

FONTERRA CO-OPERATIVE GROUP LIMITED

SUBMISSION ON PROPOSED WAIKATO REGIONAL PLAN CHANGE 1 – WAIKATO AND WAIPA CATCHMENTS

To: Waikato Regional Council

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 Plan Change 1 to the Waikato Regional Plan 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 acknowledges the work that Waikato Regional Council (Council) and the Collaborative Stakeholder Group (CSG) has undertaken in the preparation of Proposed Plan Change 1 to the Waikato Regional Plan (**PC 1**).
- 1.2 Fonterra has approximately 2500 supplier farms in the Waikato and Waipa River catchments as well as the Reporoa, Lichfield, Te Awamutu, Hautapu and Te Rapa dairy manufacturing sites.
- 1.3 Fonterra generally supports the direction of the PC 1 subject to the amendments that are outlined in this submission.

2. Relief sought

- 2.1 Fonterra seeks the following decision on submissions on PC 1:
 - (a) Retention, deletion or amendment of various provisions of the PC 1 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.



Charlotte Rutherford
[General Manager Sustainable Dairying](#)
Fonterra Co-operative Group Limited
8 March 2017

Appendix 1: Fonterra Submissions on PC 1

Amendments proposed to the text of PC 1 are shown in **red text** with deletions **struck-out** and additions **underlined**.

The submission points are separated into two tables. Table A sets out the general submissions of Fonterra reflecting, in particular, its interests in dairy farming as a land use activity. Table B sets out additional submission points that are specific to Fonterra's interests arising from the Co-operative's manufacturing sites.

Table A – Fonterra's farming-related submission points

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SECTION 3.11 – WAIKATO AND WAIPA RIVER CATCHMENTS, BACKGROUND AND EXPLANATION & VALUES					
1.	15	Background and explanation – Full achievement of the Vision and Strategy	Support	<p>Fonterra supports the Vision & Strategy for the Waikato and Waipa Rivers/Te Ture Whaimana o Te Awa o Waikato (V&S) and the strategy for addressing contaminant discharges within the Waikato and Waipa River catchments to give effect to the V&S as contained in PC 1.</p> <p>Fonterra considers that the five bullet points and following four paragraphs on page 15 of the "Background and explanation" accurately reflect the approach developed by the Collaborative Stakeholder Group (CSG) and should be regarded as a key policy framework to which all subsequent provisions individually and collectively give effect.</p>	<p>Retain that part of the explanation that sets out the overall strategy for reducing contaminant losses and ensure that all provisions are consistent with that strategy, including by inserting the following additional wording at the end of the Background and explanation section:</p> <p><u>This introductory and explanatory statement may assist the interpretation of Section 3.11 of the Plan.</u></p>
2.	Various	Various	Support in part	<p>As noted above, Fonterra supports the V&S and PC 1. However, Fonterra is concerned that the terminology used in PC 1 is inconsistent with the National Policy Statement for Freshwater Management 2014 (NPSFM). This creates confusion for plan readers. For example, in the last sentence of paragraph 2 on page 14, the objectives in Chapter 3.11 are referred to as "numeric long-term freshwater objectives" whereas the</p>	<p>Amend PC 1 to ensure that the definitions and terms of the NPSFM are applied consistently throughout the document, differentiating clearly and consistently between:</p> <ol style="list-style-type: none"> 1. The long-term (80 year) desired outcomes and the short-term outcomes (being the freshwater objectives for the purpose of the

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				<p>Reasons for Adopting Objective 1 (on page 28) states “Objective 1 sets aspirational 80-year water quality targets...”</p> <p>The NPSFM defines the term “freshwater objective” and importantly, where a freshwater objective is not being met, Policy A2 of the NPSFM requires regional councils to set targets designed to meet the freshwater objective and take action to ensure those targets are met.</p> <p>However, scenario modelling described in the section 32 report (section C2.2.11.1, page 70) indicates that Objective 1 of PC 1 cannot always be achieved. Therefore, if Objective 1 is referred to as a freshwater objective but cannot be achieved, PC 1 is at risk of not giving effect to policy A2 of the NPSFM as is required by s67(3)(a) of the RMA.</p> <p>This inconsistency can be rectified by amending the text of PC 1 as shown in the attached marked-up version of the document.</p>	<p>NPSFM); and</p> <p>2. The concepts of freshwater objective, attribute state and a limit or target.</p> <p>This includes:</p> <p>(a) Amending the 4th paragraph on page 11 (Section 3.11) to read:</p> <p>FMUs are required by central government's National Policy Statement for Freshwater Management 2014. FMUs enable monitoring of progress towards meeting <u>freshwater objectives developed to give effect to the NPSFM and long term desired water quality states developed to give effect to the Vision and Strategy targets[^] and limits[^].</u></p> <p>(b) Amending all references to “short term objectives” to:</p> <p>short term <u>freshwater</u> objectives.</p> <p>(c) Amending all references to “long term freshwater objectives” to:</p> <p>long term <u>freshwater</u>-objectives</p> <p>(d) Add a final sentence at the end of the “Water quality and National Policy Statement for Freshwater Management” section (page 14) that states:</p> <p><u>For the avoidance of doubt, for the purpose</u></p>

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					<p><u>of the NPSFM, the freshwater objective of this plan is Objective 3.</u></p> <p>(e) Amend the last sentence of the second paragraph under the heading “Full achievement of the Vision and Strategy will be intergenerational” to read:</p> <p>The staged approach also allows time for the innovation in technology and practices that will need to be developed to meet the <u>targets[^] and limits[^] long term water quality objectives</u> in subsequent regional plans to be developed.</p> <p>Amend the 6th paragraph of the same section to read:</p> <p>Municipal and industrial point source dischargers will also be required to revise their discharges in light of the Vision and Strategy and the water quality objectives, <u>and sub-catchment limits[^] and targets[^]</u> that have been set. This will happen as the current consent terms expire.</p> <p>(f) Amend the first paragraph in section 3.11.1 to read:</p> <p>The National Policy Statement – Freshwater Management Policy CA2 requires certain steps to be taken in the process of setting <u>limits[^] freshwater objectives</u>. These include establishing the values[^] that are</p>

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					<p>relevant in a FMU[^], identifying the attributes[^] that correspond to those values[^], and setting objectives based on desired attribute states[^]. This section describes values and uses for the Waikato and Waipa Rivers, to provide background to the objectives and limits[^] in later sections.</p> <p>(g) Make such other changes as necessary to amend reference to “water quality attribute[^] targets[^]” or “water quality attribute[^] limits[^]” to read “water quality attribute states” or, where the context requires, to Objective 1 and/or Objective 3).</p> <p>All amendments to be made to both the English text and Maori translation.</p>
SECTION – OBJECTIVES					
3.	27	Objective 1	Support in part	<p>Fonterra supports the adoption of an 80-year timeframe for the achievement or restoration of the attributes to levels that will achieve the V&S.</p> <p>Fonterra seeks slight modification of the objective to recognise the fact that for some places and for some attributes restoration is not necessary as the required water quality is already achieved.</p>	<p>Amend Objective 1 to read:</p> <p>Objective 1: Long-term restoration and protection of water quality for each sub-catchment and Freshwater Management Unit</p> <p>By 2096, discharges of nitrogen, phosphorus, sediment and microbial pathogens to land and water result in the achievement of the restoration and protection, and where necessary restoration, of the 80-year water</p>

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					<p>quality <u>to achieve the 80 year</u> attribute <u>targets states</u> in Table 3.11-1.</p> <p>Amend the reasons for adopting the Objective to read:</p> <p>Objective 1 sets <u>a</u> long term <u>limits^goal</u> for water quality consistent with the Vision and Strategy. Objective 1 sets aspirational 80-year <u>desired</u> water quality <u>targets-states^</u>, which result in improvements in water quality from the current state monitored in 2010-2014. The water quality <u>statesattributes^</u> listed in Table 3.11-1 that will be achieved by 2096 will be used to characterise the <u>desired</u> water quality of the different FMUs when the effectiveness of the objective is assessed. <u>Objective 1 gives effect to the Vision and Strategy.</u></p>
4.	27	Objective 2	Support in part	<p>Fonterra supports the intent of Objective 2 which, in part, seeks to ensure that people and communities can continue to provide for their social, economic and cultural wellbeing while the restoration and protection of the rivers is taking place. Fonterra suggests a minor amendment to make the intent of Objective 2 clearer.</p>	<p>Amend Objective 2 as follows:</p> <p>Objective 2: Social, economic and cultural wellbeing is maintained in the long term</p> <p>Waikato and Waipa communities and their economy benefit from the restoration and protection of water quality in the Waikato River catchment, <u>which-and the restoration and protection is undertaken in a way and at a rate that</u> enables the people</p>

