

TNZ Growing Products Ltd and Scobie Family Trust Date Received: 4 / 9 /17
Summary of Evidence Luke McSorley

1. TNZ and SFT are involved in the peat mining industry in Southland. Their submissions were focussed on the wetland provisions of the pSWLP. Neither of the submitters opposed regulation of wetland modification.
2. Their submissions did seek and support changes to Rule 74 (c) and (b) that would make modification of a wetland (other than a regionally significant wetland) a discretionary activity and the addition of a new policy providing recognition that wetland modification may be appropriate in certain circumstances.
3. In my opinion the modification of wetlands should be regulated under the pSWLP but as outlined in my evidence I think the rule should regulate some forms of wetland modification as discretionary. In Appendix 1 of my evidence I have provided an amended Rule 74 consistent with the matters discussed in my evidence.
4. As noted in my client's submissions not all wetlands in Southland contain the same values some are unmodified others highly modified. Artificial or constructed wetlands are also present and construction of new wetlands is likely to increase given the policy direction of the pSWLP and benefits they can provide regarding water quality.
5. Areas of natural wetland have been greatly reduced in Southland as land development has occurred. However, there are still many permanently or intermittently wet areas that meet the pSWLP definition of wetland. In my experience, there are often situations where modification of 'wet' areas may be required or proposed beyond the scenarios identified in Rule 74 (a) and (b). This can include modification associated with large scale infrastructure projects through to smaller scale on farm works.
6. The pSWLP as notified adopts a position whereby any wetland modification other than the exemptions of Rule 74 (a) and (b) is not generally anticipated by the Plan. Policy 33 provides policy direction on wetland modification and aims to "*prevent the reduction in area, function and quality of wetlands, including through drainage and vegetation removal*". The words '*prevent the reduction in area*' provide relatively strong policy direction where activities proposing wetland modification are proposed that I interpret as meaning no reduction in areas of wetland.
7. Non-complying activity status is generally used in a regional plan for situations where it is intended that resource consents only be granted in exceptional circumstances. In my opinion, wetland modification is likely to be proposed in many unexceptional circumstances over the lifetime of the pSWLP.

8. The submitters also sought addition of a new wetland policy which is linked to requested changes to Rule 74 and provides some 'balance' in relation to wetland modification at a policy level in terms of Policy 33. Policy 33A as suggested by the submitters seeks to recognise that modification of wetland not identified as regionally significant may be appropriate where adverse effects can be avoided, remedied or mitigated. The suggested policy and changes to Rule 74 provide an 'out' where the adverse environmental effects of wetland modification are not deemed significant. As noted above the wording of Policy 33 aims to prevent a reduction of wetland area. In some situations, a proposal may also have positive effects on the natural or physical environment and the changes would also allow better recognition of these situations.
9. Discretionary activity status still provides Council with full discretion to consider actual and potential adverse environmental effects of wetland modification and any other relevant matters. If justified an ecological assessment or other expert reports could be requested. It allows Council to consider applications of differing scale and environmental effects without lumping most wetland modification into non-complying status. Discretionary activity status provides recognition that issues around wetlands and wetland modification are not clear cut. In my opinion the changes sought are more likely to achieve better environmental outcomes and provide flexibility for all parties involved in a resource consent process (including applicants, council and affected parties).
10. The suggested changes to Rule 74 would still regulate wetland modification but recognises that given the range of wetland types present in Southland (significant, natural, modified, highly modified and constructed) modification may be appropriate in certain circumstances. The Tuturau example provided in the further submission of SFT details situation where discretionary activity status could possibly achieve a better environmental outcome than non-complying.
11. A change to discretionary activity status and addition of the suggested policy would still enable the Council in undertaking its functions under the RMA to recognise and provide for the relevant matters of national importance Section 6 (a), (c) and (e). It would also enable the Council to manage water in an integrated and sustainable way as required under the National Policy Statement for Freshwater Management 2014 (NPSFW) and in a manner consistent with the policy direction of the pSWLP.

Luke McSoriley

Planner

4 September 2017