

# FONTERRA CO-OPERATIVE GROUP LIMITED

## PROPOSED PLAN CHANGE 1 TO WAIKATO REGIONAL PLAN

### FURTHER SUBMISSIONS

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**To:** Waikato Regional Council

**SUBMITTER:** FONTERRA CO-OPERATIVE GROUP LIMITED

**Contact:** Richard Allen

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I confirm that I am authorised on behalf of Fonterra Co-Operative Group Ltd to make this submission.

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## **1. INTRODUCTION**

- 1.1. This is a further submission on the Proposed Plan Change 1 to the Waikato Regional Plan
- 1.2. Fonterra is a party who has an interest in the proposal that is greater than the interest of the general public, with a presence within the Waikato / Waipa Catchments in terms of both farming and manufacturing.
- 1.3. Fonterra made submissions on the notified PC 1 and Variation 1 to PC 1, submitter ID 74057.

## **2. SUBMISSIONS SUPPORTED AND OPPOSED**

- 2.1. The submissions (including any parts of any submissions) supported or opposed, and the reasons for the support or opposition are set out in the table attached as an Appendix to this submission.
- 2.2. Fonterra wishes to be heard in support of the further submission points listed in the Appendix and would be prepared to consider presenting a joint case with submitters raising similar concerns.

**Fonterra Co-operative Group Limited**

17 September 2018



Richard Allen  
Manager Environmental Policy

### 3. APPENDIX: FURTHER SUBMISSIONS ON PROPOSED PLAN CHANGE 1

REF	SUBMITTER AND SUBMITTER POINT	PROVISION	RELIEF SOUGHT	SUPPORT / OPPOSE	REASONS	DECISION SOUGHT
1	Affco New Zealand Ltd PC1 -7620	Glossary	Definition of “regionally significant industry”	Support	Policy 10 of PC1 uses the term regionally significant industry but does not define that term. It is appropriate to define the term clearly in the plan change rather than rely on the RPS (or discretionary interpretation).	Accept the submission
2	Ata – Rangi V1PC1- 466	Schedule B	Ata – Rangi seek that the date range in Schedule B for the assessment of NRP is extended to include the years 2016/ 2017.	Oppose	Fonterra does not believe that parties who carried out land use change once the intention of PC 1 to restrict this became clear, should be enabled to rely on a higher NRP.	Reject submission
3	Auckland /Waikato Fish and Game V1PC1- 1548	General	Fish and Game <i>At point 18) - That nitrogen leaching limits and targets within catchments are established based on known water quality requirements for ecosystem health and then allocated back to land based on the natural capacity of soil, using a land suitability approach such as Land Use Capability (LUC) or similar alternative;</i> <i>At point 19) - That any required percentage reductions in nutrient loss or leaching utilise farm</i>	Oppose	Fonterra supports the outcome of the collaborative process that considered there should be work on developing an understanding of Land Use Suitability before any allocation or trading framework should (or could) be implemented.  It is entirely unclear what is being proposed in points 18 to 20 and how this proposal if adopted would be implemented.	Reject submission.

REF	SUBMITTER AND SUBMITTER POINT	PROVISION	RELIEF SOUGHT	SUPPORT / OPPOSE	REASONS	DECISION SOUGHT
			<i>system economic analysis to assist in determining the extent of possible reductions at the farm, catchment, and regional scale; At point 20) - ...nutrient transfer or trading regimes are provided....</i>			
4	Auckland /Waikato Fish and Game V1PC1- 1561	Policy 1	Fish and Game seek to add words requiring the avoiding of all effects into the policy enabling low risk activities.	Oppose	All activities have some effects and the amendment sought would create an impossible policy test.	Reject submission
5	Auckland /Waikato Fish and Game V1PC1- 1562	Policy 2	Fish and Game seek to reword the policy so as to directly link the tailored on farm actions to achieving specific water quality outcomes.	Oppose	Fonterra believes it is not currently possible to link (quantitatively) tailored actions to address risk areas on individual properties, with downstream water quality metrics.	Reject submission
6	Auckland /Waikato Fish and Game V1PC1- 1591	Policy 2	Fish and Game seek to delete the policy reference to Certified Industry Scheme	Oppose	Fonterra supports the outcome of the collaborative process that concluded that utilising existing industry expertise through Certified Industry Schemes was essential for efficient and effective implementation of the proposed rules.	Reject submission
7	Auckland /Waikato Fish and Game V1PC1- 1566	Policy 7	Fish and Game seek to amend to <i>ensure that farming activities comply with a nitrogen leaching rate which is based on allocating</i>	Oppose	Fonterra supports the collaborative process outcomes that determined that there was no practical method available to	Reject submission

