

Jacob Paget

From: Andrew Braggins s 9(2)(a)
Sent: Thursday, 8 July 2021 8:46 am
To: Max Gander-Cooper
Cc: Nick Mattison; Alvin Jung; Tamsin Gorman
Subject: FW: 4 Scott Road Peer Review [BS-SAGA.FID7406]
Attachments: Scott_Road_Wetland_Review_FINAL.pdf

Importance: High

MFE CYBER SECURITY WARNING

This email originated from outside our organisation. Please take extra care when clicking on any links or opening any attachments.

Kia ora Max,

Please see **attached** a copy of the Boffa Miskell ecological peer review, which unequivocally supports Bioresearches methodology:

Our review confirms that Bioresearches have applied the wetland delineation protocols correctly and appropriately to the feature at 4 Scott Road, and we confirm that the feature does not meet the test for 'wetland vegetation' and does not meet the NPS-FM definition of a 'natural wetland'.

Although we haven't been provided with a copy of the Council's feedback, I am advised by Alvin Jung (cc'd on this email) that Auckland Council ecologists have not attended any site visits and so we anticipate that Auckland Council's feedback is based on an aerial photo.

With respect, looking at an aerial photo with some LIDAR information overlaid is a completely inadequate means for determining whether an area is a wetland, particularly where an analysis of the flora of the pasture species is required. The Environment Court has been clear about the importance of expert witnesses undertaking site visits across a number of decisions (and Council Commissioners follow a similar approach). I cannot see there being any reasonable prospect that any decision-maker preferring a 'gut fee' view from an aerial photo over Bioresearches detailed report and confirmation of their methodology from a highly respected ecologist.

Accordingly, my view is that MfE and the Minister has good evidential grounds to conclude that the area is not a wetland and can confidently and reasonably conclude that the proposed work in this area is not a prohibited activity.

If there are any residual concerns, they would be best resolved by the Minister directing in his decision that the applicant provide an ecological report and wetland assessment as part of any application to the EPA. That was how the Minister addressed concerns from the Council about traffic and visual assessment for the Nola application.

As always, happy to discuss with you if there are other concerns arising.

Regards

Andrew

Andrew Braggins
Partner



Berry Simons Environmental Law

Level 1, Old South British Building, 3-13 Shortland Street, Auckland
PO Box 3144, Shortland Street, Auckland 1140
T 09 969 2300 **D** 09 909 7310 **M** s 9(2)(a) **F** 09 969 2304
W berrysimons.co.nz

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7 July 2021

Andrew Braggins
Berry Simons Environmental Law
Level 1,
Old South British Building,
3-13 Shortland Street,
Auckland

Boffa Miskell

Dear Andrew

4 Scott Road – Wetland Assessment Review

Introduction

Aedifice Development Limited have applied to the Minister for the Environment (MfE) for a fast-tracked process under the Covid-19 Fast Tracking legislation. Auckland Council have requested that an assessment be carried out of a particular area of the site at 4 Scott Road, and to ascertain whether this feature is a 'natural wetland' under the National Policy Statement for Freshwater Management 2020.

Boffa Miskell Limited (BML) have been commissioned to provide a peer review of the wetland assessment carried out at 4 Scott Road, Auckland. The wetland assessment is a memorandum dated 28 June 2021 and prepared by Bioresearches. Our purpose is to review the method of wetland delineation that has been applied to the wetland assessment. We note that a site visit has not been undertaken as part of this review. We refer to the area in question as the 'feature' to be assessed.

The feature

Bioresearches describe the feature as a slight depression within a field where surface water can pool intermittently following heavy or sustained rain. We understand from the Bioresearches assessment that the feature is located in the middle of a paddock dominated by pasture and is less than 2 ha in size. From the photographs of the area accompanying the wetland assessment we would concur with this description. We also note that Bioresearches are very clear that the feature has only one major vegetation type and strata.

Methods applied

The wetland assessment undertaken by Bioresearches included:

- A site visit (undertaken on 21 October 2020)
- Examination of historical imagery (from 1940, 2017 and 2021).
- Application of the MFE wetland delineation method.

Review of assessment method

We confirm that the following wetland delineation protocols were applied.

- The method appears to have been applied during normal circumstances with no recent disturbances to the area.
- A single 2x2 standard plot was undertaken. This meets the delineation protocol as the feature is a small area and only one major vegetation type and strata was present.
- A hydrophytic vegetation determination was undertaken as per the wetland delineation protocol. In this circumstance the Rapid Test, Dominance Test and the Prevalence Test have all been applied.

We note that the wetland delineation protocol includes a step for the investigation of presence of hydric spoils and wetland hydrology. We note that such a hydric soil assessment was not undertaken as part of the wetland delineation at 4 Scott Road.

However, the wetland delineation protocol is clear that the presence of hydric soils is not a determinative step when it states 'The Vegetation Tool applies the Dominance Test and the Prevalence Index to a plant community to determine whether the vegetation is hydrophytic (wetland). When the Vegetation Tool is used on its own, both the Dominance Test and the Prevalence Index are required to be satisfied for the site to be categorised as a wetland. In the absence of wetland soil and hydrology tools, these two plant-based tests applied in tandem are considered to provide the on-site quantitative data necessary for delineating wetlands and their boundaries.'

As such the test for hydric soils is not in itself a determinative step. Our own experience of applying the wetland delineation protocol is that the test for hydric soils is beneficial in determining the boundaries of a wetland feature, when the outcome of the application of the vegetation test has determined that a natural wetland is present.

We confirm that Bioresarches have applied the wetland delineation protocols to the feature at 4 Scott Road correctly and appropriately.

Outcomes

Bioresarches make it clear that the delineation 'tests' were applied to the plot data. The outcome confirms the following:

- Rapid Test - Fail
- Dominance Test – Pass
- Prevalence Test – Fail.

Accordingly, the feature at 4 Scott Road does not meet the NPS-FM definition of a natural wetland.

Conclusion

Our review confirms that Bioresarches have applied the wetland delineation protocols correctly and appropriately to the feature at 4 Scott Road, and we confirm that the feature does not meet the test for 'wetland vegetation' and does not meet the NPS-FM definition of a 'natural wetland'.

Yours sincerely

BOFFA MISKELL LTD



Dr Ian Boothroyd FRSB FEIANZ CEnvP
Senior Principal Ecologist

Mobile: s 9(2)(a)

E-mail: s 9(2)(a)

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