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To:	Mailroom Mailbox
Cc:	Warwick Catto; Gavin Kemble
Subject:	Ballance Agri-Nutrients Limited - Submission to the Proposed Canterbury Air Regional Plan
Date:	Friday, 1 May 2015 5:20:52 p.m.
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SUBMISSION TO PROPOSED CANTERBURY AIR REGIONAL PLAN (FEBRUARY 2015)

TO:

Canterbury Air Regional Plan,
Environment Canterbury,
Freepost 1201,
PO Box 345,
Christchurch, 8140

BY E-MAIL:

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SUBMISSION ON:

to the Proposed Canterbury Air Regional Plan

NAME OF SUBMITTER:

Ballance Agri-Nutrients Limited

ADDRESS FOR SERVICE:

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Attention: Mr Warwick Catto

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1.0 INTRODUCTION

Ballance Agri-Nutrients Ltd (hereafter referred to as '**Ballance**', or '**the Company**') is a farmer-owned co-operative with over 18,000 shareholders and approximately 800 staff throughout New Zealand. We own and operate super-phosphate manufacturing plants located in Tauranga and Invercargill, as well as New Zealand's only ammonia-urea manufacturing plant located at Kapuni, South Taranaki. The Company also owns and operates the agricultural aviation company 'SuperAir', 'SealesWinslow' (a high-performance compound feed manufacturer), and the farm technology company 'AgHub' (which was previously called Farmworks Systems Limited'). Ballance places a strong emphasis on delivering value to its shareholders and on the use of the best science to inform sustainable nutrient management.

Ballance has a network of fertiliser storage and dispatch facilities ('**Service Centres**') across the country, three of which are located within the Canterbury Region. These service centres are dedicated facilities for the storage and redistribution of fertiliser, both in bulk and bagged form. Service Centres are manned by Ballance staff, and the larger stores often include mixing plants (for the supply of blended product), bagging facilities and weighbridges (for the accurate loading of trucks). The processing and blending of products within the Service Centres can generate discharges to air. The Company holds existing discharge permits that authorise these discharges.[1] These permits prescribe conditions relating to the management of dust within each site, which are governed by on site Dust Management Plans ('**DMPs**').

As part of the Company's distribution network, Ballance also has consignment stores in many locations through the country. These stores stock a range of Ballance fertiliser products. Within the Canterbury Region, there are 20 consignment stores that sell the Company's products.

This submission is made to the Canterbury Air Regional Plan (hereafter referred to as the '**proposed Air Plan**'). In preparing its submission Ballance has had regard to the National Environmental Standards for Air Quality 2004 ('**NESAQ**'), the operative Natural Resource Regional Plan ('**the NRRP**'), the operative Canterbury Regional Policy Statement ('**the CRPS**'), the Hazardous Substances and New Organisms (HSNO) Act 1996 (the '**HSNO Act**') (including the Fertilisers Group Standards) and the Resource Management Act 1991 (the **'Act**').

We note, for completeness, that this submission has been prepared by experienced planners from Ryder Consulting Limited ('**Ryder**'). Ryder is an environmental consultancy with a considerable experience in all facets of resource management, including in plan and policy reviews, submission and further submission preparation, and in the preparation and presentation of expert planning evidence before Councils, Boards of Inquiry and the Environment Court. Of note is that Ryder has been actively involved in development of the NRRP, the Canterbury RPS, and the proposed Canterbury Land & Water Regional Plan. We understand that Ryder has drawn upon that experience when preparing this submission.

[1] Includes discharge permits CRC010063 (Timaru Service Centre), CRC002065 (Rolleston Service Centre), CRC103937 (Ashburton Service Centre).

2.0 SUBMISSIONS

2.1.1 Section 5 - Objectives

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 5.0.

(b) Ballance broadly supports the objectives set out in section 5.0. The Company, however, notes that the overarching objectives set out in Section 5.0 of the Proposed Air Plan do not provide sufficient support for air discharges associated with large scale, industrial and trade activities.

(c) Objective 5.7 provides support for nationally and regionally significant infrastructure (which by definition under the Regional Policy Statement would not include Ballance's Service Centres). There is no specific emphasis, however, provided within section 5.0 to supporting industry and trade related activities that contribute directly to the economic, cultural and social wellbeing of communities across the region.

