

**From:** [David Greaves](#)  
**To:** [Mailroom Mailbox](#)  
**Cc:** [Nigel Bryce](#)  
**Subject:** Plan Change 5 Submission - Balance Agri-Nutrients  
**Date:** Friday, 11 March 2016 10:46:29 a.m.  
**Attachments:** [Ballance Agri-Nutrients Submission to PC5 CLWRP\\_V4.pdf](#)  
[ATT00001.htm](#)  
[ATT00002.htm](#)

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Please find attached the submission of Balance Agri-Nutrients to Canterbury Regional Council's Plan Change 5. Can you please confirm receipt of this submission.

Cheers



**SUBMISSION TO PROPOSED PLAN CHANGE 5 TO THE PARTIALLY OPERATIVE CANTERBURY LAND & WATER REGIONAL PLAN (FEBRUARY 2016)**

**TO:** Proposed Plan Change 5 to the Partially Operative Canterbury Land & Water Regional Plan (February 2016)  
Environment Canterbury  
PO Box 345  
**CHRISTCHURCH 8140**

**BY E-MAIL:** kevin.wood@ballance.co.nz

**SUBMISSION ON:** Proposed Plan Change 5 to the Partially Operative Canterbury Land & Water Regional Plan (February 2016)

**NAME OF SUBMITTER:** Ballance Agri-Nutrients Limited

**ADDRESS FOR SERVICE:** Ballance Agri-Nutrients Limited  
Hewletts Road, Mt Maunganui  
Private Bag 12 503  
Tauranga Mail Centre  
Tauranga 3143

Attention: Mr Kevin Wood

**Phone:** (07) 572 7841

## 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.

This submission is made to the provisions of Plan Change 5 ('**PC5**') to the partially operative Canterbury Land & Water Regional Plan ('**oLWRP**').

## 2.0 SUBMISSIONS

### 2.1.1 Management of nutrient losses through Environment Canterbury's Online Farm Portal – Plan Change 5

- (a) Ballance is supportive of the Good Management Practice (GMP) narrative to manage nitrogen and phosphorous loss for the range of farm systems in Canterbury. Our concern is in attaching precise numbers to the narrative. Computational models are only approximations of reality and the more complex the farm management system the harder it is to calculate accurately the potential nutrient losses. There are some farm management systems that do not lend themselves to OVERSEER®, so are likely to be unable to use the farm portal as it is currently proposed. Furthermore, Ballance contends that the modelling proxies for fertiliser and irrigation GMP's within the portal are fundamentally flawed.
- (b) The specific provision of PC5 that Ballance's submission relates to is the approach for assessing farming nutrient losses through the adoption of the Farm Portal within the regulatory context that is established by PC5. Ballance understands that the 'Farm Portal', as defined by PC5, is to sit outside of the oLWRP. While that is accepted, this mechanism is firmly ensconced in PC5, by virtue of it being used (alongside the Good Practice Modelling Rules set out in Schedule 28 and GMP modelling proxies<sup>1</sup>) to derive 'Baseline GMP Loss Rate' and 'Good Management Practice Loss Rate'.
- (c) Further, we note that the section 32 analysis underpinning PC5 sets out that the proxies are a critical part of the Portal GMP nutrient calculation, and the resulting numbers will have regulatory effect through policies and rules that reference the terms 'Baseline GMP Loss Rate' and 'GMP Loss Rate'.
- (c) Ballance is aware<sup>2</sup> that a number of GMP modelling proxies contain fundamental flaws.
- (d) A detailed analysis of the Farm Portal and in particular the proxies that are an integral part of Schedule 28 has been completed. This analysis has identified that the 'Fertiliser module' is fundamentally flawed.
- (e) While, the Company is not opposed, in principle, to the definitions of 'Baseline GMP Loss Rate' or 'Good Management Practice Loss Rate' as defined by PC5, the fact that both rates are estimated using the 'Farm Portal', and are referenced extensively throughout the proposed provisions introduced by PC5 is of significant concern to Ballance. Importantly, the

