

IN THE ENVIRONMENT COURT
CHRISTCHURCH

ENV-2018-CHC-

I MUA I TE KOOTI TAIAO
I ŌTAUTAHU ROHE

IN THE MATTER of the Resource Management Act 1991 ("RMA")

AND

IN THE MATTER of Clause 14(1) of Schedule 1 of the Act

BETWEEN

FONTERRA LIMITED

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

**NOTICE OF APPEAL TO THE ENVIRONMENT COURT AGAINST DECISIONS
ON THE SECOND GENERATION DUNEDIN CITY DISTRICT PLAN**

19 DECEMBER 2018

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To: The Registrar
The Environment Court
CHRISTCHURCH

FONTERRA LIMITED ("**Fonterra**") appeals against parts of the decisions of the Dunedin City Council ("**Council**") in respect of the Second Generation Dunedin City District Plan ("**2GP**").

Background and decision appealed

1. Fonterra made a submission on the 2GP on 24 November 2015¹ and a further submission on 3 March 2016.² Fonterra presented evidence and legal submissions to the 2GP Hearings Panel in support of its submission and further submission.
2. Fonterra received notice of the Council's decision on the 2GP on 7 November 2018 ("**Decision**"), with that notice directing that any appeals should be filed within 30 working days.
3. The parts of the Decision being appealed are the decisions to reject or accept only in part a number of the matters raised in Fonterra's submission. Fonterra appeals those parts of the Decision detailed below for the reasons given.
4. Fonterra is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("**RMA**").
5. Fonterra is a global co-operative dairy nutrition company owned by approximately 10,000 farmers and their families across New Zealand and is the world's leading exporter of dairy products. Fonterra is New Zealand's largest company, and a significant employer, with around 22,000 people employed globally. It owns 30 manufacturing sites within New Zealand.
6. Fonterra has significant property interests in Dunedin. Fonterra's key operational interest in Dunedin City is a distribution centre to the north of Mosgiel, on the corner of Stedman Road and Dukes Road North ("**Mosgiel Site**"). The Mosgiel Site is a critical part of Fonterra's lower South Island supply chain. It receives product by rail from Fonterra's manufacturing sites in Edendale and Stirling, which it distributes to domestic and international markets, primarily through the Port of Otago. Approximately 45 people are employed at the Mosgiel Site (in addition to 4 staff from the Port of Otago), and it moves approximately 440,000 metric tonnes of product each year, using 10,211 containers and 11,500 wagons.

General reasons for appeal

7. The 2GP, in its present form:

¹ Submitter number 807.

² Further submitter number 2317.

- (a) will not promote the sustainable management of the natural and physical resources in the Dunedin City District, and is therefore contrary to or inconsistent with Part 2 and other provisions of the RMA;
 - (b) will not meet the reasonably foreseeable needs of future generations;
 - (c) will not enable the social, economic and cultural wellbeing of the people of Dunedin;
 - (d) does not avoid, remedy or mitigate actual and potential adverse effects on the environment; and
 - (e) is not the most appropriate way to achieve the objectives of the 2GP in terms of section 32 of the RMA.
8. In addition to the general reasons outlined above, Fonterra also appeals the Decision for the specific reasons set out below.

Planning Maps – Mosgiel Noise Control Area

- 9. The Mosgiel Site is zoned Industrial. However, the land immediately to the north and east of the Site is zoned Rural. Residential activities are permitted within this zone, subject to compliance with performance standards relating to density and separation distances.³
- 10. Fonterra's ability to continue to operate and / or develop the Mosgiel Site in the future may be compromised by the establishment of noise sensitive activities (eg residential) nearby. The location of such incompatible activities in close proximity to the Mosgiel Site has the potential to give rise to reverse sensitivity effects on Fonterra's activities.
- 11. In order to protect Fonterra's lawfully established activities against the potential adverse effects of reverse sensitivity, and to enable the development of the Mosgiel Site consistently with its Industrial zoning, Fonterra's original submission sought that a Noise Control Area ("**NCA**") be imposed around the Site.⁴ The Mosgiel NCA would require Fonterra to comply with prescribed noise limits at all times within the NCA, and require any new activity sensitive to noise within the NCA to be appropriately acoustically insulated. The NCA proposed by Fonterra is attached as **Appendix D**.
- 12. In its Decision, the Council rejected Fonterra's submission, electing to instead accept in part Fonterra's alternative submission seeking an increase in the noise limits for Rural Zones (discussed further below). The Council's Decision states:⁵

We accept and acknowledge the evidence presented on behalf of Fonterra Limited as to the investment, infrastructure, and economic importance of the Fonterra facility, and that it needs to be able to continue operating. We also acknowledge and

³ 2GP Decisions Version, Rule 16.3.3.26.

⁴ OS807.55.

⁵ Decision Report of Hearing Panel – Public Health and Safety, at paragraph 420.

support the measures it has taken, and intends to take, to minimise and mitigate noise from its operations.

13. Fonterra is investigating expanding its operations at the Mosgiel Site to run 24 hours a day, 7 days a week ("**24/7**"), in order to improve the resilience and efficiency of its lower South Island supply chain. The expansion to 24/7 operations will result in an increase in the noise levels at and around the Mosgiel Site from 40 to 45 dB. This, in turn, will result in an associated change in amenity expectations for properties around the Site.
14. A special noise management regime, such as an NCA, is warranted for Fonterra's Mosgiel Site. Fonterra has numerous other sites throughout New Zealand that use NCAs. For example:
 - (a) At Fonterra's Whareroa site in South Taranaki, there has been an NCA similar to that currently sought by Fonterra in place in the relevant district plan for a number of years. The South Taranaki District Council has recently confirmed an NCA for Fonterra's Kapuni site in its decisions on the new South Taranaki District Plan. Similar provisions are contained within the Tararua (for Fonterra's Pahiatua site) and Southland (Edendale) District Plans.
 - (b) Fonterra has an NCA for its Darfield site, which is in the Selwyn District. Selwyn District Council have confirmed that the NCA will be rolled over into the new Proposed Plan which will be notified in late 2019.
 - (c) A new NCA for Fonterra's Stirling site was inserted into the Clutha District Plan via Plan Change 40 prior to its notification. A new NCA has also recently been confirmed via a plan change to the Whangarei District Plan for Fonterra's Kauri site, which is located to the north of the Whangarei Township.
 - (d) In addition to the above, Fonterra also has noise control boundaries in place for a number of its sites, including:
 - (i) Maungaturoto (Kaipara District)
 - (ii) Te Rapa (Hamilton City)
 - (iii) Te Awamutu and Hautapu (Waipa District)
 - (iv) Reporoa (Rotorua District)
 - (v) Tirau and Lichfield (South Waikato District)
 - (vi) Edgecumbe (Whakatane District)
 - (vii) Pahiatua (Tararua District)
 - (e) These boundaries are similar to NCAs, imposing acoustic insulation requirements whilst also setting prescribed noise limits for Fonterra's activities.

15. As can be seen from the above, NCAs (or other similar mechanisms) are already used for Fonterra sites throughout the country. That so many other councils have accepted NCAs demonstrates that such provisions represent an effect mechanism for the management of noise and associated reverse sensitivity effects in relation to Fonterra sites.
16. Rather than grant Fonterra's desired relief, the Council's Decision instead amended Rule 9.3.5 to provide for increased noise limits for Rural Zones within 350m of an Industrial zone, as follows:

[...] the night time (10pm to 7am) noise level in those parts of the Rural Zone that are within 350 metres of an Industrial Zone be changed from 40 to 45dB LAeq (15 min) and from 70 to 75 dB LAFmax [...]

17. While the Council's alternative relief goes some way to addressing Fonterra's concerns, it is not sufficiently clear for all users of the 2GP. Unlike the provision of an NCA, the Council's approach will not provide a clearly demarcated boundary from which plan users (including prospective applicants and/or Council officers) cannot readily ascertain the noise limits that apply at a particular site. Without further investigation, people looking to establish a new residence within 350m of the Mosgiel Site may not be aware that their site will be subject to higher noise limits than apply elsewhere in the Rural Zone. As such, the potential for complaints (and therefore reverse sensitivity effects) still exists.
18. A clearly defined NCA around the Mosgiel Site is the most efficient and effective way to give effect to Objective 2.3.1. Simply increasing the Rural Zone noise limits within 350m of Industrial zones will achieve the same outcome in terms of the noise Fonterra can emit, but will not provide the added protection for sensitive land users (ie acoustic insulation). The implementation of an NCA around the Mosgiel Site will provide users of the 2GP with greater clarity and certainty as to the nature of environment and the types of effects that can be expected, and are lawful, around the Site.

Relief sought

19. Fonterra seeks that the Planning Maps be amended to include the Mosgiel NCA as shown in **Appendix D**, or such alternative or consequential relief to address Fonterra's concern.
20. Fonterra also seeks a number of other amendments that are corollaries of the relief sought in respect of the Mosgiel NCA. These amendments are discussed further below.

Public Health and Safety – Acoustic Insulation – Rule 9.3.1

21. In order to give effect to the acoustic insulation requirement of the Mosgiel NCA, in its primary submission Fonterra sought to amend Rule 9.3.1 as follows:⁶

⁶ OS807.16 and OS807.55.

1. Any kitchen, dining area, living room, study or bedroom habitable room or expansion to a habitable room in a building to be used for noise sensitive activities in any of the following locations must have acoustic insulation that achieves a minimum design standard of DnT, w + Ctr > 30:

[...]

(l) the Stadium Zone; or

(m) within the Mosgiel Noise Control Area.

22. In its decision, the Council accepted Fonterra's submission in part, in respect of the amendment seeking reference to "habitable room", but rejected that part of Fonterra's submission that sought to include the Mosgiel NCA in Rule 9.3.1.
23. The Council's Decision to increase the noise limits in Rural Zones within 350m of an Industrial Zone will not ensure that the potential for reverse sensitivity effects on Fonterra's Mosgiel Site is appropriately avoided, remedied or mitigated. A requirement for buildings containing sensitive uses to be acoustically insulated is also necessary. Acoustic insulation requirements help to better protect existing industrial activities, like Fonterra's operations at the Mosgiel Site, from being compromised by the establishment of new sensitive activities within close proximity. Sensitive land users will also be exposed to lower noise levels if buildings are required to be acoustically insulated.
24. The relief sought by Fonterra will not unreasonably constrain the development potential of rurally zoned land surrounding the Mosgiel Site. Should landowners not wish to acoustically insulate their site in accordance with Rule 9.3.1, resource consent can be sought for a restricted discretionary activity. This will allow for development to continue, with reverse sensitivity effects on Fonterra being appropriately considered.

Relief sought

25. Fonterra seeks:
- (a) the addition of the following paragraph to Rule 9.3.1:

9.3.1 Acoustic Insulation

1. Any building or parts of buildings to be used for noise sensitive activities in any of the following locations must have acoustic insulation that achieves a minimum design standard of DnT, w + Ctr > 30:
- a. Central Business District (CBD) Zone;
 - b. Warehouse Precinct (WP) zone;
 - c. Princes, Parry and Harrow Street (PPH) Zone;
 - d. Harbourside Edge (HE) Zone;
 - e. CEC - North Zone
 - f. airport noise inner control mapped area;
 - g. airport noise outer control mapped area;
 - h. within 20m of an industrial zone;

- l. within 40m of a state highway;
- j. within 40m of the Taieri Aerodrome Zone;
- k. within 70m of a railway line;
- l. in-patient areas in the Dunedin Hospital Zone; ~~or~~
- m. the Stadium Zone; or
- n. the Mosgiel Noise Control Area.

- (b) such alternative or consequential relief to address Fonterra's concern.