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					<p>and communities to continue to provide for their social, economic and cultural wellbeing.</p> <p>Amend the reasons for adopting Objective 2 to read:</p> <p>Objective 2 sets the long term outcome for people and communities, recognising that restoration and protection of water quality will continue to support communities and the economy. The full achievement of the Table 11-1 2096 <u>desired</u> water quality attribute <u>states</u>[^] <u>targets</u>[^] may require a potentially significant departure from how businesses and communities currently function, and it is important to minimise social disruption during this transition.</p>
5.	27	Objective 3	Support in part	<p>Fonterra supports the intent of Objective 3 to achieve 10 percent of the total required change sought in Objective 1 by 2026, but suggests a minor amendment to the text to improve the clarity and certainty of the objective.</p> <p>Fonterra considers that for consistency with the NPSFM, the numeric values in Table 3.11-1.A are more accurately referred to as attribute states rather than “targets” (because an attribute state forms the basis of a freshwater objective (Policy CA e) of the NPSFM).</p>	<p>Amend Objective 3 as follows:</p> <p>Objective 3: Short-term improvements in water quality in the first stage of restoration and protection of water quality for each sub-catchment and Freshwater Management Unit</p> <p>Actions put in place and implemented by 2026 to reduce discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve ten percent of the required change between current water quality and the <u>desired</u> 80-</p>

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					<p>year water quality attribute^ targets <u>states</u> in Table 3.11-1. A ten percent change towards the long term <u>desired</u> water quality <u>improvements states</u> is indicated by the short term water quality attribute^ targets <u>states</u> in Table 3.11-1.</p> <p>Amend the reasons for adopting Objective 3 to read:</p> <p>Objective 3 sets short term goals for a 10-year period, to show the first step toward full achievement of water quality consistent with the Vision and Strategy.</p> <p>The effort required to make the first step may not be fully reflected in water quality improvements that are measureable in the water in 10 years. For this reason, the achievement of the objective will rely on measurement and monitoring of actions taken on the land to reduce pressures on water quality.</p> <p>Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis at the time of consent renewal, guided by the targets and limits set in Objective 1 and Objective 3.</p> <p><u>Objective 3 is a freshwater objective for the</u></p>

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					<u>purposes of the NPSFM.</u>
6.	27	Objective 4	Support in part	Fonterra supports the intent of Objective 4 but suggests a minor amendment to make it clear which values and uses are being referred to.	<p>Amend Objective 4:</p> <p>Objective 4: People and community resilience</p> <p>A staged approach to change enables people and communities to undertake adaptive management to continue to provide for their social, economic and cultural wellbeing in the short term while:</p> <p>a) considering the values and uses <u>identified in section 3.11.1</u>, when taking action to achieve <u>Objectives 1 and 3</u>^{the attribute^ targets^} <u>for the Waikato and Waipa Rivers in Table 11-1</u>; and</p> <p>b) recognising that further contaminant reductions will be required by subsequent regional plans and signalling anticipated future management approaches that will be needed to meet Objective 1.</p>
SECTION - POLICIES					
7.	30	Policy 1	Support in part	Fonterra supports the general strategy for reducing diffuse discharges as articulated by Policy 1. However, there are potential inconsistencies between Policy 1a and Policy 4 with regard to the approach taken to low discharging activities. Policy 1a enables such activities where “discharges do not increase”, whereas Policy 4 enables low discharging activities	<p>Amend Policy 1 so the policy test that applies to the enablement of low discharging activities is consistent with Policy 4.</p> <p>Policy 1: Manage diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens.</p> <p>Manage and require reductions in sub</p>

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				provided "Objective 3 is not compromised". Fonterra considers that for the sake of clarity there should be consistency between the two policies. (Noting also, that submission point 10 of this submission proposes the redrafting of Policy 4).	catchment-wide discharge of nitrogen, phosphorus, sediment and microbial pathogens, by: a. Enabling activities with a low level of contaminant discharge to water bodies <u>consistent with Policy 4 provided those discharges do not increase</u> ; and
8.	30	Policy 2	Oppose in part	<p>Fonterra supports an approach to reducing diffuse discharges from farming activities that is tailored to particular properties. There is, however, a difficulty with the policy because it does not relate well to the rules proposed to implement it. In particular, Fonterra is concerned with the following:</p> <ul style="list-style-type: none"> • <i>Part a) of the policy.</i> Part a) suggests that the mitigation actions to reduce nitrogen discharges will be defined and specified in the Farm Environment Plan (FEP). Fonterra does not consider such an approach to be practical and considers that the policy needs to differentiate between the management of phosphorus, sediment and E.coli and the management of nitrogen. Nitrogen discharges are influenced by many variables (stocking rates, imported feed, fertiliser, cropping regimes etc) that may need to change during and between seasons in response to climatic and market conditions. Specifying nitrogen loss mitigation actions in a FEP would force a farm into a specific management response when an alternative response might achieve the same outcome more practically or at less cost. 	<p>Amend part a of Policy 2 so that it reads:</p> <p>Policy 2: Tailored approach to reducing diffuse discharges from farming activities</p> <p>Manage and require reductions in sub-catchment wide diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens from farming activities on properties and enterprises by:</p> <p>a. Taking a tailored, risk based approach;</p> <p><u>i. to define mitigation actions on the land that will reduce diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens, with the mitigation actions to be specified in a Farm Environment Plan either associated with a resource consent, or in specific requirements established by participation in a Certified Industry Scheme; and</u></p> <p><u>ii to manage the diffuse discharge of nitrogen to:</u></p> <ul style="list-style-type: none"> • <u>ensure discharges do not exceed the</u>

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				<p>For that reason, Fonterra supports nitrogen being managed by way of a numeric nitrogen discharge limit with flexibility retained in how that limit is complied with. The other contaminants, by contrast, lend themselves to management through prescribed management actions.</p> <p>Part d) of the policy. This part implies that those preparing and certifying FEPs will make discretionary judgements about the degree of reduction of nitrogen, phosphorus, sediment and E.coli each farm is to achieve (proportionate to current discharge and the scale of water quality improvement required in the catchment). Fonterra is of the view that that is not how the rules can, or should, work. Reductions to be achieved in contaminant discharges cannot be strictly proportional because the scale of existing discharge of E.coli, sediment and even phosphorus from individual properties is generally not identifiable. In practice, an appropriate response is to identify the likely sources of contaminant loss and put in place measures to address those identified risks and risk areas. Fonterra considers that this is what the policy should commit to.</p>	<p><u>Nitrogen Reference Point for the property or enterprise; and</u></p> <ul style="list-style-type: none"> • <u>Avoid management practices that would result in significant inefficiency of nitrogen use; and</u> • <u>reduce on any property or enterprise whose Nitrogen Reference Point is above the 75th percentile nitrogen leaching value so that the discharge is less than or equal to the discharge of the 75th percentile nitrogen leaching value with the maximum three year rolling average to be specified in a resource consent or Farm Environment Plan.</u> <p>Replace part d of Policy 2 so that it reads:</p> <p><u>d. Requiring Farm Environment Plans to identify the areas and activities representing diffuse discharge risks and the most effective way of managing those risks on the property or enterprise.</u></p>
9.	31	Policy 3	Oppose in part	<p>Fonterra supports an approach to reducing diffuse discharges from commercial vegetable production that is tailored to particular properties, however, some matters require clarification.</p> <p>First, the policy needs to confirm that the maximum area being referred to in part b) is the footprint that represents the largest footprint used in a single year</p>	<p>Amend Policy 3 as follows:</p> <p>b. The maximum area in production for a property or enterprise <u>in any single year</u> is established and capped <u>at the largest area in production for that property or enterprise in any single year over the 10 year period ending 1 January 2016 as</u></p>

