

Submission to Department of Conservation on “DRAFT WAIKATO CONSERVATION MANAGEMENT STRATEGY (MARCH 2013)”

INTRODUCTION

1. Straterra¹ welcomes the opportunity to submit on the draft Waikato Conservation Management Strategy released for public consultation in late 2012. We do so in the interests of achieving benefits for the minerals sector, for the New Zealand economy as a whole, and in the interests of integrated conservation management.
2. Minerals is a significant sector in the Waikato, ranging from established operations in gold (Waihi), coal (Huntly, Rotowaro), aggregates and industrial minerals, to ironsands mining (Taharoa) and exploration onshore and offshore.
3. Straterra submits in support of the objective of enabling business opportunities that are consistent with conservation. This CMS will need to provide the framework, and our submission makes recommendations to achieve that.

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¹ Straterra represents by 90 % by value of NZ minerals production, exploration, research, services, and support
<http://www.straterra.co.nz/About+Straterra>

EXECUTIVE SUMMARY

4. Straterra supports the direction of the draft Conservation Management Strategy towards integrated management, and to enabling new business opportunities consistent with conservation.
5. On that note, we propose adding minerals to the list of priority business sectors for the Department of Conservation, as a significant activity in the Waikato, and there is often a connection between where mining is done today and where it was done in the past (heritage).
6. The proposals to streamline and increase regulatory efficiency are supported, noting there are five separate pieces of legislation on land covering environment and heritage. We flag that achieving progress here will probably require leadership at a national level.
7. Straterra argues that seabed mining is NOT a major threat to the Maui's dolphin, and, further, that there is no evidence to suggest that it is any threat. Any connection between seabed mining and Maui's dolphin should be removed from the CMS. The safeguard for society is that any issues would be addressed under other legislation.
8. Straterra urges care with the use of terms such as "measurable conservation gain". The reality is that this concept is usually not feasible or cost-effective to determine in practice. New Zealand's legislation also provides for "mitigation" and "compensation", deliberately so. The CMS needs to accommodate a broader approach.
9. We further urge the Department to be open to considering all minerals development proposals, regardless of the significance of any affected conservation values. If proposals for management of effects are inadequate, the application for an access arrangement can always be declined. That is as it should be.
10. The Department's attention is drawn to the Crown Minerals (Permitting and Crown Land) Bill, in which changes to decision-making on applications for access arrangements are proposed, notably, the inclusion of the Minister of Energy and Resources as a decision-maker, and the inclusion of economic and social criteria, in addition to conservation-related criteria.
11. In relation to restricted areas for minerals activities, we believe the CMS should defer to schedule 4 of the Crown Minerals Act 1991, which is the statutory vehicle for these restrictions. In this way, regardless of any changes made to schedule 4 during the life of the CMS, the CMS would remain up to date.

RECOMMENDATIONS

12. Straterra recommends the Department of Conservation to:

- a) Note Straterra’s support of the purpose of the Waikato Conservation Management Strategy, and of Objective 1.5.1.6 in relation to “integrated management”;
- b) Note Straterra’s support of Objectives 1.5.5.6 and 1.5.5.7 on streamlining and improving the efficiency of regulatory processes, and note that mining companies are faced with complying with up to five separate pieces of legislation covering environment and heritage;
- c) Agree that resolution of Rec. (b) is a national issue, potentially requiring leadership at a national level;
- d) Agree to expand the scope of Objective 1.5.5.5 to include “minerals”, when enabling new business opportunities consistent with conservation, because of the significance of minerals activities in the Waikato;
- e) Note Straterra’s support of Objective 1.5.5.9 in relation to engaging businesses in conservation, on the basis that this can form part of businesses’ “social licence to operate”;
- f) Agree to remove the words “seabed mining” from page A14, because there is no evidence to suggest that this activity is a major threat, or any threat, to the Maui’s dolphin;
- g) Agree to delete the word “measurable” from Objective 1.5.5.8 to say: “Build productive business partnerships that deliver conservation gains”, because in many cases it is not feasible or cost-effective to measure conservation gains to any standard of accuracy;
- h) In relation to Rec. (g), agree that New Zealand legislation provides for “mitigation” and “compensation”, in addition to biodiversity offsets, when managing the effects of development on conservation values, and that this should be reflected in the CMS;
- i) Agree to delete the words “an overall” from the Outcome statement to say: “The commercial use of ecosystem services and resources results in conservation gain for natural, cultural and historic values on public conservation lands”, for the reason given in Rec. (g);
- j) Agree to amend Policy 2.2.10 to say: “Should consider proposals for access arrangements under the Crown Minerals Act ... and *taking into particular consideration the need to conserve:* (b) priority ecosystem sites and species populations, in particular habitats important for the persistence of native frogs, Coromandel brown kiwi, native bats, and other threatened and at risk species; (c) other natural values, including the indigenous forest

corridor along the Coromandel Range; and (d) significant natural features, landscapes and cultural sites”, to enable fair consideration of development proposals;

