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Subject: Submission on plan change 7 to the Canterbury LWRP by Fonterra Co-operative Group Limited
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Good afternoon,

Please find **attached**, on behalf of Fonterra Co-operative Group Limited (*Fonterra*), submission on Plan Change 7 to the LWRP.

Kind regards,

BEN WILLIAMS
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FONTERRA SUBMISSION ON THE PROPOSED CHANGE 7 TO THE CANTERBURY LAND AND WATER REGIONAL PLAN

To: Environment Canterbury
Submitter **Fonterra Co-operative Group Limited (Fonterra)**

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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 Plan Change 7 (PC 7) to the Canterbury Land and Water Regional Plan (CLWRP) 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

- 1.1 Fonterra Co-operative Group Limited (**Fonterra**) acknowledges the work that Environment Canterbury (**ECan**), as well as the Orari-Temuka-Opihi-Pareora (**OTOP**) and Waimakariri Zone Committees have undertaken in the development and preparation of Proposed Plan Change 7 to the Canterbury Land and Water Regional Plan (**PC 7**).
- 1.2 Fonterra has a large number of supplier farms across Canterbury, and specifically, in the Waimakariri and OTOP sub regional areas as well as the nationally significant Clandeboye manufacturing site.
- 1.3 Fonterra generally supports the direction of the PC 7 subject to the amendments that are outlined in this submission.

2. Fonterra's Manufacturing operations in OTOP

- 2.1 Fonterra owns and operates the Clandeboye Manufacturing Site (**Clandeboye Site**) located in the OTOP sub-region (specifically, the Orari Freshwater Management Unit (**FMU**)).
- 2.2 Clandeboye site is located approximately ten kilometres north-east of the Temuka township on land bounded by the Milford-Clandeboye, Rolleston and Donehue Roads.
- 2.3 The Clandeboye site is one of Fonterra's largest manufacturing sites and processes more than 40 per cent of all the milk collected by Fonterra in the South Island. The Clandeboye site employs approximately 750 people, and produces milk powder, butter, cheese and protein products primarily for export.
- 2.4 The Clandeboye site produces approximately 400,000 metric tonnes of product per annum. The site is also the largest producer of unsalted butter in the world, capable of producing 260 tonnes daily.

Existing consents

- 2.5 The Environment Canterbury consents in relation to the Clandeboye Site that are relevant to PC 7 are summarised in **Table 1** below.

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


CONSENT NUMBER	CONSENT DETAILS	EXPIRY DATE
Groundwater take consents		
CRC153874	To take groundwater from six bores at a combined rate not exceeding 183 litres per second, with a combined volume not exceeding 15,812 cubic metres per day, and 5,170,000 cubic metres between 1 July and the following 30 June.	2032
CRC156415	To divert the water in an unnamed drain at Canal Road, at or about map reference NZMS 260 K38:805-653.	2031
CRC156418	To divert the water in Rhodes Stream at Rolleston Road, at or about map reference NZMS 260 K38:808-653.	2031
CRC156471	To take groundwater at or about map reference NZMS 260 K38:825-668 for irrigation of up to 240 hectares	2041

CONSENT NUMBER	CONSENT DETAILS	EXPIRY DATE
CRC 156483	To take groundwater from bore K38/0256 at or about map reference NZMS 260 K38:823-659.	2030
CRC156491	To take groundwater from bores K38/0255 and K38/0636 at or about map references NZMS 260 K38:808-655 and NZMS 260 K38:814-655.	2030
CRC156496	To take groundwater from bore K38/0042 at or about map reference NZMS 260 K38:820-705.	2030
CRC 156498	To take water from bores K38/0355 and K38/0356 at or about map references NZMS 260 K38:820-675 and NZMS 260 K38:820-674.	2030
CRC156541	To take up to 10,000 cubic metres of water per day, from up to four new bores, at or about map reference K38:8096-6533, at a rate not exceeding 120 litres per second, as part of a proposed new milk drier	2039
<i>Discharge consents</i>		
CRC156500	To discharge an average of 50 cubic metres of treated human effluent per day to land	2029
CRC156512	To discharge up to 15,000 cubic metres per day of dairy plant wastewater to land	2036
CRC156516	To discharge contaminants to land (processed whey from the manufacture of cheese and milk products)	2031
CRC156518	To discharge septic tank effluent into land at or about map reference K38:8063-6528.	2032
CRC156524	To discharge contaminants to water (Stormwater)	2040
CRC156527	To discharge contaminants to water (Stormwater)	2040
CRC171879	To discharge contaminants to water (Stormwater)	2040
CRC173321.1	To discharge contaminants to land (sludge from the dissolved air flotation (DAF) plants)	2033
<i>Land use consents</i>		
CRC173213	To use land for a farming activity (manage nitrogen loss to nitrogen baseline)	2025

3. Relief sought

3.1 Fonterra seeks the following decision on submissions on PC 7:

- (a) Retention, deletion or amendment of various provisions of the PC 7 as set out in **Appendix 1**.
- (b) Such further or other consequential or alternative relief as may be necessary to fully give effect to the relief sought in this submission.