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				<p>over the 2006-2016 period, rather than the aggregate of all areas used for commercial vegetation production over the period 2006-2016.</p> <p>Secondly, the policy needs to clarify that the 10% reduction in nitrogen loss across the sector is relative to the cumulative nitrogen reference points of all commercial vegetable growers (i.e. the 10 year average nitrogen discharge). It also needs to be made clear that the 10% reduction is to be achieved by 2026.</p> <p>Finally, Fonterra acknowledges that the point made in relation to Policy 2 in submission 9 above, also applies to Policy 3.</p>	<p><u>determined by utilising</u> commercial vegetation production data from the 10 years up to 2016; and</p> <p>...</p> <p>d A 10% decrease <u>by 2026</u> in the <u>rate of</u> diffuse discharge of nitrogen <u>relative to the Nitrogen Reference Point</u> and a tailored reduction in the diffuse discharge of phosphorus, sediment and microbial pathogens is achieved across the sector through the implementation of Best or Good Management practices; and</p> <p>Delete part g) and replace with the following</p> <p><u>g. Requiring Farm Environment Plans to identify the areas and activities representing diffuse discharge risks and the most effective way of managing those risks on the particular property.</u></p>
10.	31	Policy 4	Oppose in part	<p>Fonterra supports enabling activities with low discharges to continue and for new ones to establish. However, we find the policy complex and unclear. In particular, the policy appears inconsistent with Policy 1 as it appears to apply a different policy test as to when low discharging farming activities should be enabled. Further, it is not clear whether Policy 4 is intended as the foundation policy for Rule 3.11.5.3 or just for Rules 3.11.5.1 and 3.11.5.2.</p> <p>Fonterra considers that the policy foundation for Rule</p>	<p>Amend Policy 4 to read:</p> <p>Policy 4: Enabling activities with lower discharges to continue or to be established while signalling further change may be required in future.</p> <p><u>Enable existing and new farming that individually and collectively make a minor contribution to contaminant loads and/or that pose a low risk of increased contaminant discharge because the activities:</u></p>

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				<p>3.11.5.3 should be addressed by a separate policy given the different policy justification for that rule.</p> <p>Furthermore Fonterra considers that the signally that further change may be required in the way low discharging activities are managed ought to be the subject of a separate policy.</p>	<p><u>(a) occupy a small land area; and/or</u> <u>(b) have a low nitrogen discharge per hectare (and/or the land is not used for an intensive farming use);</u> <u>provided that high risk diffuse discharge practices are avoided.</u></p> <p>Policy 4A: Signalling further change by lower discharging activities may be required in the future.</p> <p><u>Recognise that lower discharging activities may need to take additional mitigation actions to reduce diffuse discharges or nitrogen, phosphorus, sediment and microbial pathogens after 2026 in order for Objective 1 to be met.</u></p> <p>Add a new Policy 4AB</p> <p><u>Policy 4AB: Enabling farming activities managed in accordance with industry schemes</u></p> <p><u>Enable existing farming activities that have a low risk of increased contaminant discharge for their farming type and/or a likelihood of diffuse discharge reductions over time because:</u></p> <p><u>(a) they are part of an industry scheme designed to manage diffuse discharge</u></p>

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					<p><u>risk; and</u></p> <p><u>(b) in accordance with that industry scheme the diffuse nitrogen discharge by those properties whose Nitrogen Reference Point is above the 75th percentile nitrogen leaching value for the relevant freshwater management unit[^] is reduced to be less than or equal to the discharge of the 75th percentile nitrogen leaching value for the relevant freshwater management unit[^].</u></p>
11.	31	Policy 5	Support in part	Fonterra supports the 80 year staged approach and the recognition of social and economic costs associated with not staging the achievement of the V&S's ultimate goals. However, it is considered that some minor wording changes would assist with clarity.	<p>Amend Policy 5 to read:</p> <p>Policy 5: Staged approach</p> <p>Recognise that achieving the <u>desired</u> water quality <u>attribute[^]-states targets[^]</u> set out in Table 3.11-1 will need to be staged over 80 years, to minimise <u>adverse</u> social <u>and economic effects</u>disruption and allow for innovation and new practices to develop, while making a start on reducing discharges of nitrogen, phosphorus, sediment and microbial pathogens, <u>to achieve Objective 3</u> and preparing for further reductions that will be required in subsequent regional plans.</p>
12.	32	Policy 6	Oppose in part	Policy 6 appears to be drafted to apply to a non-complying consent application. As noted in submission 20, Fonterra's submission is that land use change which occurs without a change in the diffuse	<p>Redraft Policy 6 as follows:</p> <p>Policy 6: Restricting land use change</p> <p><u>Manage the potential for increases in diffuse discharges of nitrogen phosphorus, sediment</u></p>

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				nitrogen discharge should be considered as a discretionary activity. Accordingly, Fonterra submits that Policy 6 requires redrafting.	<p><u>and microbial pathogens by generally only allowing land use change where it would:</u></p> <p>(a) <u>Not result in increased diffuse discharges of nitrogen, phosphorus, sediment or microbial pathogens; and/or</u></p> <p>(b) <u>Promote the implementation of Policy 16.</u></p>
13.		Policy 7	Oppose in part	<p>The policy appears to address three indirectly related points. That is:</p> <ul style="list-style-type: none"> • there is a need/intent to collect better information about contaminant discharges and their effects • at some future point there will be “allocation” (i.e. a (re)distribution of the right to discharge amongst competing land uses) • when council does allocate, certain principles will be applied. <p>While Fonterra accepts the first of those points and the possibility of the need for the second, it considers it both premature and unnecessary to include reference to the second and third matters in the Policy at this point (noting that, in any event, the criteria would not be binding on any future plan change, but could be amended by that plan change).</p>	<p>Redraft Policy 7 as follows:</p> <p>Policy 7: Preparing for <u>allocation in the enhanced future water quality management</u></p> <p><u>Gather information (including through modelling) and undertake research about discharges and contaminant loads in the Waikato and Waipa catchments to enable future policy making that can most effectively and efficiently achieve reductions in nitrogen, phosphorus sediment and E.coli beyond those identified in Objective 3.</u></p>
14.		Policy 8	Oppose	Fonterra notes that Policy 8 refers to prioritisation of the management of land and water resources “by implementing policies 2, 3 and 9 in accordance with ... Table 3.11-2”. Despite that assertion, the rules only	Delete Policy 8.

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				<p>prioritise management in accordance with Table 3.11-2 with respect to the provision of an FEP to Council. Other requirements of the rules cited (such as stock exclusion and the nitrogen reference point) are not prioritised according to Table 3.11-2. Furthermore the Table 3.11-2 prioritisation does not apply to commercial vegetation production. For those reasons we consider Policy 8 to be an inaccurate statement of policy as reflected by the rules.</p> <p>In any event, Fonterra does not support prioritisation of FEP production as proposed in Table 3.11-2. Given that all sub-catchments contribute to the water quality of the Waikato and Waipa rivers, there seems to be no environmental rationale for allowing 10 years until an FEP must be submitted to the Council. Such a delay compresses the time available to implement the FEP making implementation by 2026 difficult.</p> <p>Accordingly, Fonterra considers that the prioritisation of FEPs according to the proposed three-priority framework be deleted from the plan and all activities with an obligation to prepare and submit an FEP be required to do so by 1 July 2020.</p>	
15.	33	Policy 9	Support in part	<p>Fonterra supports the use of sub-catchment planning and edge of field mitigation as means of improving water quality outcomes. However, it would be inappropriate if such planning was used as a justification for farming activities not adopting appropriate measures on-farm. Accordingly, Fonterra considers it appropriate that PC 1 clarifies that Policy 9 applies in addition to obligations required by other</p>	<p>Insert the following advisory note at the end of Policy 9:</p> <p><u>Advisory note:</u> <u>Policy 9 applies in addition to, and not as an alternative to, other policies of section 3.11.3 of this plan. It is to be given effect to through the implementation of Method 3.11.4.5.</u></p>

