

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2020-AKL-000102

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under clause 14(1) of the First Schedule of the Resource Management Act 1991 in relation to the Proposed Waikato Regional Plan Change 1: Waikato and Waipa Catchments

BETWEEN **Federated Farmers of New Zealand Incorporated**
Appellant

AND **Waikato Regional Council**
Respondent

**NOTICE OF BALLANCE AGRI-NUTRIENTS LIMITED'S
WISH TO BE A PARTY TO THE PROCEEDINGS PURSUANT TO
SECTION 274 OF THE RESOURCE MANAGEMENT ACT 1991**

TO: The Registrar
Environment Court
AUCKLAND

Via E-mail: WRC.PC1appeals@justice.govt.nz

1. Ballance Agri-Nutrients Limited ('**BAN**') wishes to become a party to an appeal by Federated Farmers of New Zealand Incorporated ('**Fed Farmers**') (under clause 14(1) of the First Schedule of the Resource Management Act 1991 ('**RMA**') in relation to the Respondent's decisions on the Proposed Waikato Regional Plan Change 1: Waikato and Waipa Catchments ('**PC1**').
2. This notice is made as BAN submitted on the provisions of PC1 to which this appeal relates.
3. BAN is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
4. BAN has an interest in the following parts of the proceedings:
 - (a) Schedule D1
5. BAN supports the relief sought by Fed Farmers to Schedule D1 as it relates to Part D (1.) – Nutrient Management Standards.

Schedule D1, Part D – Standards, (1.) – Nutrient Management

- 5.1 The decisions version of Schedule D1, lists the Standards within Part D. The nutrient management standards are addressed at (1.). These read as follows:

"1. Nutrient management

- a. Monitor soil phosphorus (P) levels and maintain them at agronomic optimum as set out in the Code of Practice for Nutrient Management and the relevant sector specific on-farm practice booklet. Note: For the purpose of this schedule, the Code of Practice for Nutrient Management means: Code of Practice for Nutrient Management (with Emphasis on Fertiliser Use), Fertiliser Association of New Zealand, 2013. It can be found at <http://www.fertiliser.org.nz/Site/code-of-practice/>. The sector specific on-farm booklets are: Fertiliser Use on New Zealand Sheep and Beef Farms, Fertiliser Association of New Zealand, 2018; Fertiliser Use on New Zealand Dairy Farms, Fertiliser Association of New Zealand 2016; Managing Soil Fertility on Cropping Farms, New Zealand Fertiliser Manufacturers' Research Association (NZFMRA) 2012. They can be found at <http://www.fertiliser.org.nz/Site/resources/booklets.aspx>.*
- b. Where soil P levels are above optimum there will be a managed reduction plan to reach the optimum levels as set out in the relevant Code of Practice for Nutrient Management sector specific on-farm practice booklet (see reference above).*
- c. Nitrogen (N) fertiliser is applied to pasture in response to a future feed deficit identified using a formal feed budgeting tool that documents the method of determining fertiliser need.*

Note: a 'future feed deficit' occurs when the projected pasture growth is insufficient to feed the livestock carried on the property over the projection period.

- d. *Nitrogen fertiliser application rates to pasture are no greater than 30kg of N per hectare per dressing.*
- e. *Nitrogen fertiliser is applied to crops in accordance with the Code of Practice for Nutrient Management. Where a relevant industry crop model is used to support the decision-making process, the practice will be consistent with the guidance of the Code of Practice for Nutrient Management and the decision process will be documented with records retained for 3 years.*
- f. *No nitrogenous fertiliser is applied during the months of June and July in any year unless the temperature is tested and found to be greater than 10 degrees Celsius within the root zone.*
- g. *Stored fertiliser is covered or roofed with impermeable material. The storage area will be walled or bunded so no contaminated runoff or leaching from the storage site occurs.*
- h. *Equipment for spreading fertiliser is calibrated at least annually in conformance with manufacturers' recommendations or in the absence of any manufacturers' recommendation, in accordance with any industry best practice and a record kept of that calibration process.*
- i. *Contractors used for fertiliser spreading are Spreadmark accredited. Note: Spreadmark accreditation is an industry quality assurance mechanism. Details can be found at <https://fertqual.co.nz/understanding-the-marks/spreadmark/>"*