(d) While Policy 6.19 seeks to *"[e]nable discharges of contaminants into air associated with large scale, industrial and trade activities and nationally and regionally significant infrastructure"*, the lack of a supporting objective, means that less emphasis may be given to industrial and trade activities as part of future consenting processes. The Company further notes that it is not good planning practice to advance a policy, without any direct support from an objective, as this creates a disconnect between the issue, objective, and policy, typical of all statutory planning instruments. As in this case, the relationship between the issue and policy is not clearly identifiable.

(e) Ballance, therefore opposes (in part) to Section 5.0 and seeks that Policy 6.19, is directly supported with an objective which links back to enable operational discharges to air for industry and trade activities.

RELIEF SOUGHT

(a) That section 5.0 of the proposed Air Plan provide for the following amendment:
"Objective – Provide for industry and trade activities that rely on operational air discharges and that operate in accordance with industry best practice."

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.2.1 Section 6 – Policy 6.7

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 6.0.

(b) Ballance broadly supports the policy framework set out in section 6.0 of the proposed Air Plan. The Company is, however, concerned with the current wording of Policy 6.7 given that it is inconsistent with Objective 5.2.1(2)(i) of the Canterbury Regional Policy Statement ('**CRPS**'), which seeks to avoid conflicts between incompatible land use activities.

(c) The section 32 report supporting the proposed Air Plan in addressing Policy 6.7 states *"[i]t should be noted that this policy does not encourage or condone reverse sensitivity occurring, and it sits within the context of the Canterbury Regional Policy Statement which has as a cornerstone policy position, the avoidance of reverse sensitivity, and in the context of objectives anticipating appropriate location of both discharging and non-discharging*

activities. It is not anticipated that reverse sensitivity will occur within that context, but existing situations must be managed to ensure air quality provides for human health and wellbeing."[2]

(d) While the section 32 evaluation states that it is not anticipated that reverse sensitivity effects will occur in the context of Policy 6.7, the Company does not consider that the policy can be read any other way given that it refers to 'as a result of land use change' in the past tense.

(e) Given the foregoing, Ballance opposes (in part) Policy 6.7.

RELIEF SOUGHT

(a) That Policy 6.7 of the proposed Air Plan is amended as follows:

"Policy 6.7 Minimise the risk to Canterbury's communities by separating incompatible land use activities from existing industry that are reliant upon operational air discharges".

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.3.1 Section 6 – Policy 6.8

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 6.0.

(b) Ballance broadly supports the policy framework set out in section 6.0 of the proposed Air Plan, however, the Company is concerned with the current wording of Policy 6.8. The Company considers that the policy is poorly worded and is narrowly focussed given that it only addresses reverse sensitivity effects in relation to existing activities and not proposed activities.

(c) Objective 5.2.1(2)(i) of the CRPS seeks to seeks to avoid conflicts between incompatible land use activities. In this context the policy wording is broad enough to encapsulate existing and proposed land uses.

(d) Ballance, therefore opposes (in part) Policy 6.8.

RELIEF SOUGHT

(a) That Policy 6.8 of the proposed Air Plan is amended as follows:

"Policy 6.8 Where appropriate, provide longer consent duration for existing and proposed activities that are reliant upon operational air discharges and that are located in a manner that avoids the potential for reverse sensitivity effects."

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

[2] page 4/15 of the section 32 evaluation.

2.4.1 Section 6 – Policy 6.19

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 6.0.

(b) Ballance supports Policy 6.19 as it enables operational discharges undertaken by industrial and trade activities. In the context of Ballance's existing service centres and associated facilities, this provides ongoing operational certainty to the Company and is therefore supported.

RELIEF SOUGHT

(a) That Policy 6.19 be adopted as notified.

2.5.1 Section 6 – Policy 6.22

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 6.0.

(b) Ballance broadly supports the policy framework set out in section 6.0 of the proposed Air Plan, however, the Company is concerned with the wording of Policy 6.22 and the potential implications that this may have on its existing service centres.