REF	SUBMITTER AND SUBMITTER POINT	PROVISION	RELIEF SOUGHT	SUPPORT / OPPOSE	REASONS	DECISION SOUGHT
			<i>the total allowable load of nitrogen for the sub-catchment on the basis of either a flat per hectare allocation of nitrogen leaching (~15khN/ha/yr), or a nitrogen leaching allowance per hectare based on an allocation defined by natural carrying capacity</i>		efficiently allocate contaminant loss to individual farms.	
8	Auckland /Waikato Fish and Game V1PC1- 1570	Method 3.11.4.3 – Farm Environment Plans	Fish and Game seek to amend the FEP method to include the words ... <i>and specify actions to reduce those risks in order to bring about reductions in the discharges of those contaminants which ensure that targets and limits for sub-catchments are being met as required by consent documents....</i> ".	Oppose	There is no current science or implementation method that allows for the actions specified in an FEP to be directly linked to the achievement of a water quality metric.	Reject submission
9	Auckland /Waikato Fish and Game V1PC1- 1572	Method 3.11.4.5 – Sub Catchment Scale Planning	Fish and Game seek to include provision for trading of contaminant loss rates between enterprises or properties in the same sub-catchment where the reductions required cannot be achieved whilst maintaining profitability on-farm AND AMEND to include the potential for collective consents to minimise the regulatory burden, as well as	Oppose	Fonterra does not believe there is any implementation approach (proposed here or credibly described elsewhere) that would allow for this amended method to be efficiently applied in this Plan.	Reject submission

REF	SUBMITTER AND SUBMITTER POINT	PROVISION	RELIEF SOUGHT	SUPPORT / OPPOSE	REASONS	DECISION SOUGHT
			enable management to occur across multiple properties or landholdings			
10	Auckland /Waikato Fish and Game V1PC1- 1578	3.11.5.4 Farming activities...	Fish and Game seek the addition of <i>e) Nitrogen Discharges from the properties meets the targets and timeframes set out in Schedule E, as assessed by the Regional Council ....</i>	Oppose	Fonterra does not support the proposed addition that references a Schedule that is not available to be considered.	Reject submission
11	Beef & Lamb NZ V1PC1 - 1706	General	Beef & Lamb seek to introduce an extensive list of “nutrient allocation principles” and additionally request the Plan be amended... <i>to adopt Land Use Capability as a proxy for natural capital as an allocation approach within V 1 and PPC1 now.</i>	Oppose	Fonterra does not believe that natural capital is an appropriate basis for nitrogen allocation. Nor does it believe, in any event, that LUC is an appropriate or credible proxy for productive capacity of land or for nitrogen loss risk at farm level. Accordingly, Fonterra supports the collaborative process outcomes and takes the view that the council should look to develop a broader land use suitability framework when considering allocation approaches beyond PC 1.  It is also not clear how industrial discharges would be managed and accounted for with such a framework.	Reject submission

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					Furthermore, Fonterra considers that including allocation principles in PC1 is presumptive and unnecessary (which is why it sought substantial redrafting of Policy 7)	
12	Beef & Lamb NZ V1PC1 - 1661	Policy 1	Beef and Lamb seeks wide ranging amendments to the policy that are focussed on requiring nitrogen management through a sub catchment / property level, LUC based allocation framework.	Oppose	Fonterra does not believe that LUC is a credible proxy for nitrogen loss risk at farm level and supports the collaborative process outcomes that looks to the development of a broader land use suitability framework. The introduction of such a complex and uncertain method, (LUC / OVERSEER / sub catchment allocation) to manage just one of the four contaminants that directly impact on the achievement of values, cannot, in our view, be justified. Additionally, we note that such a reliance on the OVERSEER model, with its inherent uncertainty and complete absence of ability to consider attenuation factors, is inconsistent with recent advice on the best use of OVERSEER in regulation.	Reject submission

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					The submission also appears not to have considered the management of industrial discharges.	
13	Beef & Lamb NZ V1PC1 - 1662	Policy 6	Beef and Lamb seek amendments <i>to enable land use activities including changes in land use where increases in contaminant discharges still enable sub-catchment outcomes for water quality to be met including the values.</i>	Oppose in part	Having a policy that allows for increased losses from one sub catchment without any method to consider the effects on downstream sub catchment water quality and values that will be affected is not supported by Fonterra. In particular it is not clear how increases in discharges in sub catchments could occur without further over-allocating downstream reaches	Reject submission
14	Beef & Lamb NZ V1PC1 - 1650	Glossary of terms	Beef and Lamb propose additional definitions including: <i>.....AND ADD a NEW definition for 'In stream nitrate concentration limits (mg/L)' - the in-stream water quality concentrations required to achieve the identified water management Objective for the associated sub-catchment or Freshwater Management Unit. AND ADD a NEW definition for 'Allowable in stream nitrate load (tonnes per year)' - the allowable volume of nitrate Nitrogen that can pass down the river at a particular point as determined from the in-stream nitrate-Nitrogen concentration limit. AND</i>	Oppose	It is unclear to Fonterra why such detailed definitions would be required for one of the four key contaminants but no equivalent definitions are set out for the other three.	Reject submission