5.2 Within its appeal, Fed Farmers notes that it is concerned about the limitation of N fertiliser applications to 30kgN per hectare per dressing and the limitation of no N fertiliser during June and July. Fed Farmers record that fertiliser application during July is important for grass growth and supporting dairy herds after calving. Federated Farmers is also concerned that 30kgN is too conservative. Fed Farmers considers that the 30kgN limit (or 50kgN as proposed by Fed Farmers) should only apply to pasture because arable cropping is managed very differently. Fertiliser is applied to crops at three times per season at significantly higher rates than 30kgN. As the nitrogen is taken up by the crop and the roots are deep, Fed Farmers note that it is very different from applying fertiliser to pasture. For example, Fed Farmers states that the Farmed Landscapes Research Centre considers that the optimum N application rate is 25-50kgN/ha for pastures and 50-75kgN/ha for arable crops. Further, Fed Farmers records that it would be impractical (in terms of cost and soil damage) to comply with this standard, as you would need to apply about 12 dressings each time (as opposed to a single application three times during the season). Accordingly, Fed Farmers proposes that the rate of 50kgN per hectare to pasture is used in clause (d) and that clause (f) is deleted.

5.3 Federated Farmers notes there are slow release nitrogen alternatives, such as SustaiN that can be applied at a higher rate with lower N leaching. Fed Farmers considers that such practices ought to also be provided for. In addition, Fed Farmers highlights that it also has concerns about the requirement to calibrate equipment to spread fertiliser annually. Fed Farmers understands that calibrating the equipment is a difficult exercise (it needs to be done in a large warehouse and with many controls and it might only be able to be done by the manufacturer). Fed Farmers also understands that equipment to spread fertiliser remains calibrated unless it suffers damage and requires repair. Accordingly, Fed Farmers states that it is not something that needs to be calibrated annually. Fed Farmers therefore considers that clause (h) should to be deleted on this basis. Fed Farmers states that if calibration is to be required, it needs to be in a more reasonable set of circumstances, for example, only if the equipment is damaged and needs repair.

- 5.3 BAN notes that it has appealed the Schedule C Minimum Farming Standards as they related to Fertiliser Application (Clauses 6 and 7). With regard to Clause 6, in its appeal, BAN sought that the 30kgN/ha per dressing cap is removed for PC1 and that focus should be placed on total nitrogen outputs on-farm. BAN stated that should PC1 continue to require a nitrogen cap, that Clause 6 be amended as follows: *“Nitrogen fertiliser is not applied at rates greater than 30 50kgN/ha per dressing as a mean value.”*
- 5.4 Further, BAN also appealed Schedule C, clause 7, stating that Clause 7 requires that *“No nitrogenous fertiliser is applied during the months of June and July in any year unless the temperature is tested and found to be greater than 10 degrees Celsius within the root zone.”* BAN noted that there does not appear to be scientific justification for the 10°C figure stipulated in Clause 7 and departure from the established Code of Practice. BAN recorded that there is also no clear method provided or referenced for determining the soil temperature. Given this, BAN sought to amend Clause 7 as follows: *“During the months of June and July, no nitrogenous fertiliser is applied when the 10cm soil temperature at 9am is less than 6oC and falling as per the Code of Practice for Nutrient Management during the months of June and July in any year unless the temperature is tested and found to be greater than 10 degrees Celsius within the root zone.”*
- 5.5 Fed Farmers requested amendments to the Schedule D1 Nutrient Management Standards are largely in keeping with BAN’s own appeal to Schedule C, clauses 6 & 7. Given this, and that Fed Farmer’s requested amendments are intended to make the Schedule D1 standards more practical, BAN generally agrees with the issues raised by Fed Farmers in its appeal, and supports the relief sought.
- 6.0 BAN agrees to participate in mediation or other alternative dispute resolution of the proceedings.



Dominic Adams

Environmental Manager for Ballance Agri-Nutrients Limited

Dated: 28th of September 2020

Address for Service 1: Ballance Agri-Nutrients Limited
Hewletts Road, Mount Maunganui,
Private Bag 12503

Tauranga Mail Centre
TAURANGA 3143

Attention: Dominic Adams

E-mail: Dominic.Adams@ballance.co.nz

Address for Service 2: Enspire,
Level 3, 35 Grey Street,
TAURANGA 3110

Attention: Bridgette Munro

E-mail: bridgette@enspire.co.nz

Note to person wishing to be a party

You must lodge the original and 1 copy of this notice with the Environment Court within 15 working days after–

- the period for lodging a notice of appeal ends, if the proceedings are an appeal; or
- the decision to hold an inquiry, if the proceedings are an inquiry; or
- the proceedings are commenced, in any other case.

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. The notice must be signed by you or on your behalf.

You must serve a copy of this notice on the relevant local authority and the person who commenced the proceedings within the same 15 working day period and serve copies of this notice on all other parties within 5 working days after that period ends.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

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