
Form 13: Submission on application concerning resource consent

Resource Management Act 1991

To: Environment Southland

Name of submitter: Director-General of Conservation (the **Director-General**)

This is a submission on an application from Tarora Southern Trust (the **Applicant**) for a resource consent (APP-20233491).

Description of activity: To construct a fence and maintenance track to exclude wild animals to allow for enhancement and regeneration of a natural inland wetland.
This includes:

Land Use Consent for vegetation clearance, earthworks and land disturbance to construct a fence and maintenance track (*wetland utility structure*) within a wetland; and

Water Permit to dam, divert and discharge water associated with the maintenance track construction.

Trade competition: I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991

My submission relates to: The whole application

My submission is: I oppose the application.

The Director-General's interest in the Application

1. The Director-General of Conservation (the **Director-General**) has all the powers reasonably necessary to enable the Department of Conservation (**DOC**) to perform its functions.¹ The Conservation Act 1987 (the **CA**) sets out DOC's functions which include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of

¹ Refer section 53 Conservation Act 1987

recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage.² Section 2 of the CA defines 'conservation' to mean *'the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation'*.

Reasons for the Director-General's submission

2. I am not convinced that the assessment of effects is sufficient and that the Proposal is consistent with related provisions of the Southland Water and Land plan.
3. The Applicant has provided insufficient information, and I am concerned that the proposal does not adequately identify and address:
 - a. The potential adverse effects on indigenous biodiversity, including but not limited to:
 - i. Terrestrial indigenous biodiversity,
 - ii. Freshwater indigenous biodiversity,
 - b. How the proposal will avoid, remedy, or mitigate potential adverse effects;
 - c. How the proposal will achieve the development objectives in terms of the proposed restoration of the wetland area;
4. The decisions sought in my submission are required to ensure that, the decision-maker:
 - a. recognises and provides for the matters of national importance listed in Section 6 of the Resource Management Act 1991 (the **Act**); and
 - b. has particular regard to the intrinsic values of ecosystems as required in Section 7(d) of the Act.
 - c. has particular regard to the National Policy Statement for Freshwater Management (NPS-FM).

Freshwater indigenous biodiversity

5. The Director-General is concerned that the Application does not adequately address the actual or potential effects on freshwater indigenous biodiversity. This is because the Director-General considers that the AEE does not adequately identify potential effects on these values. There has not been adequate assessment of the ecological values of the receiving environment.
6. The proposed activity will occur within a natural inland wetland that is described in the Assessment of Environmental Effects (AEE) by Dr C L Newell of Korowai Ecology as having

² Conservation Act 1987, section 6.

high ecological value. The wetland is approximately 375,000m² in size. Approximately 5,500m² of native vegetation will be disturbed to create the fence line and track, equating to 1-2% of the wetland area. This still represents the loss or damage of an ecologically significant wetland.

7. The application³ identifies the wetland communities along the proposed fence line and track in terms of the significance assessment criteria under Appendix 3 of the Southland Regional Policy Statement. The application identifies that six of the seven vegetation communities have ecological significance at the site. This reflects the rare status of many of these communities, the high diversity of wetland communities and the sensitivity of wetland communities to disturbance. Bog pine shrubland is considered a “Threatened” habitat. Red tussock wetland and red tussock grassland are classified as “At-Risk”. The remaining three wetland communities are considered “rare” wetland habitat types.
8. However, there is a lack of assessment on freshwater values in the information provided. The AEE states that small native fish are likely to live in the small creeks in the centre of the wetland but are unlikely to be present along the proposed fence line⁴. Records from the NZ Freshwater Fish Database for the Whitestone River catchment (which The Pocket drains into) include several species with a threat ranking of Threatened, Nationally Vulnerable. It is considered necessary that the application include a more detailed assessment of freshwater fish in the area due to the high number of threatened species found within the Whitestone River catchment. The mitigation proposed should then be focussed on the habitats impacted for freshwater species present or likely to be present. The protection of habitats of indigenous freshwater species is required under Policy 9 of the NPS-FM.
9. It is noted that while the proposed fence and track will not intercept permanently or intermittently flowing rivers and streams, the Director-General is concerned about the potential impacts of hydrological changes that may alter drainage and water flow patterns as a result of the proposal, which will in turn affect the wetland area. This information is important as it is one of the restricted discretionary matters identified under the National Environmental Standards for Freshwater (Regulation 56).

