

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2020-AKL-093

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 River Catchments

BETWEEN **BALLANCE AGRI-NUTRIENTS LIMITED**
Appellant

AND **WAIKATO REGIONAL COUNCIL**
Respondent

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

To: The Registrar
Environment Court
AUCKLAND
Via email: WRC.PC1appeals@justice.govt.nz

1. Ravensdown Limited (**Ravensdown**) wishes to be a party to an appeal by Ballance Agri-Nutrients Limited (**Ballance**) 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 Ravensdown submitted and further submitted on the provisions of PC1 to which this appeal relates.
3. Ravensdown is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
4. Ravensdown has an interest in the following parts of the proceedings:
 - (a) Schedule C – Minimum farming Standards - Fertiliser Application (Clauses 6 and 7); and
 - (b) Consequential amendments to Schedule D1 – Part D (Standards) – Nutrient management, namely Clauses D(1)(d) and D(1)(f).
5. **Schedule C – Minimum farming standards – Fertiliser Application (Clauses 6 and 7) and Consequential Amendments to Schedule D1**
 - 5.1 The decisions version of PC1 introduced 'minimum farming standards' that were not proposed in the notified version of PC1. Compliance with the Schedule C standards are a condition of the permitted activity rules¹. In addition, compliance with some of the minimum farming standards are also a condition of the controlled, restricted discretionary and discretionary activity rules that apply to farming activities² (but not commercial vegetable production or land use change).
 - 5.2 The Schedule C minimum farming standards contains two standards that place fertiliser application restrictions on farming activities (Clauses 6 and 7). Clauses 6 and 7 of the minimum farming standards reads as follows:
 6. *Nitrogenous fertiliser is not applied at rates greater than 30kgN/ha per dressing.*
 7. *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.*

¹ Rules 3.11.4.1, 3.11.4.2 and 3.11.4.3.

² Rules 3.11.4.4, 3.11.4.6 and 3.11.4.7.

5.3 Ballance have appealed Clauses 6 and 7 of the minimum farming standards for the following reasons:

- (a) Clause 6 has been appealed on the basis that there is no scientific or other reasoning for the proposed 30kgN/ha per dressing fertiliser 'cap' incorporated into the standard. Ballance also questions the practicality of verification and auditing of this fertiliser application cap. Ballance requests that the fertiliser cap contained in Clause 6 is raised from 30kgN/ha to 50kgN/ha and that a mean rate, rather than absolute rate, is applied. Ballance states that research identifies that up to 50kg of nitrogen per hectare is an "*agronomically optimal application rate with a reasonably linear response for pasture growth up to that figure*"³. In addition, the proposed use of a 'mean rate' for the fertiliser cap accommodates the variable rate of fertiliser application that can be associated with different application technologies.
- (b) Clause 7 has been appealed on the basis that the '10 degrees Celsius' component of the standard has no scientific basis and is a departure from the 'Code of Practice for Nutrient Management (With Emphasis on Fertiliser Use)'⁴ (CoPNM), prepared by the Fertiliser Association in 2013. In relation to soil temperature and the timing of nitrogen fertiliser application, the CoPNM states:

*Nitrogen is not applied when the 10cm soil temperature at 9am is less than 6°C and falling (at these low soil temperatures plant nitrogen uptake is slow and there is greater risk of leaching loss).*⁵

5.4 For the above reasons, Ballance's appeal seeks the following amendment to Clauses 7 of Schedule C⁶:

6. *Nitrogen fertiliser is not applied at rates greater than ~~30~~ 50kgN/ha per dressing as a mean value.*
7. *During the months of June and July, No nitrogenous fertiliser is applied when the 10cm soil temperature at 9am is less than 6°C 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 In addition, Ballance's appeal⁷ also seeks the following:

Any consequential amendments to the proposed Plan Change which arise from the reasons for appeal or the relief sought.

5.6 Ravensdown considers that such a consequential amendment applies to Schedule D1 of PC1 which contains the same fertiliser application standard as that contained in

³ Paragraph 7(j) of Ballance's Notice of Appeal.

⁴ Available online - <http://www.fertiliser.org.nz/site/code-of-practice/>

⁵ This provision of the CoPNM is contained in the table titled 'best management practices for nitrogen (N) fertiliser use' in Section 5.2 (Fertiliser Use) of the CoPNM (refer to pp. 38 to 39).

⁶ In repeating the relief sought by Ballance, Ravensdown has ensured that the all the amendments sought by Ballance are shown in tracked changes (i.e., the amendments in the first part of the clause were not shown in tracked changes mode in Ballance's appeal notice).

⁷ At paragraph 8(b) of Ballance's appeal.

Clauses 6 and 7 of Schedule C of PC1. Clauses D(1)(d) and D(1)(f) of Schedule D1 reads as follows:

- d. Nitrogen fertiliser application rates to pasture are no greater than 30kg of N per hectare per dressing.*
- 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.*

5.7 Ravensdown is one of New Zealand's two manufacturers (and suppliers) of fertiliser, along with Ballance. In this context, and although Ravensdown did not appeal Clauses 6 and 7 of Schedule C, or Clauses D(1)(d) and D(1)(f) of Schedule D1, Ravensdown agrees with the concerns raised by Ballance in its appeal. Ravensdown therefore generally agrees with the issues raised by Ballance and supports the relief being sought.

6. Ravensdown agrees to participate in mediation or alternative dispute resolution of the proceedings.



Carmen Taylor

Planz Consultants Limited

On behalf of Ravensdown Limited

Dated: 22 September 2020

Address for service:

Planz Consultants Limited

C/o PO Box 266

CHRISTCHURCH 8140

Attention: Carmen Taylor

Consultant Planner (Associate)

Email: carmen@planzconsultants.co.nz

A copy of this notice has been served on the following parties:

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