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				policies, and the existence of such measures ought not be used to justify poor management practices on-farm.	
SECTION - RULES					
16.	40	Rule 3.11.5.2	Support in part	<p>Fonterra supports permitted activity status for low nitrogen leaching farming activities. However, it is concerned to ensure that only low nitrogen leaching activities qualify under this rule. As currently worded it would appear that a high nitrogen leaching activity could qualify as a permitted activity under Rule 3.11.5.2, if a property included a large area of land not used for pastoral farming enabling the 15kg/ha/year threshold to be met by averaging nitrogen loss across both effective and ineffective hectares.</p> <p>Fonterra does not consider it appropriate that intensive, high leaching farming activities should avoid the need for a FEP and associated obligations. To do so would potentially allow an intensive farming activity to continue to adopt sub optimal management practises, thereby continuing to discharge unnecessarily high levels of contaminants into the Waipa and Waikato River catchments.</p>	<p>Amend Rule 3.11.5.2 (4) as follows:</p> <p>4. Where the property or enterprise area is greater than 20 hectares:</p> <p>a. A Nitrogen Reference Point is calculated for the property in conformance with Schedule B; and</p> <p>b. The diffuse discharge of nitrogen from the property or enterprise does not exceed either:</p> <p>i. the Nitrogen Reference Point; or</p> <p>ii 15kg nitrogen/hectare/year;</p> <p>whichever is the lesser, over the <u>effective hectares of the whole</u> property or enterprise assessed in accordance with Schedule B.</p> <p>Insert a new definition of “effective hectares” as follows:</p> <p><u>Effective hectares: means the area of a property or enterprise as measured in hectares which is used for the regular grazing of animals or growing of crops or activities ancillary to those uses and which specifically excludes indigenous forest, plantation forest, closed canopy scrubland</u></p>

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					<p><u>and protected wetlands.</u></p> <p>Insert a new definition of “protected wetland” as follows:</p> <p><u>Protected wetland: for the purpose of the definition of “effective hectares” means a wetland that is fenced to exclude stock or which is legally protected by a rule in a district or regional plan, condition of resource consent or other legally binding instrument such that it cannot be lawfully grazed, drained, cleared or otherwise modified without the consent of a local authority or third party and for which no such consent has been issued. This definition excludes any wetland constructed for the purpose of mitigating the effects of agricultural discharges on water quality.</u></p>
17.	41	Rule 3.11.5.3	Support in part	<p>Fonterra supports farms registered to certified industry schemes being permitted activities subject to appropriate conditions. However, the rule proposed requires clarification in some respects to ensure it is clear and robust.</p> <p>First, there is a need to clarify that the preparation of, and compliance with, the nitrogen reference point is a condition of the rule.</p> <p>Second there is a need clarify the date by which compliance with the nitrogen reference point is required. This should not, as suggested by Schedule</p>	<p>Redraft Rule 3.11.5.3 as follows:</p> <p>3.11.5.3 Permitted Activity Rule – Farming activities with a Farm Environment Plan under a Certified Industry Scheme</p> <p>Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2 the use of land for farming activities (excluding commercial vegetable production) where the land use is registered to a Certified Industry Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial</p>

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				<p>1, be when the FEP is produced but should apply from the time the nitrogen reference point is submitted to Council.</p> <p>Fonterra considers that the all farming activities under this rule should have an FEP in place by 1 July 2020.</p> <p>For the avoidance of doubt, Fonterra considers that the requirement for properties and enterprises to comply with the nitrogen reference point as soon as it is submitted to Council should apply irrespective of whether Fonterra's submission seeking all FEPs by 2020 is accepted or not.</p> <p>Amendment is also required to the rule to give effect to Fonterra's proposed amendment to Policy 2. That amendment involves clarifying that FEPs will control nitrogen losses by specifying a numeric nitrogen rate rather than by prescribing detailed practices that might create unnecessary inflexibility to respond to climatic of market change.</p>	<p>pathogens onto or into land in circumstances which may result in those contaminants entering water is a permitted activity subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and 2. A Nitrogen Reference Point is produced <u>calculated</u> for the property or enterprise in conformance with Schedule B <u>and provided to Waikato Regional Council within the period 1 September 2018 to 31 March 2019</u>; and. 3. <u>The three-year rolling average does not exceed the Nitrogen Reference Point calculated in accordance with condition 2 from the date on which the Nitrogen Reference Point is provided to the Waikato Regional Council; and</u> 34. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and 45. The Certified Industry Scheme meets the criteria-standards set out in Schedule 2 and has been approved by the Chief Executive Officer of Waikato Regional Council; and 56. A Farm Environment Plan which has been prepared in accordance with Schedule 1 and has been approved by a

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					<p>Certified Farm Environment Planner, is provided to the Waikato Regional Council as follows:</p> <p>a. By 1 July 2020, for properties or enterprises within Priority 1 sub-catchments listed in Table 3.11-2 and properties or enterprises within a Nitrogen Reference Point greater than the 75th percentile nitrogen-leaching value;</p> <p>b. By 1 July 2023 for properties or enterprises within Priority 2 sub-catchments listed in Table 3.11-2;</p> <p>c. By 1 July 2026 for properties or enterprises within Priority 3 sub-catchments listed in Table 3.11-2; and</p> <p>Conditions 6, 7 and 8 to be retained as notified (but renumbered as appropriate).</p>
18.	42	Rule 3.11.5.4	Oppose in part	<p>Fonterra considers that the requirements associated with Rule 3.11.5.4 should be the same as those applicable under Rule 3.11.5.3.</p> <p>In particular, FEPs should be required by 1 July 2020 and discharges should not exceed the nitrogen reference point from the time the Nitrogen Reference Point is submitted to Council.</p> <p>It would also be preferable to split the rule into a permitted rule (until 30 June 2020) and a controlled rule (applying from 1 July 2020).</p>	<p>Amend and reorder Rule 3.11.5.4 as follows:</p> <p>Rule 3.11.5.42A - <u>Controlled Permitted Activity Rule – Pre-2020 Farming activities with a Farm Environment Plan not under a Certified Industry Scheme</u></p> <p>Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2, <u>until 1 January 2020</u>, the use of land for farming activities (excluding vegetable production) where that land use is not registered to a Certified Industry</p>

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					<p>Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a permitted activity until:</p> <p>1. 1 January 2020 for properties or enterprises in Priority 1 sub-catchments listed in Table 3.11-2, and properties with a Nitrogen Reference Point greater than the 75th percentile nitrogen leaching value;</p> <p>2. 1 January 2023 for properties or enterprises in Priority 2 sub-catchments listed in Table 3.11-2;</p> <p>3. 1 January 2026 for properties or enterprises in Priority 3 subcatchments listed in Table 3.11-2 Subject to the following conditions:</p> <p>4.1. The property is registered with the Waikato Regional Council in conformation with Schedule A; and</p> <p>5.2. Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B <u>and provided to Waikato Regional Council within the period 1 September 2018 to 31 March 2019; and.</u></p> <p><u>3. The three year rolling average does not exceed the Nitrogen Reference Point calculated in accordance with condition 2</u></p>

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					<p><u>from the date on which the Nitrogen Reference Point is provided to the Waikato Regional Council; and</u></p> <p>After the dates set out in 1), 2) and 3) above the use of land shall be a controlled activity (requiring resource consent), subject to the following standards and terms:</p> <p>a. Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged by the dates specified in I-III below; and</p> <p>b. The property is registered with the Waikato Regional Council in conformance with Schedule A; and</p> <p>c. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and is provided to the Waikato Regional Council at the time the resource consent application is lodged; and</p> <p>d4. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C.</p> <p>Add a replacement Rule 3.11.5.4 as follows: <u>Rule 3.11.5.4- Controlled Activity Rule –</u></p>

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					<p><u>From 2020 farming activities with a Farm Environment Plan not under a Certified Industry Scheme</u></p> <p><u>Except as provided for in Rule 3.11.5.1 and Rule 3.11.5.2, from 1 January 2020, the use of land for farming activities (excluding commercial vegetable production) where that land use is not registered to a Certified Industry Scheme, and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a controlled activity subject to the following standards and terms:</u></p> <ol style="list-style-type: none"> <u>1. The property is registered with the Waikato Regional Council in conformance with Schedule A; and</u> <u>2. A Nitrogen Reference Point is produced for the property or enterprise in conformance with Schedule B and is provided to the Waikato Regional Council at the time the resource consent is lodged; and</u> <u>3. Cattle, horses, deer and pigs are excluded from water bodies in conformance with Schedule C; and</u> <u>4. A Farm Environment Plan has been prepared in conformance with Schedule 1 and has been approved by a Certified</u>

