

Submission

To the Department of Conservation

In response to a briefing on a proposed approach to the development and review of conservation management strategies (3 Feb 2011)

Introduction

1. Straterra Inc was formed in 2008 to be a collective voice for the New Zealand resource sector. Its membership represents 84% by value of New Zealand minerals production (excluding oil & gas, and geothermal), as well as exploration, research, service and support. Straterra also works closely with the petroleum sector, and has links to the geothermal sector.
2. The resource sector makes a significant contribution to the New Zealand economy. Oil, gas, coal, gold, aggregates and other minerals contributed \$2.15 billion to GDP in 2008, compared to the wine industry (\$0.45bn), and tourism (\$6.66bn). Resource exports in 2009 earned \$3.6bn (8.2% of total goods exports) while dairy in that year was \$10bn, and overseas tourism, \$9.3bn. In 2009 there were 6800 people employed directly in mining, and 8000, indirectly, flowing from the economic activity of the 6800. The median wage for a mining employee was \$57,320 in 2008, compared to the New Zealand median of \$33,530 (ref. 1).
3. Minerals production (excluding oil & gas and geothermal) by value was close to \$2 billion in 2009, divided between: coal (\$710 million), gold and silver (\$673m), aggregates (\$425m) and ironsands (\$163m), (ref. 2).
4. Some 56 mines operate on public conservation land (ref. 3), subject to conditions: under Resource Management Act 1991 consents, access arrangements under the Crown Minerals Act 1991, and, potentially, concessions under Part IIIb of the Conservation Act 1987.
5. Properly encouraged and managed, the resource sector's contribution to the New Zealand economy could grow significantly, in an environmentally responsible way. As a resource-rich country, and with new technologies and changing demands, our mineral and energy resources will afford economic opportunities for many decades to come.
6. There is continuing strong interest in prospecting, exploration, and the development of mining proposals in New Zealand, including on public conservation land. The resource sector therefore has a strong interest in the future shape of CMSs. Straterra welcomes the opportunity to be involved at an early stage of this process. We look forward to further participation as the

Department's work in this area progresses. For now, we provide preliminary comments in good faith on DOC's proposed approach to CMSs. We do this from an industry perspective.

Executive summary

7. Straterra supports the Department of Conservation's intent with its proposed new approach to conservation management strategies, in particular, the focus on enabling business opportunities consistent with conservation gain. That said, unless the legislative framework for conservation is reviewed, reinterpreted or amended, this intent may fail to be deliverable.
8. In theory, the new CMS framework will provide the necessary alignment between DOC's operations and its accountability framework, e.g. "more business opportunities delivering increased economic prosperity and conservation gain" (Statement of Intent 2010-2013, Intermediate Outcome 5). This is supported.
9. Within the above, Straterra supports DOC's proposal to set desired conservation outcomes at places in CMSs, without specifying how outcomes are to be achieved. This would provide for a collaborative framework for DOC, businesses and the public to work together to enable conservation-consistent development on land and waters managed by DOC.
10. The framework would pave the way for modern tools for managing the effects of development on conservation values, e.g. biodiversity offsets and similar approaches, which DOC and industry are actively addressing. Provision will be needed for effects management to be carried out within an area covered by two CMSs rather than one - imagine a proposed mine near a CMS boundary.
11. It would also provide for a case-by-case approach to considering mining proposals (outside of schedule 4 land) which is appropriate in light of the nature of mining - mines are difficult, costly and time consuming to find and each project has many unique and site-specific issues to address.
12. There is a major snag, however, and that is the current legislative framework for conservation. Despite the intentions of the new CMS approach, it would be possible for places to have outcomes specified for them in such a way as to prevent mining, without consideration of potential benefits (including for conservation) from specific mining proposals.
13. Nor is it clear that biodiversity offsets or similar approaches are enabled as a tool for managing effects under the concessions system.

