



# The Department of Conservation Biodiversity Offsetting Programme

*BBOP Webinar - 13 September 2012*

# ***The purpose and objectives of the DOC Biodiversity Offsetting Programme***



- The NZ Department of Conservation (DOC) was granted funding through the Royal Society's Cross Departmental Research Pool (CDRP) in 2009, in order to **investigate the feasibility of biodiversity offsetting in New Zealand**. The 3-year CDRP research programme ended at the end of June 2012.
- To date, the understanding and application of biodiversity offsets in New Zealand has been ad hoc and variable. The Department recognised it was in a position, through its science-led research programme, to develop and provide best-practice guidance to help promote a better understanding and better application of biodiversity offsets nationally.
- The CDRP programme represented an opportunity for the Department of Conservation to partner with other government departments and private sector participants in investigating how a **robust, measurable and transparent** biodiversity offsetting mechanism may be developed in New Zealand, providing best-practice methodologies, that result in a positive **net gain for biodiversity**.
- The programme has been overseen by a Governance Group comprised of five central government departments.

# ***The purpose and objectives of the DOC Biodiversity Offsetting Programme***



- The objectives of the research programme, as agreed to by the Governance Group, were to:
- Devise objective measures to compare biodiversity at impact and offset sites;
- Devise a cost-effective mechanism to establish that there has been no net loss in biodiversity at impact and offset sites;
- Identify places where biodiversity can be restored to achieve a net gain, via a transparent re-creation or enhancement process;
- Define biodiversity trade and exchange equity issues across time, location, and ecological similarity;
- Understand the utility of different offset measures by testing their ability to achieve equity across a range of contrasting scenarios;
- Establish that biodiversity offsets can be effectively implemented, through partnering with entities who have volunteered pilot case study projects to develop and test an agreed measurement system.

# *Research programme*

- The objectives of the research programme have been met by 21 research contracts over the past 2 years.
- The focus has shifted from fairly academic research, to more of an applied science / implementation focus – this has affected the direction of travel of the Programme.
- The Programme has worked hard to ensure continued stakeholder engagement and buy-in throughout the process. (Lesson learnt from BBOP!)
  - Technical Specialist Ecologists' Group – met 5 times.
  - Partnered with private sector groups to facilitate engagement and raise awareness.
  - Much stakeholder engagement over the last year – approx 15 conferences / forums.



# Research programme (2)



The objectives of the research programme have been met through papers on (inter alia) -

- Thresholds framework regarding the appropriateness of offsetting
- How to calculate losses and gains to ensure a No Net Loss offset
- Practical measures to overcome barriers to successful implementation
- The role of monitoring and compliance in ensuring successful offsetting outcomes
- Offsets for developers (x3) – measurement of data on pilot case study sites, comparison across currencies, and an analysis of findings.
- A summary report comparing and contrasting the findings across the 3 pilots.
- The issues and challenges involved in setting up a market for biodiversity offset credits in New Zealand.
- Setting an appropriate Discount Rate for biodiversity offsets in NZ.
- Technical inputs regarding uncertainty modelling and application of the Ecological Integrity model for the Biodiversity Offsets Programme pilot project case studies
- Comparative analysis of Contact HMR offset against BBOP Standard

Some of the more compelling research papers may be found at:

<http://www.doc.govt.nz/publications/conservation/biodiversity-offsets-programme/research-papers/>



# ***Biodiversity offsets as a decision-support tool***

Depends very much on relevant statute – Resource Management Act 1991 (for private land, has sustainable *management* focus) or Conservation Act 1987 (for activities on DOC land) and/or Crown Minerals Act 1991 (controls the management of Crown owed minerals).

Application of offsets in NZ most relevant to the RMA – but even then, it doesn't explicitly provide for offsets. Only requirement is our equivalent of the mitigation hierarchy, which is that a development project must '*avoid, remedy, or mitigate any adverse effects of activities on the environment*'.

The decision-maker is able to consider a proposed biodiversity offset as part of their consideration of a resource consent application.

However, unless there are specific provisions in a regional or district plan, there are *no statutory tests* around whether or not, or in what circumstances, offsetting is appropriate and sufficient or for that matter necessary, for a development proposal to be granted a resource consent.