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					<p><u>Farm Environment Planner, and is provided to the Waikato Regional Council at the time the resource consent application is lodged; and</u></p> <p>5. <u>Annual records of the nitrogen leaching value are kept and submitted to the Waikato Regional Council by 1 July each year demonstrating that the three-year rolling average nitrogen leaching value as determined using the most recent version of OVERSEER® is not, over the duration of the consent, increased beyond the property or enterprise's Nitrogen Reference Point.</u></p> <p><u>Matters of Control</u></p> <p><u>Waikato Regional Council reserves control over the following matters:</u></p> <p>i. <u>The content of the Farm Environment Plan, provided that the Farm Environment Plan is no less stringent than specified in Schedule 1.</u></p> <p>ii. <u>The actions and timeframes for undertaking mitigation actions that maintain or reduce the diffuse discharge of phosphorus, sediment or microbial pathogens to water or to land where they may enter water.</u></p> <p>iii. <u>The three-year rolling average annual nitrogen loss rate (except that, in accordance with standard 5 no such nitrogen loss shall exceed the Nitrogen</u></p>

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					<p><u>Reference Point)</u></p> <p><u>iv. Compliance with Policy 2.</u></p> <p><u>v. The duration of the consent</u></p> <p><u>vi. The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent to demonstrate and/or monitor compliance with the Farm Environment Plan.</u></p> <p><u>vii. The timeframe and circumstances under which the consent conditions may be reviewed or the Farm Environment Plan shall be amended.</u></p> <p><u>viii. Procedures for reviewing, amending and re-approving the Farm Environment Plan.</u></p>
19.	44	Rule 3.11.5.5	Oppose in part	<p>Amendments are required to make the rule relating to commercial vegetable production consistent with the changes Fonterra has sought to Policy 3.</p> <p>Moreover, Fonterra notes that under Rule 3.11.5.5 commercial vegetable production is a permitted activity until 2020 (although changing more than 4.1 ha to commercial vegetable production may be a non-complying activity under Rule 3.11.5.7). While the rule is clear regarding the status of commercial vegetable production post 1 January 2020, due to the complex interplay between Rules 3.11.5.5 and 3.11.5.7, the status of commercial vegetation production before that date is unclear. Fonterra considers that commercial vegetable production prior to 1 January 2020 should remain a permitted activity provided that total area</p>	<p>Separate the permitted and controlled parts of Rule 3.11.5.5 into two rules with the permitted activity rule making commercial vegetable production prior to 1 January 2020 a permitted activity subject to conditions that ensure that there is no expansion of the aggregate land area devoted to that use prior to that date.</p> <p>Within the controlled activity rule make the following changes to conditions (f) and (g):</p> <p>f. The total area of land for which consent is sought for commercial vegetable production must not exceed the maximum land area of the property or enterprise that was used for commercial vegetation production <u>in any single year</u> during the</p>

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				devoted to that use is not increased.	<p>period 1 July 2006 to 30 June 2016; and</p> <p>g. Where any new land is proposed to be used for commercial vegetable production <u>that has not been previously used for commercial vegetable production during the 1 July 2006 to 30 June 2016 period</u>, an equivalent area of land must be removed from commercial vegetation production in order to comply with standard and term f; and</p>
20.	45	Rule 3.11.5.6	Oppose in part	<p>Fonterra is concerned that there is an inequitable situation arising from the ability to consent intensification of existing land uses to a more intensive form of the same land use (including increases in nitrogen discharge beyond the Nitrogen Reference Point and on-going access to streams by stock) as a restricted discretionary activity, while a change of land use with the same, or less, potential effect on water quality is a non complying activity under Rule 3.11.5.7.</p> <p>Fonterra considers that a more rational regime would involve any non-conformance with rules 3.11.5.1-3.11.5.5 and any land use change being a full discretionary activity provided, there is no exceedance of the Nitrogen Reference Point (or current nitrogen discharge if the change is implemented before a nitrogen reference point is calculated).</p> <p>Exceedances of the Nitrogen Reference Point should be considered as a non-complying activity.</p> <p>Furthermore, Fonterra considers that the limit placed on land use change of 4.1 hectares or more may lead</p>	<p>Delete Rule 3.11.5.6 and replace with the following:</p> <p><u>3.11.5.6. Discretionary Activity Rule – The use of land for farming activities</u></p> <p><u>The following activities are discretionary activities (requiring resource consent):</u></p> <p><u>1. The use of land for farming activities and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water that does not comply with the conditions, standards or terms of Rules 3.11.5.1 to 3.11.5.5 subject to the following standards and terms:</u></p> <p><u>a. The three-year rolling average does not exceed the nitrogen reference point, or where no nitrogen reference point has been calculated the average nitrogen</u></p>

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				<p>to unintended consequences by inhibiting land use change within a property that has a neutral or even beneficial effect on contaminant losses. For example, Rule 3.11.5.7 would not appear to allow a change in arable cropping <i>within a property</i> that consisted of a change in location of the cropping activity (exceeding 4.1 ha) from one location to another. Such a restriction seems unjustifiable.</p>	<p><u>loss for the property or enterprise over the three-year period ending 30 June of the year preceding the year the application is made.</u></p> <p><u>2. Any of the following changes in the use of land from that which was occurring at 22 October 2016 within a property or enterprise located in the Waikato and Waipa River catchments, where prior to 1 July 2026 the change exceeds a total of 4.1 hectares:</u></p> <p><u>i. Woody vegetation to farming activities;</u> <u>or</u></p> <p><u>ii. Any livestock grazing other than dairy farming to dairy farming; or</u></p> <p><u>iii. Arable cropping to dairy farming; or</u></p> <p><u>iv. Any land use to commercial vegetable production except as provided for under standard and term g. of Rule 3.11.5.5</u></p> <p><u>subject to the following standards and terms:</u></p> <p><u>a. The three-year rolling average does not exceed the Nitrogen Reference Point, or where no Nitrogen Reference Point has been calculated the average nitrogen loss for the property or enterprise over;</u></p> <p><u>b. Cattle, horses, deer and pigs are excluded from water bodies in</u></p>

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					<p><u>conformance with Schedule C.</u></p> <p><u>Note: for the purposes of this rule, “occurring” means a land use being undertaken and this phrase does not include changes in land use for which resource consent or certificates of compliance might have been held but no increased discharges of contaminants had commenced as at 22 October 2016.</u></p> <p>Make other amendments as necessary to clarify that land use change <i>within a property or enterprise</i> (>4.1 ha) that does not increase the total area within that property devoted to that land use beyond 4.1 hectares is not caught by this rule.</p>
21.		3.11.5.7	Support in part	<p>Notwithstanding support for a discretionary activity status for some land use change, Fonterra considers that the intensification of an existing land use or a change in land use that results in an increase in nitrogen above the Nitrogen Reference Point or which occurs without restricting stock access from water bodies, should be a non-complying activity.</p> <p>Consistent with the above submission, Fonterra considers that “normal” change in land use <i>within</i> a property (such as a change in location of a maize crop from one part of a property to another part) should not be regarded as a land use change.</p>	<p>Delete Rule 3.11.5.7 and replace with the following:</p> <p><u>Rule 3.11.5.7 - Non-Complying Activity Rule – The use of land for farming activities and land use change</u></p> <p><u>The following activities are non-complying activities (requiring resource consent):</u></p> <ol style="list-style-type: none"> <u>1. The use of land for farming activities and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water; and</u> <u>2. Any of the following changes in the use of</u>

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					<p><u>land from that which was occurring at 22 October 2016 within a property or enterprise located in the Waikato and Waipa catchments, where prior to 1 July 2026 the change exceeds a total of 4.1 hectares:</u></p> <p><u>i. Woody vegetation to farming activities;</u> <u>or</u></p> <p><u>ii. Any livestock grazing other than dairy farming to dairy farming; or</u></p> <p><u>iii. Arable cropping to dairy farming; or</u></p> <p><u>iv. Any land use to commercial vegetable production except as provided for under standard and term g. of Rule 3.11.5.5</u></p> <p><u>that do not comply with the conditions, standards or terms of Rules 3.11.5.1 to 3.11.5.5 and is not a discretionary activity under Rule 3.11.5.6.</u></p> <p>Make other amendments as necessary to clarify that land use change <i>within a property or enterprise</i> (>4.1 ha) that does not increase the total area within that property devoted to that land use beyond 4.1 hectares is not caught by this rule.</p>
SCHEDULES					
22.	47	Schedule B	Support in	Fonterra supports the concept of a nitrogen reference	Amend part c of Schedule B to read as follows:

