

# Written Submission on Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021

## To: Otago Regional Council

### 1. Name of submitter

Ballance Agri-Nutrients Limited ('BAN')

2. This is a submission on the **Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021**.

3. **BAN could not** gain an advantage in trade competition through this submission.

4. **BAN is** directly affected by an effect of the subject matter of the submission that

a. adversely affects the environment; and

b. does not relate to trade competition or the effects of trade competition.

5. **BAN wishes** to be heard in support of my submission.

6. If others make a similar submission, **BAN will** consider presenting a joint case with them at a hearing

### 7. Submitter Details

#### a. Signature of submitter



#### b. Signatory name, position, and organisation

**Name:** Dominic Adams

**Position:** Environmental Manager

**Organisation:** Ballance Agri-Nutrients Limited

#### c. Date

29<sup>th</sup> of November 2022

**Address for service of submitter** *(This is where all correspondence will be directed)*

**d. Contact person** *(name and designation, if applicable)*

Dominic Adams, Environmental Manager, Ballance Agri-Nutrients Limited

**e. Email:**

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027 801 9320

**g. Postal address** *(or alternative method of service under [section 352](#) of the Act):*

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Tauranga 3143

**8. BAN's submission is divided into two parts, as follows:**

**Part A:** Introduces BAN, its activities and shareholders; and

**Part B:** Sets out the specific submissions and relief sought by BAN.

BAN seeks the relief set out in this submission, including such other additional, alternative or consequential relief as may be necessary to give effect to the changes sought.

## **Part A: Ballance Agri-Nutrients Limited**

Ballance Agri-Nutrients Limited (**'BAN'** or **'the Company'**) is a farmer-owned co-operative with over 19,000 shareholders and approximately 800 staff throughout New Zealand. BAN owns and operates 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 'Super Air' and 'SealesWinslow' (a high-performance compound feed manufacturer). In addition to this, BAN owns and operates two Service Centres which supply fertiliser to farms in Otago. Together with manufacturing and sales, BAN provides farm sustainability services including nutrient management advice. As a company, BAN places a strong emphasis on delivering value to our shareholders and on the use of the best science to inform sustainable nutrient management.

Reinforcing this, BAN has extensive interest in the development of tools to manage nutrient losses on farms. BAN, with Ag Research, has undertaken extensive research into 'MitAgator' which is a GIS-based water quality decision support tool that links with OVERSEER® to refine the latter models output. The use of management tools such as MitAgator, provides greater insight into the spatial variability of nutrient (as well as sediment and microbial) loss within a farm landscape and allows users to identify critical source areas (or 'hot spots') for nitrogen, phosphorus, sediment and microbial loss across their own farm. Targeted application of mitigation and management strategies to these critical source areas help to provide more cost-effective environmental management solutions for farmers, while ensuring that effective water quality outcomes can be achieved in timeframes that recognise the socio-economic impacts of changing farm management practices.

In light of these matters, BAN has a direct interest in the Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021 (**'fp pRPS'**).

BAN supports the intent of the fp pRPS which includes an overall aim to protect and restore water quality in rivers, lakes and aquifers within the Otago Region in line with the requirements of the National Policy Statement on Freshwater Management 2020 (**'NPS FM'**). BAN recognises that improving the quality of freshwater for human and animal consumption, as well as recreation, is a priority for New Zealand. BAN also recognises that farmers support this - with a large number of them, who BAN is involved with, already implementing measures and planning further mitigations to reduce nutrient and contaminant losses from their farms.

**Part B** of this submission addresses the proposed freshwater planning provisions that are relevant to the interests of BAN.