Brigid Buckley
National Policy Manager – Global Operations
FONTERRA CO-OPERATIVE GROUP LIMITED

13 September 2019

APPENDIX 1 - SPECIFIC SUBMISSIONS

1. Suggested relief to address concerns in this submission is set out below. However, there may be other methods or relief that are able to address Fonterra's concerns and the suggested revisions do not limit the generality of the reasons for Fonterra's submission or the relief sought.
2. Fonterra's requested relief is shown underlined or struck out in blue font. Changes proposed by PC7 are shown underlined or struck out and in red font.
3. Fonterra also seeks any consequential relief or alternative relief to Fonterra's satisfaction to address its concerns.

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
Section 14: Water Quantity Policies					
1	132	Policy 14.4.7	Support in part	<p>Fonterra supports the setting of groundwater allocation limits to "<i>provide for all existing established groundwater abstractions (the A allocation)</i>" in Policy 14.4.7.</p> <p>However, it is unclear how the Orari-Opihi GAZ (A) allocation provides for "<i>all existing authorised groundwater abstractions</i>". At page 226 of the Section 32 Report it indicates that the Orari-Opihi GAZ is 119% allocated (i.e. over-allocated by 19%). Yet Table 14(zb) reduces the A allocation from 71.1 m³/y to 43.8 (while providing a 27.3 m³/y T allocation). The existing level of allocation (84.52m³/y) is therefore not provided for in the A allocation nor even through the combination of the A and T allocations.</p> <p>Fonterra also notes that at page 231, the Section 32 Report notes that "<i>the T allocation limit has been determined from the current Orari-Opihi allocation limit which is currently not allocated</i>". This would seem to contradict the earlier advice that Orari-Opihi GAZ is over-allocated.</p> <p>Accordingly, the implications of the policy, associated allocation limits and specific approach to stream depleting groundwater takes are unclear. In particular, it is unclear whether the A and T allocation will be available to all existing</p>	<p>Retain but redraft Policy 14.4.7 to more accurately reflect Table 14 (zb) and/or amend Table 14 (zb) to reflect Policy 14.4.7.</p> <p>If (noting again that this is unclear) there is shortfall in allocation then Policy 14.4.7(b) (or Section 14 more generally) should be amended to provide greater clarity on how allocation might reduce over time.</p>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				lawfully established groundwater takes. This is discussed further below.	
2	132	Policy 14.4.8	Support in part	<p>Fonterra's position on Policy 14.4.8 is dependent on how the uncertainty identified in relation to Policy 14.4.7 is resolved.</p> <p>Policy 14.4.8 should not prevent the Fonterra seeking replacement consents for its existing lawful groundwater takes (including any such takes that may be groundwater depleting).</p> <p>That is not to say that the plan should not seek to phase out over-allocation of surface waters but the means of achieving that must safeguard the ability for Fonterra to replace its existing groundwater takes.</p>	<p>Provided the A allocation provides for all lawfully established existing groundwater takes (whether or not groundwater depleting), retain Policy 14.4.8.</p> <p>If the A allocation does not provide for all existing lawful takes amend Policy 14.4.8 so that Fonterra can access the T allocation upon replacement of its groundwater take permits (including those relating to groundwater depleting takes).</p>
3	173	Table 14(zb)	Oppose in part	<p>Fonterra understands that the A Allocation Limit for the Orari-Opihi Zone in Table 14(zb) is based on an estimate of the volume of groundwater takes from a resource consent inventory that are not anticipated to have stream depleting effects. The T Limit relies solely on that estimate and is the difference between that estimated figure and the maximum allocation previously identified for the GAZ.</p> <p>However, it is unclear as to which permits have been identified as surface-water depleting and which haven't. This lack of certainty both in terms of the volume of groundwater takes that do and do not have surface-water depleting effects, and which permits fall into which category, potentially undermines the integrity of the Allocation Limits for the Orari-Opihi Zone.</p> <p>In Fonterra's submission, it is inappropriate to provide such hard limits unless and until there is greater certainty regarding the appropriateness of these limits, and which permits fall into which category. Without this certainty, the Allocation Limits will be impossible to implement and will</p>	<p>Refine the allocation limits for the Orari-Opihi Zone so there is certainty regarding the appropriateness of those limits.</p>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				<p>result in uncertainty and confusion for groundwater users in the Zone.</p> <p>In addition, Fonterra seeks clarity on why no changes were made to the maximum allocation for the Orari-Opihi GAZ to correspond with the apparent changes to its boundaries.</p>	
4	133	Policy 14.4.9	Support	Protection of existing groundwater abstractions from the interference effects of takes from within the T Allocation Limit is appropriate.	Retain Policy 14.4.9.
5	137	Policy 14.4.21	Oppose	<p>The policy requires immediate review of stream depleting groundwater permits with a direct or high stream depletion effect – a process designed to impose new flow and allocation regimes on those reviewed permits. However, at this stage, Fonterra understands that there has been no specific identification of the groundwater permits that have a direct or high stream depletion effect – therefore the application of this policy is unclear. If the plan is going to regulate these specific permits, these permits must be specifically identified. It is not appropriate to immediately review yet unidentified groundwater permits that are estimated to have direct or high stream depletion effect. Furthermore, in the absence of a clear indication of the allocation limits and consenting pathway for replacement (or alternative) consents a requirement to impose new onerous restrictions is unreasonable.</p>	Delete Policy 14.4.21 or amend the wider provisions of Section 14 such that there is certainty as to what takes are affected.