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			Part	<p>point but seeks assurance that it will remain a valid benchmark in the face of OVERSEER® version change. In that regard reference to using the “current version” of OVERSEER® is inadequate to address the complexities involved.</p> <p>Two issues are apparent. First, the expression “current version” does not clearly express the intention that the person undertaking the modelling is to use the most recent (“current at the time” as opposed current at the time the plan was notified) version.</p> <p>Second, as the version of OVERSEER® changes, the Nitrogen Reference Point will need to be recalculated to ensure that the three-year rolling average compares “apples with apples”.</p> <p>Fonterra also has concerns about the way missing data is managed. It is important to ensure that no incentive exists for data to be “lost” or for real data not to be used. As currently drafted, it appears that default input numbers will be set at just 75% of the average values for that input regardless of farm type. On that basis, low leaching farms could receive a higher nitrogen reference point than genuinely represents their farm system. That is especially the case if the data set that does exist for the FMU is overly represented in high leaching farms (meaning the average is high relative to a low leaching farm without data).</p>	<p>c. The Nitrogen Reference Point must be calculated using the current <u>most recent version</u> of the OVERSEER® model (or any other model approved by the Chief Executive of the Waikato Regional Council).</p> <p>Insert a new Part eA of Schedule B to read as follows:</p> <p><u>eA. Once a year, following the release of a new version of OVERSEER® (or any other model approved by the Chief Executive of the Waikato Regional Council), the Nitrogen Reference Point will be recalculated by the Waikato Regional Council (or for those registered to a Certified Industry Scheme, by the Certified Industry Scheme provider) using the latest version of that model and the same data input file as was used to calculate the Nitrogen Reference Point submitted to the Council in accordance with part e of this Schedule. When such a recalculation occurs, the resulting leaching rate becomes the Nitrogen Reference Point for the purposes of Rules 3.11.5.2 to 3.11.5.7.</u></p> <p>Amend the approach to managing the problem of missing data as follows:</p> <p>In the absence of Nitrogen Referencing information being provided, the Waikato Regional Council will use appropriate default numbers for any necessary inputs to the OVERSEER® model. Such <u>Such</u> default</p>

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					numbers will generally be around 75% of normal Freshwater Management Unit average values <u>for the particular farm system type but may be adjusted on the basis of farm production data which shall be provided in all cases where the complete suite of Nitrogen Referencing information is unavailable.</u>
23.	51	Schedule 1 (part 5)	Support in part	<p>Fonterra supports Farm Environment Plans (FEPs). However, the way Schedule 1 requires FEPs to provide for the Nitrogen Reference Point is unclear and potentially makes the concept of a Nitrogen Reference Point ineffective. Specifically, the ability for a FEP to allow an exceedance of a Nitrogen Reference Point if "suitable mitigations are specified" is highly problematic. The inclusion of that clause introduces a high degree of uncertainty and implies a degree of discretion being exercised that might render a FEP unable to be used within a permitted activity rule.</p> <p>Furthermore, the requirement to specify "actions" and other methods to achieve the nitrogen reference point removes the benefits of specifying a nitrogen reference point by removing flexibility for a farmer to achieve a nitrogen leaching rate using the most efficient and effective means (such means may vary year to year),</p>	<p>Amend part 5 of Schedule 1 as follows:</p> <p>5. A description of the following:</p> <p>(a) Actions, The property or enterprise's Nitrogen Reference Point timeframes and other measures to ensure that the diffuse discharge of nitrogen from the property or enterprise, as measured by that is not to be exceeded by the fivethree-year rolling average annual nitrogen loss as determined by the use of the current most recent version of OVERSEER®, does not increase beyond the property or enterprise's Nitrogen Reference Point, unless other suitable mitigations are specified; or</p> <p>(b) Where, the Nitrogen Reference Point exceeds the 75th percentile nitrogen leaching value, actions, timeframes and other measures to ensure the diffuse discharge of nitrogen is reduced so that it does not exceed the 75th percentile nitrogen leaching value by 1 July 2026,</p>

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					except in the case of Rule 3.11.5.5.
24.	54	Schedule 2	Oppose in part	<p>Fonterra supports the inclusion of a schedule setting out the standards that apply to a Certified Industry Scheme in PC 1.</p> <p>It is important, however, that the schedule establish a basis for certification that is as clear and “non-discretionary” as possible. In that regard, Fonterra considers that references to “criteria” and “discretion” should be deleted.</p> <p>Fonterra also considers that reference to “escalation” be clarified to better reflect the actual procedures that will be given effect to by an industry scheme provider.</p>	<p>Redraft Schedule 2 as follows:</p> <p>The purpose of this schedule is to set out the criteria against which applications to approve an industry scheme will be assessed <u>standards that will apply to Certified Industry Scheme and which will be used as a basis for certification.</u></p> <p>The application <u>for certification</u> shall be lodged with the Waikato Regional Council, and shall include information that demonstrates how the following requirements are met. The Waikato Regional Council may request further information or clarification on the application as it sees fit.</p> <p>Assessment Criteria-Standards</p> <p>A. Certified Industry Scheme System</p> <p>The application must demonstrate that the Certified Industry Scheme:</p> <ol style="list-style-type: none"> 1. Is consistent with: <ol style="list-style-type: none"> a. the achievement of the water quality targets referred to in Objective 3; and b. the purposes of Policy 2 or 3; and c. the requirements of Rules 3.11.5.3 and 3.11.5.5. 2. Has an appropriate ownership structure, governance arrangements and management.

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					<p>3. Has documented systems, processes, and procedures to ensure:</p> <ul style="list-style-type: none"> a. Competent and consistent performance in Farm Environment Plan preparation and audit. b. Effective internal monitoring of performance. c. Robust data management. d. Timely provision of suitable quality data to Waikato Regional Council. e. Timely and appropriate reporting. f. That those registered to a Certified Industry Scheme are aware of any non compliance and, if not remedied, any non compliance is reported to Corrective actions will be implemented and escalated where required, including escalation to Waikato Regional Council in the approved format. if internal escalation is not successful. g. Internal quality control. h. The responsibilities of all parties to the Certified Industry Scheme are clearly stated. i. An accurate and up to date register of scheme membership is maintained. j. Transparency and public accountability of Certified Industry Schemes

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					<p>k. The articles of the scheme are available for public viewing.</p> <p>B. People</p> <p>The application must demonstrate that:</p> <p><u>1. Those preparing Farm Environment Plans and auditing implementation of Farm Environment Plans are suitably qualified and experienced.</u></p> <p><u>2. The Certified Industry Scheme has access to sufficient Certified Farm Nutrient Advisors to prepare Nitrogen Reference Points and sufficient Certified Farm Environment Planners to certify Farm Environment Plans.</u></p> <p>3. Auditing of Farm Environment plan requirements is independent of the Farm Environment Plan preparation and approval.</p> <p>C. Farm Environment Plans</p> <p>The application must demonstrate that <u>how</u> Farm Environment Plans are <u>will be</u> prepared in conformance with Schedule 1.</p> <p>Approval will be at the discretion of t. An industry scheme will not be certified until the Chief Executive Officer of the Waikato Regional Council <u>determines that the above standards have been met.</u> subject to the Chief Executive Officer being satisfied that the scheme will effectively deliver on the</p>

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					assessment criteria
DEFINITIONS					
25.	79	75 th percentile nitrogen leaching value	Support in part	<p>Fonterra supports the concept of the 75th percentile of dairy farms forming the basis of the upper threshold of allowable nitrogen leaching. However, in the interests of transparency and clarity Fonterra proposes that the definition be expanded so that it is clear that the definition will be calculated at a prescribed date and published on the Waikato Regional Council website. Further, whether the 75th percentile will be recalculated on the basis of subsequent versions of OVERSEER should also be clarified. Fonterra ordinarily supports keeping OVERSEER-calculated numeric values current by recalculation with the latest version of OVERSEER. That view underpins Fonterra's submission on the need for farmers to update their Nitrogen Reference Point. For that reason, ideally, the 75th percentile nitrogen leaching value would also adjust as the Nitrogen Reference Points adjust with OVERSEER version change. Fonterra accepts, however, that to do so would be complex and require considerably further work by both land owners and Council. Hence unless an efficient means of achieving such adjustment can be identified Fonterra accepts that the 75th percentile nitrogen leaching value may need to remain a fixed rate during the life of the Plan.</p>	<p>Amend the definition of the "75th percentile nitrogen leaching value" as follows:</p> <p>The 75th percentile value (units of kg N/ha/year) of all the Nitrogen Reference Point values for dairy farming properties and enterprises within each Freshwater Management Unit and which are received by the Waikato Regional Council by 31 March 2019, <u>as determined by the Chief Executive of the Waikato Regional Council and published on the Waikato Regional Council website on or before 30 June 2019</u></p>
26.	81	Five year	Support in	Fonterra supports a rolling average approach being	Amend the definition of five-year rolling average

