. Plan users require certainty as to which IMPs must be taken into account on consent applications, so Fonterra considers that the policy only relates to those IMPs that currently exist as at the date of notification of the plan change.	Redraft Policy 15B.4.2 to specify the particular IMP that are to be had regard to in terms of section 66(2A) of the Act.
39	4-7	Policy 15B.4.4.	Oppose	Fonterra supports maintaining flows in Whitney creek but avoiding the transfer of surface water takes will only contribute to that objective if as a result of the transfer the water is not taken more frequently.	Redraft Policy 15B.4.4 as follows: <i>Surface water flows are maintained in Whitney's Creek by avoiding the transfer of any part of a surface water take from Whitney's Creek <u>where that transfer would result in an increase in take from Whitney's Creek</u>, and avoiding future <u>additional</u> allocation of surface water upstream of map reference CB19:5410-2531</i>
40	4-8	Policy 15B.4.10	Oppose	The policy uses the term "more significant" which Fonterra considers vague and unhelpful.	Redraft Policy 15B.4.10 (c) as follows: <i>(c) farming activities with the potential for <u>more</u> significant nutrient losses being subject to a resource consent</i>
41	4-9	Policy 15B.4.12	Oppose	The policy refers to "on-land nitrogen limits" however the term is not defined. It appears that the term is used to refer to the loss of nitrogen below the root zone on a per hectare per year basis.  [Note, the term is used elsewhere in the provisions]	Amend Policy 15B.4.12 to use a term consistent with terminology used elsewhere in the Land and Water Regional Plan. Alternatively, define the term "on-land nitrogen limits".

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42	4-6	Policy 15B.4.2	Oppose	The intent of this policy is unclear to Fonterra. Fonterra supports the taking into account of iwi management plans (IMPs) by regional and district plans as a legitimate means to recognise and provide for iwi interests and values. However, it is unclear which IMPs are recognised and whether the policy relates only to those IMPs that currently exist, or whether it also relates to future, as yet unwritten, IMPs. Plan users require certainty as to which IMPs must be taken into account on consent applications, so Fonterra considers that the policy only relates to those IMPs that currently exist as at the date of notification of the plan change	Redraft Policy 15B.4.2 to specify the particular IMPs that are to be had regard to in terms of section 66(2A) of the Act.
43	4-10	Policy 15B.4.20 (d)	Oppose	The policy refers to “adaptive management conditions”. That term is defined both in variation 1 and variation 2 of the LWRP. Both definitions refer solely to conditions on a consent to take groundwater. This policy proposed to apply adaptive management conditions in relation to other types of consent (including land use consents)	Clarify how adaptive management conditions are to apply to land use consents. Define, if necessary, the term “adaptive management conditions” to be applicable to this policy.
44		Rules 15B.5.27 and 15B.5.41	Oppose	For the reasons discussed above in relation to the Rules of Part A for farming enterprises (see submission point 21 above), Fonterra considers that these Rules should provide for farming enterprises as controlled-activities.	Amend Rules 15B.5.27 and 15B.5.41 so that the use of land for a farming activity as part of a farming enterprise is a controlled-activity, with control reserved over the following matters: <ol style="list-style-type: none"> <li>1. <i>The commencement date for the first audit of the Farm Environment Plan; and</i></li> <li>2. <i>The content, quality and accuracy of the OVERSEER® budgets provided with the application for resource consent; and</i></li> <li>3. <i>The timing of any actions or good management practices proposed to</i></li> </ol>

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					<p><i>achieve the objectives and targets described in Schedule 7; and</i></p> <ol style="list-style-type: none"> <li>4. <i>The extent to which any parcel of land within the farming enterprise may exceed the Baseline GMP Loss Rate; and</i></li> <li>5. <i>Methods that limit the nitrogen loss calculation for the farming enterprise to a rate not exceeding the Baseline GMP Loss Rate; and</i></li> <li>6. <i>Methods that require the farming enterprise to operate at or below the Good Management Practice Loss Rate, in any circumstance where that Good Management Practice Loss Rate is less than the Baseline GMP Loss Rate; and</i></li> <li>7. <i>Methods to avoid or mitigate adverse effects of the activity on surface and groundwater quality and sources of drinking water; and</i></li> <li>8. <i>Methods to address any non-compliance identified as a result of a Farm Environment Plan audit, including the timing of any subsequent audits;</i></li> <li>9. <i>Reporting of nutrient losses and audit results of the Farm Environment Plan to the Canterbury Regional Council; and</i></li> <li>10. <i>Methods to prevent an exceedance of any relevant nutrient load limit set out in Sections 6 to 15 of the Plan.</i></li> </ol>
45		Rules 15B.5.21, 15B.5.36, and 15B.5.46	Oppose	<p>For the reasons discussed above in relation to the Rules of Part A for farming enterprises (see submission point 22 above), Fonterra considers that these Rules should provide for farming enterprises as controlled-activities.</p> <p>These Rules do not rely on the Farm Portal's calculations of Baseline GMP Loss Rate or GMP</p>	<p>Amend Rules 15B.5.21, 15B.5.36, and 15B.5.46 so that the use of land for a farming activity as part of a farming enterprise is a controlled-activity, with control reserved over the following matters:</p> <ol style="list-style-type: none"> <li>1. <u><i>The commencement date for the first audit of the Farm Environment Plan; and</i></u></li> <li>2. <u><i>The content, quality and accuracy of the OVERSEER® budgets provided with the</i></u></li> </ol>

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				Loss Rate, but instead are establish limits with reference to catchment loads.	<p><u>application for resource consent; and</u></p> <ol style="list-style-type: none"> <li>3. <u>The timing of any actions or good management practices proposed to achieve the objectives and targets described in Schedule 7; and</u></li> <li>4. <u>The extent to which any parcel of land within the farming enterprise may exceed the Baseline GMP Loss Rate; and</u></li> <li>5. <u>Methods that limit the nitrogen loss calculation for the farming enterprise to a rate that will not cause the applicable load limit calculated in accordance with Schedule 27 to be exceeded; and</u></li> <li>6. <u>Methods to avoid or mitigate adverse effects of the activity on surface and groundwater quality and sources of drinking water; and</u></li> <li>7. <u>Methods to address any non-compliance identified as a result of a Farm Environment Plan audit, including the timing of any subsequent audits;</u></li> <li>8. <u>Reporting of nutrient losses and audit results of the Farm Environment Plan to the Canterbury Regional Council; and</u></li> <li>9. <u>Methods to prevent an exceedance of any relevant nutrient load limit set out in Sections 6 to 15 of the Plan.</u></li> </ol>
46		New discretionary activity rule for farming enterprises	Support	Consistent with other parts of this submission, Fonterra considers that an alternative consenting pathway should be provided for farming enterprises that, for various reasons, cannot rely on the Farm Portal to accurately estimate their GMP Loss Rate or the Baseline GMP Loss Rate. This can be achieved by a discretionary activity rule for each nutrient management zone that uses the term <i>Loss Rate Assessed as Good Management Practice</i> and <i>Loss Rate Assesses</i>	Include new discretionary activity rules for farming enterprises to provide an alternative pathway to consent to the Farm Portal.

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				<i>and GMP Baseline</i> (as proposed to be defined) in substitute for the terms “Good Management Practice Loss Rate” or “Baseline GMP Loss Rate”.	