Recommendations

14. Straterra recommends for the Department of Conservation, in seeking to achieve Intermediate Outcome 5 of its Statement of Intent 2010-2013, to:
 - a) Review, reinterpret or seek amendment of the General Policy for Conservation 2005 and the Conservation Act 1987 to provide for: the use of biodiversity offsets and similar tools for managing the effects of development on biodiversity on the public conservation estate; and for a collaborative, case-by-case approach to decision-making on mining proposals including vehicle access and gravel extraction;
 - b) Pursue the proposed approach to conservation management strategies, i.e. setting outcomes at places without specifying how outcomes are to be achieved, subject to (c);
 - c) Provide for the use of biodiversity offsets and similar tools across CMS boundaries, in appropriate circumstances.

Background notes

15. On 3 February 2011 Marie Long, Department of Conservation, provided Straterra (Chris Baker and Bernie Napp) an early briefing on a proposal to develop a new generation of conservation management strategies from March 2011. There are 11 of these statutory planning documents, covering all public conservation land and waters managed by DOC, that is, one per Conservancy.
16. The first tranche is Northland, Auckland, Waikato, Canterbury, Otago and Southland. Drafts will have to be ready for public notification within 12 months.
17. CMSs are a guide to each Conservancy on what is to be achieved for each “place” identified in the CMS, from a conservation perspective. That may be biodiversity, recreational opportunities, historic heritage, or a combination. A “place” could entail almost anything of significance: a mountain range, island, lake, catchment, wetland, or a habitat of a rare species.
18. DOC considers the current CMSs are unsatisfactory - Straterra understands - being of uneven quality, overly prescriptive, and carrying too much detail. Typically, CMSs run into the hundreds of pages, e.g. the CMS for the West Coast (ref. 4). Being regional documents, they take little or no account of the national picture. This prevents DOC getting the best value for taxpayers’ money.
19. The purpose of the new CMSs – we understand - includes better engagement with the public and businesses; land management according to national priorities; and to simplify the CMSs. They will have a consistent look and feel, and less detail – listing desired outcomes at places without specifying how they are to be achieved. Conservancies will still influence individual CMS proposals, prior to public input, but the methodology would be the same across the country.

20. CMS content would reflect national priorities for conservation. To achieve this, DOC has set up a team in Auckland for the North Island CMSs, and will set one up in the South Island, for those CMSs.
21. The Conservation Act 1987 and the General Policy for Conservation 2005 (ref. 5) would still apply. Conservation outcomes at places in CMSs would be set according to the purpose of this legislation which is: “conservation means 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 generations (CA, s.2 (1))”.
22. In respect of economic development, the General Policy, section 11, states: “A variety of activities undertaken by people and organisations on public conservation lands and waters require authorisation.” Reference is subsequently made to application processes under the concessions system (Part IIIB of the CA), Resource Management Act 1991, and access arrangements under the Crown Minerals Act 1991.
23. The above makes it clear that conservation comes first, and that business opportunities are considered in a second tier. As an extreme example, mining is prohibited in national parks, with no regard for whether or not mining could occur in such a way as to deliver net gains for conservation (under schedule 4 of the Crown Minerals Act). In the case of national parks, this may be appropriate, but the same approach could be taken under conservation legislation to other classes of land.
24. Therefore, it is possible under the new CMS framework that outcomes at places could be set in such a way as to preclude a full and balanced consideration of conservation-consistent mining proposals. This is a risk for the mining sector, in general terms, and specifically in the case of gravel extraction from riverbeds and vehicle access.
25. For example, policy 11.4 (c) of the General Policy states: “Conservation management strategies and plans will identify where sand, shingle or other natural mineral material can be removed from the bed of a lake or river or foreshore, consistent with the protection of natural resources and historical and cultural heritage values.” This provides, tacitly, for areas to be declared off-limits to gravel extraction, with no possibility of discussion on specific proposals once the plan is finalised.
26. The same risk arises for proposals where vehicle access is required across the public conservation estate to access a mine site. Policy 9.5 (b) of the General Policy states: “Conservation management strategies and plans will identify where the use of specified types of vehicles and other forms of transport may be allowed and will establish any conditions for use.”