## Part B: Reasons for Submission and Decisions Sought by Ballance Agri-Nutrients Limited ('BAN')

Specific Provisions	Support / Oppose / Amend	Reasons for Submission	Relief Sought
<p><b>LF-WAI-O1 – Te Mana o te Wai</b></p> <p>The mauri of Otago’s water bodies and <i>their health and wellbeing is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:</i></p> <p><i>(1) water is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,</i>  <i>(2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,</i>  <i>(3) each water body has a unique whakapapa and characteristics,</i>  <i>(4) water and land have a connectedness that supports and perpetuates life, and</i>  <i>(5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.</i></p>	Support	<p>BAN supports LF-WAI-O1.</p> <p>BAN recognises that Te Mana o te Wai is a central concept for freshwater management. This concept is strengthened and clarified through the National Policy Statement for Freshwater Management 2020 (the ‘<b>NPS FM</b>’), by providing direction on how Te Mana o te Wai should be applied when managing freshwater. As such, BAN considers that this objective is consistent with the already established direction that is provided within the NPS FM, with particular regard to how Councils must give effect to Te Mana o te Wai.</p>	<b>Retain LF-WAI-O1 – Te Mana o te Wai, as notified.</b>
<p><b>LF-WAI-P1 – Prioritisation</b></p> <p><i>In all management of fresh water in Otago, prioritise:</i></p> <p><i>(1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,</i>  <i>(2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and</i></p>	Amend	<p>BAN generally supports LF-WAI-P1.</p> <p>BAN considers that this policy is consistent with the already established direction and hierarchy of Te Mana o te Wai that is provided within the NPS FM. BAN accepts that the hierarchy is enshrined within an operative planning instrument that sits above the Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021 (‘<b>fp pRPS</b>’) and thus, that the fp pRPS needs to give effect to the hierarchy in a regional context. It follows, therefore, that BAN supports the proposed policy, noting that it provides clarity with respect to how both the Otago Regional Council and the community are intended to approach freshwater. This, in the Company’s opinion, is necessary to promote appropriate resource use.</p> <p>Having provided submissions to the previous proposed RPS process and having reviewed the submissions, Officer’s report summary and pre-hearing consultation evidence to the same, BAN understands that it is important to recognise that te</p>	<p><b>Amend LF-WAI-P1 – Prioritisation, as follows:</b></p> <p><b>LF-WAI-P1 – Prioritisation</b>  <i>In all <del>management decision making affecting</del> of fresh water in Otago, prioritise:</i></p> <p><i>(1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and <u>the connections with</u> te hauora o te taiao, <del>and together</del> <u>with</u>-the exercise of mana whenua to uphold these,</i>  <i>(2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming</i></p>

<p><i>(3) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.</i></p>		<p>hauora o te wai is connected to te hauora o te taiao. This is consistent with the description of Te Mana o te Wai in clause 1.3(1) of the NPS FM, as follows:</p> <p><i>“Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment.”</i></p> <p>Similarly, following on from the pre hearing discussions to the proposed RPS, BAN also understands that te hauora o te tangata forms part of the relationship with and between te hauora o te wai and te hauora o te taiao. This is also described in clause 1.3(1) of the NPS FM:</p> <p><i>“Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.”</i></p>	<p><i>harvested resources) and immersive activities (such as harvesting resources and bathing), and</i></p> <p><i>(3) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.</i></p>												
<p><b>LF-VM-P5 – Freshwater Management Units (FMUs) and rohe</b></p> <p><i>Otago’s fresh water resources are managed through the following freshwater management units or rohe which are shown on MAP1:</i></p> <table border="1" data-bbox="118 820 566 1129"> <thead> <tr> <th><b>Freshwater Management Unit</b></th> <th><b>Rohe</b></th> </tr> </thead> <tbody> <tr> <td>Clutha Mata-au</td> <td>Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha</td> </tr> <tr> <td>Taieri</td> <td>n/a</td> </tr> <tr> <td>North Otago</td> <td>n/a</td> </tr> <tr> <td>Dunedin &amp; Coast</td> <td>n/a</td> </tr> <tr> <td>Catlins</td> <td>n/a</td> </tr> </tbody> </table>	<b>Freshwater Management Unit</b>	<b>Rohe</b>	Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha	Taieri	n/a	North Otago	n/a	Dunedin & Coast	n/a	Catlins	n/a	<p>Support</p>	<p>BAN supports LF-VM-P5.</p> <p>BAN considers that the proposed management of FMUs or rohe, as demonstrated on MAP1, is appropriate. In this regard, the Company is of the opinion that the division of the Clutha Mata-au FMU into rohe is practicable and will enable targeted solutions and consultation in decision making.</p>	<p><b>Retain LF-VM-P5 - Freshwater Management Units (FMUs) and rohe, as notified.</b></p>
<b>Freshwater Management Unit</b>	<b>Rohe</b>														
Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha														
Taieri	n/a														
North Otago	n/a														
Dunedin & Coast	n/a														
Catlins	n/a														
<p><b>LF-VM-P6 – Relationship between FMUs and rohe</b></p> <p><i>Where rohe have been defined within FMUs:</i></p> <p><i>(1) environmental outcomes must be developed for the FMU within which the rohe is located,</i></p>	<p>Amend</p>	<p>BAN generally supports this policy.</p> <p>BAN considers that it is crucial to ensure that attribute states, limits and action plans are set in consultation with both Kāi Tahu and the community for both FMUs and for rohe. BAN notes that those that may be particularly affected by the setting of environmental outcomes, attribute states and limits include those that have existing consented takes or discharge permits. Further, BAN highlights that the</p>	<p><b>Amend LF-VM-P6 – Relationship between FMUs and rohe, with minor amendments, as follows:</b></p> <p><b>LF-VM-P6 – Relationship between FMUs and rohe</b></p> <p><i>Where rohe have been defined within FMUs:</i></p>												