(c) Policy 6.22 specifically controls PM_{10} discharges of contaminants. While the majority of dust particles discharged from the fertiliser manufacturing and storage facilities operated by Ballance are much larger than 10 microns, the policy could still potentially apply to Ballance's operations, associated with discharges generated through the mixing and blending of fertiliser products.

(d) In this regard, the Company notes that Policy 6.22 does not acknowledge or provide reference to discharge activities that may be governed by standards that seek to control products such as fertiliser. In relation to industry standards, on the 1st of July 2006 the Environmental Risk Management Authority (now the Environmental Protection Authority) announced the introduction of Fertilisers Group Standards ('**Fertiliser Group Standards**'). These standards outline conditions for managing risks associated with the manufacture, importation and disposal of fertilisers, as part of the HSNO. Ballance's fertilisers mainly have their approval number assigned under the Fertilisers (Subsidiary Hazard) Group Standards and, importantly the Company seeks to undertake its operations in accordance with these standards.

(e) Further more, in relation to best practice, the Fertiliser Industry Code of Practice for Nutrient Management 2007 ('**the Code**') places special emphasis on the use of manufactured fertilisers. In particular, the Code aims to ensure that fertilisers are used safely, responsibly and effectively, while avoiding or minimising adverse environmental effects.

(f) Given the foregoing, Ballance requests that Policy 6.22 be amended to specifically recognise standards governing the fertiliser industry.

(g) Ballance, therefore opposes (in part) Policy 6.22.

RELIEF SOUGHT

(a) That Policy 6.22 of the proposed Air Plan is amended as follows:

6.22 Within Clean Air Zones, significant increases of PM10 concentrations from discharges of contaminants are to be offset in accordance with the Resource

Management (National Environmental Standards for Air Quality) Regulations 2004. This policy shall not apply to facilities involving the handling and storage of fertiliser where products are approved under the Hazardous Substances and New Organisms Act 1996 and associated Regulations, and the use and discharge of the substance is in accordance with all conditions of the approval.

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.6.1 Section 6 – Policy 6.25

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 6.0.

(b) Ballance broadly supports the policy framework set out in section 6.0 of the proposed Air Plan, however, the Company seeks amendments to Policy 6.25 to replace the phrase "*occurs where appropriate management practice are used…*" with 'adopted industry best practice', given that this wording is more broadly applied.

(c) Ballance, therefore opposes (in part) Policy 6.22.

RELIEF SOUGHT

(a) That Policy 6.25 of the proposed Air Plan is amended as follows:

"6.25 The discharge into air of agri-chemicals and fertilisers occurs only where appropriate management practices, including the application of industry best practices are used to minimise the risk of affecting non-target locations."

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.7.1 Section 7 – Rule 7.38

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 7.0.

(b) Ballance broadly supports the rule framework set out in section 7.0 of the proposed Air Plan. The Company, however, seeks various amendments to rules to recognise and provide for instances where existing industries that rely on operational discharges are operating in accordance with industry best practice and employ mitigation options that manage nuisance effects associated with air discharges. Ballance considers that the proposed Air Plan should better recognise and provide for situations where air discharges are managed through industry best practice.

(c) In this regard, Ballance seeks amendments to Rule 7.38 to accommodate situations where the handling of bulk solid fertiliser materials is undertaken in accordance with HSNO Act and associated Regulations, such as the Fertiliser Standards.

(d) Ballance, therefore opposes (in part) Rule 7.38.

RELIEF SOUGHT

(a) That Rule 7.38 of the proposed Air Plan is amended as follows:

"7.38 The discharge of contaminants into air from the outdoor storage of bulk solid materials is a permitted activity provided the following conditions are met:

1. *The amount of material stored does not exceed 1000t when it has an average particle size of less than 3.5mm; and*
2. *The discharge does not cause a noxious or dangerous effect; and*
3. *Where the storage exceeds 200t, a dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and*
4. *The dust management plan is supplied to the CRC on request; and*
5. *The discharge does not occur within 100m of a sensitive activity, wāhi tapu, wāhi taonga or site of significance to Ngāi Tahu.*
6. *Where the outdoor storage involves fertiliser (and the products are approved under the Hazardous Substances and New Organisms Act 1996 and associated Regulations), the use and discharge of the substance is in accordance with all conditions of the approval and employs industry best practice."*

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.8.1 Section 7 – Rule 7.72

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 7.0.

