Tabled at Hearing 15/10/14.

in the matter of: the Resource Management Act 1991

and: submissions and further submissions in relation to proposed variation 1 to the proposed Canterbury Land and Water Regional Plan

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

and: **DairyNZ**
Submitter

Summary of submissions on behalf of Fonterra Co-operative Group Limited and Dairy NZ (farming)

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SUMMARY OF SUBMISSIONS ON BEHALF OF FONTERRA CO-OPERATIVE GROUP LIMITED AND DAIRY NZ (FARMING)

Introduction

1 These submissions are provided on behalf of Fonterra Co-operative Group Limited (*Fonterra*) and DairyNZ (together referred to as '*the Submitters*').

2 At the outset it is noted that these submissions are limited to the Submitters' interest in the **farming** provisions of proposed Variation 1 to the proposed Canterbury Land and Water Regional Plan (*Variation 1*) – in simple terms, the provisions that are directly relevant to the activity of dairy farming and dairy support operations in the Selwyn Te Waihora zone.

3 Fonterra (only) has previously provided submissions and evidence that addressed Fonterra's interest in the "*industrial or trade process*" provisions of Variation 1. As noted in those earlier submissions, there is limited cross-over between the two presentations although the evidence on wider catchment effects[1] does have general relevance to the sought relief in respect of industrial or trade processes.

4 These submissions briefly address:

4.1 the Submitters' interest in Variation 1 (and a brief outline of their position regarding the NPSFM 2014);

4.2 their particular interest in:

(a) the provisions around good management practice; and

(b) the appropriateness of the reduction regime,

4.3 the application of Rules 11.5.32 and 11.5.33 (and the relief sought); and

4.4 the need to have regard to both regulatory and non-regulatory methods.

5 These submissions are deliberately brief on the basis that almost all issues have been comprehensively addressed in evidence (and/or do not raise 'legal issues' that need to be addressed by way of submission).

[1] For example, Ms Shirley Haywood's evidence.

Outline of approach to Variation 1 (and the NPSFM 2014)

6 The Submitters support[2] the overall objective of Variation 1 to:

> *"To restore the mauri of Te Waihora while maintaining the prosperous land-based economy and thriving communities".*[3]

7 The risk of not acting at all is also accepted - and the Submitters are in fact expressly seeking relief that recognises a need for existing farmers to over time reduce, on average, their nitrogen loss (*N-loss*) by 14% overtime to ensure catchment outcomes are met.

8 However, two core issues appear to arise:

8.1 There is currently insufficient information as to how any wider catchment reduction regime (i.e. the Submitters suggested 14% reduction) should be shared between individual farming activities/properties. It is submitted further work is required before this is included in the plan; and

8.2 The timing within which any reduction regime should occur. In this regard, the Submitters consider there is a need for a 'transitional period' within which current practice will need to:

(a) first comply with 'good management practice'; and

(b) then move to any further reduction regime (within a timeframe that ensures acceptable profitability is maintained).

9 Both must be considered in light of the National Policy Statement for Freshwater Management 2014 (*NPSFM 2014*) – however, as set out in the *Supplementary Legal Submissions of Counsel for Canterbury Regional Council* it is important to remember that Variation 1 was notified prior to the gazetting of the NPSFM 2014 and that the Council has more recently resolved (and now notified) a progressive implementation programme under Policy E1[4] for the Selwyn Te Waihora.

10 With reference to section 67(3) of the Resource Management Act 1991 (*RMA*), it is submitted that the Hearing Panel must ensure consistency between those matters notified in Variation 1 where those same matters are now reflected in, or anticipated by, the NPSFM 2014 – but understandably it cannot go the 'next step' of

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[2] See: Fonterra submission, page [3], para [6]; DairyNZ submission, page [1].

[3] Variation 1, page [4-3], para [3].