- k) Agree to amend the statement on pages A132-A133 to say: “Mining in areas of high ecological, scenic, scientific, cultural, recreational and historic value *may be* inappropriate due to the potential adverse effects on those values, *and the lack of adequate approaches to managing those effects*”, for consistency with Rec. (j);
- l) Note Straterra’s support of Policy 3.9.6 and Policy 3.9.7 as providing appropriate criteria when considering applications for access arrangements, and that Recs. (j) and (k) provide consistency with Policy 3.9.7;
- m) Agree to include within the Minister of Conservation’s responsibilities on page A4, the Minister’s role as land owner under the Crown Minerals Act 1991;
- n) Agree to amend the statement on page A132 to say: “Under the Crown Minerals Act 1991, the Minister of Conservation *and the Minister of Energy and Resources share* the consenting role for all Crown land administered by the Department, *subject to conservation, economic and social criteria under that Act*”, for consistency with the Crown Minerals (Permitting and Crown Land) Bill;
- o) Agree to amend the statement on page A52 to say: “Mineral permit holders can only apply for access arrangements from the Minister of Conservation *and the Minister of Energy and Resources* to enter public conservation land *in areas outside of those listed in schedule 4 of the Crown Minerals Act 1991*”, because schedule 4 of the CMA, and not conservation legislation, is the relevant statutory vehicle, and to ensure the CMS remains up to date in the event of changes being made to schedule 4, and for consistency with Recs. (m) and (n);
- p) Agree to amend Policy 2.2.10 (a) to say: “for land *outside of areas listed in schedule 4 of the Crown Minerals Act 1991*”, for the reason given in Rec. (o);
- q) Note the inextricable link between minerals activities today and minerals activities of the past (historic heritage), in the context of integrated management; and
- r) Note Straterra’s support for the proposal on page A3 to revoke the Coromandel Land Management Plan, as unnecessary under the new approach to CMSs.

DISCUSSION

Integrated management –cutting through the “legislative labyrinth”

13. The purpose of the CMS (page A3) is supported: “to implement general policies ... and to establish objectives for the *integrated management* of natural and historic resources” (Straterra’s italics), as is Objective 1.5.1.6 (page A23) in relation to integrated management.
14. It is noted that under the General Policy for Conservation 2005, applicants require concessions for vehicle access, ancillary infrastructure, and gravel extraction from rivers, on public conservation land and waters administered by the Department of Conservation. Coupled with the requirement for access arrangements to that land, the potential for duplication in regulation is created. As matters stand, applicants for minerals prospecting, exploration or mining on public conservation land may need approvals under as many as five separate pieces of legislation covering roughly the same territory - environment and heritage. That is unduly onerous.
15. Objective 1.5.5.6 is relevant in this context - “Work with relevant agencies to avoid duplication of regulatory controls on public conservation lands and waters” - as is Objective 1.5.5.7 “Continue to work with relevant agencies to streamline and seek efficiencies in statutory processes” (both on page A33). Both objectives are strongly supported.
16. The Department is faced, therefore, with the challenge of better aligning processes under the Conservation Act 1987 (concessions) with each of the following:
- Crown Minerals Act 1991 (access arrangements);
 - Resource Management Act 1991 (resource consents);
 - Wildlife Act 1953 (permits to move wildlife);
 - Historic Places Act 1993 (authorities to modify heritage).

In Straterra’s view, that is a significant challenge, and may be a national issue for New Zealand, and beyond the scope of individual CMSs to resolve.

