

IN THE ENVIRONMENT COURT  
AT AUCKLAND

ENV-2020-AKL-000093

I MUA I TE KOOTI TAIAO O AOTEAROA  
TĀMAKI MAKĀURAU

IN THE MATTER of the Resource Management Act 1991

A N D

IN THE MATTER of an appeal pursuant to clause 14(1) of the First  
Schedule of the Act

BETWEEN **BALLANCE AGRI-NUTIRENTS LIMITED**

*Appellant*

A N D **WAIKATO REGIONAL COUNCIL**

*Respondent*

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**NOTICE OF PERSON'S WISH TO BE PARTY TO PROCEEDINGS**

Section 274 Resource Management Act 1991

29 September 2020

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**FEDERATED  
FARMERS**  
OF NEW ZEALAND

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Laura Jeffries

To: The Registrar  
Environment Court  
Auckland

Federated Farmers of New Zealand Inc ("**Federated Farmers**") wishes to be a party to the following proceedings:

**Ballance Agri-Nutrients Limited v Waikato Regional Council**  
**ENV-2020-AKL-000093**

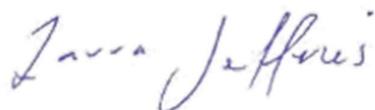
Federated Farmers made a submission about the subject matter of the proceedings.

Federated Farmers is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.

Federated Farmers is interested in all the proceedings.

1. Federated Farmers represents farmers in the Waikato and Waipā Rivers Catchment.
2. Federated Farmers has appealed the decision to on Proposed Waikato Regional Council Plan Change 1 – Waikato and Waipā River Catchments ("**PC 1**"), as amended by the Hearing Panel, in its entirety, i.e. the decision as it relates to the introduction and all of the objectives, policies, methods, rules, definitions and schedules.
3. Federated Farmers supports sustainable management of resources and the use of regulatory and non-regulatory measures to maintain or enhance water quality, and to restore and protect the health and wellbeing of the Waikato and Waipā Rivers. However, Federated Farmers considers that the regulatory and non-regulatory methods proposed in PC1 do not appropriately give effect to the relevant higher order documents, have not appropriately balanced environmental, economic, social and cultural considerations, and are not the most efficient and effective means of achieving the objective of the plan change.
4. Federated Farmers is interested in all the issues raised by the Appellant.

5. Federated Farmers supports in part and opposes in part the relief sought by the Appellant.
6. Without limiting the generality of the above, an explanation of the issues that Federated Farmers has particular interest in is set out in **Appendix A**.
7. Federated Farmers agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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N J Edwards / L F Jeffries

Counsel for Federated Farmers

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## APPENDIX A

Provision Appealed	Reasons for Appeal	Relief Sought	Support/Oppose	Support/Oppose
<b>Schedules</b>				
<p><b>Schedule B – Nitrogen leaching loss rate for FMUs</b></p> <p><b>Table 1: Nitrogen Leaching Loss Rate levels</b></p>	<p><b>Clause 3</b> The Appellant supports the ability to use approved alternatives to Overseer but says that Schedule B, Clause 3, does not provide enough detail on how equity and data consistency for outputs between models will be ensured.</p> <p><b>Table 1</b> The Appellant supports the use of a Nitrogen Leaching Loss Rate (“<b>NLLR</b>”), however it notes in its appeal that output values for farms will likely change with updated versions of Overseer. This has the potential to impact where a farm falls within the proposed bands identified in Table 1 of Schedule B (Nitrogen Leaching Loss Rate levels). The Appellant says it is concerned that farms at the margins of a NLLR band could, with a new version of Overseer, be pushed into a different band without having altered their farming system.</p>	<p><b>Clause 3</b> That clarification is provided in Schedule B on the approval process for Overseer alternatives to ensure consistency of outputs between different models.</p> <p><b>Table 1</b> That clarification is provided in Schedule B for addressing potential impacts of changes in NLLR number for farms due to new versions of Overseer.</p>	<p>Support in part Oppose in part</p>	<p><b>Clause 3</b> Federated Farmers supports the ability to use approved alternatives to Overseer. Federated Farmers is concerned that prescribing an approval process for Overseer alternatives would further limit the alternative models that could otherwise be determined appropriate. Federated Farmers considers that if there are concerns as to how models other than Overseer will be considered (and by who), this could be clarified through the development of an implementation plan that is developed by Council in consultation with stakeholders.</p> <p><b>Table 1</b> Federated Farmers supports in principle the Hearing Panel’s decision to adopt a NLLR as a drafting gate to assess the activity status of some farming activities (as opposed to using a reference point or benchmarking land uses).</p> <p>Federated Farmers is concerned that the nitrogen leaching numbers in Table 1 are expressed as absolute values. The relevance of these numbers to the original intention will change over time, depending on Overseer version change. The experience in other catchments that have adopted absolute nitrogen leaching limits in regional plans is that there has been a significant change through Overseer version change.</p>