Terrestrial Indigenous Biodiversity

10. The application site is surrounded on three sides by public conservation land known as the Snowdon Forest Conservation Area. The Conservation Area contains a diverse range of habitats that support Threatened and At-Risk indigenous plant and animal species.

³ Section 5.2 Habitat Assessment, pages 22-26

⁴ Section 4.5, page 20

11. The application notes that it is possible that indigenous lizard species (southern grass skink and the cryptic skink – At-Risk Declining) are present. It is noted that both species inhabit a range of habitats including wetlands. However, there has been no survey work undertaken and therefore there is no ability to determine the effects on indigenous lizards or whether the proposed mitigation will avoid, remedy or mitigate those effects.
12. The application also identifies that bats may be present in adjacent forests near the proposed fence line. However, there are no further details about whether bat habitat will be affected by the proposed indigenous vegetation clearance and whether any mitigation is proposed, particularly during construction of the fence and associated track to protect bats and their habitat.

Proposed Mitigation and Conditions

13. Section 8 of the application discusses the proposed mitigation and “offset” measures to enhance the conservation values of the large wetland habitat in The Pocket. The attached site planting plan provides details of the mitigation which includes:
 - a. removal of willow trees along the unnamed stream,
 - b. removal of the weed ragwort,
 - c. restoration and enhancement of the conservation values and ecological environment of the wetland by:
 - i. excluding wild animal pests from the wetland with a fence,
 - ii. restoration planting within the area previously underneath the shallow lake,
 - iii. planting of tall native sedges along the old lakebed margin and scattered patches and restoration plantings to improve habitat for native waterfowl and other native fauna.
14. In respect of the mitigation proposed, it is noted that the removal of willow trees will change the patterns of shading along the banks of the unnamed stream and planting *Carex* may allow for other weeds to invade. The planting of larger trees to provide shade along the stream in addition to planting two rows of pukio as proposed, is recommended. As noted above, this may need to be further adapted if additional information on the freshwater values, including freshwater species of the wetland are identified.
15. It is considered that monitoring for weed incursion across the whole site will be important to identify any new species in the early invasion curve as part of the weed removal monitoring.
16. It is noted that the type of proposed fence will only keep out deer and pigs. Therefore, I support the proposal to carry out pest control within the site and the proposed condition (if consent is approved), to submit a Pest Management Plan, which addresses measures for the

eradication of deer and feral pigs as well as rats, possums, mustelids, and feral cats within the 'predator free area' including the ongoing monitoring of animal pest species within the area.

17. There is no information or conditions proposed for the long-term monitoring and maintenance of the proposed fence. This is considered important as if the fence is compromised, it would not achieve its purpose of preventing wild animals from entering the site in the long term and therefore the identified benefits to the wetland would be lost.

Decision sought

18. I seek the following decision from the Council:

- a. That the consent authority **declines the application in accordance with s 104(6) of the Resource Management Act 1991**, given the shortcomings identified above;
- b. If the consent authority is minded to grant the application, that it imposes the following requirements:
 - i. further ecological assessments to accurately identify the ecological significance and that this is used as the starting point for effects assessments, and to inform and quantify offsets and compensation, and
 - ii. suitable conditions and compensation to address my concerns.

19. I also seek such alternative and/or additional relief as may be necessary and appropriate to address my concerns.

I do wish to be heard in support of my submission.

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



John Lucas

Manager Operations

Te Anau

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Date: 3 December 2024

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

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Department of Conservation