Public Health and Safety – Noise – Rule 9.3.6(1) and (2)

26. Fonterra's original submission sought amendments to Rule 9.3.6 to increase the night time noise limits for zones that adjoin existing industrial sites, as follows:

Amend the level of noise limits in **Line 1** (Residential, Recreation, Smith Street and York Place, schools, Dunedin Botanic Garden, Wakari Hospital, Mercy Hospital and Moana Pool zones) as follows:

- 7 am to 10 pm: 55 dB LA_{eq} (15 min)
- 10pm to 7am: 405 dB LA_{eq} (15 min); and 705 dB LAF_{max}

Amend the level of noise limits in **Line 2** (Rural, rural residential, centres and Ashburn Clinic zones (at notional boundary of noise sensitive activities)) as follows:

- 7 am to 10 pm: 55 dB LA_{eq} (15 min)
- 10pm to 7am: 405 dB LA_{eq} (15 min); and 705 dB LAF_{max}

27. The Council's Decision rejected Fonterra's submission in part, retaining the noise limits provided under the notified 2GP but amending Rule 9.3.6.3 to provide higher noise limits for Rural Zones that are adjacent to Industrial Zones, as follows:

Those parts of a rural zone that are within 350m of the Industrial Zone:

- 7 am to 7 pm: 55 dB LA_{eq} (15 min)
- 7 am to 10 pm: 50 dB LA_{eq} (15 min)
- 10 pm to 7 am: 45 dB LA_{eq} (15 min); and 75 dB LAF_{max}

28. While Fonterra supports the increase in noise limits for Rural Zones that adjoin existing Industrial Zones, the Council's alternative relief does not address Fonterra's concern. Applying the increased noise limits sought by Fonterra throughout the whole Rural Zone (and other relevant zones) will provide

Fonterra with greater certainty, and other plans users (such as prospective applicants or council officers) with greater clarity around noise levels, and preferable to prescribing an unmarked, and apparently arbitrary, "buffer" area around Industrial Zones.

29. In addition, and as the Council recognised in its Decision, "the 45dB LA_{eq} (15 min) and 75 dB LAF_{max} noise level is compliant with the upper World Health Organisation (WHO) acceptable limits for sleeping".⁷

Relief sought

30. Fonterra seeks the following amendments to Rule 9.3.6, or such alternative or consequential relief to address Fonterra's concerns:

- (a) Amend Rule 9.3.6.1 as follows:

- 7 am to 10 pm: 55 dB LA_{eq} (15 min)
- 10pm to 7am: 40~~5~~ dB LA_{eq} (15 min); and 70~~5~~ dB LAF_{max}

- (b) Amend Rule 9.3.6.2 as follows:

- 7 am to 10 pm: 55 dB LA_{eq} (15 min)
- 10pm to 7am: 40~~5~~ dB LA_{eq} (15 min); and 70~~5~~ dB LAF_{max}

Public Health and Safety – Noise – Rule 9.3.6(6) and (7)

31. In its primary submission, Fonterra sought to amend Rule 9.3.6 to provide for the site specific noise treatment sought for the Mosgiel Site, as follows:⁸

9.3.6 Noise

[...]

6. Except, the following activities are exempt from this standard:

[...]

- o. Noise generated from the Fonterra Mosgiel Distribution Hub for which the following noise limits shall not be exceeded at the boundary of the Mosgiel Noise Control Area identified on the Planning Maps.

7am to 10pm: 55 dB LA_{eq} (15 min); and 75 dB LAF_{max}

10pm to 7am: 45 dB LA_{eq} (15 min); and 75 dB LAF_{max}

⁷ Decision Report of Hearing Panel – Public Health and Safety, at paragraph 561.
⁸ OS807.55.

7. For the purpose of this standard, noise levels will be measured at the boundary of the receiving property, or the notional boundary of a noise sensitive activity in a rural, rural residential or Ashburn Clinic zone or at the Mosgiel Noise Control Area. If it is not possible to measure noise levels at the boundary, noise levels will be measured at the closest practical point within the boundary.
32. The amendments sought to Rule 9.3.6 are intended to give effect to the Mosgiel NCA.
33. In its Decision, the Council rejected Fonterra's submission. As outlined above, the Council's alternative relief, to increase the noise limits in Rural Zones that are within 350m of an Industrial zone, does not provide sufficient certainty or clarity for users of the 2GP.
34. The provision of an NCA for the Mosgiel Site, which is clearly shown on the Planning Maps, together with clearly identifiable noise limits for the NCA, will provide prospective applicants and council officers with a clearer picture of the environment around the Mosgiel Site.

Relief sought

35. Fonterra seeks the following amendments to Rule 9.3.6, or such alternative or consequential relief to address Fonterra's concerns:

9.3.6 Noise

[...]

7. Except, the following activities are exempt from this standard:

[...]

p. Noise generated from the Fonterra Mosgiel Distribution Hub for which the following noise limits shall not be exceeded at the boundary of the Mosgiel Noise Control Area identified on the Planning Maps.

7am to 10pm: 55 dB LA_{eq} (15 min); and
75 dB LAF_{max}

10pm to 7am: 45 dB LA_{eq} (15 min); and
75 dB LAF_{max}

8. For the purpose of this standard, noise levels will be measured at the boundary of the receiving property, or the notional boundary of a noise sensitive activity in a rural, rural residential or Ashburn Clinic zone or at the Mosgiel Noise Control Area. If it is not possible to measure noise levels at the boundary, noise levels will be measured at the closest practical point within the boundary. Unless stated otherwise noise must be measured in accordance with NZS 6801:2008 - Acoustics - Measurement of environmental sound, and

assessed in accordance with NZS 6802:2008 Acoustics
- Environmental noise.

Residential Zones and Rural Zones – Rules 15.5.1 and 16.5.1

36. Fonterra's original submission sought to amend Rules 15.5.1 and 16.5.1 and to provide for the acoustic insulation requirements of the proposed Mosgiel NCA, as follows:⁹

Noise sensitive activities in the following areas must comply with Rule 9.3.1:

1. port noise control mapped area;
2. airport noise inner control mapped area;
3. airport noise outer control mapped area;
4. within 40m of the Taieri Aerodrome Zone;
5. within 40m of a state highway;
6. within 20m of an industrial zone; and
7. within 70m of a railway line; and
8. within the Mosgiel Noise Control Area.

37. The Council's Decision rejected Fonterra's submission, electing to instead increase the noise limits in Rural Zones within 350m of an Industrial zone but without also expanding the area within which acoustic insulation is required. This is despite the Council's recognition that, through its proposed 350m boundary for increased noise limits, noise effects associated with Fonterra's operations extend beyond the existing 20m boundary provided under Rule 16.5.1. It is also important that the Mosgiel NCA be provided for under the Residential Zones chapter of the 2GP, to futureproof its applicability and effectiveness should any of the currently Rural zoned land around the Mosgiel Site be rezoned for Residential.
38. The amendments sought to Rules 15.5.1 and 16.5.1 are intended to give effect to the Mosgiel NCA. The application of the acoustic insulation criteria to noise sensitive activities in the Residential and Rural Zones within the Mosgiel NCA is a more effective and efficient way to manage noise effects and associated reverse sensitivity issues in relation to Fonterra's Mosgiel Site than simply increasing the permitted noise limits for certain parts of the Rural Zone.

Relief sought

39. Fonterra seeks the following amendments to Rule 15.5.1 and Rule 16.5.1, or such alternative or consequential relief to address Fonterra's concerns:

Noise sensitive activities in the following areas must comply with Rule 9.3.1:

9. port noise control mapped area;
10. airport noise inner control mapped area;

⁹ OS807.55.

11. airport noise outer control mapped area;
12. within 40m of the Taieri Aerodrome Zone;
13. within 40m of a state highway;
14. within 20m of an industrial zone; ~~and~~
15. within 70m of a railway line; ~~and~~
16. within the Mosgiel Noise Control Area.

Rural Zone – Rule 16.5.9

40. In its primary submission, Fonterra sought the following amendment to Rule 16.5.9:¹⁰

16.5.9 Separation Distances

1. New residential buildings must be located at least 100m from:
 - (a) existing, lawfully established factory farming on a separate site;
 - (b) existing, lawfully established domestic animal boarding and breeding including dogs on a separate site;
 - (c) existing, lawfully established mining on a separate site;
 - (d) existing, lawfully established landfill activity on a separate site; ~~and~~
 - (e) existing, lawfully established wind generators - community scale and wind generators - regional scale on a separate site; and
 - (f) any industrial zone.
41. In its Decision, the Council made a number of amendments to Rule 16.5.9 (now Rule 16.5.10) but rejected Fonterra's submission on this point.
42. Although the proposed NCA sought by Fonterra protects against potential reverse sensitivity effects by clearly identifying the applicable noise limits at and around the Mosgiel Site and requiring noise sensitive activities to be acoustically insulated, setbacks between incompatible uses are also a key planning mechanism in the management of the potential for reverse sensitivity issues to arise.
43. The setback of 100m from any industrial zone sought by Fonterra also gives effect to, and is consistent with, the clear direction in Objective 2.3.1 of the 2GP that industrial facilities are to be protected from incompatible uses, including activities that may give rise to reverse sensitivity.

¹⁰

OS807.32.

Relief sought

44. Fonterra seeks the following amendment to Rule 16.5.10, or such alternative or consequential relief to address Fonterra's concerns:

16.5.10 Separation Distances

1. New residential buildings and cemeteries must be located at least:
 - a. 100m from:
 - i. an existing, lawfully established intensive farming activity on a separate site;
 - ii. an existing, lawfully established domestic animal boarding and breeding (including dogs) activity on a separate site; and
 - iii. the Waitati Rifle Range at 108 Miller Road, Waitati (Minister of Defence designation D158);
 - iv. any industrial zone;
 - b. 150m from existing, lawfully established landfills on a separate site;
 - c. 250m from existing, lawfully established wind generators - large scale on a separate site;
 - d. 200m from an existing, lawfully established mining activity, that does not involve blasting, on a separate site; and
 - e. 500m from an existing, lawfully established mining activity, that involves blasting, on a separate site.

Rural Zone – Rural Subdivision – Rule 16.7.4(3)

45. In its original submission, Fonterra sought that Rule 16.7.4(3) be retained as notified.¹¹
46. The Council's Decision accepted Fonterra's submission as it relates to the non-complying status of subdivision that contravenes the minimum lot size requirements set out in Rule 16.7.4. However, as a result of submissions by other parties seeking additional exemptions for surplus dwelling subdivision, the Council has amended Rule 16.7.4(3) to read as follows:

3. General subdivision that contravenes does not comply with the standard for minimum site size is non-complying, except for surplus dwelling subdivision which is restricted discretionary in either of the following sets of circumstances where the subdivision is restricted discretionary:
 - a. The first set of circumstances is as follows:

- i. ~~the subdivision involves the subdivision of one site into two sites, where one resultant site is below the minimum site size and contains an existing residential building greater than 100m² gross floor area that was built before 26 September 2015 and~~
- ii. the second resultant site is:
 - 1. at least the minimum site size and
 - 2. ~~is less than twice the minimum site size, or will include a covenant registered against the title, a condition is offered (to be secured by consent notice) to that restricts further subdivision in terms of the total number of sites that can be used for residential activity, and further residential activity on the second resultant site, to a level that is no greater than would have otherwise been allowed had the minimum site size standard been met for both sites.~~

b. The second set of circumstances is as follows:

- i. every new site that will be created by the subdivision contains an existing residential building greater than 100m² gross floor area that was built before 26 September 2015 and
- ii. if any of these new sites is equal to, or greater than, twice the minimum site size, a condition is offered (to be secured by consent notice), if necessary, to restrict:
 - 1. further subdivision of that site, in terms of the total number of sites that can be used for residential activity and
 - 2. further residential activity on that site.

to a level that is no greater than would have otherwise been allowed had the minimum site size standard been met for all sites.

- 47. Fonterra opposes the introduction of additional exemptions to the minimum lot sizes provided under Rule 16.7.4. Greater allowance for rural subdivision also has the potential to lead to the establishment of greater concentrations of sensitive land uses (eg residential development) in inappropriate locations, such as in close proximity to an industrial site that is incompatible with such uses.
- 48. Excess and / or ad hoc rural subdivision also has the potential to fragment rural land, resulting in the adverse effects in terms of availability of productive rural land and reduction in rural amenity. The fragmentation of rural land through

subdivision, in particular rural residential subdivision, is specifically identified as one of the "key issues facing the rural environment".¹²

Relief sought

49. Fonterra seeks that Rule 16.7.4 be retained as notified.

Rural Residential Zones – Acoustic Insulation – Rule 17.5.1

50. Fonterra's original submission sought to amend Rule 17.5.1 to provide for the acoustic insulation requirements of the proposed Mosgiel NCA, as follows:¹³

Noise sensitive activities in the following areas must comply with Rule 9.3.1:

- a. within 40m of the Taieri Aerodrome Zone;
- b. within 40m of a state highway;
- c. within 20m of an industrial zone;~~and~~
- d. within 70m of a railway line; and
- e. within the Mosgiel Noise Control Area.