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		rolling average	part	<p>taken to the assessment of compliance with the Nitrogen Reference Point. However, two issues arise:</p> <p>(a) Requiring five years of data effectively delays that time at which property holders will be accountable against their Nitrogen Reference Point. Fonterra considers that a rolling three year average will be sufficient and will allow compliance assessment against the Nitrogen Reference Point earlier; and</p> <p>(b) It will be important to ensure that the three-year rolling average is calculated using the most recent version of OVERSEER®. As OVERSEER is updated nitrogen losses from past years will need to be recalculated</p> <p>Furthermore, to ensure early accountability against the Nitrogen Reference Point, all rules providing for farming as a permitted, controlled, restricted discretionary or discretionary activity where compliance with the Nitrogen Reference Point is a standard, should require recording and retention of OVERSEER input file data from the date decisions on PC 1 are issued.</p>	<p>as follows:</p> <p>Five-Three-year rolling average: means the average of modelled nitrogen leaching losses predicted by OVERSEER® from the most recent <u>53</u> years <u>using the most recent version of OVERSEER® to model each of the three years and the same input data for each of the three years as was used to first calculate the nitrogen leaching losses for that year.</u></p> <p>Make amendments to Rules 3.11.5.2 to 3.11.5.6 as necessary to ensure data required for the calculation of the three year rolling average is collected from the date of decisions on PC 1 are issued and not from the time the FEP is prepared as appears to be the case with PC 1 as notified.</p>
27.	82	Nitrogen Reference Point	Support in part	The definition is unclear and in some conflict with Schedule B.	<p>Amend the definition of Nitrogen Reference Point as follows:</p> <p>Nitrogen Reference Point: The nitrogen loss number (units of kg N/ha/year) that is derived <u>using the methodology specified in Schedule B. from an OVERSEER® use protocol compliant OVERSEER® file that describes the property or farm enterprise and farm practices in an agreed year or years</u></p>

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					developed by a Certified Farm Nutrient Advisor, using the current version of the OVERSEER® model (or another model approved by the Council) for the property or enterprise at the "reference" point in time.
28.	80	Certified Industry Scheme	Support in part	The definition requires amendment to be consistent with other points made in this submission.	Amend the definition of Certified Industry Scheme as follows: Certified Industry Scheme/s: is a scheme that has been certified by the Chief Executive Officer of Waikato Regional Council and listed on the Waikato Regional Council website as meeting the assessment criteria and requirements standards set out in Schedule 2 of Chapter 3.11.
29.	82	Point source discharge	Oppose	PC 1 introduces a new definition for point source discharges that only applies within Chapter 3.11. There is an existing definition of point source discharge in the Waikato Regional Plan. Fonterra considers it confusing to have two different definitions for the same term in the same plan. It would appear that the new definition in PC 1 seeks to specifically include discharges to land from municipal and industrial wastewater systems as point source discharges (although it was not clear that these were ever excluded). Fonterra supports this intention but considers an alternative definition to achieve the same end may be more appropriate. Furthermore, as noted above Fonterra considers two separate definitions for the same term to be	Delete the definition of point source discharge in PC 1. Point source discharge – For the purposes of Chapter 3.11, means discharges from a stationary or fixed facility, including the irrigation onto land from consented industrial and municipal wastewater systems. AND Amend the Definition of “point source discharge” in the Waikato Regional Plan as shown in submission point 30 below.

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				<p>unnecessary also hence considers that this amended definition should apply to the entire Waikato Regional Plan (see submission 30- Consequential Amendments section).</p> <p>If this submission point is not considered to be a submission “on” PC 1, and a consequential amendment to the Waikato Regional Plan is not permitted, then Fonterra seeks a replacement definition of point source discharges within PC 1 as shown.</p>	<p>OR</p> <p>Amend the definition of point source discharge in PC 1 as follows:</p> <p>Point source discharge - For the purposes of Chapter 3.11, means <u>discharges from a stationary or fixed facility, including the irrigation onto land from consented industrial and municipal wastewater systems, a discharge from a specific and identifiable outlet onto or into land, a water body or the sea.</u></p>
CONSEQUENTIAL AMENDMENTS TO WAIKATO REGIONAL PLAN					
30.	82	Point source discharge	Oppose	<p>Rules 3.5.5.1, 3.5.5.2 and 3.5.5.4 are proposed to be amended so that they refer to “point source” discharges only (as opposed to simply “discharges” as they refer to now).</p> <p>Fonterra is concerned that there may be unintended consequences from this proposed change. In particular, Fonterra is concerned that the discharge of Farm Animal Effluent to land by way of pods, centre pivots or slurry trucks may no longer be a permitted activity under Rule 3.5.5.1, because the discharge might not fall within the Plan’s existing definition of “point source discharge”.</p> <p>Accordingly, in addition to the reasons outlined in submission 29 above, Fonterra proposes that the definition of “point source discharge” (as it applies to those rules) be amended so that is clearly encompasses the discharge of collected Farm Animal</p>	<p>Retain one definition of “point source discharge” in the Waikato Regional Plan by amending the existing definition of “point source discharge” in the Waikato Regional Plan as follows:</p> <p>Point source discharge –means <u>discharges from a stationary or fixed facility, a discharge from a specific and identifiable outlet onto or into land, a water body, the air or the sea.</u></p>

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				Effluent to land and removes any doubt that Rule 3.5.5.1 will continue to operate as it does now.	

Table B – Manufacturing-specific submission points

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SECTION - POLICIES					
31.	33	Policy 10	Support in part	<p>Fonterra supports the inclusion of Policy 10 to provide for point source discharges associated with regionally significant activities. However, in its current unqualified form, Policy 10 appears inconsistent with Objective 3, the NPSFM and the V&S.</p> <p>This inconsistency can be rectified by making reference to Policies 11 and 12 as shown.</p> <p>A definition of regionally significant industry is also required. Fonterra has proposed a definition in the Definitions section below.</p>	<p>Amend Policy 10 as follows:</p> <p>Policy 10: Provide for point source discharges <u>from activities</u> of regional significance</p> <p>When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, <u>subject to Policy 11 and Policy 12</u> provide for the:</p> <ul style="list-style-type: none"> a) Continued operation of regionally significant infrastructure; and b) Continued operation of regionally significant industry`.
32.	33	Policy 11	Support in Part	<p>Fonterra supports the application of the best practicable option concept to point source discharges as it is consistent with the RMA, and Policy A3 of the NPSFM, and therefore an appropriate consideration when assessing the discharge of wastes.</p> <p>Fonterra also supports the use of offsetting. In order to achieve the reductions in loads of nitrogen, phosphorus, sediment or microbial pathogens likely to be required from manufacturing sites like Fonterra's, offsetting would be a useful tool to have available. It would provide flexibility for industries such as Fonterra</p>	<p>Amend Policy 11 as follows:</p> <p>Policy 11: Application of Best Practicable Option <u>and mitigation or offset of effects</u> to point source discharges</p> <p>Require any person undertaking a point source discharge of nitrogen, phosphorus, sediment or microbial pathogens to water or onto or into land in the Waikato and Waipa River catchments</p>