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<sup>1</sup> The GMP modelling proxies which translate the narrative GMP into parameters that can be modelled in OVERSEER®. The proxies are described in the MGM Overview report (MGM 2015b) and the supporting technical reports (Hume & Brown, 2015; Lilburne et al, 2015; Pinxterhaus, et al

<sup>2</sup> Alister Metherell (March 2016). Comments on Fertiliser modelling rules

Company considers that given the flaws within the fertiliser proxy this aspect of the Farm Portal should not be used in a regulatory context, especially where the failure to demonstrate compliance with the 'Baseline GMP Loss Rate' generates a prohibited activity status for farming operations in both the Red and Lake Zones. As discussed in submission 2.1.2 below, the Company considers this to be an inappropriate outcome that would not give proper effect to the purpose of the Resource Management Act 1991.

- (f) Given the foregoing, the Company considers that the Council should look to advance a more satisfactory modelling rule for determining 'Good Management Practice Loss Rate' when using the Farm Portal and one that provides for greater certainty for both plan users and land managers.
- (g) In order to remedy the existing shortcomings with the Farm Portal, Ballance considers that it is necessary for the Council to implement an independent peer review to revisit the detail set out in the Farm Portal to correct flaws and offer a solutions to the same. This independent peer review will need to be an appropriately qualified and experienced independent expert in nutrient modelling and one that is able to consider the implications of the Farm Portal when applied to the regional planning context within which the model is proposed to be applied. The Company considers that any outcome of this process would see the correction of any identified flaws, if possible, within the modelling proxies, such that they relate to, and are aligned with 'Good Management Practice'. The outcome of the peer review and the proposed solutions should then be shared with all submitters to this aspect of PC5 (including any changes to both policy and rule framework linked to the same) at least six weeks in advance of the further submissions period. While Ballance appreciates that there is still a degree of uncertainty as to whether it is possible to produce an algorithm to apply to all farms in Canterbury to generate a farm specific good practice fertiliser rate, the Company considers that the above mentioned peer review process is an appropriate pathway to follow, given the current limitation of the Farm Portal. Put another way, it would be unacceptable to advance a rule framework to a statutory planning instrument in the manner proposed when there are significant flaws in both the nutrient and irrigation proxies. As such, the Company considers the adoption of a peer review process to an acceptable pathway to follow and one that can be integrated within the current plan change process.
- (h) Further, Ballance understands that the Farm Portal does not work effectively for all farm systems, with cropping and arable farms still not able to be comprehensively assessed through the proposed Farm Portal. Ballance considers that this further calls into question the robustness of the Farm Portal. It also raises the need for certain farm systems to be able to be considered by an alternate assessment approach, other than the Farm Portal. As notified, PC5 does not adequately respond to this shortcoming.
- (i) Without certainty that the Farm Portal will create robust loss rates that accords with the modelling rules set out in Schedule 28, Ballance is opposed to the provisions that rely on the Farm Portal, and the Farm Portal mechanism itself.

#### **RELIEF SOUGHT**

- (a) That the Council adopt an amended rule framework (as discussed within submission point 2.1.2 below) that recognises the current weaknesses within the Farm Portal;
- (b) That the Council appoint an independent peer reviewer (who will need to be an appropriately qualified and experienced independent expert in nutrient modelling) to revisit the detail set out in the Farm Portal and determine if it contains flaws and offer solutions, if possible, to the same. The outcome of this process would see the correction of any identified flaws within the modelling proxies, such that they relate to, and are aligned with 'Good Management Practice'. The outcome of the peer review and the proposed solutions should then be shared with all submitters to this aspect of PC5 (including any changes to

both policy and rule framework linked to the same) at least six weeks in advance of the further submissions period;

