

BEFORE INDEPENDENT HEARING COMMISSIONERS
AT HAMILTON

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on Proposed Plan
Change 1 to the Waikato Regional Plan

**LEGAL SUBMISSIONS ON BEHALF OF
FONTERRA CO-OPERATIVE GROUP LTD (74057)**

BLOCK 3 – CLOSING SUBMISSIONS

26 SEPTEMBER 2019

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CHAMBERS

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MAY IT PLEASE THE COMMISSIONERS:

1. INTRODUCTION

1.1 These submissions are presented on behalf of Fonterra Co-operative Group Ltd (**Fonterra**), and are filed in response to matters raised by the Hearing Panel during the presentation of Fonterra's case on 18 January 2019.

1.2 These submissions have been prepared in conjunction with Mr Willis, consultant planner at Enfocus, so as to remove the need for Mr Willis to file formal supplementary evidence.

2. AMENDMENTS TO SCHEDULE 1, FARM ENVIRONMENT PLAN

2.1 Through questions Commissioner Robinson raised a number of matters with respect to Schedule 1. Mr Willis and Fonterra have considered those matters raised and propose the following amendments. These are further explained in the mark-up of Schedule 1 attached to these closing submissions.

No	Schedule 1 Standard	Query	Fonterra response
1a	Maintain P in accordance with Fertiliser Code of practice	Should Code of Practice be dated?	Yes, could add a specific date reference, or as date "as at the date of decision".
1c	N applied in response to feed deficit using a feed budgeting tool	Is term feed deficit commonly understood?	See attached mark up.
1e	N fertiliser crop application according to "relevant industry crop model"	Is this clear what a relevant model is?	See attached mark up.
1f	Soil temperature limit	At what depth is this assessed? Should there reference be to sub catchment daily soil temperature?	See attached mark up.
1h	Fert spreading equipment to be annually calibrated	To what standard?	See attached mark up

No	Schedule 1 Standard	Query	Fonterra response
2d	150kg N/ha/yr purchased N surplus limit	What is the 150kg metric based on?	See attached mark up. This is based on Fonterra data.
3b	A paddock stocking rate of 30SU/ha	Why this metric?	See attached mark up.
3c	Critical source areas close to waterways are prioritised for action	What action?	See attached mark up
8a	Must use effluent Storage Calculator	To what percentage of adequacy?	See attached mark up.
8d	Compliance with Rule 3.5.5.1	Effect of referring to this rule as a permitted activity standard.	See attached mark up.
Part D	Review of FEP	When does a FEP that is not a condition of consent need to be reviewed? Note “review” here means audit of practices against the FEP	See attached mark up.

Further suggestions by Ms Hardy

- 2.2 Mr Willis was also asked to consider whether the amendments to the FEP Schedule proposed by Ms Hardy could be incorporated into the version being promoted by Fonterra.
- 2.3 Both Mr Willis and Fonterra have considered Ms Hardy’s amendments closely. There are many differences large and small between the Hardy and Fonterra’s versions of Schedule 1. One critical point is that in her Part B 3, Ms Hardy states that *“the relevant standards and requirements for each FEP are to be determined on a case by case basis by the CFEP”*.. Clearly that is contrary to the Fonterra approach, which is designed to be far more certain. For that reason, Fonterra cannot support Ms Hardy’s Part B 3 or 4.
- 2.4 To the extent that any additional suggestions of Ms Hardy could be included within Fonterra’s proposed Schedule 1, then this has been incorporated into the mark up attached. Fonterra and Miraka personnel

have continued to have direct discussions, and are largely in agreement on the key standards.

3. DEFINITION OF CERTIFIED FARM NUTRIENT ADVISOR

3.1 Mr Willis was asked to consider Mr Lee Matheson's proposed amendments to the definition of "Certified Farm Nutrient Advisor" (CFNA).

3.2 The amended definition of CFNA removes reference to being certified under the "Nutrient Management Advisor Certification Programme Ltd" (as proposed in the s42A Report) and refers instead to having completed the Advanced Nutrient Management Training Course (and retains the two years of experience requirement).

3.3 Fonterra's suggestion is to specify the "Advanced Sustainable Nutrient Management Course (Massey University)" but then add "or an equivalent course approved by the Chief Executive, Waikato Regional Council". That allows for new courses to become available, while still ensuring that the Waikato Regional Council retains some form of quality control over the nature of courses that would meet this requirement.

3.4 Other than that amendment, Mr Willis is comfortable with the changes to the definition proposed by Mr Lee Matheson.

4. OTHER MATTERS IN CLOSING

4.1 Fonterra does not wish to make any further comments in closing in respect of the substantive matters raised in the hearings to date.

4.2 Fonterra would however respectfully suggest that, in the event that the Hearing Panel did decide to adopt a permitted activity rule with an FEP schedule, then the Hearing Panel might like to issue an interim decision and provide a short period of time for people to provide further specific comments only on the detail of any FEP Schedule. This could address any particular technical issues in an efficient manner. Following receipt of any final comments on that aspect only, a final decision could issue.

B J Matheson

Counsel for Fonterra Co-operative Group Ltd

SCHEDULE 1 – MARK UP OF FEP SCHEDULE

(See separate documents, being a clean copy and a marked-up copy)