[4] In short requiring the Council "*to implement the policy as promptly as is reasonable in the circumstances, and so it is* ***fully*** *completed by no later than 31 December 2025*".

giving *full* effect to the provisions of the NPSFM 2014. In this regard, and as is set out in **Ms Shirley Hayward's** and **Mr Gerard Willis'** evidence (and as also appears to be consistent with the notified implementation programme), there are number of areas where Variation 1 does not full give effect to matters that are anticipated under the NPSFM 2014 – especially in relation to the national objectives framework and attribute states.

11 Those matters will now presumably form part of the Council's wider implementation programme – however, for immediate purposes the following points are emphasised in the context of Variation 1:

11.1 It is accepted that there is a clear expectation that the overall quality of freshwater in a region will be "*maintained or improved*" (and improved in water bodies that have been degraded by human activities to the point of, for example "*over-allocation*");[5]

11.2 the process described in Policy CA2(a)-(e) and (f) (vi) outlines matters to consider, including: "*the timeframes required for achieving the freshwater objectives, including the ability of regional councils to set long timeframes for achieving targets*". Actual improvements "*may take generations*"[6] - potentially beyond the specific dates referred to in, for example, Policy E1 of the NPSFM 2014; and

11.3 particular care needs to be taken when considering attribute states in the context of Selwyn Te Waihora. The exception provided in Appendix 2 to the NPSFM 2014[7] for what are referred to as "[*i*]*ntermittently closing and opening lagoons*" (*ICOLs*) means[8] that:

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[5] NPSFM 2014, Objective A2. See also Objectives B2 and B3 in relation to water quantity.

[6] NPSFM 2014, Preamble; page [4].

[7] At page [25], footnote [2].

[8] See evidence of **Ms Shirley Hayward**, para [26] re Te Waihora / Lake Ellesmere being an ICOL.

It is further noted that the original section 32 evaluation report for the NPSFM 2014 expressly included, at Table 5, a note to the effect that Te Waihora / Lake Ellesmere was to be excluded from the lake provisions.

The original proposed NPSFM 2014 also included a note (at pages [42]-[43]) outlining the process that was contemplated for ICOLs:

> "Minor amendments proposed to the NPS-FM and proposed implementation guidance will make the existing requirements clearer, and further work is being carried out to populate the NOF in relation to the effects of freshwater management on the coastal receiving environment, such as estuaries and lagoons. Further amendments to the NPS-FM are anticipated in the future, to include additional values and attributes for these areas in the NOF, as the technical work to define them is completed."

(a) the stated total nitrogen attribute states for "*Seasonally Stratified and Brackish*" lakes do not apply to Te Waihora / Lake Ellesmere; and

(b) as clarified by the Ministry for the Environment, the current attribute tables (including the total phosphorous and Chl *a*) are also not intended to apply to ICOLS such as Te Waihora / Lake Ellesmere.[9]

12 The Submitters' evidence to Variation 1 is consistent with the position set out above – i.e. the need for improvement in water quality and quantity is accepted but this does not need to be done with strict reference to achieving, for example, **all** the attribute states. Consideration must also be given to ensuring the wider implementation of Variation 1 occurs in suitable timeframes.

Outline of relief sought

13 The Submitters' relief is set out in detail in the evidence of **Mr Gerard Willis**, but the **main** aspects of it can be briefly summarised as follows:

13.1 Further recognition of the role of non-regulatory matters (Policy 11.4.1);

13.2 The need to ensure (pre 1 January 2017) that compliance against an averaged 2009 to 2013 nitrogen baseline accommodates the 'highs' as anticipated by the Council's Nitrogen Baseline Compliance Note – attached as **Annexure 1** (Policy 11.4.12 and Rule 11.5.7) ;

13.3 Recognise 'good management practice' but not (implicitly) as a formal regime right now (Policy 11.4.13(b) and Rule 11.5.9);

13.4 Recognise the need for a catchment reduction (14%) now for the purposes of informing a future plan change (Policy 11.4.14);

13.5 Further recognition of the fact that every farm is different (Policy 11.4.15); and

13.6 Ensure decision making is on the basis of best available information (New Policy 11.4.36).

14 In **Annexure 2**, these submissions include a table setting out a brief summary of Fonterra's original submissions and how it relates to the relief now sought.