- (c) That, in the interim, and until such time as the issues raised in relation to the Farm Portal have been suitably addressed, Council find a mechanism to retain the drafting gate function of the Farm Portal to allow farmers to determine whether they should follow the consented route or not; and that subsequent consents, Farm Environment Plans and audits should reflect the narrative GMP's recommended by industry and adopted by Council. Any changes as a consequence of this approach should then be shared with all submitters to this aspect of PC5 (including any changes to both policy and rule framework linked to the same) at least six weeks in advance of the further submissions period;
- (d) That the Council adopt an alternative pathway for those farm systems that are not able to be fully assessed by the Farm Portal, as notified. This pathway should be advanced as a further plan change to the provisions of the oLWRP. PC5 should not be advanced to the further submissions phase until the additional plan change sought in this submission has been publically notified, and the period for submissions has closed; and
- (d) Any similar and/or consequential amendments that stem from the changes and/or additions described above.

**2.1.2 Avoiding the granting of resource consent allowing N loss greater than the 'Baseline GMP Loss rate' in Lake or Red Zones (Policy 4.37 and Rules 5.48A and 5.52A)**

- (a) The specific provision of PC5 that Ballance's submission relates to is Policy 4.37 and supporting Rules 5.48A and 5.52A.
- (b) Policy 4.37 seeks that "freshwater quality is improved within the Lake Zone and Red Nutrient Allocation Zone by...(a) avoiding the granting of any resource consent that will allow the nitrogen losses from a farming activity to exceed the Baseline GMP Loss Rate, except where Policy 4.38A applies...". Rules 5.48A and 5.52A support Policy 4.37 and apply a prohibited activity status. The Company is opposed to the application of a prohibited activity status to both of these rules given both the flaws in the proxies applied within the Farm Portal and the fact there are farm management systems that do not lend themselves to OVERSEER®.
- (c) Uncertainties relating to the application of OVERSEER® in a regulatory context have been well canvassed through the development of the LWRP, especially when applying the margins of error within this model. Because of OVERSEER® version updates, the estimate of nitrogen losses from a property may change, despite no change in land use or intensity of the farming activity, and inadvertently result in different rules applying to the farming activity. From a landowners perspective this creates a high level of uncertainty as to where individual farming operations sit in terms of compliance with fertiliser rules. In terms of the implementation of the Farm Portal, with its associated identified flaws, Ballance is concerned that PC5 generates additional uncertainty for plan users and land managers. Further, the Company is concerned that the section 32 analysis supporting PC5 does not accurately weigh the implications of such flaws when applying a prohibited activity status under PC5. Put another way, the Council has not, in the Company's opinion, adequately assessed the social and economic costs of imposing this rule framework on farming activities, where they do not comply with the fertiliser proxy number specified in Schedule 28.
- (d) While Ballance appreciates that the application of a prohibited activity status is well entrenched within the oLWRP, the Company is none-the-less concerned that the implications of the flaws inherent within the Farming Portal have not been adequately considered. This lack of a detailed analysis of these flaws calls into question whether it is appropriate for the Council to apply a prohibited activity status to Rules 5.48A and 5.52A.

- (e) As the Council will appreciate, a prohibited activity is something that no resource consent application can be sought for. The severity of imposing a prohibited activity status cannot be understated, and that any suggestion that it be imposed requires a careful, full and considered assessment. The Company is concerned that the section 32 analysis provides for limited commentary of the adoption of a prohibited activity status supporting Rules 5.48A and 5.52A and as such considers that this has not been sufficiently justified.
- (f) The Company is opposed to the prohibited activity status introduced under Rules 5.48A and 5.52A and that in both cases a non-complying activity status be applied. A non-complying activity, while generating a very 'high bar' to meet, still at least provides an applicant the opportunity to put a case forward that an application accords with the purpose of the Act. Put another way, a consenting pathway is still open, albeit with a higher level of uncertainty. Ballance considers that this is an appropriate response to lessen the potential effects of the existing flaws identified within the Farm Portal.