6	138	Policy 14.4.25	Oppose in part	<p>It is unnecessary and inappropriate to apply minimum flow restrictions on groundwater takes with <i>moderate</i> (or less) stream depleting effect. Lag times associated with groundwater takes with moderate stream depleting effect are such that applying minimum flow restrictions typically has little if any benefit in protecting ecosystem health at times of low flow. This policy is also inconsistent with Schedule 9, Table S9.1, which</p>	<p>Amend Policy 14.4.25 as follows:</p> <p>In the Orari Freshwater Management unit all the Orari Catchment permits for groundwater takes from the Orari Catchment within the conjunctive use zone and where the screen is less than 30-m deep shall have minimum flow conditions <u>in accordance with the environmental flow and allocation regime set</u></p>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				specifically identifies 'moderate' stream depletion effects as not being subject to minimum flow restrictions.	<u>out in table 14(h), unless the application for resource consent demonstrates that the take will not have a direct or high or moderate degree of stream depletion effect as determined through field testing in accordance with Schedule 9 consistent with the minimum flow sites and allocations in Table 15</u>
Section 14: Nutrient Management Policies					
7	135 (and 173)	Policy 14.4.18 and Table 14 (zc)	Support in part	<p>Defining a Rangitata-Orton High Nitrogen Concentration Area is supported as is the requirement to make the N reductions from farming specified in Table 14(zc).</p> <p>Fonterra notes, however, that the farms used for discharge of Clandeboye's wastewater are not typical farm systems and the Farm Portal is unlikely to be able to generate a reliable Baseline GMP Loss Rate.</p>	Retain Policy 14.4.18 and Table 14(zc) as notified.
8	136	Policy 14.4.19	Support	<p>As noted above Clandeboye's nitrogen loss from farming on land used for its wastewater discharges is unlikely to be able to be reliably modelled in the Farm Portal. Policy 14.4.19 should accordingly acknowledge the concepts of the Equivalent Baseline GMP and Equivalent Good management Practice Loss Rate.</p> <p>In addition, while a 10-year consent may be appropriate for normal farming operations when it relates to a farming activities that are secondary to the primary purpose of industrial waste water disposal, consent terms should be longer to reflect that significant investment made in the industrial facility.</p>	<p>Retain Policy 14.4.19 but make amendments to:</p> <ul style="list-style-type: none"> • acknowledge the concepts of the Equivalent Baseline GMP and Equivalent Good management Practice Loss Rate; and • Provide for consent terms greater than 10 years when the farming activity incorporates industrial discharges.
9	137	Policy 14.4.20B	Support	As noted above, Clandeboye's wastewater discharge farms are not typical farm systems and the Farm Portal is unlikely to generate a reliable Baseline GMP rate. Access to the alternative	<p>Retain Policy 14.4.20B but amend that policy as follows:</p> <p><u>Provide for the use of consideration of an Equivalent Baseline GMP Loss Rate or Equivalent Good Management Practice Loss Rate in those</u></p>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				<p>approach to establishing the Baseline GMP will therefore be important to Clandeboye.</p> <p>We note however the rules relating to the “Equivalent Baseline GMP” do not require <i>compliance</i> with the Equivalent Baseline GMP rate but rather that a calculation of that rate be included with the consent application. That is appropriate given the need for the Council to consider what the discharge rate ought to be given the uncertainties surrounding non typical farm systems (and the uncertainty around appropriate model input proxies). For that reason Fonterra considers that the policy not refer to providing for the “use” of the Equivalent Baseline GMP Loss rate but to the <i>consideration</i> of such a rate</p>	<p><u>limited circumstances where it is demonstrated that the Farm Portal is unable to generate a Baseline GMP Loss Rate or Good Management Practice Loss Rate or the number generated is demonstrated to be erroneous.</u></p>
10	139	Policy 14.4.28	Support	<p>Fonterra notes that the N ‘loss’ resulting from its wastewater, whey and sewage discharges to land is effectively capped by the land use consent it holds for farming the land used for wastewater disposal.</p> <p>Hence imposing a 30% reduction in N <i>discharge</i> rates is in conflict with the over-riding land use regime that requires quite different reduction targets.</p> <p>Furthermore, Clandeboye’s discharge consents refer to (and limit) N <u>load</u>, not loss. In our opinion, that is entirely appropriate. Fonterra does acknowledge that it has some ability to reduce Clandeboye’s existing consented N load applied to land. Accordingly, we propose the Policy 14.4.28 refer to reducing “load” not reducing “losses” (losses being controlled by the land use consent).</p>	<p>Retain Policy 14.4.28 but amend as follows:</p> <p><u>Assist in achieving water quality targets in the Rangitata Orton High Nitrogen Concentration Area by requiring, in addition to Policy 14.4.19, point source discharges of nitrogen from industrial or trade waste disposal activities to reduce nitrogen losses load by 30% below current consented rates by 1 January 2035.</u></p>
Section 14: Groundwater Take Rules					
11	145	Rules 14.5.7-14.5.11	Support in part	<p>Fonterra considers that the Rules 14.5.7, 14.5.8, 14.5.9, 14.5.10 and 14.5.11 are inconsistent and unclear.</p>	<p>Delete Rule 14.5.8 and amend Rules 14.5.7-14.5.11 to clarify:</p>