[9] See evidence of **Gerard Willis**, para 180-183.

Good management practice

15 Policy 11.4.13 (which needs to be understood in the context of Rule 11.5.9) seeks to achieve reductions in farming derived nutrient losses on the basis of a requirement to comply with the "*Good Management Practice Nitrogen and Phosphorous Loss Rates*". That term is defined in the notified version of Variation 1 – although it is submitted that the definition provided does not really assist in terms of defining what the *formal* regime might entail.

16 In this regard (as set out in the section 42A Report[10] and expanded on in the evidence of **Mr James Ryan**), it is understood that the definition is intended to be informed by the "*Matrix of Good Management*" project – however the outcomes of this are not due until 2015, at which point Policy 4.11 of the proposed Canterbury Land & Water Regional Plan (*pLWRP*) appears to contemplate that this will be introduced into the plan by way of the Schedule 1 process.[11]

17 Two immediate issues arise:

17.1 as a general concept, the Submitters are fully supportive of good management practice – however in the context of a proposed planning regime where further reductions in N-loss are anticipated (e.g. Policy 11.4.14) it is very difficult to assess the effectiveness of the wider regime when the actual starting point is not known (or to put that into its wider statutory context, the costs and benefits of what is proposed remain unclear);[12] and

17.2 although it is accepted there is a risk of not acting at all, any concern around that appears to have already been addressed by Policy 4.11 – noting that Policy 4.11 will clearly allow the costs and benefits to be properly assessed at the time the relevant plan change occurs. The submitters remain concerned that under 11.4.13 (and Rule 11.5.9) they - and for that matter the Hearing Panel - will never get the opportunity to properly consider the costs and benefits (and wider implications) of the MGM project (with its inclusion in the plan being arguably 'automatic' under the wording proposed).

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[10] Environment Canterbury, section 42A Report, *Variation 1 to the Proposed Land and Water Regional Plan*, para [171]

[11] Although please note para [42] and footnote [5] to the evidence of **Gerard Willis** where he notes "*Policy 4.11 commits only that Good Management practice will be codified". In my opinion, that may be said to be achieved by Appendix 24 (i.e. codification does not necessary mean quantification).*"

[12] RMA, section 32.

18 To this end the general position taken in evidence is that many farmers are doing what would be regarded as 'good practice' already, so there is uncertainty around what compliance with a formal regime might require. Matters considered to be good practice (and assumed in evidence) include:

18.1 Compliant effluent systems;

18.2 Appropriate fertiliser applications (including fertiliser being applied on the basis of an appropriate budgeting tool);

18.3 Stock exclusion from waterways; and

18.4 Irrigation efficiency >80%

19 All of these (except irrigation efficiency[13]) are required by industry sectors already – so exactly what a *formal* good management regime might require is unclear. **Mr Duncan Smeaton** has assumed for the purposes of his analysis that on average a 5% reduction in N-loss might be possible – but ultimately (at least at the present point in time) 'any number' appears to have an element of uncertainty or arbitrariness for the purposes of informing any wider reduction regime.

Further reductions

20 As noted in paragraph 6, the Submitters are not opposed to catchment load reductions being contemplated (and have suggested a 14% targeted reduction for farming activities) **at a catchment level** in the context of its sought relief in relation to Policy 11.4.14(b).

21 Although at a higher catchment level this would apply from the outset, the Submitters' suggested 14% reduction target will only be implemented at an individual property level once:

21.1 the outcomes of the MGM project are known (such that the 'starting point' for any reduction regime for individual properties will also then be fully understood); and

21.2 a further plan change (the sought Section 11.7A[14]) occurring following the above - at which time the current and future load contributions from across the catchment will be better understood (and improved following the implementation of the MGM project).

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[13] Noting that 80% irrigation efficiency may not be being met in all cases – although due to farm layout or system constraints an irrigation system may still be 'good practice' given its relevant constraints.

[14] See evidence of **Gerard Willis**, para 111 (and correction made at hearing).