REF	SUBMITTER AND SUBMITTER POINT	PROVISION	RELIEF SOUGHT	SUPPORT / OPPOSE	REASONS	DECISION SOUGHT
			<p><i>ADD a NEW definition for 'Maximum allowable zone load (MAZL)' - the amount of Nitrogen that can be lost below the root zone within a defined water management zone as determined by the in-stream nitrate load limit (adjusted for attenuation between the root zone and the river) AND ADD a NEW definition for 'Measured in-stream nitrate load (tonnes per year) - the amount of nitrate-Nitrogen measured (based on actual monitoring data) as passing down the river at a particular point.]</i></p>			
15	CNI Iwi Land Management Ltd. PC1 - 10808	Schedule 2 – Certification of Industry Schemes	<p>Amend so as to read;</p> <p>1. Is consistent with and will achieve:....</p> <p><u>d. the contaminant reductions that are required for the sub-catchment/s where the Certified Industry Scheme operates through the coordination of Farm Management Plans managed by the Certified Industry Scheme.</u></p>	oppose	<p>Fonterra does not believe it is possible for a certified industry scheme (CIS) to be directly responsible for achieving particular downstream load reductions in a sub catchment. The CIS may well represent only a small proportion of land within a catchment and there is no quantitative assessment method available, for any of the contaminants, that can link mitigation actions described in an FEP, factor in attenuation and then provide a numeric benefit to downstream water quality. It is therefore in our view not possible to implement what this submission seeks.</p>	Reject submission

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16	Department of Conservation (DOC) V1PC1 - 1698	General	DOC seeks to amend the plan generally to: <i>implement greater changes to the management of contaminant discharges in the short-term, through an allocation regime that recognises land type and achieves a greater short-term improvement in water quality.</i>	Oppose	Fonterra supports the outcome of the collaborative process that considered there should be work done on developing an understanding of Land Use Suitability before any allocation or trading framework should (or could) be implemented.	Reject submission
17	Federated Farmers of NZ V1PC1 - 499	3.11.5. Rules	FFNZ seek a new controlled activity rule that provides for farming activities that exceed the NRP.	Oppose	Including such a rule, with very limited matters of control, would undermine the proposed rule framework. The rule framework was designed and agreed to, through the collaborative process, to ensure contaminant losses, including nitrogen loss from land use activities could be credibly shown to be consistent with a 10 percent reduction in 10 years. It is unclear to Fonterra why anyone would apply for a controlled activity <u>under the NRP</u> (3.11.5.4) when there was a parallel controlled activity available to go above the NRP (3.11.5.4A)	Reject submission
18	Federated Farmers of NZ V1PC1 - 758	Schedule C – stock exclusion	Amend Schedule C so that: <i>The standards in Schedule C apply to all farming activities unless accompanied[s] by an FEP providing for alternative mitigations....</i>	Oppose	Addition of provisions such as those proposed by FFNZ will undermine the effectiveness of the extensive stock exclusion work the dairy industry has completed under voluntary programmes and is not	Reject submission

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			and <i>On land that is grazed at a stocking rate equal to or exceeding 18 stock units per hectare, stock must be excluded and set back one metre from the water bodies listed in section C...</i>		consistent with achieving the water quality objectives in the Plan.	
19	Federated Farmers of NZ V1PC1 - 766	Schedule 1 – requirements for farm environment plans	Amend throughout the plan where it references FEPs so as to include the concept of “Most Practicable Action”	Oppose	Fonterra supports the intent of the collaborative stakeholder groups use of FEPs – being to identify all contaminant loss risk areas and provide tailored solutions to bring the farm practice up to Good Management Practice (GMP). Introducing such a subjective test (MPA) in to the consideration of appropriate actions in FEPs is not consistent with achieving the water quality objectives in the Plan. Fonterra does not support the inclusion of this term in the context of FEPs anywhere in Plan Change 1	Reject submission (including any other provisions where the term is included in the context of FEPs)
20	Fertiliser Association of NZ PC1 - 9789	Policy 7	FANZ seek to amend the footnote (5) to clause a) of the Policy so as to ensure that development of LUS is not constrained in what might be considered.	Support	LUS is a new and undeveloped concept – Fonterra believes restricting what may or may not be appropriate (through a footnote to a policy) when developing such a method would be short sighted. To rule out consideration of the effects of historic land use, investment in infrastructure and existing mitigations on productive	Accept submission