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				<p>Rule 14.5.7 appears to provide access to the T allocation for any groundwater take that replaces any stream depleting groundwater take with direct, high or moderate effect. This is on the condition that any such replacement take isn't itself stream depleting.</p> <p>We understand this rule is designed to encourage the surrender of stream depleting groundwater takes or to encourage that, when replacing stream depleting groundwater takes, abstractors seek consent to take from non-stream depleting sources.</p> <p>That understanding is supported by Rule 14.5.8 which makes any application to replace a stream depleting groundwater take (with direct, high or moderate effect) prohibited if it does not comply with Rule 14.5.7.</p> <p>However, Rule 14.5.9 would appear to contradict that understanding as it specifically applies to stream depleting takes and replacement takes making these restricted discretionary activities provided no relevant surface or groundwater allocation (including the T allocation) is exceeded. In other words, an abstractor appears to be able to access to the T allocation under this rule (notwithstanding that the take sought may be groundwater depleting).</p> <p>Rule 14.5.10 states that a replacement take that exceeds one of the allocation limits (including the T allocation) is a non-complying activity.</p> <p>Rule 14.5.11 states that a stream depleting groundwater take that exceeds the surface water allocations or any new take that exceeds any surface or groundwater (including T allocation) is prohibited.</p>	<ul style="list-style-type: none"> • The status of replacement stream depleting takes in the Orari-Opihi GAZ; • What takes may access the T allocation (and under what circumstances stream depleting takes can access the T allocation).

#	PAGE NO.	PROVISION	SUPPORT / OPPOSE	COMMENTS	RELIEF SOUGHT
				Hence, Fonterra considers that there is much uncertainty about the status of a replacement permit for a stream depleting groundwater take.	
GENERAL: General and Consequential Amendments					
12			-	It is likely that giving effect to Fonterra's submission points will necessitate various consequential amendments to ensure consistency between policies and between policies and rules.	Make any and all consequential amendments necessary to give full and accurate effect to this submission.