Significant business opportunities should include mining

17. Straterra supports the statement: “the high-level objectives of the Department’s Statement of Intent 2012–17 ... are reflected in this CMS” (page A5). Certainly, “integrated management” is consistent with enabling new business opportunities consistent with conservation.
18. On that note, we support the statement: “Conservation is an investment in New Zealand’s future prosperity—with ‘prosperity’ defined in the broadest economic, cultural, social and

environmental terms. The aim is to shift perceptions of conservation as a cost, to conservation as an investment. The Department wants to inspire and involve others to work together to achieve more conservation than it could achieve alone” (page A8).

19. We also support: “The Department will seek to identify and promote new business opportunities and partnerships that deliver conservation gains while enhancing prosperity” (page A32). That said, we query the restriction of focus to farming, energy, forestry and tourism, given that the Waikato is home to the exploration for and mining of gold, ironsands, coal, aggregates and industrial minerals. We propose the expansion of Objective 1.5.5.5 to include minerals (page A33).
20. In support of our argument, the minerals sector today comprises “businesses [that] are increasingly seeking to demonstrate how they can contribute to sustaining a healthy environment”. Newmont Waihi Gold furnishes an excellent example, via their Dotterel Watch partnership with the Department, and riparian conservation at the Ohinemuri River, once lifeless because of historic mining, and today a valued trout stream. Objective 1.5.5.9 “Increase engagement of the commercial sector in conservation” is supported (page A33).

Maui’s dolphin

21. We draw attention to the statement: “Maui’s dolphin, which is the world’s smallest and rarest marine dolphin, is found only on the west coast of the North Island of New Zealand and has an estimated population size of fewer than 100 individuals. Entanglement in set nets poses a major threat to this species, as do trawling, *seabed mining*, marine pollution and disease” (Straterra’s italics, page A14).
22. There is no evidence to support the assertion that “seabed mining” poses a major threat, or, indeed, any threat, to the dolphin. This assertion appears to stem from an unpublished report, which the author and Department have accepted contains errors in its characterisation of seabed mining. We propose the removal of the words “seabed mining” from this section, for this reason, and because the appropriate legislation for addressing this matter are the Resource Management Act 1991, and the Marine Mammal Protection Act 1978.

Managing the effects of development on conservation values

23. In relation to Objective 1.5.5.8 - “Build productive business partnerships that deliver measurable conservation gains” (page A33) – we assert that it is not often possible to measure accurately

and cost-effectively conservation gains². The “biodiversity offset” is an important option to consider, however, is not the only one contemplated in New Zealand legislation; on the contrary, it is deliberately not the only option because, in many instances, “mitigation” and “compensation” are the only applicable and realistic approaches to managing effects.

24. For the same reason, the Outcome - “The commercial use of ecosystem services and resources results in an overall conservation gain for natural, cultural and historic values on public conservation lands” (pages A57-A58) – risks being unachievable in practice, in all but a few circumstances. Unless the wording is changed, the Department will be pursuing a policy, inadvertently or otherwise, that encourages little or no commercial use of public conservation land. That would be at odds with the intent of the CMS, as expressed.
25. In the same vein, Straterra believes that Policy 2.2.10 is a blunt instrument, where it says: “Should consider proposals for access arrangements under the Crown Minerals Act ... and the following criteria: (b) the activity should avoid priority ecosystem sites and species populations, in particular habitats important for the persistence of native frogs, Coromandel brown kiwi, native bats, and other threatened and at risk species; (c) avoid or minimise adverse impacts on other natural values, including the indigenous forest corridor along the Coromandel Range; and (d) give priority to the protection of significant natural features, landscapes and cultural sites (page A61)”.
26. An “at-risk” species could be almost any native species. More broadly, the wording implies that the Department will not consider any proposal for managing the effects of development in sensitive areas. This amounts to extending schedule 4 of the Crown Minerals Act 1991 by means other than the CMA.
27. To safeguard the interests of society, it is evident that many project proposals in sensitive areas would fail to gain an access arrangement because their proponents would be unable to show that they could manage adequately the effects on the values present. For example, an opencast mine in a bat colony would be probably unacceptable, e.g., because of the difficulty of translocating bats to other sites.
28. On the other hand, an underground mine underneath a bat colony may not affect the bats. As well, the mining company would be encouraged to take an interest in, and provide for bat conservation. The result of mining could be more bats. In such cases, the project would be

² Note that the DOC draft guidance on biodiversity offsets has not been finalised at the time of writing, and that Straterra has expressed serious concerns to DOC over the draft guidance.

consistent with the Objectives of the CMS, and should be open to serious consideration of the pros and cons, rather than being rejected out of hand.