Discussion

Consistency with DOC's accountability framework

27. The new approach to CMSs would be consistent with DOC's accountability framework, and this is supported by Straterra. The Strategic Direction 2006 (ref. 6) guides DOC to "entrench conservation as an essential part of the sustainable social and economic future of New Zealand" and "weigh society's values, nature's inherent qualities, and scientific criteria in its decision-making".
28. Intermediate Outcome 5 in DOC's Statement of Intent 2010-2013 (ref. 7) reads: "more business opportunities delivering increased economic prosperity and conservation gain". Among the mechanisms proposed are the Standard Operating Procedure for processing access arrangement applications (ref. 8), and a proposal for streamlining concession and RMA consent processes for nationally-significant developments (ref. 9).
29. DOC's vision, expressed in 2010, is: "New Zealand is the greatest living space on Earth" (ref. 10). There are economic, social and environmental dimensions to achieving this vision.
30. Taken together, DOC's accountability framework would underpin a collaborative, case-by-case approach to mining proposals under CMSs developed in such a way as to allow for a case-by-case approach. Naturally, this is dependent on having tools for achieving conservation gain as part of development activities on the public conservation estate.

A collaborative, case-by-case approach to mining

31. On the face of it, the proposed approach to CMSs would take good account of the nature of mining, when managing the public conservation estate, for conservation and for development.
32. Rather than having to debate, in the absence of adequate information, for or against places (outside schedule 4) being made into no-go areas during the planning process, or being told what one can or cannot do at a place under a plan, a mining company could work with DOC, with public input as appropriate, to shape CMSs in such a way as to provide for the development of win-win solutions, for conservation and development, for specific proposals at specific sites.
33. As such, Straterra believes that DOC's "integrated conservation management" (ref. 11) approach at places is best targeted at specific proposals, at least for mining. There are at least three reasons for this.
34. Firstly, detailed information on all values present at a site is usually only available when a mining application is lodged (otherwise the applicant would not invest in getting the information). Only

at this time can a fully informed and robust debate be had on whether or not to approve a mining proposal at a site, and under what conditions.

35. For example, there are parts of stewardship areas that, perhaps, should not be mined because of the conservation values present, and, conversely, parts of ecological areas, where the biodiversity values are not so high as to argue against all forms of development.
36. Secondly, we don't know where all the potential mines are. This is because Mother Nature puts economic ore bodies in very few places, and these ore bodies are becoming increasingly difficult to find. Nor is it necessary or possible to find now all the mines we will need in the future.
37. Both considerations argue against a zoning approach that would set some areas aside from mining, without knowing what the minerals potential is or whether mining could occur subject to conditions aimed at delivering conservation gain.
38. Thirdly, mines occupy very little space, relatively speaking. On land, mines occupy 0.016% or 4000 ha of New Zealand's area (ref. 12). Most of them are quarries, most of which produce aggregate for roading and construction. This is very different from an activity such as heli-hunting, in which flown hunters could cover entire catchments and operate in conflict with other users of that land – in that case, zoning may be an appropriate planning tool.

Biodiversity offsets and similar tools

39. If the new CMSs are to enable DOC and businesses to work together (with public input) to achieve conservation gain as a result of development, the tools for achieving this need to exist. Biodiversity offsets would be a logical approach, accepting that the application of the approach in New Zealand is in its infancy. There are obviously other ways of achieving conservation gain, some used now and others to be explored.
40. The resource sector would welcome a workable biodiversity offset scheme, or a similar scheme, in which each mining proposal is considered on its individual merits, and where the rules and criteria are clear and known in advance. Straterra is among stakeholders engaging with DOC on the Biodiversity Offsets Programme (ref. 13).
41. Straterra intends to convene in March 2011, in partnership with DOC and Solid Energy NZ, a seminar to provide an update on biodiversity offsets for the mining industry. This is part of the generally good working relationship the mining industry has developed with DOC.
42. As matters stand, mining companies ensure their activities are compatible with conservation outcomes, e.g. Solid Energy's Cypress extension to the Stockton mine (ref. 14). This initiative provides for conservation gain in this area of the West Coast, especially when considered

alongside other conservation projects the company is carrying out or financing in partnership with DOC.