22 In this regard, the core function of the 14% reduction would be to inform the future plan change. It obviously would not, for example, be a 'default condition' that was imposed on individual resource consents prior to the plan change occurring (although a suitable review condition might be contemplated).

23 In this way the requirement for a reduction (and it is submitted consistency with the NPSFM 2014) will be clearly flagged from the outset. The exact way within which it will be achieved will be articulated once further information becomes available.

24 In addition to the fact we currently do not know what the 'starting point' is (see paragraphs 15 to 19 above), the need for further information to inform the exact reduction regime at an individual property level (as opposed to a catchment level) is, it is submitted readily apparent from evidence:

24.1 The EBIT assessments undertaken by the Council are not, in themselves, an effective measure of mitigation capability, noting:

(a) It does not take account of interest, drawings and depreciation, (meaning it is difficult to consider farmers' actual ability to withstand additional financial cost or reduction in revenue); and

(b) It is based on averages. In reality, each farm will experience different 'pain' from the proposed N loss reductions,

24.2 Every farm is different.[15] The Submitters consider that is the key issue that needs to ultimately be addressed in any reduction framework. In this regard:

(a) Some farms will be able to achieve material reductions relatively easily – but for others, material reductions will be very challenging without significant capital expenditure; and

(b) By forming and notifying Policy 11.4.14(b) the Council appears to have accepted that costs vary between those sectors – however, the evidence provided by the Submitters shows that what is true between sectors is also true within sectors (and it is submitted that the same accommodation should correctly apply at that scale as well).

[15] See the evidence of **Duncan Smeaton, Geoff Stevenson** and **Colin Glass.**

24.3 A number of the reductions contemplated in the s42A Report are either matters that are not currently available (such as DCD use) or which require significant capital investment. On the basis of **Mr Duncan Smeaton's** evidence[16] it appears that the only mitigations that might be reasonably available are:

(a) Reduced autumn N application (which in turn accommodates a reduction in cow numbers or a shorter lactation length and a redistribution of supplement use to compensate for reduced N use);[17] and

(b) Active water management (although even this is likely to require the adoption and development of technologies that do not currently exist).

24.4 There are a number of other mitigations that would require significant expenditure and are likely to not be viable (in terms of ensuring acceptable profitability is maintained) over time – such as indoor housing. The only further mitigation that appears to be *potentially* available (i.e. while maintaining satisfactory profit levels) is a reduction in stocking rate combined with increases in individual cow production – although this:

(a) Is likely to be beyond the current capability of most farm managers in the Selwyn Te Waihora zone and does not appear to be capable of implementation at this point in time (it will also have reduced application to existing lower stocking-rate operations); and

(b) At a catchment level there is significant uncertainty as to whether this approach actually reduces N-loss.

24.5 There are opportunities for N-loss improvement through moving towards higher (80%+) efficiency irrigation. However, again - each farm is different:

(a) Some may have constraints (shape and the presence of powerlines etc) that may genuinely mean an 80% efficiency test cannot be met; and

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[16] See also the evidence for **Mr Stu Ford** (Central Plains Water Limited)

[17] Although see evidence of **Mr Ron Pellow**,, para 19-20, which shows the effect of the Lincoln University Dairy Farm adopting a similar strategy in 2013/14 – and reducing profitability by approx. $100,000.

(b) Care also needs to be taken to ensure that farmers are not unnecessarily penalised 'twice' (through first investing significant capital in irrigation systems and *then* having to invest in further mitigations to accommodate yet further reductions),

and

24.6 The Submitters consider that there is still uncertainty in the modelling and metrics used and it is submitted there is a clear need to ensure that targets and limits are kept under review (which in turn leads to a need for adjustments to be made as and when improved information is available).

25 Overall, it is submitted that the general approach sought by the Submitters (in contemplating a further plan change(s) once further information becomes available appears to be generally consistent with the approach that was presumably contemplated by Policy 4.11).