<p>(2) if additional environmental outcomes are included for rohe, those environmental outcomes:</p> <p>(a) set target attribute states that are no less stringent than the parent FMU environmental outcomes if the same attributes are adopted in both the rohe and the FMU, and</p> <p>(b) may include additional attributes and target attribute states provided that any additional environmental outcomes give effect to the environmental outcomes for the FMU,</p> <p>(3) limits and action plans to achieve environmental outcomes may be developed for the FMU or the rohe or a combination of both,</p> <p>(4) any limit or action plan developed to apply within a rohe:</p> <p>(a) prevails over any limit or action plan developed for the FMU for the same attribute, unless explicitly stated to the contrary, and</p> <p>(b) must be no less stringent than any limit set for the parent FMU for the same attribute, and</p> <p>(c) must not conflict with any limit set for the underlying FMU for attributes that are not the same, and</p> <p>(5) the term “no less stringent” in this policy applies to attribute states (numeric and narrative) and any other metrics and timeframes (if applicable).</p>		<p>setting of any environmental outcomes, attribute states and limits also presents risks to potential future land use changes, or intensification.</p> <p>BAN considers an amendment to clause 2 of this policy is necessary, so that it clarifies that any target attribute states and any additional environmental outcomes set for rohe are undertaken in consultation with Kāi Tahu and the community. Further, BAN considers that an amendment to clause 3 is also required to ensure that any limits and action plans to achieve environmental outcomes developed for the FMU or rohe (or combination) occur in consultation with those that may be impacted. Without this involvement, BAN considers that it seems improbable that the limits or action plans will be embraced and supported. In turn, without support, it seems improbable that the outcomes sought by this Policy will be achieved. Given this, BAN considers that these changes (to clauses 2 and 3) are in keeping with the direction provided by the RMA and the associated fp pRPS methods and assist in adding clarity within the provisions of the fp pRPS, that consultation must occur.</p> <p>BAN also seeks other minor changes to clauses 2, 3 and 4, that it considers, assist in providing clarity within the provision.</p>	<p>(1) environmental outcomes must be developed for the FMU within which the rohe is located,</p> <p>(2) if <u>any additional rohe-specific environmental outcomes are included for rohe, those environmental outcomes:</u></p> <p>(a) <u>must set target attribute states in consultation with Kāi Tahu and the community</u> that are no less stringent than the parent FMU environmental outcomes if the same attributes are adopted in both the rohe and the FMU, and</p> <p>(b) may include additional attributes and target attribute states provided that any additional environmental outcomes give effect to the environmental outcomes for the FMU,</p> <p>(3) limits and action plans to achieve environmental outcomes, <u>including by achieving target attribute states,</u> may be developed for the FMU or the rohe or a combination of both, <u>in consultation with Kāi Tahu and the community</u></p> <p>(4) any limit or action plan developed to apply within a rohe:</p> <p>(a) prevails over any limit or action plan developed for the FMU for the same attribute, unless explicitly stated to the contrary, and</p> <p>(b) must be no less stringent than any limit <u>or action plan</u> set for the parent FMU for the same attribute, and</p> <p>(c) must not conflict with any limit <u>or action plan</u> set for the <u>underlying parent FMU</u> for attributes that are not the same, and</p> <p>(5) the term “no less stringent” in this policy applies to attribute states (numeric and narrative) and any other metrics and timeframes (if applicable).</p>
<p><b>LF–FW–08 – Fresh water</b></p> <p><i>In Otago’s water bodies and their catchments:</i></p> <p>(1) the health of the wai supports the health of the people and thriving mahika kai,</p> <p>(2) water flow is continuous throughout the whole system,</p> <p>(3) the interconnection of fresh water (including groundwater) and coastal waters is recognised,</p>	<p>Amend</p>	<p>BAN supports the intent of this objective.</p> <p>It is acknowledged that the health of wai supports (in turn) the health of people.</p> <p>BAN considers that this objective is consistent with the already established direction that is provided within the NPS FM, with particular regard to the following policies:</p> <ul style="list-style-type: none"> <li>• Policy 8, which requires that ‘the significant values of outstanding water bodies are protected’ and;</li> </ul>	<p><b>Amend LF–FW–08 – Fresh water as follows:</b></p> <p><b>LF–FW–08 – Fresh water</b></p> <p><i>In Otago’s water bodies and their catchments:</i></p> <p>(1) the health of the wai supports the health of the people, <u>their connections with water bodies</u> and thriving mahika kai,</p>