(b) Ballance supports Rule 7.72 of the proposed Air Plan. The Company supports the approach adopted within the rule (permitted condition 1) referring back to Hazardous Substances and New Organisms Act 1996.

RELIEF SOUGHT

(a) That Rule 7.72 be adopted as notified.

2.9.1 Section 7 – Rule 7.74

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 7.0.

(b) Ballance supports, in part, Rule 7.74, however the Company notes that the rule appears to contain an error. The rule only refers to agrichemicals (which excludes fertilisers in the definition). As proposed Rule 7.72 includes fertilisers, any non-compliance with the conditions of this rule would trigger the need for a resource consent for a restricted discretionary activity (for fertiliser discharges under Rule 7.74).

(c) Given the foregoing, the Company seeks associated amendments to Rule 7.74 to address this apparent error.

RELIEF SOUGHT

(a) That Rule 7.74 of the proposed Air Plan is amended as follows:

"7.74 The discharge of contaminants into air from the application of agrichemicals or fertiliser that does not comply with one or more of the conditions of rules 7.72 and 7.73 is a restricted discretionary activity.

The exercise of discretion is restricted to the following matters:

1. *The substance to be discharged including its toxicity and volatility and the carrying agent (formulation); and*
2. *The proposed method of application, including the type of spray equipment to be used, the spray volume and droplet size, the direction of spraying and the height of release above the ground; and*
3. *The nature of any training undertaken by the operator; and*
4. *Measures to avoid agrichemical spray drift or fertiliser drift beyond the target site, including the adoption of industry best practice; and*
5. *The extent to which the use or application complies with NZS8409:2004 Management of Agrichemicals; and*
6. *Benefits to the community*
7. *The matters set out in rule 7.2."*

(b) Any similar amendments to like effect.

(c) Any consequential amendments that stem from the amendment set out above.

2.10.1 Section 7 – New Rule Specifically Addressing the Storage, handling and Manufacture of Fertilisers

(a) The specific provision of the proposed Air Plan that Ballance's submission relates to is Section 7.0.

(b) Ballance notes that the discharge of fertilisers contained within an existing storage facility appears to fall within a range of rules including Rules 7.15, 7.16, 7.29 or the default discretionary activity rule 7.59 (which refers to fertiliser handling and bulk manufacturing in the commentary box supporting this rule).

(c) On this basis, the Company considers that the proposed Air Plan offers limited transparency relating to the broad range of rules that could apply to Ballance's operations in Canterbury. Given the foregoing, the Company considers that the proposed Air Plan should be amended to provide a clearer rule framework addressing the handling, storage and manufacture of fertiliser.

RELIEF SOUGHT

(a) That Section 7.0 be amended through the inclusion of the following rule:

"7.29A Except where otherwise permitted or prohibited by rules 7.30 to 7.59 below, the discharge of contaminants to air associated with the handling, storage and manufacture of fertiliser products is a restricted discretionary activity.

The exercise of discretion is restricted to the following matters:

1. *The contents of the dust management plan to be implemented;*
2. *The intensity, duration and frequency of the discharge;*
3. *The offensiveness of the discharge;*
4. *The location of the of the discharge;*
5. *Where the products are approved under the Hazardous Substances and New Organisms Act 1996 and associated Regulations, the use and discharge of the substance is in accordance with all conditions of the approval and the site employs industry best practice; and*
6. *Term of consent."*

(b) Any similar amendments to like effect.

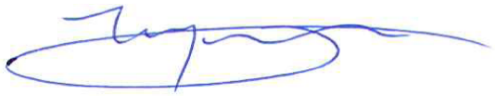
(c) Any consequential amendments that stem from the amendment set out above.

3.0 CONCLUSION

Ballance wish to be heard in support of this submission.

If others make a similar submission Ballance would consider presenting a joint case with them at any hearing.

Ballance cannot gain an advantage in trade competition through this submission.

Signature: pp 

for Warwick Catto, and on behalf of Ballance Agri-Nutrients Limited

Date: 1st May 2015.

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