#### RELIEF SOUGHT

- (a) That Policy 4.37 be amended as follows:

Policy 4.37 Freshwater quality is improved within the Lake Zone and Red Nutrient Allocation Zone by:

- (a) ~~avoiding~~ Provide for the granting of any resource consent that will allow the nitrogen losses from a farming activity to exceed the Baseline GMP Loss Rate, except where Policy 4.38A applies, and where the application is supported with a robust analysis demonstrating both the process and timeframes to achieve the Baseline GMP Loss Rate;....";
- (b) That Rules 5.48A and 5.52A are amended to include a 'non-complying activity' status to both rules; and
- (c) Any similar and/or consequential amendments that stem from the changes and/or additions described above.

#### 2.1.3 Update of Property Information under Rules 5.44A, 5.53A, 5.57B, 15B.5.14, and 15B.5.24

- (a) The specific provision of PC5 that Ballance's submission relates to is the update of Property Information under Rules 5.44A, 5.53A, 5.57B, 15B.5.14, and 15B.5.24.
- (b) Ballance is concerned that the above rules all require the updating of information every 24 months following registration with the Farm Portal.
- (c) As the Company has advanced in previous LWRP forums (including the pLWRP and Variation 1), nutrient budgets should be valid for at least three years, unless there is a 'material change' to the farm system. This matter was raised at length by Ballance within Variation 1 (LWRP Hearing), where the Commissioners recommended:

*"that clause (a) of Schedule 24 is amended so that an annual nutrient budget is prepared when there is a material change in the farming land use on a property. In the absence of a material change, the nutrient budget need only be prepared once every three years. However, in order to ensure the ongoing validity of the nutrient budget, we recommend that the input data used to prepare it is reviewed annually."*<sup>3</sup>

- (d) The section 32 analysis does not articulate the reason why 24 months has been adopted as the timeframe for updating information following registration with the Farm Portal, however

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<sup>3</sup> paragraph 486 of Commissioners decision on Variation 1 to LWRP.

the Company sees no reason why the above rule framework cannot be amended to reference to 36 months where there is no material change to farm systems. Consistent with Schedule 24 of Variation 1 to the LWRP, the PC5 provisions will need to be supported with a similar definition of 'material change' as set out in Schedule 24.<sup>4</sup>

- (e) Given the foregoing, the Company is opposed (in part) to the 24 month referenced in Rules 5.44A, 5.53A, 5.57B, 15B.5.14, and 15B.5.24.

#### **RELIEF SOUGHT**

- (a) That Rules 5.44A, 5.53A, 5.57B, 15B.5.14, and 15B.5.24 be amended to delete reference to '24 months' and replace with '36 months', and following this insert the words "unless there is a material change to the farm system."
- (b) That PC5 definitions section be amended to integrate reference to 'material change' consistent with that adopted within Schedule 24 of Variation 1.
- (c) Any similar and/or consequential amendments that stem from the changes and/or additions described above.

### **3.0 CONCLUSION**

The Company would be happy to meet with the Council and other submitters who raise similar issues to Ballance, to discuss its submission and the suggestions it makes within the same.

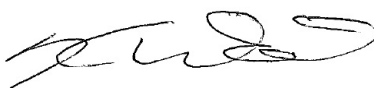
Ballance wish to be heard in support of this submission.

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.

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**Signature:**



Kevin Wood, for and on behalf of Ballance Agri-Nutrients Limited

**Date:** 11<sup>th</sup> March 2016.

**Address for Service:** Ballance Agri-Nutrients Limited  
Hewletts Road, Mt Maunganui  
Private Bag 12 503 Tauranga

Attention: Mr Kevin Wood

**Telephone:** (07) 572 7841

**E-mail:** kevin.wood@ballance.co.nz

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<sup>4</sup> Schedule 24 of variation 1 defines 'material change' as "being a change exceeding that resulting from normal crop rotations or variations in climatic or market conditions".



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