51. The Decision rejected Fonterra's submission. However, for the reasons given above in respect of Rules 15.5.1 and 16.5.1, the amendment sought by Fonterra is a necessary and appropriate way to give effect to the Mosgiel NCA.

Relief sought

52. Fonterra seeks that Rule 17.5.1 be amended as follows, or such alternative or consequential relief that addresses Fonterra's concerns:

Noise sensitive activities in the following areas must comply with Rule 9.3.1:

- a. within 40m of the Taieri Aerodrome Zone;
- b. within 40m of a state highway;
- c. within 20m of an industrial zone;~~and~~
- d. within 70m of a railway line; and
- e. within the Mosgiel Noise Control Area.

Industrial Zones – Car Parking – Rule 19.5.6

53. In its primary submission, Fonterra sought to amend Rule 19.5.6 to read:¹⁴

¹² 2GP Decisions Version, Chapter 16, Section 16.1.

¹³ OS807.55.

¹⁴ OS807.46.

19.5.6 Minimum Car Parking

Land use activities must provide on-site car parking as follows:

Activity		Minimum car parking rate
1.	Industry (including rural industry)	1 parking space per 100m ² gross floor area
2.	Industrial (Fonterra Mosgiel Site)	All car parking must be contained on-site and meet all dimensions and manoeuvring standards of Chapter 6

54. In its Decision, the Council rejected Fonterra's submission, retaining the notified parking requirement. The Council's Decision states:¹⁵

[...] the current activities...have existing use rights (assuming they have been lawfully established) and consequently that the requirement for resource consent would only be triggered by a change to, or expansion of, their respective activities.

55. Fonterra sought the introduction of a site-specific exemption for the Mosgiel Site to reflect the fact that, as a distribution centre, the Site has a lower proportion of employees and visitors to gross floor area ("GFA") than other industrial sites. This means that the demand for on-site parking is necessarily lower at the Mosgiel Site than is typical for an industrial site.
56. While Fonterra can rely on existing use rights to continue its current activities, any development or expansion of the Mosgiel Site in the future may trigger a require for resource consent for breach of the minimum car parking standard. Rather than having to demonstrate or debate the extent of Fonterra's existing use rights at the Mosgiel Site when alterations, additions or redevelopment occurs at the Site, Fonterra sought certainty through the 2GP that it would not be exposed to unnecessary and potentially costly consenting requirements for car parking.
57. Recognising the unique nature of the Mosgiel Site, as a distribution hub, compared to other industrial sites is the most efficient and effective way to achieve Objective 2.3.1, which seeks to enable industrial facilities to operate efficiently and effectively.

Relief sought

58. Fonterra seeks the following amendment to Rule 19.5.6, or such alternative or consequential relief to address Fonterra's concerns:

19.5.6 Minimum Car Parking

1. Land use activities must provide on-site car parking as follows:

Activity		Minimum car parking rate
a.	Industry (excluding industrial ancillary tourism)	1 parking space per 100m ² gross floor area

¹⁵

Decision Report of Hearing Panel – Transportation, at paragraph 696.

b.	<u>Industrial (Fonterra Mosgiel Site)</u>	<u>All car parking must be contained on- site and meet all dimensions and manoeuvring standards of Chapter 6</u>
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Industrial Zones – Hazardous Substances – Rule 19.6.5 and Appendix A6.2

59. In its primary submission, Fonterra sought to amend the Hazardous Substances rules to limit consenting requirements and avoid unnecessary duplication of the regulation of activities already controlled under the Hazardous Substances and New Organisms Act 1996 ("**HSNO Act**"). In particular, Fonterra sought that Rule 19.6.5 and Appendix A6.2 be deleted and reliance placed instead on the relevant provisions of the HSNO Act.¹⁶
60. Acknowledging the benefit of avoiding duplication of control across the 2GP and HSNO Act, the Council's Decision accepted Fonterra's submission in part:¹⁷

On hearing the evidence we consider there is a need for some control of hazardous substances in the 2GP, and we were not convinced that other legislation can be relied upon totally to deliver the appropriate outcomes under the RMA for all areas of the City. Therefore, while we can see the benefit in avoiding duplication of control, we were reluctant to remove all control from the 2GP.

[...]

For clarity, we note that we are retaining the 2GP approach to managing hazardous substances for all zones where sensitive activities can establish as a permitted activity, and all areas which are subject to a natural hazard overlay zone.

61. In its Decision, the Council elected to retain Rule 19.6.5 (now Rule 19.6.3), which reads:
- The storage and use of hazardous substances must comply with Rule 9.3.4.
62. Rule 9.3.4.1(e) provides that the storage and use of hazardous substances in Industrial zones subject to certain hazard overlay zones must comply with the quantity limits and storage requirements set out in Appendix A6.2. Fonterra's Mosgiel Site is zoned Industrial and is within the Hazard 2 (Flood) Overlay Zone. As such, the use and storage of hazardous substances at the Mosgiel Site must comply with Appendix A6.2 in order to be a permitted activity.
63. Such an approach will not achieve the Council's stated goal of controlling hazardous substances only where there is a significant risk to the environment. The permitted limits provided under Appendix A6.2 are such that Fonterra is likely to be required to seek a resource consent for *any* change in the quantity or nature of hazardous substances held onsite or for the establishment of any

¹⁶ OS807.49 and OS807.52.

¹⁷ Decision Report of Hearing Panel – Public Health and Safety, at paragraphs 126-129.

new hazardous storage facility on site, in addition to complying with the relevant provisions and regulations under the HSNO Act.

64. The Council's Decision provides little justification for the approach adopted in terms of section 32 and 32AA of the RMA, stating only that it is necessary because of "the impact of different natural hazards on the use or storage of different types of hazardous substances."¹⁸ There is no assessment of the Council's preferred approach against the relevant objectives of the 2GP, and the reasons provided are not sufficiently detailed in light of the potentially significant and costly impacts on Fonterra's activities at the Mosgiel Site.

Relief sought

65. Fonterra seeks that Rule 19.6.5 and Appendix A6.2 be deleted, or such alternative or consequential relief to address Fonterra's concern.

Attachments

66. The following documents are attached to this notice:
- (a) A copy of the relevant parts of the Decision.
 - (b) A copy of Fonterra's submission and further submission.
 - (c) A list of relevant names and addresses of persons who lodged submissions who are to be served with a copy of this notice.
 - (d) Mosgiel Noise Control Area.

FONTERRA LIMITED by its solicitors and authorised agents Russell McVeagh:



Signature:

D J Minhinnick / T W Atkins

Date:

19 December 2018

Address for Service:

C/- Tom Atkins
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- TO: The Registrar of the Environment Court at Christchurch.
- AND TO: The Dunedin City Council.
- AND TO: The relevant submitters on the provisions appealed.

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.
2. To become a party to the appeal, you must:
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Advice

5. If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

FONTERRA SUBMISSION ON THE DUNEDIN SECOND GENERATION DISTRICT PLAN

To: Dunedin City Council
Submitter **Fonterra Limited**
Contact: Brigid Buckley, National Planning and Policy
Manager – NZ Milk Products

**Address for
Service:** Fonterra Limited
C/- Planz Consultants Limited
PO Box 1845
Christchurch 8140
Attn: Sam Flewellen

Fonterra **wishes** to be heard in support of this submission.

I confirm that I am authorised on behalf of Fonterra Limited to make this submission.

1. OVERVIEW

- 1.1 Dunedin City Council (Council) has notified its Second Generation District Plan ('2GP').
- 1.2 Fonterra Limited (Fonterra) generally supports the direction of 2GP subject to the amendments which are outlined in this submission.
- 1.3 In this submission we have provided:
 - A brief overview of Fonterra's operations and activities within the Council's boundaries, including those of our farmer suppliers (Section 2);
 - General submissions on the 2GP (Section 3); and
 - Specific submission points on the 2GP, including relief requested (**Attachments A-D**).

2. BACKGROUND

- 2.1 Fonterra is a global leader in dairy nutrition – the preferred supplier of dairy ingredients to many of the world's leading food companies. Fonterra is a farmer-owned co-operative, and the largest processor of milk in the world. It is one of the world's largest investors in dairy research and innovation drawing on generations of dairy expertise to produce more than two million tonnes of dairy ingredients, value added dairy ingredients, specialty ingredients and consumer products for 140 markets.
- 2.2 Annually, Fonterra collects more than 18 billion litres of milk from New Zealand, exporting more than 2.4 million tonnes of dairy product. Fonterra owns 36 milk processing sites within New Zealand.
- 2.3 Fonterra is New Zealand's largest company, and a significant employer, with more than 11,000 New Zealand based staff and more than 6,500 employees based overseas.
- 2.4 Globally, Fonterra processes more than 22 billion litres of milk, and owns leading dairy brands in Australasia, Asia, the Middle East and Latin America. In the 2013/2014 financial year, Fonterra's global revenue was over \$22 billion.

Fonterra's Assets and Operations with the Dunedin City Council boundaries

- 2.5 Fonterra's key operational interest within Dunedin City is a distribution hub which is located on Stedman Road, Mosgiel. The site accommodates a 45,000 tonne dry store building and 17,000 tonne cool store building. These buildings provide for the temporary storage of product before being exported as well as for additional storage to provide extra capacity for the Edendale site.
- 2.6 The site is located with strategic rail access to Port Chalmers and allows for substantial reductions in truck movements on roads between the site, Port Otago and Southland in particular with further benefits in reduced fuel use and carbon emissions.

3. GENERAL SUBMISSION

- 3.1 This submission relates to the whole of the 2GP.
- 3.2 Fonterra generally supports the framework of the 2GP, subject to the amendments which are outlined in this submission.
- 3.3 The basis of Fonterra's submissions on the 2GP is to provide more specific policy support to enable the continued operation and expansion of the existing distribution hub in Mosgiel, and in particular protecting this activity from reverse sensitivity effects.
- 3.4 Through its submissions on the 2GP, Fonterra is seeking:
- Greater strategic policy protection for industrial activities from reverse sensitivity effects, and amendments to a number of rules associated with these potential effects.
 - The introduction of a Mosgiel Noise Control Area (MNCA) for the site to:
 - consistently control and manage noise emissions from the site 24 hours per day, seven days a week;
 - provide a clear compliance boundary that does not rely upon notional boundaries and the associated potential risk of encroachment from sensitive activities;
 - That the hazardous substance quantity limit threshold approach is deleted to avoid duplication in the Proposed Plan with the Hazardous Substances and New Organisms Act 1996 (HSNO).
- 3.5 Fonterra's specific relief in relation to this general submission is provided in **Attachment A**.

Policy framework and land use controls for new sensitive activities in proximity to the Fonterra Mosgiel site

- 3.6 The 2GP seeks to rezone land to the south of the Fonterra Mosgiel site as Rural-Residential while allowing for any new dwelling within a Rural Zone to be located up to 20m from an Industrial Zoned boundary (refer to Rural Rule 16.5.1 in the 2GP). Fonterra considers that it has strong potential to unduly constrain the operations at the Mosgiel site and generate reverse sensitivity effects.
- 3.7 Reverse sensitivity is a key issue for all of Fonterra's sites, including the Mosgiel Distribution Centre. The consequences of sensitive activities establishing in areas occupied primarily by established or industrial activities within an industrial zone can place pressure on existing activities to exercise tighter controls (which may impact on efficiency) and/or to relocate.
- 3.8 In Fonterra's experience, notwithstanding compliance with district and regional plan standards and consent conditions, reverse sensitivity issues can and do create a burden on the company. This is because it is often the perception of effects, rather than actual effects, which lead to complaints from sensitive land uses. As such, complaints arise due to the effects of typical industrial activities, such as noise, disturbance from trucks on the surrounding roads and accessing the site and rail movements.