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					capacity will likely not result in the most efficient allocation framework being developed. Note that Fonterra sought a substantial rewrite of this policy on the basis that it was presumptive.	
21	Hamilton City Council PC1 - 10152	Use values – Commercial, municipal and industrial use	Redraft the description of the use values to more accurately reflect the economic or commercial values associated with rivers	Support	The wording proposed better reflects values in rivers. Fonterra does, however, support express recognition that rivers to provide assimilative capacity.	Accept the submission in part
22	Oji Fibre Solutions Ltd PC1 - 6316	Use values - Commercial, municipal and industrial use	ADD the following statement to the left hand column of Use values - Commercial, municipal and industrial use to read: "These industries contribute to the economic, social and cultural well-being of people and communities and are the major component of wealth creation within the region. These industries and associated primary production also support other industries and communities within the rural and urban settings."	Support	The wording better reflects the values of rivers to social, economic well-being.	Accept submission
23	Oji Fibre Solutions (NZ) Ltd. V1PC1 - 1176	3.11.5.1 Permitted Activity Rule – Small and Low Intensity farming activities	Amend Rule 3.11.5.1 so that <i>Certified Industry Schemes must obtain resource consent...</i> and rework the rules (3.11.5.1 and 3.11.5.2) to ensure small and low intensity farms are restricted to a clearly defined low risk group and are required to show they are in fact low risk.	Support in part	Fonterra does not support the proposal to require CISs to apply for a notified resource consent. We do however agree with Oji Fibre Solutions that the Proposed Rule framework has too many loopholes for small and low intensity farms and that	Accept submission in part.

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					Rules 3.11.5.1 and 3.11.5.2 should be reworked.	
24	Oji Fibre Solutions (NZ) Ltd. V1PC1 - 1176	3.11.5.7	<i>Amend so that land use change is a restricted discretionary activity, discretion is restricted to the implementation of Best Practicable Option and applicable to other farming activities OR AMEND Rules to incorporate Best Practicable Option for new farming activities into the permitted activity rules</i>	Oppose	Making land use change either RDA or permitted with the only limitation being implementation of BPO, is inconsistent with the Objectives (and the goals of the Visions and Strategy) and leaves no credible mechanism in the Plan to ensure contaminant losses from land use activities will decrease.	Reject submission
25	Waikato and Waipā River Iwi V1PC1 - 1209	3.11.4.3 Farm Environment Plans	<i>Amend method 3.11.4.3 to include that: Waikato Regional Council will prepare an audit schedule for undertaking robust third party audit (independent of the farmer and Certified Farm Environment Planner) and monitoring of Farm Environment Plans and a randomised method for the selection of Farm Environment Plans</i>	Support in part	Fonterra supports clarification that quality and implementation of FEPs should be subject to a robust third party (WRC managed) audit process.	Accept submission in part
26	Waikato Regional Council V1PC1 - 1503	Policy 6	<i>Amend Policy 6 to read: "Except as provided for in Policy 16, land use change consent applications that demonstrate an increase in the diffuse discharge of nitrogen, phosphorus, sediment or microbial pathogens compared with what was occurring at 22 October 2016, will generally not be granted."</i>	Support in part	Fonterra supports the addition of words to clarify that the baseline for considering the effects of land use change should be based on the land use for the year(s) immediately prior to the date of notification of PC1.	Accept submission in part
27	Waikato Regional Council V1PC1 - 1514	3.11.5.2	<i>Amend Rule 3.11.5.2(4)(b)(ii) so that the reference to the nitrogen threshold (15 kgN/ha/yr) is</i>	Support	Fonterra supports the consideration of the use of proxies for contaminant loss risk	Accept submission

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			<i>deleted and replaced with a suitable land use intensity proxy</i>		but notes the need to ensure that a replacement approach (for an OVERSEER, or other approved model output number) is still robust and can be monitored and enforced.	
28	Waikato Regional Council V1PC1 - 1516	3.11.5.4	Amend Rule 3.11.5.4 matter of control (iii) to read: "The actions, timeframes and other...the property or enterprise's Nitrogen Reference Point, <del>unless other suitable mitigations are specified.</del> "	Support	Fonterra believes wording that suggests meeting the NRP is effectively optional if other (non defined) "suitable" mitigations are described in the FEP is inappropriate. Furthermore, in our opinion such a provision would put far too much discretion in the hands of the Certified Farm Planner.	Accept submission