Rules 11.5.32 and 11.5.33

26 This appears to be a technical/drafting error that was included in the notified version of Variation 1.

27 The error is perhaps best illustrated by working through an example and in this regard:

27.1 Let's assume that a take that is not a connected groundwater take will fall within Rule 11.5.32;

27.2 Against the above, Rule 11.5.33 then begins with the word "*Despite*". It is the Submitters' view that this means that Rule 11.5.33 will apply as well. As the first condition of Rule 11.5.33 is that the applicant also holds a resource consent to take connected surface water, the applicant will not comply with condition 1 of that rule; and

27.3 Following on from that (i.e. the activity falling under both Rule 11.5.32 and Rule 11.5.33), the take will then be a prohibited activity under 11.5.36 (i.e. given the fact that the applicant does not meet condition 1 of 11.5.33).

28 It is submitted that this would result in perverse outcomes that were not intended by the plan drafters.

29 **Mr Willis** has accordingly proposed some relief in his evidence which, in short, would involve replacing the word "*Despite*" in Rule 11.5.33 with "*Unless*".

30 That would address the drafting concern set out above - however, since notification of Variation 2 (of the pLWRP - Hinds) the Submitters consider prudent to note that the actual intended outcomes may have been wider than that understood by the Submitters at the time their original submissions were prepared.

31 This includes the possibility that what was actually intended was provision within the rules framework for the substitution of an existing surface water or groundwater permit (with a current direct, high or moderate stream depletion effect) for one that doesn't.

32 The relevant Rule from Variation 2 is Rule 13.5.31:

> **13.5.31 The taking and use of groundwater within the Valetta and Mayfield-Hinds Groundwater Allocation Zones that will substitute an existing surface water or groundwater permit with a direct, high or moderate stream depletion effect is a restricted discretionary activity provided that the following conditions are met:**
>
> 1. The groundwater take will be abstracted on the same property as the existing resource consent and there is no increase in the proposed annual volume; and
>
> 2. The groundwater take will not have a direct or high stream depletion effect; and
>
> 3. The bore interference effects are acceptable, as determined in accordance with Schedule 12.

33 In this regard (and appreciating that it is still not clear to the Submitters as to the outcomes actually intended by the Council under Rules 11.5.32 and 11.5.33), relief more in line with that proposed in Variation 2 (i.e. plan provisions that are more narrative in terms of the what is actually addressed in the relevant rule) might well be preferred.

Non-regulatory matters

34 The final issue that these submissions touch on is the need to have regard to non-regulatory measures alongside the regulatory ones that will be developed and implemented under the Variation 1 regime.

35 In this regard, the NPSFM 2014 itself contemplates regional councils specifying targets and implement methods "*either or both regulatory and non-regulatory*".[18] The Submitters acknowledge that farming (and in particular the dairying industry) has an important role to

[18] NPSFM, page [9] Policy A2.

play in terms of delivering the sought catchment outcomes in respect of Te Waihora / Lake Ellesmere. However, it is also submitted that it is important not to lose perspective of that fact that:

35.1 the sought catchment outcomes will also be reliant on non-regulatory methods; or[19]

35.2 to put the above another way, it would not be appropriate for the provisions of Variation 1 to, *in themselves*, deliver the catchment outcomes.

36 Overall, in determining the final provisions of Variation 1 it is submitted that the Hearing Panel can and in fact should have regard to non-regulatory matters. These are likely to be critical (alongside the regulatory matters introduced via Variation 1) in terms of achieving the wider outcomes sought.

Evidence to be called

37 The Submitters are calling evidence from:

37.1 **Mr James Ryan**;

37.2 **Mr Mathew Cullen**;

37.3 **Mr Geoff Stevenson**;

37.4 **Mr Duncan Smeaton**;

37.5 **Mr Ron Pellow**;

37.6 **Ms Shirley Hayward**; and

37.7 **Mr Gerard Willis**.

38 It is also noted that in terms of farm mitigation issues, the Submitters have also referred to the evidence of **Mr Colin Glass** who is being called by Dairy Holdings Limited. That evidence is separate to the case being presented but does have particular relevance to some of the issues raised.