- 3.9 Often, as a result, the existing consented activity will be required to undertake further works to mitigate the effects at significant cost, even when that existing activity might be complying with its consent conditions. Despite this, there can be effects which, although less than minor, cannot be fully contained within site boundaries e.g. noise effects which can extend beyond site boundaries provided it complies at the notional boundary of residential activities on rural sites. It is therefore not realistic for all effects to be internalised within operational sites particularly within industrial areas. In Fonterra's experience, the RMA acknowledges this, and resource consent conditions may allow some off-site effects.
- 3.10 Most neighbours do appreciate that they live in close proximity to an industrial zone, in which there can be activity up to 24 hours a day, seven days a week for most of the year. However some neighbours are simply more attuned to activities on industrial sites, particularly those who spend most of their time at home. While such situations sound relatively trivial, Fonterra takes all complaints seriously and investigating complaints take time and resources for the company to address.
- 3.11 With the proposed setback set at a minimum of 20 metres from any industrial zone boundary in the Proposed Plan, the potential for reverse sensitivity issues to occur is significant. Fonterra's operations can be and are adversely affected by complaints arising from new land uses, subdivision and intensification of sensitive activities in proximity to its existing operations. In this regard, the approach of including rules requiring the separation of incompatible activities is becoming increasingly common in new second generation district plans and greater separation distances or other 'buffer' planning mechanisms are being utilised as discussed in the next section.

New Mosgiel Noise Control Area for the Fonterra Mosgiel site

- 3.12 Fonterra has developed a Mosgiel Noise Control Area (MNCA) for the Mosgiel site which it is requesting, via this submission, be inserted into the District Plan (refer to submission point 53 in **Attachment A** and the map contained within **Attachment D**). It is proposed that this MNCA, along with the associated land use provisions, will replace the requirement in the 2GP for the Mosgiel site to comply with the generic zone noise limits in Rule 9.3.6.
- 3.13 The use of a NCA (or noise control boundary (NCB)) to manage and control noise emissions from airports and large industrial sites is long-established and considered world best practice. Noise emissions from many Fonterra manufacturing sites are controlled via a MNCA (or equivalent noise area boundary mechanism). The Edendale site in Southland is also controlled and managed via this type of planning mechanism. Typically, and it is Fonterra's preference to have, the MNCA set at the 45 dB L_{Aeq} contour line.
- 3.14 Essentially, the proposed MNCA for the Mosgiel site indicates the level of noise that can be expected to be experienced in the surrounding environment when the site reaches and is operating at its capacity of operations.
- 3.15 If adopted by Council, and inserted into the 2GP, noise emissions from the Mosgiel site will need to be met (or come under) the level specified at the MNCA (i.e. 45 dB L_{Aeq}). If noise levels exceed the 45 dB L_{Aeq} limit, a discretionary resource consent would be required under Rule 9.6.

Managing hazardous substance use and storage on industrial-zoned sites

- 3.16 Fonterra opposes the use of quantity threshold limits for regulation and management of Hazardous Substances in the 2GP and seeks greater emphasis or reliance on HSNO to manage the use and storage of hazardous substances within Industrial-zoned sites. Therefore the use of quantity threshold limits is sought to be completely deleted or at least where they apply within Industrial Zones.

- 3.17 It is noted that there are a number of second generation plans around the country that have already adopted the approach to remove quantity limits and rely on HSNO provisions. In addition, this issue has recently been canvassed in detail at the Independent Hearings Panel (IHP) for the Christchurch Replacement District Plan. In this Plan, the notified version supported by Council contained threshold limits and this approach was opposed by a number of parties including the Crown entities. The Crown presented evidence opposing quantity limits from Mark St Clair (Director of Hill Young Cooper and project leader of a recent MfE report) on the interface between HSNO and the RMA, and Dr Peter Dawson (Principle Scientist at the Environmental Protection Agency). A link to Mr St Clair's evidence is provided below as it clearly sets out the Crown's position on the management of hazardous substances and the RMA. Following legal submissions, evidence and cross examination, the IHP made a clear and strong directive that they do not favour the use of threshold limits and that they preferred the approach as set out by the Crown's witnesses. Council have therefore been directed to rewrite the Hazardous Substances Chapter to remove the threshold quantity limits and avoid any duplication with HSNO.
- 3.18 District Plans should only regulate hazardous substances where there is a clear, identified gap between the controls provided by HSNO and the controls provided by regional plans. Even if a gap is identified, the tests of section 32 of the RMA (s.32) in justifying regulation still need to be clearly articulated. In industrial zones, no such gap is considered to exist, and therefore there is no s.32 justification for placing additional controls on hazardous substances beyond those already provided through other legislation or regional plans.
- 3.19 Fonterra therefore considers that the notified approach to hazardous substances needs to be significantly re-worked, particularly for the industrial zones, to make it more efficient, effective, and user-friendly for both Council staff and landowners and to avoid unnecessary duplication, regulation and costs for a matter that is already fundamentally addressed by other legislation. In Fonterra's extensive experience of managing industrial sites across New Zealand, District Plan controls on hazardous substances add little value in terms of environmental protection beyond that already delivered by HSNO and regional plans and therefore cannot easily be justified under s.32.

[Link to Mark St Clair's evidence](#)

<http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/04/2387-Crown-Haz-Substances-and-Contaminated-Land-Mark-St-Clair-Evidencewith-attachments-30-9-15.pdf>

- 3.20 In response to the IHPs instruction to rewrite the Hazardous Substances chapter, the Council have, as of 17 November 2015, prepared a revised version now containing one rule permitting the use, storage or disposal of hazardous substances. A link to this revised version is provided below.

<http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/04/2123-CCC-Chapter-12-Hazardous-Substances-and-Contaminated-Land-Revised.pdf>

4. SPECIFIC SUBMISSION POINTS

- 4.1 Fonterra's specific submission points are addressed in the Table contained within **Attachment A** to this submission.
- 4.2 In respect of all those submission points in **Attachment A**, Fonterra seeks:
- Where specific wording has been proposed, words or provisions to similar effect;

- All necessary and consequential amendments, including any amendments to the provisions themselves or to other provisions linked to those provisions submitted on, including any necessary changes to the 2GP maps, and including any cross references in other chapters; and
- All further relief that are considered necessary to give effect to the concerns described above and in the Table to follow, and any changes required to give effect to the Regional Policy Statement.

5. OVERALL CONCLUSION

5.1 In relation to the provisions that Fonterra has raised concerns about, those provisions require amendment because, without amendment, those provisions:

- will not promote sustainable management of resources, will not achieve the purpose of the RMA;
- are contrary to Part 2 and other provisions of the RMA;
- will not enable the social and economic well-being of the community;
- will not meet the reasonably foreseeable needs of future generations;
- will not achieve integrated management of the effects of the use, development or protection of land and associated resources of the District;
- will not enable the efficient use and development of Fonterra's assets and operation, and of those resources; and
- do not represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means.

5.2 Fonterra could not gain an advantage in trade competition through this submission.

5.3 Fonterra **does wish** to be heard in support of this submission.

5.4 If others make a similar submission, Fonterra will consider presenting a joint case with them at the hearing.

24 November 2015



Brigid Buckley

National Policy and Planning Manager
Fonterra Co-operative Group Limited

ATTACHMENT A: SPECIFIC SUBMISSIONS

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
DEFINITIONS				
1	Other Activity Definitions 1.5.1	Support	There are a number of provisions in the 2GP that rely upon the interpretation of noise sensitive activities, and therefore a definition is considered appropriate.	Retain definition of noise sensitive activities as notified (see below).
2	Other Activity Definitions 1.5.1	Support in part	There are a number of provisions in the 2GP that rely upon the interpretation of notional boundary, and therefore a definition is considered appropriate. The proposed definition of notional boundary is set at an appropriate distance which is consistent with the definition within NZS6801:2008 Acoustics – Measurement of environmental sound. However the wording of the definition is still potentially ambiguous. The definition from NZS6801:2008 is considered to be more concise and provide greater clarity. This definition has therefore been sought to be amended.	Delete the definition of notional boundary and replace with the following: <u>A line 20 metres from any side of a dwelling or the legal boundary where this is closer to the dwelling.</u>
3	Other Activity Definitions 1.5.1	Support	There are a number of provisions in the 2GP that rely upon the interpretation of potentially sensitive activities, and therefore a definition is considered appropriate.	Retain the definition of potentially sensitive activities as notified (see below).
4	Other Activity Definitions 1.5.1	Support	There are a number of provisions in the 2GP that rely upon the interpretation of potentially sensitive activity, and therefore a definition is considered appropriate.	Retain definition of potentially sensitive activity as notified (see below).
5	Other Activity Definitions 1.5.1	Support	There are a number of provisions in the 2GP that rely upon the interpretation of reverse sensitivity, and therefore a definition is considered appropriate.	Retain definition of reverse sensitivity as notified (see below).
6	Other Activity Definitions	Support	There are a number of provisions in the 2GP that rely upon the interpretation of sensitive activity, and	Retain definition of sensitive activity as notified (see below).

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
	1.5.1		therefore a definition is considered appropriate.	
7	Other Activity Definitions 1.5.1	Support	There are a number of provisions in the 2GP that rely upon the interpretation of sensitive activities, and therefore a definition is considered appropriate.	Retain definition of sensitive activities as notified (see below).
PLAN OVERVIEW AND STRATEGIC DIRECTIONS				
8	Strategic Directions Objective 2.3.1	Support	The proposed strategic objective recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses. Reverse sensitivity is a critical issue for Fonterra. The consequences of sensitive activities establishing and intensifying within or near areas occupied primarily by established industrial activities within an industrial zone can place pressures on existing activities to exercise tighter controls (which may impact on efficiency) and/or to relocate. This can and does create a burden on the activities such as Fonterra's Mosgiel site. The proposed strategic recognition recognises the importance of Industrial areas and the risk posed through the introduction of competing or incompatible uses. Fonterra therefore supports this provision.	Retain Objective 2.3.1 as notified (see below).
9	Strategic Directions Policy 2.3.1.4	Support	The proposed strategic policy recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses. Reverse sensitivity is a critical issue for Fonterra. The consequences of sensitive activities establishing and intensifying within or near areas occupied primarily by established industrial activities within an industrial zone can place pressures on existing activities to exercise tighter controls (which may impact on efficiency) and/or to relocate. This can and does create a burden on the	Retain Policy 2.3.1.4 as notified (see below).

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
			activities such as Fonterra's Mosgiel site. The proposed strategic recognition recognises the importance of Industrial areas and the risk posed through the introduction of competing or incompatible uses. Fonterra therefore supports this provision.	
CITY WIDE ACTIVITIES - TRANSPORTATION				
10	Transport Objective 6.2.1	Support in part	It is considered appropriate to recognise the importance of transport infrastructure with regard to its safe and efficient use. However there is little to no mention of the importance of freight routes and the provision and protection of these for freight vehicles. Amendments are therefore sought to this objective to recognise this point.	Amend Objective 6.2.1 as follows: Transport infrastructure is designed and located to ensure the safety and efficiency of the transport network for all travel methods while: (a) minimising, as far as practicable, any adverse effects on the amenity and character of the zone; and (b) meeting the relevant objectives and policies for any overlay zone, scheduled site, or mapped area in which it is located; <u>and</u> (c) <u>providing for efficient and effective movement of freight vehicles on key freight routes.</u>
11	Transport Objective 6.2.2	Support	It is considered appropriate to recognise the importance of a range of travel methods including road and rail to the strategic function of Industrial sites.	Retain Objective 6.2.2 as notified.
12	Transport Policy 6.2.2.1	Support	The proposed policy provides an appropriate direction with regard to parking provision which is based around demand and accessibility to cater for those who will utilise it.	Retain Policy 6.2.2.1 as notified.
13	Transport Objective 6.2.3	Support	It is considered appropriate to recognise the importance of maintaining the safety and efficiency of a range of travel methods including road and rail to protect the strategic function of Industrial sites.	Retain Objective 6.2.3 as notified.
14	Transport	Support	The proposed policy provides an appropriate focus on	Retain Policy 6.2.3.4 as notified.