Biodiversity offsetting can also be helpful for RMA processes because, rather than lumping effects together and describing their overall magnitude and producing an overall mitigation package of supposedly corresponding value, the biodiversity offset approach requires *each adverse effect to be explicitly identified and addressed* with a specific mitigation activity.

# *DOC's position on offsetting*

- If you voluntarily choose to design an offset as part of your mitigation strategy, we can suggest what would represent a *best-practice* offset
- Not a *permissive methodology* – will not necessarily gain you a consent / concession
- No intention (or mandate!) to *regulate* offsetting



# Legislative Context (1)

Ref. the recent Transmission Gully Board of Inquiry Draft Decision Report (4 May 2012):

- ❑ *“Agree that in designing the ecological mitigation package the aim should be no net loss of biodiversity and preferably a net gain (and the Biodiversity Offsetting principles underlying this).*
- ❑ A key element of the concept of no net loss is a **detailed assessment of the ecological environment and the effects which a project might have on it, accompanied by a principled assessment quantifying the value of biodiversity offsets and the extent of gains which are required to offset losses in biodiversity.**
- ❑ The package of offsetting measures proposed by the Applicants in these proceedings **constituted mitigation of the effects (as opposed to some other form of environmental compensation).**”



## ***Legislative Context (2)***

- ❑ “Ultimately the adequacy of mitigation proposed (whether biodiversity mitigation or otherwise) is ***always a matter which is subject to debate and determination by a consent authority.***
  
- ❑ **We do not believe that it is a requirement of RMA that no net loss be achieved in any given case.** The principle of sustainable management requires a broad consideration of a range of sometimes competing factors.
  
- ❑ A consent authority is entitled to conclude that consent ought be granted to a proposal notwithstanding that all adverse effects of the proposal have **not** been avoided, remedied or mitigated. In other words there may be a net loss of some values or aspects of the environment. The significance of that loss and its *weighting* against the benefits of any given proposal is **a matter to be determined by a consent authority** applying s5(2) RMA.”



## ***Legislative Context (3)***

- ❑ ‘Horizons One Plan’ recent Environment Court hearing - weaves together the six separate plans and Regional Policy Statements into one document. Decision Sept 2012 on Indigenous Biological Diversity – agreed with DOC’s submission that *“in developing a planning framework, there is the opportunity to clarify that offsetting is a possible response following minimisation – or mitigation – at the point of impact”*. (Went against previous Transmission Gully decision flattening hierarchy).
- ❑ The Court accepted DOC’s position that *“mitigation and compensation not required to meet the principles of biodiversity offsetting is even less certain to deliver desired biodiversity outcomes”*.
- ❑ The Court concluded that the BBOP Principles are a *“sound basis for policy”* and that their provision *“better provide for maintaining indigenous biodiversity”*.
- ❑ Decision sets a clear precedent, and will likely have knock-on effect on other policy formation.





# Proposed National Policy Statement on Indigenous Biodiversity

## POLICY 5

- “... local authorities must manage the effects of activities through district and relevant regional plans...to **ensure ‘no net loss’** of biodiversity of areas of significant indigenous vegetation and significant habitats of indigenous fauna by:
  - a. avoiding adverse effects
  - b. where adverse effects cannot be avoided, ensuring remediation
  - c. where adverse effects cannot be remedied, ensuring mitigation
  - d. where adverse effects cannot be adequately mitigated, **ensuring any residual adverse effects that are more than minor, are offset** in accordance with the principles set out in Schedule 2.

For the avoidance of doubt, in accordance with the principles of Schedule 2, there are **limits to what can be offset** because some vegetation or habitat and associated ecosystems, is **vulnerable or irreplaceable**. In such circumstances **off-setting will not be possible** and local authorities will need to take full account of residual adverse effects in decision-making processes.



# ***Guidance on Best-Practice Biodiversity Offsetting***

DOC is developing *Guidance on Best-Practice Biodiversity Offsetting*.

Has support of Governance Group. (i.e. not “DOC’s” Guidance; but “NZ Govt” Guidance.)