Dated: 15 October 2014

Ben Williams
Counsel for **Fonterra Co-operative Group Limited** and **Dairy NZ**

[19] See for example evidence of **Ms Shirley Hayward** and **Mr Gerard Willis**

Annexure 1

Canterbury Land & Water Regional Plan
What does it mean?

Environment Canterbury Regional Council
Kaunihera Taiao ki Waitaha

Nitrogen Baseline Compliance Note

April 2014

On 18 January 2014, Environment Canterbury notified the decisions on the proposed Land & Water Regional Plan (pLWRP). The plan includes rules to regulate the use of land for a farming activity and the associated nitrogen loss.

Within nutrient red and lake zones, the rules in the pLWRP require farming activities to restrict their average nitrogen loss calculation to that which occurred during the nitrogen baseline period.

Environment Canterbury recognises that many decisions affecting the way a farm will be operated are typically made in the third quarter of a calendar year.

These operational decisions will have an impact on both the nitrogen loss for the current year (30 June 2013 – 1 July 2014), and the overall nitrogen loss calculation for the next four years. Consequently, full compliance with the nitrogen baseline may be challenging.

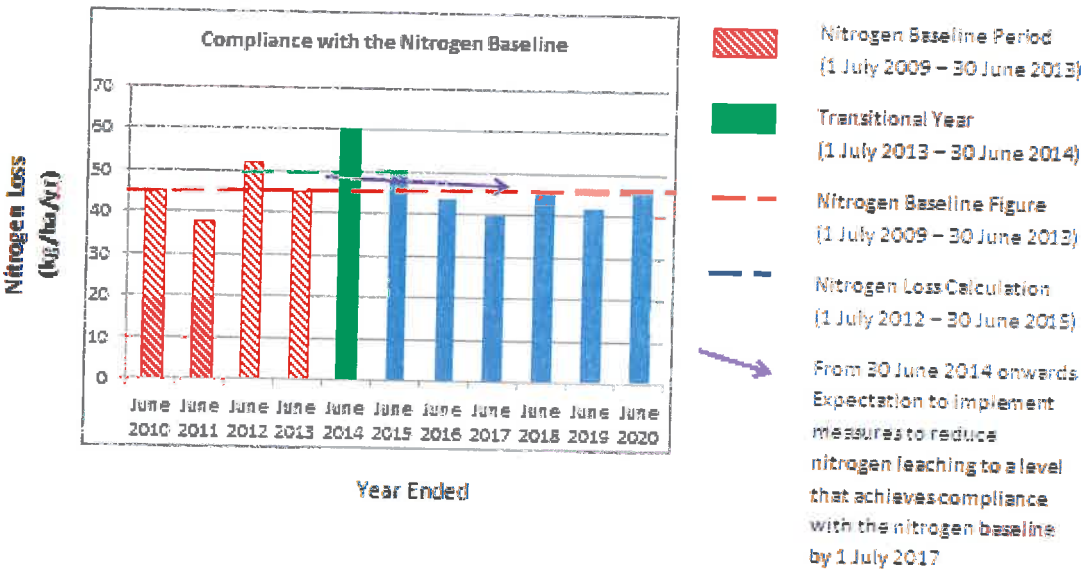
Because these on-farm decisions were made before the pLWRP decisions were notified, there has been limited opportunity for farmers to take into account the constraints of the nutrient management rules.

In recognition of this, Environment Canterbury provides the following advice with regard to the way compliance with the nitrogen baseline will be administered:

* The 1 July 2013 – 30 June 2014 year is a "transitional year" between the nitrogen baseline period and the first full year under the pLWRP nutrient provisions. As a result of this Environment Canterbury anticipates that nitrogen losses may exceed the nitrogen baseline. Farmers will not be penalised if this occurs.

* From 30 June 2014 onwards, Environment Canterbury expects all farmers in red zones and lake zones to introduce management initiatives and practice changes to ensure long-term compliance with their nitrogen baseline. In addition, Environment Canterbury reserves the right to take enforcement action against a farmer if the nitrogen loss calculation for the property is higher than the worst year in the nitrogen baseline period, and there is no evidence of a genuine attempt to remain within the baseline.