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
	Policy 6.2.3.4		the need to avoid overspill parking effects as opposed to simply meeting a generic minimum parking standard which can still result in over or undersupply of parking.	
15	Transport Objective 6.2.4	Support	The proposed objective provides an appropriate direction with regard to parking, loading, access and network integration.	Retain Objective 6.2.4 as notified.
CITY WIDE PROVISIONS – PUBLIC HEALTH AND SAFETY				
16	Public Health and Safety Acoustic Insulation 9.3.1	Support in part	The requirement to provide acoustic insulation is supported and will assist with reducing the potential for reverse sensitivity effects. Fonterra in its submission (submission point 53) seeks to introduce a MNCA around its site in Mosgiel. This is a similar control to a setback but assists with both noise compliance as well helping to better protect existing industrial activities from being compromised by the establishment of new sensitive activities within close proximity of noise generating activities, such as those typically found in industrial zones. Amendments are also sought for the provisions of this rule to also apply within any part of the MNCA and with regard to supplementary ventilation sources, the latter of which has been made to recognise that there are a range of mechanisms to achieve supplementary ventilation as opposed to a direct duct to outside air.	Amend Rule 9.3.1 as follows: - Any kitchen, dining area, living room, study or bedroom habitable room or expansion to a habitable room in a building to be used for noise sensitive activities in any of the following locations must have acoustic insulation that achieves a minimum design standard of DnT, w + Ctr > 30: - Central Business District (CBD) Zone; - Warehouse Precinct (WP) Zone; - Princes, Parry and Harrow Street (PPH) Zone; - Harbourside Edge (HE) Zone; - airport noise inner control mapped area; - airport noise outer control mapped area; - within 20m of an industrial zone; - within 40m of a state highway; - within 40m of the Taieri Aerodrome Zone; - within 70m of a railway line; - in-patient areas in the Dunedin Hospital Zone; or - the Stadium Zone- or within the Mosgiel Noise Control Area. - Any kitchen, dining area, living room, study or bedroom

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED									
				in a building to be used for noise sensitive activities within the port noise control mapped area must have acoustic insulation that achieves a minimum indoor design standard of 40 dBA Ldn. 3. Habitable rooms must be supplied with a positive supplementary source of ventilation fresh air ducted from outside that achieves a minimum of 7.5 litres per second per person, to enable adequate ventilation when windows are closed. 4. The schedule in Appendix 9A describes the minimum requirements necessary to achieve an external sound insulation level of DnT, w + Ctr > 30. 5. Any development that contravenes the performance standard for acoustic insulation is a discretionary activity.									
17	Public Health and Safety Light Spill Rule 9.3.5	Oppose in part	A night-time light spill level of 3 lux is considered a more appropriate balance to both enable Industrial activities and protect residential amenity. To better achieve this balance, it is also considered that where residential activities are located within non-residential zones e.g. rural, rural residential etc, that it is more appropriate to apply this limit at the notional boundary of the dwelling as opposed to the site boundary given the increased buffer provided by lower densities within these areas.	Amend Rule 9.3.5.1 as). Light spill measured at the boundary of a residential zone or notional boundary of any-used-for lawfully established residential building within any other zone purposes must not exceed the following limits: <table><tr><th colspan="2">Time</th><th>Limit</th></tr><tr><td>a.</td><td>7am - 10pm</td><td>10 Lux</td></tr><tr><td>b.</td><td>10pm - 7am</td><td>2 3Lux</td></tr></table>	Time		Limit	a.	7am - 10pm	10 Lux	b.	10pm - 7am	2 3 Lux
Time		Limit											
a.	7am - 10pm	10 Lux											
b.	10pm - 7am	2 3 Lux											
18	Public Health and Safety Noise	Oppose	<u>Daytime/Nighttime Noise Limits</u> The proposed 50dB LAeq and 40dB LAeq are very low daytime and nighttime limits for Rural and Residential	Amend noise limits specified within Rule 9.3.6 as follows: Delete Column (b) which prescribes noise limits between the hours of 7 pm and 10 pm.									

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
	9.3.6 (1-5)		zones particularly where Residential and Rural Zones adjoin existing Industrial and Commercial areas. Limits of 55 dB LAeq and 45 dB LAeq are considered to be more appropriate, and consistent with recommended limits in the New Zealand and other Standards including the World Health Organisation Guideline Values for Community Noise in Specific Environments, while still being within the acceptable margins to preserve acceptable daytime amenity, and enable night time sleep. <u>Evening Noise Period</u> The proposed use of an evening 'shoulder' noise period is not considered best practice. Aside from the daytime limit, the only other key threshold in limits should be between 10pm-7am to recognise and provide for the protection of sleep. <u>Industrial Noise Limits</u> There is no rationale for reducing noise limits from 65dB LAeq to 60 dB LAeq within Industrial zones for the night time period. Rather it is more important to manage the interface with other zones through the use of lower limits e.g. where an industrial zone adjoins a rural or residential zone. To address the above concerns, it is sought that the noise limits of Rule 9.3.6 be amended as shown within the corresponding table.	Amend the level of noise limits in Line 1 (Residential, Recreation, Smith Street and York Place, schools, Dunedin Botanic Garden, Wakari Hospital, Mercy Hospital and Moana Pool zones) as follows: 7 am to 10 pm: 55 dB LAeq (15 min) 10 pm to 7 am: 405 dB LAeq (15 min); and 705 dB LAFmax Amend the level of noise limits in Line 2 (Rural, rural residential, centres and Ashburn Clinic zones (at notional boundary of noise sensitive activities) as follows: 7 am to 10 pm: 55 dB LAeq (15 min) 10 pm to 7 am: 405 dB LAeq (15 min); and 705 dB LAFmax Retain the daytime and night time noise limits for Line 5 (Industrial, Industrial Port, Dunedin International Airport, Taieri Aerodrome, Edgar Centre, Port and Stadium Zones) as follows: 7 am to 10 pm: 65 dB LAeq (15 min) 10 pm to 7 am: 60 dB LAeq (15 min); and 85 dB LAFmax
19	Public Health and Safety Noise 9.3.6 (6-9) Noise	Oppose in part	The listed exemptions under Clause 6-9 of 9.3.6 are considered appropriate, particularly clauses h, i, and l. An additional exemption standard is proposed to address the site specific noise treatment sought for the Mosgiel Noise Control Area.	Insert new Clause 6(o) associated with Rule 9.3.6 as follows: <u>o. Noise generated from the Fonterra Mosgiel Distribution Hub for which the following noise limits shall not be exceeded at the boundary of the Mosgiel Noise Control Area identified on the Planning Maps (see</u>

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
				<u>submission point 53 and Attachment D).</u> <u>7am to 10pm: 55 dB LA_{eq,(15 min)}; and 75 dB LAF_{max}</u> <u>10pm to 7am: 45 dB LA_{eq,(15 min)}; and 75 dB LAF_{max}</u> Amend Clause 7 associated with Rule 9.3.6 as follows: 7. For the purpose of this standard, noise levels will be measured at the boundary of the receiving property, or the notional boundary of a noise sensitive activity in a rural, rural residential or Ashburn Clinic zone <u>or at the Mosgiel Noise Control Area</u>. If it is not possible to measure noise levels at the boundary, noise levels will be measured at the closest practical point within the boundary.
CITY WIDE PROVISIONS – NATURAL HAZARDS				
20	Natural Hazards 11.3.3 and 11.4	Oppose in part	For reasons stated in Submission Point 45.	Refer to Submission Point 45.
MANAGEMENT ZONES – RESIDENTIAL ZONES				
21	Residential Rule 15.5.1	Support in part	The requirement to provide acoustic insulation is supported and will assist with reducing the potential for reverse sensitivity effects. Fonterra in its submission (submission point 53) seeks to introduce a MNCA around its site in Mosgiel. This is a similar control to a setback but will assist with managing noise compliance and protecting existing industrial activities from being compromised by the encroachment of new sensitive activities within close proximity of them. An amendment is sought for the provisions of this rule to also apply within any part of the MNCA.	Amend Rule 15.5.1 as follows: Noise sensitive activities in the following areas must comply with Rule 9.3.1: - port noise control mapped area; - airport noise outer control mapped area; - airport noise inner control mapped area; - within 40m of the Taieri Aerodrome Zone; - within 40m of a state highway; - within 20m of an industrial zone; and - within 70m of a railway line <u>and</u> <u>within the Mosgiel Noise Control Area.</u>

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
MANAGEMENT ZONES - RURAL ZONES				
22	Rural Objective 16.2.1	Support	This objective is supported as it seeks to limit residential activities to those that directly support farming which in turn limits the potential for excessive residential intensification in Rural zones.	Retain Objective 16.2.1 as notified.
23	Rural Policy 16.2.1.7	Support	This policy is supported as it seeks to reduce the potential for excessive residential intensification in Rural zones.	Retain Policy 16.2.1.7 as notified.
24	Rural Policy 16.2.1.10	Support	This policy is supported as it seeks to reduce the potential for excessive residential intensification in Rural zones.	Retain Policy 16.2.1.10 as notified.
25	Rural Objective 16.2.2	Support in part	This objective recognises the need to minimise the potential for reverse sensitivity effects. However the policy does not reference the potential for reverse sensitivity effects where dwellings are not set back sufficiently from industrial zones as reflected in Rule 16.5.1. An amendment to this provision is therefore sought.	Amend Objective 16.2.2 as follows: The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential and industrial zones, is minimised through measures that ensure: (a) ...
26	Rural Policy 16.2.2.1	Support in part	The proposed policy recognises the need to minimise the potential for reverse sensitivity effects. However the policy does not reference the potential for reverse sensitivity effects where dwellings are not set back sufficiently from industrial zones as reflected in Rule 16.5.1. An amendment to this provision is therefore sought.	Amend Policy 16.2.2.1 as follows: Require residential buildings to be set back an adequate distance from site boundaries to minimise the potential for reverse sensitivity effects from: (a) rural activities such as farming (for example, effects from noise, dust or odour); and (b) existing factory farming, domestic animal boarding and breeding (that includes dogs), mining, landfills, wind generators - small scale and wind generators - regional scale; and- (c) industrial activities.

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
27	Rural Rule 16.5.2	Support	The maximum density for residential activities for the Taieri Plains is supported.	Retain Rule 16.5.2 as notified.
28	Rural Rule 16.4 (3) - Notification	Support	Public notification for any new residential activity that contravenes the performance standard for density is considered appropriate as it is not anticipated within the context of the Plan framework.	Retain Rule 16.4 (3) as notified.
29	Rural Rule 16.5.1	Support in part	The requirement to provide acoustic insulation is supported and will assist with reducing the potential for reverse sensitivity effects. Fonterra in its submission (submission point 53) seeks to introduce a MNCA around its site in Mosgiel. This is a similar control to a setback but will assist with managing noise compliance as well helping to better protect existing industrial activities from being compromised by the encroachment of sensitive activities within close proximity of existing industrial activities. An amendment is sought for the provisions of this rule to also apply within any part of the MNCA.	Amend Rule 16.5.1 as follows: Noise sensitive activities in the following areas must comply with Rule 9.3.1: - port noise control mapped area; - airport noise inner control mapped area; - airport noise outer control mapped area; - within 40m of the Taieri Aerodrome Zone; - within 40m of a state highway; - within 20m of an industrial zone; and - within 70m of a railway line; and <u>within the Mosgiel Noise Control Area.</u>
30	Rural Rule 16.5.9	Support in part	The proposed separation distances are supported. However, Fonterra considers that these setbacks should also apply to Industrial zones to protect these sites from reverse sensitivity effects.	Amend Rule 16.5.9 as follows: - New residential buildings must be located at least 100m from: - existing, lawfully established factory farming on a separate site; - existing, lawfully established domestic animal boarding and breeding including dogs on a separate site; - existing, lawfully established mining on a separate site;