43. There is an issue of scale, however. A biodiversity offset may only be workable within an area covered by two CMSs rather than one. A mining proposal might straddle CMS boundaries or be located near a boundary. There ought to be provision for working with the two relevant Conservancies under two CMSs. Just as a national approach will be taken to the development of CMSs, a national perspective may be appropriate when considering the management of effects.

Inconsistency with conservation legislation and policies

44. Nonetheless, biodiversity offsets and similar tools, and a collaborative approach to discussing specific proposals, can only be implemented if legislation and policies provide for their application. This is the case under the RMA, where jurisprudence is developing, and potentially under the Crown Minerals Act.
45. There are signs of government interest in reviewing, reinterpreting or amending legislation, e.g. the draft National Policy Statement on Biodiversity (ref. 15) currently open for public consultation, which has provisions on biodiversity offsets; and the proposed interface between concession and RMA applications for nationally-significant projects (ref. cited).
46. The Conservation Act may be a different situation. Clarification is needed as to whether offsets or similar tools would be an acceptable way of managing effects of mining on biodiversity. This is relevant for activities requiring concessions such as vehicle access to mine sites, and for the more specific issue of gravel extraction (refer to paragraphs 24-26).
47. The new CMS approach (and DOC's accountability framework) may be out of step with the Conservation Act and the General Policy, at least for mining. This needs to be tested. There would be little point in creating new CMSs as part of enabling business opportunities consistent with conservation gain, if biodiversity offsets and similar tools are provided for under access arrangement and RMA consent processes but not under the concessions system, and if activities such as gravel extraction and vehicle access are zoned off-limits in the absence of informed discussion on specific proposals.
48. It may be necessary to review, reinterpret and/or amend relevant provisions of the Conservation Act and of the General Policy, in order for the aims of the new CMSs are to be achieved. As matters stand, DOC may be putting the cart before the horse.

References

Ref 1: NZIER report 2008, "Diamond in the rough"

http://straterra.co.nz/uploads/files/straterra_s4_submission_may_2010.pdf

Ref 2: www.straterra.co.nz/Economic_benefits/

Ref. 3: Office of the Parliamentary Commissioner for the Environment, "Making difficult decisions: mining the conservation estate", September 2010 <http://www.pce.parliament.nz/publications/all-publications/making-difficult-decisions-mining-the-conservation-estate/>

Ref. 4: West Coast Conservation Management Strategy

<http://www.doc.govt.nz/publications/about-doc/role/policies-and-plans/conservation-management-strategies/west-coast/>

Ref. 5: DOC General Policy for Conservation 2005 <http://www.doc.govt.nz/publications/about-doc/role/policies-and-plans/conservation-general-policy/>

Ref. 6: DOC Strategic Direction 2006: <http://www.doc.govt.nz/about-doc/role/policies-and-plans/strategic-direction/>

Ref. 7: DOC Statement of Intent 2010-2013, intermediate outcome 5:

http://www.doc.govt.nz/publications/about-doc/statement-of-intent-2010-2013/3-operating-intentions/3_5-business-opportunities/

Ref. 8: Mining on public conservation land, access arrangements <http://www.doc.govt.nz/about-doc/concessions-and-permits/mineral-prospecting-and-exploration/>

Ref. 9: Straterra submission on the proposal for an interface between the concessions system and RMA consent process. www.straterra.co.nz/Straterra's+submissions/

Ref. 10: DOC vision 2010: <http://www.doc.govt.nz/about-doc/role/mission-vision-and-statutory-mandate/mission-and-vision/>

Ref. 11: DOC General Policy for Conservation 2005, glossary, definition of integrated conservation management: <http://www.doc.govt.nz/publications/about-doc/role/policies-and-plans/conservation-general-policy/glossary/>

Ref. 12: <http://www.straterra.co.nz/Mining%20in%20NZ%20has%20a%20small%20footprint>

Ref. 13: DOC Biodiversity Offsets Programme 2009

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

Ref. 14: <http://www.straterra.co.nz/Stockton%20trip>

Ref. 15: Draft National Policy Statement on Indigenous Biodiversity, February 2011

<http://www.mfe.govt.nz/publications/biodiversity/indigenous-biodiversity/index.html>