

Submission to SOUTH TARANAKI DISTRICT COUNCIL on

“PROPOSED SOUTH TARANAKI DISTRICT PLAN” (OCTOBER 2015)

Proposed South Taranaki District Plan

Submission Form

SUBMITTER DETAILS

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SCOPE OF SUBMISSION

This is a submission on the **Proposed South Taranaki District Plan**.

The specific provisions that Straterra’s submission relates to are:

- Chapter 2.17 Indigenous biodiversity
- Objective 2.17.3
- Objective 2.17.4
- Policy 2.17.9
- Explanation of policies
- Methods of implementation
- Chapter 20.5 assessment matters
- 20.5.19 Indigenous biodiversity

SUBMISSION

Straterra’s submission is:

Straterra wishes to have the provisions above amended (**yes**).

The reasons for Straterra's views are:

1. South Taranaki District Council has proposed the use of “biodiversity offsets” as a compulsory tool for mitigating the effects of development on biodiversity to a standard of “no net loss” in indigenous biodiversity. This is opposed as unworkable, and will lead to less development and less biodiversity conservation occurring than could or should occur under the RMA. Straterra proposes amended wording.
2. The use of biodiversity offsets is far from straightforward. The Department of Conservation's attempt to produce good practice guidance¹ on biodiversity offsets met with opposition from the minerals and mining industry, and a number of other industries.
3. Straterra's chief concerns are:
 - DOC considers that biodiversity offsets are all but inadmissible under the Conservation Act 1987 (concessions regime), an opinion we dispute;
 - Applicants are unable to design one offset to simultaneously meet requirements under the RMA, Conservation Act and Crown Minerals Act 1991 (Crown land access);
 - The requirement to first consider proposals to avoid, remedy and mitigate effects on site, in that order, is at odds with the RMA, which provides for flexibility in managing effects on site;
 - The imperative to bring social equity, stakeholder input, and traditional knowledge into offset design is inappropriate – even if they are international principles – because these matters are already considered under the RMA;
 - Multipliers in offset design to address: distance between the site of development and the site of the offset; time lag between loss of biodiversity and biodiversity gain; differences in biodiversity between one site and another; and uncertainty of outcome of offset design and implementation, together risk making offsets uneconomic for applicants; and
 - The emphasis on like-for-like biodiversity exchanges is very restrictive.
4. Taken together, the guidance is all but unworkable. In our view, the only biodiversity offset exchanges that could take place in New Zealand are likely be in relation to grassland and manuka scrub.
5. In 2014 the Minister of Conservation, Hon Dr Nick Smith, released the guidance² at the Environmental Defence Society Conference, in Auckland. In his speech, the Minister said: *“I want to stress that are these guidelines are not regulations nor is the Government saying that this is the last word in what represents best practice. We do however want to get these guidelines out, get them used and start building better practical experience so that they can be further refined.”*

¹ <http://www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/>

² <http://www.beehive.govt.nz/speech/address-environmental-defence-society-navigating-our-future-conference>

6. As matters stand, the legal firms among the Straterra membership are advising their clients to stay away from biodiversity offsets, as unworkable.
7. Despite this negative sentiment, the guidance is being proposed for incorporation by reference, tacitly or explicitly, into a number of RMA planning documents³ around the country. Biodiversity offsets - as conceived by DOC or government - risk becoming a statutory requirement when making proposals to offset the residual effects of development on biodiversity.
8. Where biodiversity offsets are required for resource consent applications, in most cases, development will not occur, an obvious negative outcome. It is also a lost opportunity to consider alternative proposals for managing the effects of development that could still benefit biodiversity. A prime example is the control of pests, New Zealand's biggest menace to the conservation of biodiversity, and in respect of which public resources are scarce. This is a lose-lose situation.
9. Straterra is left with no alternative, at this stage, but to advocate on biodiversity offsets in each and every RMA planning proposal around the country where the use of this tool is proposed.
10. An example where biodiversity offsets could be applied appropriately is the proposed Queenstown Lakes District Plan⁴. For example:
 - *"Policy 3.2.4.2.2: Where adverse effects on nature conservation values cannot be avoided, remedied or mitigated, consider **environmental compensation** as an alternative"* (emphasis added); and
 - *"Policy 6.3.7.1 Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land."*
11. "Environmental compensation" is a broad term that includes the concept of biodiversity offsets, among options of equal applicability for managing the residual effects of development, after measures have been taken to avoid, remedy and mitigate effects on site, and not necessarily in that order. That is appropriate.
12. Straterra is currently advocating to Central Government⁵ for a review of the guidance, with stakeholder input, to create a scheme that is workable in the New Zealand context. Such a scheme would take into account the applicable legislation in New Zealand, and the many differences between the New Zealand and the international context.
13. That said, it will not always be appropriate to require biodiversity offsets for mitigating the residual effects of development at a particular place. That is because biodiversity offset design requires the measurement and comparison of biodiversity at the site of proposed development with that of the proposed offset. That is not easily achieved, and can entail significant cost.