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
				(d) existing, lawfully established landfill activity on a separate site; and (e) existing, lawfully established wind generators - community scale and wind generators - regional scale on a separate site-and (f) <u>any industrial zone.</u>
31	Rural Subdivision Rule 16.7.4 (1)	Support	The minimum site size for new lots is supported as it will reduce the potential for excessive residential intensification.	Retain Rule 16.7.4 (1) as notified.
32	Rural Subdivision Rule 16.7.4 (3)	Support	The non-complying status for breaching the density standards is supported as it will reduce the potential for excessive residential intensification within rural zones.	Retain Rule 16.7.4 (3) as notified.
MANAGEMENT ZONES - RURAL RESIDENTIAL ZONES				
33	Rural Residential Rule 17.2.1	Oppose	The proposed objective seeks to enable potentially sensitive activities and therefore it is considered appropriate that recognition be given to the potential for these activities to generate reverse sensitivity effects.	Amend Objective 17.2.1 as follows: The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities, <u>where reverse sensitivity effects will be avoided,</u> as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.
34	Rural Residential Policy 17.2.1.5	Oppose	The proposed policy seeks to enable potentially sensitive activities and therefore it is considered appropriate that recognition be given to the potential for these activities to generate reverse sensitivity effects.	Amend Policy 17.2.1.5 as follows: Only allow rural tourism, rural research, community and leisure - large scale, early childhood education, sport and recreation, and visitor accommodation where <u>potential reverse sensitivity effects are avoided and other the</u> effects <u>can be</u> adequately managed in line with Objectives 17.2.2, 17.2.3 and 17.2.4 and their policies, and the objectives and policies of any relevant overlay zones.
35	Rural Residential Policy 17.2.2.1	Support in part	This rule recognises the potential for reverse sensitivity effects where residential dwellings are not set back	Amend Rule 17.5.1 as follows: Require residential buildings to be set back an adequate

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
			adequate distances from certain activities. It is considered that this rule should also reference industrial activities as it is proposed to rezone land from Rural to Rural Residential in close proximity to the Mosgiel Industrial area and Taieri Airfield.	distance from site boundaries to minimise the potential for reverse sensitivity effects from: (a) rural activities such as farming (for example, from noise, dust or odour); and (b) existing forestry, <u>industrial uses</u> , factory farming, domestic animal boarding and breeding (that includes dogs), mining and landfills.
36	Rural Residential Rule 17.5.1	Support in part	The requirement to provide acoustic insulation is supported and will assist with reducing the potential for reverse sensitivity effects. Fonterra in its submission (submission point 53) seeks to introduce the MNCA around its site in Mosgiel. This is a similar control to a setback and will assist with managing noise compliance as well providing additional protection to existing industrial activities from potential reverse sensitivity effects. An amendment is sought for the provisions of this rule to also apply within any part of the MNCA.	Amend Rule 17.5.1 as follows: Noise sensitive activities in the following areas must comply with Rule 9.3.1. (a) within 40m of the Taieri Aerodrome Zone; (b) within 40m of a state highway; (c) within 20m of an industrial zone; and (d) within 70m of a railway line; and (e) <u>within the Mosgiel Noise Control Area.</u>
37	Rural Residential Rule 17.5.10	Support in part	The requirement to provide separation distances is supported, and will assist with reducing the potential for reverse sensitivity effects. Fonterra in its submission (submission point 53) seeks to introduce the MNCA around its site in Mosgiel. This is a similar control to a setback but assists with both noise compliance as well helping to better protect existing industrial activities from being compromised by the creep of sensitive activities within close proximity of noise generating activities. An amendment is sought for the provisions of this rule to also apply within any part of the MNCA.	Amend Rule 17.5.10 as follows: 1. New residential buildings must be located at least: (a) 30m from an existing, lawfully established forestry activity on a separate site; (b) 100m from an existing, lawfully established factory farming activity on a separate site; (c) 100m from an existing, lawfully established domestic animal boarding and breeding activity that includes dogs on a separate site; (d) 100m from an existing, lawfully established mining activity on a separate site; (e) 100m from an existing, lawfully established landfill

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
				activity on a separate site; and (f) 100m from existing, lawfully established wind generators - community scale and wind generators - regional scale on a separate site-; and (g) <u>outside of the Mosgiel Noise Control Area.</u>
MANAGEMENT ZONES – INDUSTRIAL ZONES				
38	Industrial Objective 19.2.1	Support	The proposed objective recognises the need to enable industrial activities within industrial zones and protect industrial areas from being compromised from the introduction of incompatible uses.	Retain Objective 19.2.1 as notified.
39	Industrial Policy 19.2.1.1	Support	The proposed policy recognises the direction to enable industrial activities within industrial zones.	Retain Policy 19.2.1.1 as notified.
40	Industrial Policy 19.2.1.3	Support	The proposed policy recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses.	Retain Policy 19.2.1.3 as notified.
41	Industrial Policy 19.2.1.9	Support in part	The proposed strategic policy recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses. However, amendments are required to recognise that potential reverse sensitivity effects can result from the introduction of any sensitivity activity and not just residential activities.	Amend Policy 19.2.1.9 as notified as follows: Avoid residential and other sensitive activities due to its high potential for reverse sensitivity to industrial or port activities, unless it would have significant positive effects on the successful operation of surrounding industrial or port activities.
42	Industrial Objective 19.2.2	Support	This proposed strategic policy recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses.	Retain Objective 19.2.2 as notified.
43	Industrial Policy 19.2.2.8	Support in part	This proposed policy recognises the need to protect industrial areas from being compromised from the introduction of incompatible uses. Reverse sensitivity effects including complaints which	Amend Policy 19.2.2.8 as follows: Only allow activities other than industrial activities in the industrial zones where: (a) the potential for reverse sensitivity, that may affect

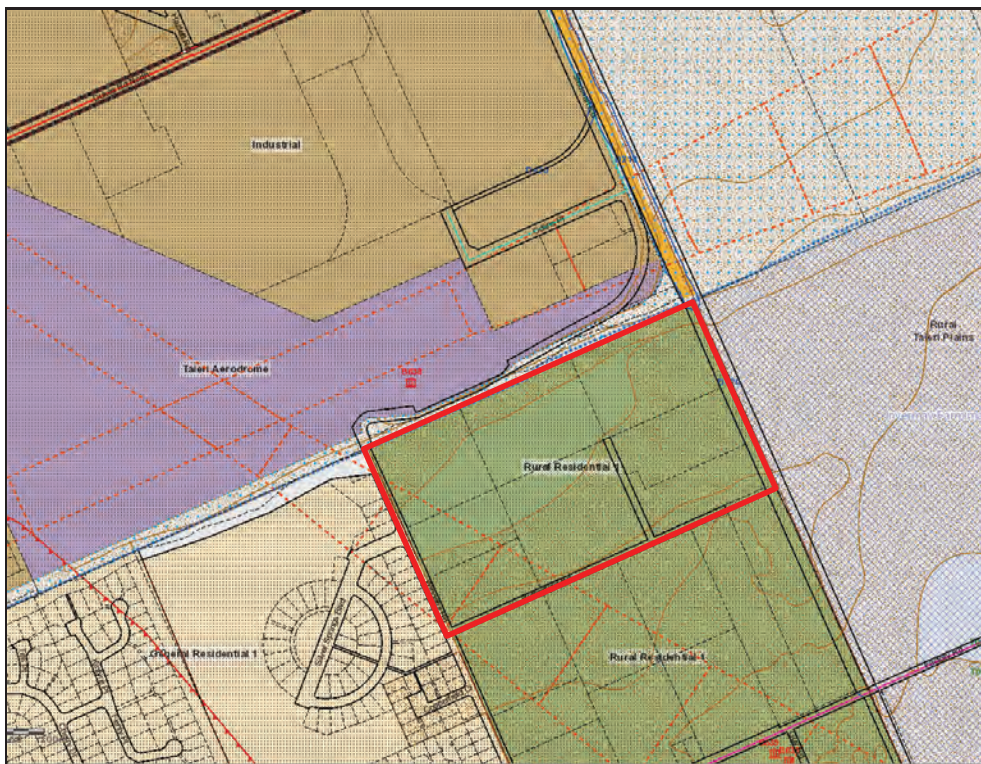
REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
			can place pressure on existing activities to reduce their effects, despite being potentially compliant, can occur from the introduction of incompatible activities. Therefore is it considered that the policy should be explicit in seeking to avoid the potential for reverse sensitivity effects.	the ability of industrial activities to operate, will be avoided. or, if avoidance is not possible, will be no more than minor.
44	Industrial Rule 19.5.6	Oppose	A generic industrial rate of 1 space per 100m ² GFA does not represent the car parking demand for Fonterra's Mosgiel site which has a low proportion of staff and visitors (and subsequent parking demand) to GFA. It is therefore recommended that a separate parking standard for the 'Fonterra Mosgiel site' be identified to require all car parking to be contained on-site. This is a standard provision that has been incorporated in second generation plans throughout New Zealand for Fonterra sites given the above mentioned difficulties with a generic standard.	Amend Rule 19.5.6 as follows: Land use activities must provide on-site car parking as follows: Industrial 1 per 100m ² GFA <u>Industrial (Fonterra Mosgiel site) – all car parking must be contained on-site and meet all dimensions and manoeuvring standards of Chapter 6.</u>
45	Industrial and Natural Hazards Rule 11.4.	Oppose in part	While hazard areas are considered necessary, the planning response to these also needs to recognise the practicalities and necessity of achieving minimum floor areas, particularly within large Industrial sites whereby any increased floor area requirement can be difficult to integrate into existing buildings thereby potentially failing to enable the use and development of Industrial Zones as sought under Objective 19.2.1.	Amend Rule 11.4 as follows: Add in additional assessment matters to Rule 11.4 as follows <u>5. The extent to which it is impractical to integrate a raised floor level with existing buildings and activities on an existing site.</u> <u>6. Any other mitigation measures on-site to reduce the potential for flooding of buildings.</u>
46	Industrial Rule 19.6.6.2	Support	The maximum height limit for 'all other areas in the Industrial Zone' is considered appropriate.	Retain Rule 19.6.6.2 as notified.
47	Industrial Rule 19.6.5	Oppose	The use of quantity threshold limits for hazardous substances is largely a duplication of the HSNO Act provisions. Therefore, these provisions are sought to be	Delete Rule 19.6.5 and rely upon HSNO requirements.

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
			deleted in their entirety. This approach is consistent with many second generation plans throughout New Zealand and has recently been directed by the Independent Hearing Panel for the Replacement Christchurch City Plan.	
48	Industrial Rule 19.6.8	Support in part	The generic area and locational provisions for signage are considered sufficient and practicable for Industrial Zones. However, it is considered that an explicit exemption for traffic directional and safety signage would be appropriate noting that HSNO requires specific warning and safety signage on many Industrial sites.	Amend Rule 19.6.8.3 to include the following exemption: <u>Exemption:</u> <u>The above rules do not apply to signs used solely for directing traffic or for health and safety reasons provided these signs do not contain any wording, symbols or graphics relating to products, goods or services available on the site.</u>
49	Industrial Rule 19.6.10	Support	Outdoor storage is an important aspect of most industrial sites and the proposed controls of these areas are considered appropriate.	Retain Rule 19.6.10 as notified.
APPENDICES				
50	Appendix 6.2	Oppose	The use of quantity threshold limits for hazardous substances is largely a duplication of the HSNO Act provisions. Therefore, these provisions are sought to be deleted in their entirety. This approach is consistent with many second generation plans throughout New Zealand and has recently been directed by the Independent Hearing Panel for the Replacement Christchurch City Plan.	Delete the Hazardous Substance quantity limits and rely upon HSNO Act.
PLANNING MAPS				
51	Planning Maps Zoning	Oppose	The 2GP includes a proposal to rezone land immediately to the south of the Fonterra Mosgiel Site from Rural to Rural-Residential 1. This has the potential to increase instances of reverse	Delete Rural Residential Zoning within the area identified on the Planning Maps and within Attachment B to this submission and revert this zoning back to Rural.