<p>(4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and</p> <p>(5) the significant and outstanding values of Otago's outstanding water bodies are identified and protected.</p>		<ul style="list-style-type: none"> <li>Policy 9, which requires that 'the habitats of indigenous freshwater species are protected'.</li> </ul> <p>As highlighted previously, having provided submissions to the previous proposed RPS process and having reviewed the submissions, Officer's report summary and pre-hearing consultation evidence to the same, BAN seeks minor amendments to LF-FW-08, to both provide clarification within the provision so as to be more consistent with the terminology used within the NPS FM, and to provide for those instances that water flow is unable to be maintained continuously.</p>	<p>(2) <del>water flow is continuous throughout the whole system within catchments (ki uta ki tai), artificial interruption of water flow is minimised,</del></p> <p>(3) the interconnection of fresh water (including groundwater) and coastal waters is recognised,</p> <p>(4) <del>native-indigenous freshwater species fish</del> can migrate easily and as naturally as possible and taoka species and their habitats are protected, and</p> <p>(5) the significant and outstanding values of Otago's outstanding water bodies are identified and protected.</p>
<p><b>LF-FW-09 – Natural wetlands</b></p> <p>Otago's natural wetlands are protected or restored so that:</p> <p>(1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,</p> <p>(2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands,</p> <p>(3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and</p> <p>(4) their flood attenuation capacity is maintained.</p>	Amend	<p>BAN generally supports this objective.</p> <p>BAN considers that this objective is consistent with the already established direction that is provided within the NPS FM, this, in the Company's opinion, is appropriate, as it is important that the fp pRPS has direct and transparent links to the NPS FM.</p> <p>However, BAN understands that the the NPS FM allows for a loss of values in certain circumstances (refer to Subpart 3, 3.21 of the NPS FM), as such, BAN seeks minor changes to clauses 2 and 3 to reflect this.</p>	<p><b>Amend LF-FW-09 – Natural wetlands as follows:</b></p> <p><b>LF-FW-09 – Natural wetlands</b></p> <p>Otago's natural wetlands are protected or restored so that:</p> <p>(1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,</p> <p>(2) there is <del>no</del> minimal decrease in the <del>range extent</del> and diversity of indigenous ecosystem types and habitats in natural wetlands,</p> <p>(3) there is <del>no</del> minimal reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if <u>these have been</u> degraded they are improved, and</p> <p>(4) their flood attenuation capacity is maintained.</p>
<p><b>LF-FW-P7 – Fresh water</b></p> <p>Environmental outcomes, attribute states (including target attribute states) and limits ensure that:</p> <p>(1) the health and well-being of water bodies is maintained or, if degraded, improved,</p> <p>(2) the habitats of indigenous species associated with water bodies are protected, including by providing for fish passage,</p> <p>(3) specified rivers and lakes are suitable for primary contact within the following timeframes:</p>	Amend	<p>BAN generally supports this policy.</p> <p>As highlighted with regard to LF-VM-P6 above, BAN considers that it is crucial to ensure that environmental outcomes, attribute states and limits are set in consultation with both Kāi Tahu and the community – in particular, those that may be particularly affected by the setting of environmental outcomes, attribute states and limits, such as those that have existing consented takes or discharge permits. BAN considers that this will enable both Kāi Tahu and the community to not only shape how the environmental outcomes, attribute states and limits are set, but also to have buy in. Given this, BAN seeks a change to the chapeau to the policy. BAN also seeks a change to clause 2 to use terminology that is more consistent with the NPS FM (refer to Policy 9 and section 3.26).</p>	<p><b>Amend LF-FW-P7 – Fresh water, as follows:</b></p> <p><b>LF-FW-P7 – Fresh water</b></p> <p>Environmental outcomes, attribute states (including target attribute states); <u>environmental flows and levels,</u> and limits <u>are set in consultation with Kāi Tahu and the community to ensure that:</u></p> <p>(1) the health and well-being of water bodies is maintained or, if degraded, improved,</p>