				Federated Farmers considers that Table 1 ought to be amended to provide for the ability to update the nitrogen loss rates in Table 1 as Overseer version changes, such as a reference file approach, without the need to rely on future plan changes.
<b>Schedule C – Minimum farming standards</b>	<p><b>Clause 6</b> The Appellant considers that total nitrogen outputs should form the basis for assessing on-farm losses rather than solely focusing on one input being fertiliser. Use of supplementary feed for stock can lead to greater use of imported feed which would result in a similar nitrogen loss impact. The Appellant notes that focusing on reducing fertiliser application may not provide the desired reduction in leaching. The Appellant also questions the practicality of verification and auditing of the nitrogen cap.</p> <p>The Appellant considers that if a cap is to be retained then it should be raised to 50kgN/ha as a mean rate. The use of a mean rate is considered necessary to enable the use of variable rate fertiliser application technology (for ground and aerial spreading).</p> <p>The Appellant says that there is no scientific or other reasoning provided as to why the figure of 30kg of nitrogen per hectare was selected by the Hearing Panel above any other.</p>	<p><b>Clause 6</b> That the 30kgN/ha per dressing cap is removed from PC1 and a focus is placed on total nitrogen outputs on-farm or alternatively should the Plan Change continue to require a nitrogen cap, that Clause 6 is amended as follows:</p> <p>Nitrogen fertiliser is not applied at rates greater than <del>30</del> 50kgN/ha per dressing <u>as a mean value.</u></p> <p><b>Clause 7</b> That Clause 7 is amended to reflect the established CoP as follows: During the months of June and July, no nitrogenous fertiliser is applied <u>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.</u></p>	Support in part Oppose in part	<p><b>Clause 6</b> Federated Farmers agrees that 30kgN/ha per dressing is unduly restrictive as a minimum standard to apply everywhere.</p> <p><b>Clause 7</b> Federated Farmers considers that clause 7 is too restrictive as a minimum standard and ought to be deleted. However, in the instance that PC1 requires a minimum standard regulating the timing of nitrogenous fertiliser application it should be based on the CoP.</p>

	<p>The Appellant says that there is established scientific research that identifies rates of up to 50kg of nitrogen per hectare as the agronomically optimal application rate with a reasonably linear response.</p> <p><b>Clause 7</b> The Appellant says the Code of Practice for Nutrient Management (<b>CoP</b>), referenced in Schedule D1, Part D of the Decisions Version, states (under Timing of Application) that <i>“Nitrogen is not applied when the 10cm soil temperature at 9am is less than 6°C and falling.”</i></p> <p>The Appellant says that there does not appear to be scientific justification for the 10°C figure stipulated in Clause 7 and departure from the established CoP. There is also not clear method provided or referenced for determining the soil temperature.</p> <p>The Appellant is concerned that if, in the Waikato, the figure of 10 degrees is audited against, data from NIWA illustrates that for Taupō this could equate to a 5 month period, and for Hamilton a 3 month period when temperatures are below 10 degrees and so, if those 3 or 5 months include significant rainfall, it could be argued that nitrogenous fertiliser should not be used during those longer periods. The Appellant</p>			
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	considers that this would have significant impacts on stock feed production potentially leading to greater use of imported feed which would result in a similar N loss impact.			
<p><b>Schedule D1 - Requirements for Farm Environment Plans for farming under Rule 3.11.4.3</b></p> <p><b>Schedule D2 - Requirements for Farm Environment Plans for farming that requires consent</b></p> <p><b>Table 3.11-3 – Sub-catchment Application Date</b></p>	<p>The Appellant considers the timescales for developing FEPs should be correlated to the available capability and capacity of CFEPs and notes that the scheme for CFEPs is still in the process of being established.</p> <p>The Appellant also considers that the focus should be on securing FEPs for high risk operations first to make the greatest gains towards the plans' intent of halting degradation.</p>	That timeframes for providing FEPs be reconsidered to focus firstly on priority areas and operations where the greatest gains can be achieved and reflect the practical capacity and capability of CFEP resources.	Support	<p>Federated Farmers supports the prioritisation of the dates for application of resource consents and FEPs and, in principle, supports such an approach based on targeting priority sub-catchments. However, Federated Farmers has concerns that the volume of consents and FEPs is still likely to be significant and agrees with the Appellant that there is real risk that there will be insufficient capability and capacity (by CFEPs and Council) to ensure they are all processed.</p> <p>Federated Farmers also has concerns that there are still some sub-catchments that have been given a higher priority than they should have (and vice versa).</p> <p>Federated Farmers supports the relief that the timeframes for providing FEPs be reconsidered and that these timeframes reflect the practical capacity and capability of resources.</p> <p>Federated Farmers also supports that the priority of sub-catchments also be reconsidered and prioritised appropriately.</p>