REF	PROVISIONS	SUPPORT / OPPOSE	REASONS	RELIEF REQUESTED
			sensitivity with the adjoining industrial zoned land immediately to the north. It is also noted that this area of land has also been identified as being within (either entirely or partially) the following overlays: • Flood Hazard 3 area, • Infrastructure constraint, • Taieri airport approach paths, and • High class soils. The combination of the above factors does not favour a rezoning to a more intensive residential land use.	
52	Planning Maps Zoning	Support	The Fonterra Mosgiel Distribution Centre site and surrounds is zoned Industrial which is supported.	Retain the Industrial Zoning for the Fonterra Mosgiel site and surrounds as identified on the Planning Maps as shown within Attachment C .
53	Planning Maps Mosgiel Noise Control Area	Oppose	The Fonterra Mosgiel site is operated in accordance with an existing resource consent. However the ability to comply with the noise conditions of this consent can be eroded through the introduction of sensitive activities into the predominately rural zoned surroundings of the site. In order to recognise the potential adverse impacts of reverse sensitivity to this lawfully established activity and an Industrial zoned site, a MNCA is proposed. The MNCA will require compliance at this boundary at all times of the day and that any new sensitive activity that seeks to establish within this MNCA must meet acoustic criteria to reduce the potential for reverse sensitivity effects to occur.	Insert the Mosgiel Noise Control Area on the Planning Maps as shown in Attachment D to this submission.
54	Planning Maps Zoning	Support	The rural zoning of land encompassing the western, northern and southern areas around the Mosgiel Distribution Site is supported.	Retain the Rural Zoning identified on the Planning Maps as shown within Attachment E .

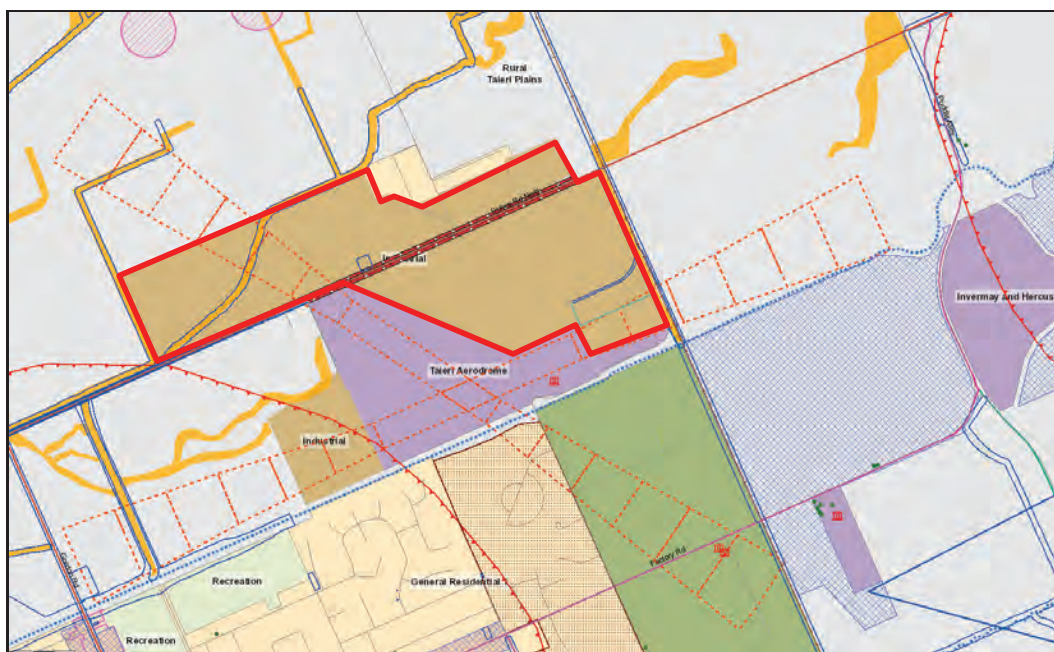
ATTACHMENT B

Planning Map – Rural Residential Zoning to revert back to Rural



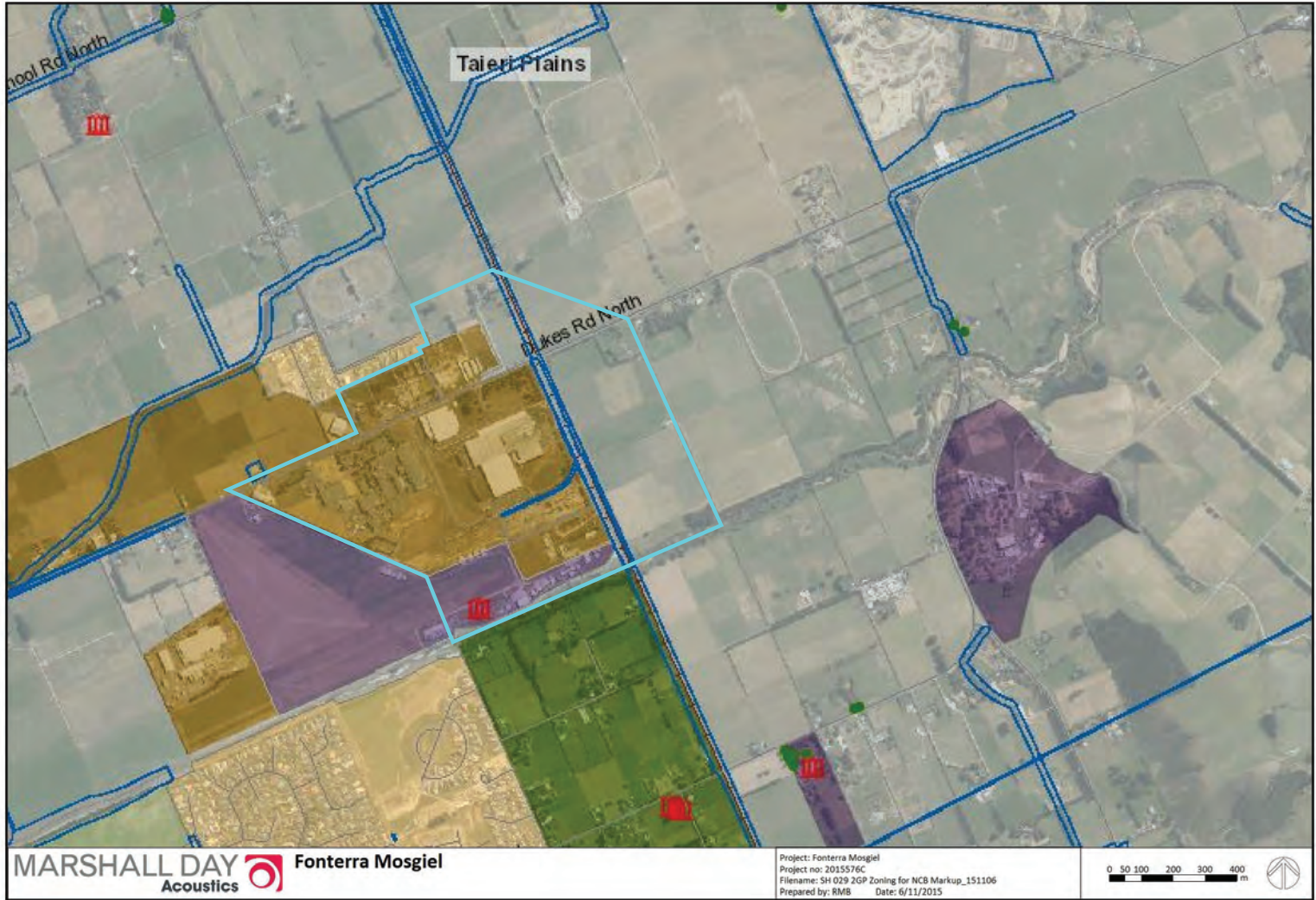
ATTACHMENT C

Planning Map – Industrial Zoning to be retained



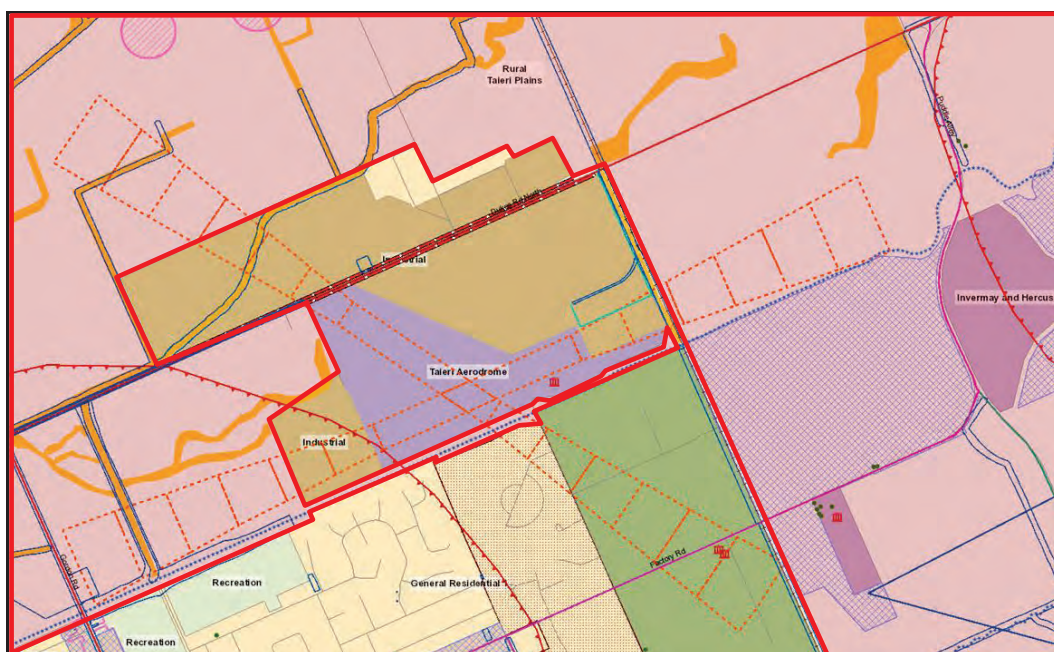
ATTACHMENT D**Planning Map - Proposed Mosgiel Noise Control Area**





ATTACHMENT E

Planning Map – Rural Zoning to be retained



FONTERRA LIMITED

PROPOSED DUNEDIN SECOND GENERATION DISTRICT PLAN FURTHER SUBMISSIONS

To: Dunedin City Council
Proposed Second Generation Dunedin City District
Plan,
PO Box 5045,
Dunedin 9058
districtplan@dcc.govt.nz

SUBMITTER: FONTERRA LIMITED

Address for Service: **Fonterra Limited**
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Planz Consultants Limited
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CHRISTCHURCH 8140

M +64 3 372 2280
E dean@planzconsultants.co.nz

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

1. NAME OF SUBMITTER

1.1. Fonterra Limited (Fonterra).

2. FURTHER SUBMISSION

2.1. This is a further submission in support of, or opposition to, various original submissions received by the Dunedin City Council (Council) on the proposed Second Generation District Plan (Proposed Plan).

2.2. Fonterra has lodged a submission to the Proposed Plan.

3. STATUS OF FURTHER SUBMITTER

3.1. Fonterra has an interest in the Proposed Plan that is greater than the interest the general public has because it leases land and operates a business which is potentially affected by submissions received by the Council on the Proposed Plan.

3.2. Fonterra's interest in the Proposed Plan was presented in the Submission OS807.

3.3. Fonterra could not gain an advantage in trade competition through these further submissions.

4. ORIGINAL SUBMISSIONS THAT THIS FURTHER SUBMISSION RELATES

4.1. **Annexure A** to this submission comprises a schedule of the names and address for service of the original submitters and the associated submission number for the original submissions that this further submission relates.

5. PARTICULAR PARTS OF THE ORIGINAL SUBMISSIONS THAT FONTERRA SUPPORTS OR OPPOSES

5.1. **Annexure B** to this submission comprises a schedule summarising which parts of the original submissions to the Proposed Plan Fonterra supports or opposes.