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				<p>to implement reductions where the greatest positive impact on the Waikato and Waipa Rivers can be achieved, for the least cost over time.</p> <p>Fonterra does not consider it appropriate to combine these two concepts in a single policy as they are separate, albeit potentially related matters.</p> <p>Fonterra therefore proposes Policy 11 is split into two policies to separate Best Practicable Option from offsetting. A consequential amendment to the title of Policy 11 is required together with a new Policy 11A and associated title.</p> <p>Fonterra also proposes that the policy on offsetting (re-numbered as Policy 11A) be amended to include new sub-clause d) to replace the sentence deleted in the chapeau (i.e. "ensure positive effects....to lessen any residual effects"...etc.). This improves the clarity and readability of the sub-clause and ensures the offset measure is monitored to confirm its effectiveness.</p> <p>Fonterra also proposes amendments to sub-clause (e). A consent condition may not always be the most appropriate mechanism for securing an offset. For example, a covenant could be used which may provide greater protection for the offset measure than a consent condition.</p> <p>Further minor amendments are proposed as shown for clarity.</p>	<p>to adopt the Best Practicable Option* to avoid or mitigate the adverse effects of the discharge, at the time a resource consent application is decided.</p> <p>Add a new Policy 11A as follows</p> <p><u>Policy 11A: Offsetting the effects of point source discharges</u></p> <p>Where it is not practicable to avoid or mitigate all<u>any</u> adverse effects, an offset measure may be proposed in an alternative location or locations to the point source discharge, for the purpose of ensuring positive effects on the environment to lessen any residual adverse effects of the discharge(s) that will or may result from allowing the activity provided that the:</p> <ol style="list-style-type: none"> The P<u>Primary</u> discharge does not result in any significant toxic adverse effect at the point source-discharge location; and The O<u>ffset</u> measure is for the same contaminant; and The O<u>ffset</u> measure occurs preferably within the same sub-catchment in which the primary discharge occurs and if this is not

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					<p>practicable, then within the same Freshwater Management Unit[^] or a Freshwater Management Unit[^] located upstream; and</p> <p>d) <u>The offset measure is monitored and results in a net reduction in adverse environmental effects caused by the contaminant(s) being offset in the point source discharge on the Waikato or Waipa River catchment; and;</u></p> <p>e) <u>The Offset measure remains in place for the duration of the consent and is secured by consent condition or another legally binding mechanism.</u></p>
33.	34	Policy 12	Support in part	<p>Fonterra supports the intent of Policy 12 but considers that stronger terminology is needed in order to give effect to the NPSFM and V&S. Fonterra proposes that the word "Consider" be replaced with "Assess."</p>	<p>Amend Policy 12 as follows:</p> <p>Policy 12: Additional considerations for point source discharges in relation to water quality targets</p> <p>Consider <u>Assess</u> the contribution made by a point source discharge to the nitrogen, phosphorus, sediment and microbial pathogen catchment loads and the impact of that contribution on the likely achievement of the short term or targets[^] <u>in</u> Objective 3 or the progression towards the desired <u>desired</u> 80 year <u>water quality states</u>targets[^] in Objective 1, taking into account:</p> <p>...</p>

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					c. The ability to stage future mitigation actions to allow investment costs to be spread over time and <u>contribute to meeting Objectives 1 and 3</u> the water quality targets ^{^ specified above} ; and
34.	34	Policy 13	Support in part	<p>Fonterra strongly supports the intent of Policy 13 as long-term consent durations provide operational and investment certainty for its manufacturing activities.</p> <p>Fonterra suggests some minor amendments to improve the clarity and robustness of the policy.</p>	<p>Amend Policy 13 as follows:</p> <p>Policy 13: Point sources consent duration</p> <p>When determining an appropriate duration for any consent granted consider the following matters:</p> <p>a) A consent term exceeding 25 years, where the applicant demonstrates the approaches set out in that Policies 11, <u>11A</u> and 12, will be met<u>complied with</u>; and</p> <p>...</p>
SECTION - RULES					
35.	48	Schedule B Table 1	Support in part	<p>Fonterra considers that S-Map data is the most accurate and appropriate data to use to describe soils but understands the concern to ensure consistency between areas of the region that have S-Map data and those that don't.</p> <p>Fonterra considers that Council must make it a priority to ensure that S-Map data is available for all areas of the region as soon as possible and by 31 March 2019.</p> <p>In the interim to minimise inconsistency across the region Fonterra considers that S-Map should only be used in those FMUs for which there is complete S-Map</p>	<p>Amend the setting that must be used in that cell corresponding to the "Soil Description" line of Table 1 of Appendix 2 as follows:</p> <p><u>In any Freshwater Management Unit that has complete coverage of S Map, obtain soil description from the Link to S Map within OVERSEER.</u></p> <p><u>In any Freshwater Management Unit that does not have complete coverage of S Map use soil order from LRI 1:50,000 data or a soil map of the farm.</u></p>

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				coverage.	
36.	51	Schedule 1 (Introduction)	Support in part	<p>Rules 3.11.5.1 – 3.11.5.6 are hybrid landuse (s9 of RMA) and discharge (s15 of the RMA). As a result, wastewater irrigation activities from manufacturing sites that incorporate cropping or grazing of animals may be required to comply with the farming rules of PC 1. A consent holder for wastewater irrigation activities will therefore be required to prepare a Farm Environment Plan or apply for a resource consent. Wastewater irrigation activities in the Waikato region are also controlled by discharge consents applied for under rule 3.5.4.5 of the Waikato Regional Plan. These consents often contain consent conditions requiring preparation of, and adherence to, management plans. It would be onerous and inefficient if these consent holders were required to prepare two management plans.</p> <p>Fonterra therefore proposes that it is made clear in the introduction to Schedule 1 that a management plan required by a resource consent applied for under rule 3.5.4.5 can be considered a Farm Environment Plan provided the relevant minimum requirements of Section A are addressed in the management plan.</p>	<p>Add a sentence following paragraph 5 of Schedule 1 as follows:</p> <p>This schedule applies to all farming activities, but it is acknowledged that some provisions will not be relevant to every farming activity.</p> <p><u>Any management plan required by a condition of any resource consent authorising industrial or other wastewater irrigation shall be deemed to be Farm Environment Plan for the purposes of this schedule, provided that the management plan addresses the relevant matters in Section A.</u></p>
37.	51	Schedule 1 (Part 2)	Support in part	<p>Fonterra is aware that some farmers use dairy manufacturing (or other) wastewater as a fertiliser replacement on their farms. In the case of Fonterra's activities in the Waikato and Waipa River catchments, the discharge of this wastewater is controlled by a resource consent issued to a third party (e.g. Dairyfert Limited (a subsidiary of Fonterra) holds a resource</p>	<p>Add a new item "g" to section 2 (immediately above section 3)</p> <p><u>(g) A description of any other wastewater irrigation or fertiliser management activities on the site including the use of fertiliser replacements.</u></p>

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				<p>consent to discharge dairy manufacturing wastewater and other dairy liquids anywhere in the Waikato region, in accordance with the conditions of that resource consent). This type of discharge is not accounted for in the Farm Environment Plan requirements in Schedule 1.</p> <p>Fonterra proposes an additional sub-clause at the end of section 2 of the minimum requirements of Farm Environment Plans to provide for this activity and enable this beneficial reuse of a waste material.</p>	
DEFINITIONS					
38.	83	Regionally Significant Industry	Support	<p>The definition of regionally significant industry in the Waikato Regional Policy Statement (RPS) indicates that regionally significant industry is expected to be defined in regional plans (see page G-9 of the RPS). Regionally significant industry is referred to in PC 1 but is not defined. Fonterra therefore proposes a new definition for regionally significant industry.</p>	<p>Add a new definition of regionally significant industry as follows:</p> <p><u>Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:</u></p> <ul style="list-style-type: none"> a) <u>Dairy manufacturing sites;</u> b) <u>Meat processing plants;</u> c) <u>Pulp and paper processing plants; and</u> d) <u>Mineral extraction activities.</u>
CONSEQUENTIAL AMENDMENTS TO WAIKATO REGIONAL PLAN					
39.	90	3.5 Discharges		<p>The sentence proposed to be included in Section 3.5 appears incomplete and refers to "Discharges associated with Farming Land Use" when Chapter</p>	<p>Amend the text of the Background and Explanation section as follows:</p>

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		Background and Explanation		3.11 also has policies addressing point source discharges. Fonterra considers that the text requires amendment to better reflect the actual intention of Chapter 3.11.	<p><u>Discharges in the Waikato and Waipa River Catchments associated with Farming Land Use</u></p> <p><u>Chapter 3.11 addresses the use of land for farming in the Waikato and Waipa River catchments including associated diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens. Chapter 3.11 also contains objectives and policies that apply to point source discharges to land and water in the Waikato and Waipa River catchments.</u></p>