* All farmers are expected to be operating at or below their nitrogen baseline after 30 June 2017, and Environment Canterbury recommends that all farmers consider what impacts farm management decisions made now and in future will have on their ability to comply with the nitrogen baseline.



Key terms

Nitrogen baseline means:

(a) the discharge of nitrogen below the root zone, as modelled with OVERSEER™, or equivalent model approved by the Chief Executive of Environment Canterbury, averaged over the period of 1 July 2009 – 30 June 2013, and expressed in kg per hectare per annum, except in relation to Rules 5.46 and 5.62, where it is expressed as a total kg per annum from the identified area of land; and

(b) in the case where a building consent and effluent discharge consent have been granted for a new or upgraded dairy milking shed in the period 1 July 2009 – 30 June 2013, the calculation under (a) will be on the basis that the dairy farming activity is operational; and

(c) if OVERSEER™ is updated, the most recent version is to be used to recalculate the nitrogen baseline using the same input data for the period 1 July 2009 – 30 June 2013.

Nitrogen loss calculation means the discharge of nitrogen below the root zone, as modelled with OVERSEER™, or equivalent model approved by the Chief Executive of Environment Canterbury, averaged over the most recent four-year 1 July to 30 June period and expressed in kg per hectare per annum. If OVERSEER™ is updated, the most recent version is to be used.

Annexure 2: Summary of relief sought with reference to original submission

Please note that this is based on the Fonterra submission **only** (on the basis the DairyNZ submission is similar but not the same)

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
Introductory narrative	Section lacks context about economic values (p.12-13)	Amend to: • recognise food production and processing • signal changes may take time	Accepted s42A report recommendation to adopt wording proposed by Horticulture NZ that was similar to Fonterra's (paras 54-57 Willis EIC)	Issue discussed in full from para 54 of Willis EIC.
Policy 11.4.1	Policy is unachievable as worded (p. 13)	Amend to refer to "avoid significant cumulative adverse effects".	As per submission (p.35 Willis EIC)	Not discussed in evidence. s42A report recommended changes (p.137) that would satisfy the submission point.
Policy 11.4.6	Concern about robustness of models (p.14)	Include commitment to keep plan limits under review.	Include a new Policy 11.4.36 (p. 37 Willis EIC)	
Policy 11.4.12(a)	Nitrogen baseline is problematic (p.15-16)	Introduce new concept of "SW nitrogen baseline".	Amend Policy 11.4.12(a) and introduce a new (aa) to remove reference to "nitrogen baseline" (paras 58-72 Willis EIC)	Relief sought in evidence is similar to original submission but narrower in its effect (affecting only the pre 2017 regime). This is discussed further in relation to Rule 11.5.6-11.5.10 below.

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
Policy 11.4.12(b)	It is inappropriate to reference the DairyNZ Farm Dairy Effluent Design Standard and Code of Practice (p.17-18)	Delete item (e) from Schedule 24 Add a new method/ advisory note that Schedule 24 will not apply once GMPNPL rates are introduced to the Plan.	Amend item (e) of Schedule 24 to refer to a different, more applicable document (paras 119-133 Willis EIC)	Relief sought in evidence lesser it its degree of change than proposed in submission. (Note also relief sought in evidence seeks to resolve what appears to be an error in Variation).
Policy 11.4.12(d) & Rule 11.5.18	Use of the defined term "drains" in the context it is used is inappropriate	Replace with the term "farm drainage channels" Amend Rule 11.5.18 such that stock exclusion is not required in respect of artificial watercourses greater than 1m and deeper the 30cm.	Accept alternative relief proposed by Officers' at page 339 of the S42A Report (paras 134-136 Willis EIC)	Relief sought in evidence is lesser in its degree of change than that sought in the submission.
Policy 11.4.13	It is inappropriate to require compliance with something that does not yet exist (p.19-20)	Delete Policy 11.4.13. Include method advising of intention to include GMPNPL rates in plan and require compliance from 2017.	Retain but modify Policy 11.4.13 to require a rate of N loss that represents GMP (paras 75-87 Willis EIC).	Relief sought in evidence is lesser in its degree of change than that sought in the submission.
Policy 11.4.14	It is inappropriate to require, for example, a 30% reduction for dairying from	Delete Policy 11.4.14	Modify Policy 11.4.14 by: • deleting the sector specific reductions	The 14% collective reduction is expressly not mentioned in the submission. However, that target