29. Policy 2.2.10 would prevent the above positive outcome, frustrating Outcomes 1.5.5.8 and 1.5.5.9, or an expanded Outcome 1.5.5.5.
30. Ditto for the statement: “Mining in areas of high ecological, scenic, scientific, cultural, recreational and historic value is generally inappropriate due to the potential adverse effects on those values,” (pages A132-A133). We have made recommendations to circumvent the problems we have identified.
31. In relation to the statement, “Any compensation will be assessed in accordance with the Crown Minerals Act 1991” (pages A132-A133), it is noted that “compensation” is a broad term, extending, for the reasons given above, beyond the concept of “measurable conservation gains”.
32. Straterra supports Policy 3.9.7 “Assess applications for access arrangements under the Crown Minerals Act 1991, in accordance with (but not limited to) the following matters: a) the significance of the conservation values and recreation opportunities present, and the effect the proposal will have on those values; b) the adequacy and achievability of the proposed site rehabilitation work; and c) the adequacy or appropriateness of compensation offered for access to the area” (page A141). We note that Policy 2.2.10, as written, is at odds with Policy 3.9.7, and Policy 3.9.6.

Access to land for exploration and mining

33. It is noted that the Minister of Conservation *also* has a role as a land owner under the Crown Minerals Act 1991, in particular, in respect of access for prospectors, explorers and miners to public conservation land (page A4). That is expressly referred to on pages A132-A133 in relation to access arrangements.
34. We propose a correction to the statement: “Under the Crown Minerals Act 1991, the Minister of Conservation has the consenting role for all Crown land administered by the Department” (page A132). Once that Act is amended the Minister of Energy and Resources will also have a role, under broadened criteria to include “the economic and other benefits of the proposal”. We suggest including an explanation to that end in the CMS.
35. Straterra supports Policy 3.9.6 “Consider applications for access arrangements on a case-by-case basis, in accordance with the criteria set out in the relevant section (i.e. s61 or s61A and

s61B) of the Crown Minerals Act 1991” (page A141). This is logical because every proposal for prospecting, exploration or mining is different. No two mines are the same.

36. The statement: “mineral permit holders can only apply for access arrangements from the Minister of Conservation to enter public conservation land south of the Kopu-Hikuai Road (State Highway 25A), excluding Otahu Ecological Area” (page A52) is overly specific because this prohibition is set under legislation other than the Conservation Act. This statement should be generalised to refer to schedule 4 of the Crown Minerals Act, which is the relevant statutory vehicle. Ditto for Policy 2.2.10 (a) (page A61). In this way, the CMS would remain up to date in the event of changes being made to schedule 4 during the life of the CMS, e.g., a new coastal marine reserve being gazetted.

Historic mining heritage

37. It is noted that the Department’s work on historic heritage is to include gold-mining sites in the Kauaeranga Valley, and abandoned mines in the central and southern Coromandel (page A26). From page A51 to page A56, frequent mention is made of “historic sites ... associated with ... gold mining”, “gold-mining sites”, “a long history of mining activities, particularly gold mining”. Some of the sites mentioned in those pages are managed for their historic heritage values by the Department.
38. It is a fact that mining today is usually done where there was mining in the past. The irony is that miners today must put things back as best they can, e.g., the Golden Cross mine (referred to on page A56), while the evidence of old-timers’ activities has become today’s heritage.
39. The link between historic mine sites and any new mining proposal is that the resource is the same but the technology for resource discovery, extraction, and environmental management has advanced. This connection is relevant in the context of integrated conservation management. This is a further reason for the Department adding minerals to the list of priority business sectors when enabling new business opportunities consistent with conservation.

The Coromandel

40. The proposal (page A3) to revoke the Coromandel Land Management Plan is supported, as unnecessary when the new CMS enters into force.
41. Straterra notes that much indigenous biodiversity in the Conservancy is “highly fragmented” (page A10), including in much of the Coromandel, and that “the Coromandel Forest Park and

forests from Karioi to Whareorino also contain extensive and largely continuous tracts of indigenous vegetation” (page A11).

42. We note the statements: “The communities on the Coromandel Peninsula are diverse and have different perspectives on conservation and resource extraction. For example, community opposition to mining culminated in legislative changes in 1997 to restrict this activity on the Peninsula; but, on the other hand, there are generations of families with connections to gold mining and the heritage associated with it” (page A15).