Will include guidance on:

- Key steps necessary for a successful biodiversity offset
- Fit with New Zealand legislation
- Interpretation of BBOP Standard in NZ
- ‘Offsetting’ vs ‘compensation’
- Best practice on key components of biodiversity offsetting (appropriateness thresholds / currencies / discount rate)
- Additionality
- Monitoring and enforcement

Guidance has been released in draft form for feedback from Ecologists’ Group and internal policy advisers. Hope to release for targeted stakeholder feedback by end-Sept. Hope to have our in final form before Christmas!

# ***Technical Support Tool***

Will include guidance on:

- Feasibility analysis – Initial development/project site assessment  
Options to mitigate residual adverse effects
- Decision to investigate biodiversity offsetting – scale of impact, principles, and landscape context
- Suitability for biodiversity offsetting
- Assessment of ecological importance (i.e. Risk Assessment Matrix: based on irreplaceability and vulnerability)
- Desktop Assessment Tool: scoring system and explanation
- Worked example
- Glossary and legal definitions





# ***E.g.: Thresholds framework regarding the appropriateness of offsetting***

## **1. Research contract commissioned:**

The Biodiversity Consultancy (TBC) has produced a *report on appropriate limits to biodiversity offsets*, and thresholds of risk below these limits. This report assesses what types and magnitudes of offsets are unlikely to be offsetable, and what categories of lesser risk exist below such a 'non-offsetable' threshold. TBC developed a globally generic framework and then applied it to the New Zealand national context and a number of relevant case studies.

## **2. Output of research:**

*Guidance* for both decision-makers and developers incorporated into Best-Practice Guidance on a burden of proof classification which identifies the degree of evidence required to demonstrate assurance that an offset is possible / that no net loss can be achieved.

# *Work with BBOP*

- The BOP has supported two pieces of mutually-beneficial research (TBC paper on appropriateness thresholds and Gardner and von Hase paper on Key ingredients to assess No Net Loss). Abbreviated versions of both papers to be published in conservation journals.
- BBOP Principles incorporated into NPS on Indigenous Biodiversity
- Proposed Mokihinui hydro case – assessed against BBOP Principles; found not met
- Hosted Dr Amrei von Hase to speak at EDS Conference and present to stakeholder groups on international experiences
- 3x pilot case studies under BOP – two have also signed up as BBOP members



# *Future role of offsetting?*



- The accompanying Cabinet Paper to the draft NPS-B suggested NZ-specific guidance on offsets should come out of the DOC programme.
- The release of the Best-Practice Guidance on Biodiversity Offsetting is *not contingent* upon the status of the proposed NPS-B.
- Green Growth Advisory Group Report – one of recommendations is that the Government should create a *nationally consistent biodiversity offsetting regime* that will facilitate projects for economic growth and, at the same time, deliver net gains to New Zealand's biodiversity and environmental quality. No real movement on this yet.

# *(Some!) key lessons learnt*



- Balance between robustness of science (and speed of delivery of research!) and practical application thereof will always be a tension. Need to clearly define goals at outset.
- Global and local conversations about challenges are very much the same!
- Need to be clear on what it is you're trying to do here – are we trying to *design offsets*? Or are we trying to secure *better conservation outcomes*? Tempting to use offsetting as a 'silver bullet' for all that needs to be addressed in decision-making process.
- Technical advice needs to be clearly scoped and defined. Culture of loose evolution of research makes for indeterminate outcomes.
- Key obstacle to expeditious delivery is lack of political will – although there is no guarantee that a legislated / compliance regime will result in better biodiversity outcomes.
- Still a huge amount of distrust and suspicion regarding offsetting – especially from within Department. 'Old' messages regarding lack of successes proving hard to dislodge. Once people *get* that offsetting is not about a) allowing for projects that would otherwise have been considered inappropriate, or b) circumventing the mitigation hierarchy, then they seem to be engaged and enthusiastic about the opportunities it may provide. This has proved to be a laborious process, however – maybe made easier by having a guidance document to refer to?
- Still a fair amount of nervousness about pseudo-regulation – should be assuaged by Guidance (explicit that it's not regulation!) Hard to find balance between being firm on the DOC 'brand' of offsets (i.e. *No Net Loss* offsets) and flexible enough to allow for early movers – as seems to have been the experience of the development of the BBOP Standard.

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(More at:

**<http://www.doc.govt.nz/publications/conservation/biodiversity-offsets-programme/> )**