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
	an unknown starting point (p.21).		• including a commitment to a 14% collective reduction • including reference to sector specific reductions in a new Section 11.7A (para 111 Willis EIC)	merely reflects the overall outcome that the policy of the proposed plan sought. The redrafting anticipates that new sector-specific reductions will be included in the plan before 2022 (when they take effect). On that basis the relief sought is lesser in effect than what was sought by the submission.
Policy 11.4.15	Criteria for when an extension of timeframe is warranted could be clearer (p.22)	Add two further matters to Policy 11.4.15.	Include four new matters to be considered (para 116 Willis EIC)	The first two matters proposed in Willis evidence are consistent with the matters listed in the submission. The second two considerations seek to clarify item (b) of the Variation as proposed but were not specified in the original submission However the Horticulture NZ submission does expressly seek one of the addition considerations proposed in the Willis EIC (costs).

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
Policy 11.4.17(b)	Concern that a dryland conversion within the CPW scheme but comply with N loss reduction rate from the outset (p.23)	Delete the Policy.	Not addressed in evidence	-
Policy 11.4.18-20	Recognise that achieving the vision for the catchment will require regulatory and non-regulatory measures (p.23)	Insert method to support development of catchment strategy and implementation plan	Amend Policy 11.4.1 to acknowledge the role of non-regulatory measures (paras 190-196 Willis EIC)	In scope of submission point but relief sought differs. Same submission point made in respect of Table 11(a) – see below. Relief sought in respect of that point is broad and encompasses relief proposed here.
Policy 11.4.28	Timing of new minimum flows should be linked to specific actions and/or measured flow increases rather than a specific date (p.26-27)	Amend Policy 11.4.28 by deleting the 2025 date and linking new minimum flows to observed increase flows. Amend Table11(c) accordingly.	Amend Policy 11.4.28. Retain 2025 date but introduce qualification (para 161 Willis EIC)	Relief sought in evidence is lesser in its degree of change than proposed in submission.
Policy 11.4.32	It may continue to be appropriate to use groundwater in some circumstances. Reference	Amend Policy to refer to reducing groundwater use "where appropriate" and to substitute "known trout	Not addressed in evidence	-

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
	to "known trout spawning areas" is too broad.	habitat" to "significant trout habitat"		
Rules 11.5.6, 11.5.7, 11.5.8, 11.5.9, 11.5.10 &11.5.13	Concerns about nitrogen baseline as per Policy 11.4.12(a) (p.27).	Delete the phrases "nitrogen baseline" and "nitrogen loss" and replace with "SW nitrogen baseline" and "SW nitrogen loss calculation".	Delete the phrase "nitrogen baseline" from Rule 11.5.7 [only] and replace with a requirement not to exceed the highest annual loss over the 2009-2013 period (para 70 Willis EIC).	The scope of effect of what is proposed in evidence is narrower than that proposed in the submission (affecting only the pre 2017 regime). The submission's definition of "SW nitrogen baseline" allows for an average over two, three or four years. The relief in Willis's evidence allows for the highest year to be used. This is a variation from that in the submission although still generally addresses the concern that was raised. It is also noted that ECan's well-publicised compliance note as referenced in the s42A report may also assist in terms of applying the definition.

Plan provision	Fonterra submission	Relief sought in submission	Relief sought in evidence	Comment
Rule 11.5.9	It is inappropriate to reference GMPNPL rates as they do not currently exist (p. 28-29)	Delete matters of discretion 2 and 3 and replace with a new matter of discretion.	Retain matters of discretion 2 and 3 but amend matter 2 to remove reference to GMPNPL rates	The scope of effect of what is proposed in evidence is narrower than that proposed in the submission. Change proposed consistent with submission.