<p>(a) by 2030, 90% of rivers and 98% of lakes, and  (b) by 2040, 95% of rivers and 100% of lakes, and  (4) mahika kai and drinking water are safe for human consumption,  (5) existing over-allocation is phased out and future overallocation is avoided, and  (6) fresh water is allocated within environmental limits and used efficiently.</p>			<p>(2) the habitats of indigenous <i>freshwater</i> species <del>associated with water bodies</del> are protected, including by providing for fish passage,  (3) specified rivers and lakes are suitable for primary contact within the following timeframes:  (a) by 2030, 90% of rivers and 98% of lakes, and  (b) by 2040, 95% of rivers and 100% of lakes, and  (4) mahika kai and drinking water are safe for human consumption,  (5) existing over-allocation is phased out and future overallocation is avoided, <del>and</del>  (6) fresh water is allocated within environmental limits and used efficiently.</p>
<p><b>LF–LS–P21 – Land use and fresh water</b></p> <p><i>Achieve the improvement or maintenance of freshwater quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</i></p> <p>(1) <i>reducing direct and indirect discharges of contaminants to water from the use and development of land, and</i></p> <p>(2) <i>managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</i></p>	<p>Amend</p>	<p>BAN generally supports this policy.</p> <p>It is noted however that BAN and its shareholders would not be able to operate without some form of discharge to water, whether directly or indirectly. BAN and its shareholders aim to employ best management practices to reduce direct and indirect discharge of contaminants to water from the use and development of land. BAN as a Company is continually looking at measures to reduce its environmental impact and help shareholders to do the same.</p> <p>Given this, the Company considers that, while recognising the need to minimise direct and indirect discharge of contaminants to water, existing authorised activities that are operating within the bounds of their resource consents, must be provided with some certainty that they will be able to continue to operate and develop as necessary. It is also acknowledged that this assurance will allow the community time to consider and develop alternative arrangements and implement further management practices to reduce direct and indirect discharges, as practicable. BAN seeks minor changes. Both, to be consistent with the terminology used within the higher order planning documents, including the NPS FM and to add clarity within the provision.</p>	<p><b>Amend LF–LS–P21 – Land use and fresh water, as follows:</b></p> <p><b>LF–LS–P21 – Land use and fresh water</b></p> <p><i><del>Achieve the improvement or maintenance of freshwater quantity or quality</del> <u>The health and well-being of water bodies is maintained or, if degraded, improved</u> to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</i></p> <p>(1) <i>reducing <u>or otherwise managing the adverse effects of</u> direct and indirect discharges of contaminants to water from the use and development of land <u>to meet environmental outcomes</u>, and</i></p> <p>(2) <i>managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</i></p>