6. REASONS FOR THIS FURTHER SUBMISSION

6.1. For the original submissions that Fonterra supports, Fonterra considers that those submissions should be allowed as they:

- Promote sustainable management of the district's resources;
- Enable the social, economic and cultural wellbeing of the community;
- Achieves the integrated management of the effects of the use, development and protection of land and associated resources of Dunedin;
- Enable the efficient use and development of Fonterra's assets and operations, and of those people and resources which are dependent on, or benefit from, Fonterra's assets and operations;
- Represent the most appropriate means of exercising the Council's functions under Section 31 of the Resource Management Act (RMA);
- Represent the most appropriate plan provisions under Section 32 of the RMA; and
- Are otherwise consistent with the relevant provisions of the RMA, including the purpose and principles of Part 2.

6.2. For the original submissions that Fonterra opposes, Fonterra considers those submissions should be disallowed as they:

- Will not promote sustainable management of district's resources;
- Will not enable the social, economic and cultural wellbeing of the community of the Dunedin;

- Will not achieve the integrated management of the effects of the use, development and protection of land and associated resources of Dunedin;
- Will not enable the efficient use and development of Fonterra's assets and operations, and of those people and resources which are dependent on, or benefit from, Fonterra's assets and operations;
- Will not represent the most appropriate means of exercising the Council's functions under Section 31 of the Resource Management Act (RMA);
- Will not represent the most appropriate plan provisions under Section 32 of the RMA; and
- Will not otherwise be consistent with the relevant provisions of the RMA, including the purpose and principles of Part 2.

6.3. Without limiting the generality of the above, the specific reasons why Fonterra supports or opposes each of the submissions listed in **Annexure A** are set out in **Annexure B**.

7. DECISIONS SOUGHT

7.1. Fonterra seeks the following decisions:

- That the original submissions supported in **Annexure B** be allowed (or allowed in part); and
- That the original submissions opposed in **Annexure B** be disallowed.

7.2. Fonterra wishes to be heard in support of its original submission and further submission to the Proposed Plan.

7.3. If others make similar submissions, Fonterra would be prepared to consider presenting a joint case with them at the hearing stage.

Dated: 3 March 2016



Dean Chrystal

Director, Planz Consultants Limited (on behalf of Fonterra)

Annexure A

Names and Addresses for Service of Submitters

SUBMISSION NO.	SUBMITTER NAME	ADDRESS FOR SERVICE
1046	Air New Zealand Limited	C/- J Gardner-Hopkins / E Hudspith Russell McVeagh Barristers and Solicitors Level 24 157 Lambton Quay PO Box 10-214/DX SX11189 WELLINGTON james.gardnerhopkins@russellmcveagh.com
429	Beardsmore, R & E	167 McDonald Road RD1, Outram 9073 DUNEDIN
634	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	C/- Burton Planning Consultants gmcpherson@burtonconsultants.co.nz
881	New Zealand Transport Agency (NZTA)	planning-dunedin@nzta.govt.nz
165	Kaiser, John	belltopper@gmail.com
812	Clearwater, Mervyn & Jill	mervclearwater@xtra.co.nz
737	Port Otago Limited	LMcLachlan@portotago.co.nz
1005	Janefields Re-Zone Group	emma@sweepconsultancy.co.nz

Annexure B

Fonterra Limited: Further Submission Points on the Proposed Dunedin District Plan

3 March 2016

SUB REF	SUBMITTER NAME	SUPPORT / OPPOSE	CHAPTER / PLAN PROVISION	PARTICULAR PART OF SUBMISSION FONTERRA SUPPORTS / OPPOSES	REASON FOR FONTERRAS' SUPPORT / OPPOSITION	DECISION SOUGHT BY FONTERRA
OS1046.2	Air New Zealand Limited	Support	1.5.2 Other Definitions Noise Sensitive Activities	Amend this definition to clarify that it includes childcare and educational facilities.	Fonterra supports the inclusion of childcare and educational facilities within the definition.	That this submission point be allowed.
OS429.2	Beardsmore, R & E	Oppose	1.5.2 Other Definitions Notional Boundary	Amend definition of Notional Boundary to change the measurement for the line of the notional boundary, and the situation when the notional boundary does not apply, from 20m to 50m.	Fonterra opposes any increase in the notional boundary beyond 20m. This is a commonly used threshold throughout New Zealand and is contained in NZS6802.	That this submission point be disallowed.
OS634.6	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	Support in part	Storage and Use of Hazardous Substance	Amend definition of Storage and Use of Hazardous Substances to specifically exclude activities involving the small scale use and storage of hazardous substances.	Fonterra supports the exclusion of small scale hazardous substances provided that small scale can be defined.	That this submission point be allowed.
OS634.55	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	Support	Section 9.1 Public Health and Safety	Amend the fourth paragraph of the introduction (Section 9.1 Public Health and Safety) to recognise the benefits of hazardous substances and the role of the HSNO Act in managing their effects.	Fonterra supports the recognition of the role of HSNO in the introductory paragraphs of this section.	That this submission point be allowed.
OS634.17	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	Support	Policy 9.2.2.11	Amend Policy 9.2.2.11, as follows: Require hazardous substances to be stored and used in a way that avoids <u>ensures residual risks of</u> adverse effects on the health and safety of people on the site or surrounding sites <u>are managed to acceptable levels.</u> or, if avoidance is not possible, ensures any adverse effects would be insignificant.	Fonterra supports the amendment of Policy 9.2.2.11.	That this submission point be allowed.

SUB REF	SUBMITTER NAME	SUPPORT / OPPOSE	CHAPTER / PLAN PROVISION	PARTICULAR PART OF SUBMISSION FONTERRA SUPPORTS / OPPOSES	REASON FOR FONTERRAS' SUPPORT / OPPOSITION	DECISION SOUGHT BY FONTERRA
OS881.102	New Zealand Transport Agency (NZTA)	Support in part	Rule 9.3.1.3 Ventilation of habitable rooms	Retain Rule 9.3.1.3 - Acoustic Insulation - ventilation of habitable rooms as proposed, and insert additional clauses as follows: <u>Where windows must be able to be kept closed for noise reasons, the building must be designed, constructed and maintained with a ventilation system. For habitable spaces a ventilation system must achieve the following: i. Ventilation must be provided to meet clause G4 of the New Zealand Building Code. At the same time, the sound of the system must not exceed 30 dB LAeq(30s) when measured 1 m away from any grille or diffuser. ii. The occupant must be able to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour. At the same time, the sound of the system must not exceed 35 dB LAeq(30s) when measured 1 m away from any grille or diffuser.</u>	Fonterra supports the initial wording proposed by NZTA.	That this submission points be allowed.
OS165.3	Kaiser, John	Oppose	Rule 9.3.5 Light Spill	Amend Performance Standard 9.3.5 Light Spill by adding two additional sub rules being: <u>a) All sources of light should not be visible outside the boundary of the property it is on. Exceptions: 1. Internal room lighting 2. Low power and small size advertising and information boards. 3. Illumination of historical buildings; and b) All light sources of any origin will not spill light above the horizontal so that a 'dark sky' policy is supported. Exceptions: 1. Internal room lighting 2. Low power and small size advertising and information boards. 3. Illumination of historical buildings.</u>	Fonterra opposes the additional wording and considers it is unrealistic to expect lighting not to be visible outside the boundary of a property.	That this submission point be disallowed.
OS812.5	Clearwater, Mervyn & Jill	Oppose in part	9.3.6 Noise Performance Standard	Amend Rule 9.3.6.6.h (Noise) to remove the exemption for trains on railway lines, so that 'railway ballast loading' on a Sunday for part of D419 at	Fonterra considers the overall exemption from the noise standards	That this submission point be disallowed.

SUB REF	SUBMITTER NAME	SUPPORT / OPPOSE	CHAPTER / PLAN PROVISION	PARTICULAR PART OF SUBMISSION FONTERRA SUPPORTS / OPPOSES	REASON FOR FONTERRAS' SUPPORT / OPPOSITION	DECISION SOUGHT BY FONTERRA
				Mosgiel is subject to the noise performance standard.	for trains on rail lines should be retained.	
OS737.1	Port Otago Limited	Oppose in part	1.5.1 Activity Definitions Industry	Amend definition of Industry to reflect Operative Plan as follows: The use of land and buildings for the primary purpose of: • manufacturing, <u>fabricating, assembly, processing, packing or associated storage, repair, maintenance, and packing</u> of goods, and materials, including machinery or vehicles; • transport facilities including distribution centres, collection points, courier depots and bus depots (except where passengers are picked up or dropped off); and • laboratory or factory based research. This definition includes any ancillary offices and staff facilities <u>which are ancillary to the primary activity on the site.</u> This definition excludes: • bakeries ancillary to food and beverage retail; and laboratories ancillary to any major facility activity or office activity, which are included as part of those definitions, respectively; • activities that meet the definition of working from home; and • direct 'customer facing' retail sales, which is separately defined as retail ancillary to industry. Changes means the definition would read as follows: <u>The use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing or associated storage of goods.</u>	Fonterra considers the reference to “ <i>transport facilities including distribution centres</i> ” should be retained in the definition.	That this submission point be disallowed in part.

SUB REF	SUBMITTER NAME	SUPPORT / OPPOSE	CHAPTER / PLAN PROVISION	PARTICULAR PART OF SUBMISSION FONTERRA SUPPORTS / OPPOSES	REASON FOR FONTERRAS' SUPPORT / OPPOSITION	DECISION SOUGHT BY FONTERRA
				<u>and includes offices and staff facilities which are ancillary to the primary activity on the site.</u>		
OS1005.1	Janefields Re-Zone Group	Oppose	Zoning - Residential Zones	Change zoning of area bound by Stedman Road, Wingatui Road and Factory Road, Mosgiel from Rural Residential 1 Zone to General Residential 1 Zone.	Fonterra opposes the rezoning of this land on the basis it will create issues of reserve sensitivity.	That this submission point be disallowed.

Submitter name	Address for service
AgResearch Limited	Attn: Graeme Mathieson, PO Box 97431, Manakau 2241
Air New Zealand Limited	Attn: Bronwyn Carruthers, PO Box 8, Auckland 1140
Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	Attn: Bridget Irving, PO Box 143, Dunedin 9054
Allan Douglas McLeary, Szlvia Violet McLeary and Farry & Co Trustees Limited (McLeary Family Trust)	mnidd@farry.co.nz
Andrew McSkimming, Anne-Marie Watson, Ross and Pat Allen, Greg Knox, Alan Knox, Patsy Earnes, and Noeline Wendy Knox	mcskimming@actrix.co.nz
Aurora Energy Limited	joanne.dowd@thinkdelta.co.nz
Bindon Holdings Ltd	Attn: Megan Justice, PO Box 489, Dunedin 9054; Attn: Simon Johnston, PO Box 660, Christchurch 8140
Blackhead Quarries Ltd	Attn: Allan Cubitt, 11 Bedford Street, St Clair, Dunedin 9012
Blueskin Projects Ltd	Attn: Allan Cubitt, 11 Bedford Street, St Clair, Dunedin 9012
BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	Attn: Georgina McPherson, PO Box 33817, Takapuna, Auckland 0740
Bunnings Limited	Attn: Matt Norwell, PO Box 1986, Shortland Street, Auckland 1140
Cadbury Limited	Attn: Nigel Bryce, PO Box 1023, Dunedin 9054
Calder Stewart Development Limited	Attn: Nigel Bryce, PO Box 1023, Dunedin 9054
Cerebos Gregg's Limited	Attn: Nigel Bryce, PO Box 1023, Dunedin 9054
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Dunedin International Airport Limited	Attn: Campbell Hodgson, PO Box 143, Dunedin 9054
East Parry Investments Limited	Attn: Megan Justice, PO Box 489, Dunedin 9054; Attn: Simon Johnston, PO Box 660, Christchurch 8140
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New Zealand Fire Service Commission	Attn: Perri Duffy, PO Box 6345, Auckland 1141
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NZ Institute of Surveyors- Coastal Otago Branch	Attn: Maaike Duncan, PO Box 235, Dunedin 9054
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Otago Sports Car Club Inc.	norman@oakleygray.co.nz
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Ravensdown Limited	Attn: Chris Hansent, PO Box 51282, Tawa, Wellington 5249
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Waste Management (NZ) Limited	Attn: Andrea Brabant, PO Box 5271, Wellesley Street, Auckland 1141