³ e.g., Proposed Otago Regional Policy Statement, Canterbury District Plan (Stage 3), and this Proposed Plan.

⁴ <http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/>

⁵ To be clear, Straterra is not seeking any action from STDC as regards national-level advocacy on biodiversity offsets.

14. Where the design of a biodiversity offset is not cost-effective or practicable, it is appropriate to consider whether or not there are other ways of adequately managing the residual effects of development. Such a consideration falls within the rubrik of environmental compensation.
15. An example – as discussed in para. 8 of this submission - would be a pest control package over a designated area of indigenous biodiversity, to enhance the values of that area, over time. That could entail a high level of ambition, as a compensatory measure, while still failing to meet the specific and measurable requirements of an offset. The purpose of the RMA would be met, i.e., biodiversity conservation work would occur at a place where otherwise it would not be done, and the proposed development could be approved. That is a win-win situation.
16. For the above reasons, Straterra considers that the option of compensatory measures other than biodiversity offsets should always be made available to developers when assessing the likely effects of development on biodiversity, and proposing ways of managing those effects.
17. To conclude: Straterra seeks two remedies in respect of biodiversity offsets:
 - *STDC*: biodiversity offsets to be included in the district plan as one option, among others of equal applicability, in the context of environmental compensation; and
 - *Central Government*: to lead a review of the government guidance for workability.

Straterra seeks the following decision from the South Taranaki District Council:

- Accept the Proposed Plan with amendments as outlined below

If the Proposed Plan is not declined, then amend it as outlined below:

South Taranaki District Council proposal	Straterra proposal	Reasons
Objective 2.17.3 “Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna from inappropriate subdivision, use and development.”	Support	This restates section 6 (c) of the RMA.
Objective 2.17.4 “ No net loss <u>Management</u> of indigenous biodiversity through protection, <u>maintenance</u> , enhancement and restoration of indigenous habitats and indigenous vegetation.”	Support with amendment	“No net loss” is not always possible to achieve cost-effectively or practicably, to an agreed measurable standard. Refer to the discussion above on Straterra’s concerns with biodiversity offsets as an effects mitigation tool.
Policy 2.17.9 “Maintain and enhance indigenous biodiversity values having regard to the	Support with amendment	Straterra’s high-level concerns in relation to biodiversity offsets bear repeating:

<p>following matters in determining appropriate subdivision, use and development: ... (f) Where the adverse effects cannot be adequately avoided, <u>remedied</u> or mitigated, ensuring any residual effects that are more than minor, are offset in a similar ecological context (in accordance with best practice principles) to achieve ‘no net loss’ of indigenous biodiversity, <u>or are mitigated via other compensatory measures.</u>”</p>		<ul style="list-style-type: none"> • The government guidance is unworkable in industry’s view for the reasons discussed earlier in this submission; and • Even if a workable biodiversity offsets framework existed in New Zealand, it is not always cost-effective or practicable to design a biodiversity offset that meets a measurable standard of “no net loss”. <p>For these reasons, there should always be the alternative available of other options for managing the residual effects of development, within the sphere of “environmental compensation”.</p>
<p>Explanation of policies “In circumstances where adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna cannot be adequately mitigated, it is recognised that there are limits to what can be offset <u>or compensated for in some other way</u> because some vegetation or habitat and associated ecosystems are vulnerable or irreplaceable. In such circumstances, biodiversity offsetting <u>or other compensatory measures</u> will not be possible and local authorities will need to take full account of residual adverse effects in decision-making processes.”</p>	<p>Support with amendment</p>	<p>For consistency with the above.</p>
<p>Methods of implementation “The principal methods of implementation are: ... Application of nationally accepted standards of biodiversity offsetting to ensure ‘no net loss’ of indigenous biodiversity where adverse effects cannot be avoided, remedied or mitigated, <u>or of other compensatory measures.</u>”</p>	<p>Support with amendment</p>	<p>For consistency with the above.</p>

<p>Chapter 20.5 assessment matters 20.5.19 Indigenous biodiversity “The following assessment matters will be used in assessing land use applications for the modification, damage, or destruction of indigenous vegetation: (g) Whether the proposed indigenous vegetation clearance or modification would result in a loss of indigenous biodiversity, and the extent to which the proposal remedies or mitigates these adverse effects within the same ecological context (e.g. biodiversity offsetting, <u>or other compensatory measures</u>).</p> <p>(h) Whether the applicant has applied nationally accepted standards of biodiversity offsetting to achieve ‘no net loss’ of indigenous biodiversity, <u>or other compensatory measures</u>, where adverse effects cannot be avoided, remedied or mitigated.”</p>	Support with amendment	For consistency with the above.

Straterra wishes to be heard in support of its submission (**yes**)

If others make as similar submission, Straterra will consider presenting a joint case with them at a hearing (**yes**)

Straterra could not gain an advantage in trade completion through this submission.

JB Napp, policy manager, Straterra, 12 October 2015