

# Biodiversity offsetting under the Resource Management Act Summary document



## What is the problem?

New Zealand is a biodiversity 'hotspot'. It has a high proportion of globally unique plants and animals. But its indigenous biodiversity is in crisis. Many of the country's native species and ecosystems are threatened or at risk of extinction, and the pressures of land and water use and development count among the most prominent causes.

Under the Resource Management Act 1991 (RMA), many activities involving the use or development of New Zealand's land or water require a resource consent from a council. Any adverse effects on the environment brought about through these activities must be avoided, remedied or mitigated to ensure the sustainable use of natural resources.

In 2017, amendments to the RMA directed that biodiversity offsetting and compensation may also be considered by councils as a further way of redressing for the residual adverse effects of activities. However, there is a lack of supporting guidance to direct the appropriate use of biodiversity offsets under the RMA. If poorly implemented, biodiversity offsetting may put further pressure on imperilled biodiversity.

## Can biodiversity offsetting help?

The goal of biodiversity offsets is to achieve 'no net loss' of biodiversity, or preferably a 'net gain'. This is generated by enhancing the biodiversity in one place as a way of counterbalancing for the adverse effects on biodiversity in another. If used appropriately, offsets may help to reduce the effects of development on biodiversity in New Zealand.

Internationally, the use of biodiversity offsetting has risen in recent years. This rise has been driven both by a desire to prevent biodiversity losses, and from the need to provide a more transparent and objective process for doing so. But its application has been fraught with difficulties and contention.

This is understandable as biodiversity offsetting may be the most complex and challenging effects management method in use. It encompasses multiple dimensions, including technical, social, ethical, cultural, and governance aspects. Expert input is therefore needed at all stages of offset design and implementation.

## How can we do it better?

In New Zealand, the effective application of biodiversity offsetting under the RMA remains challenging. Ambiguity over how and when to use biodiversity offsetting continues to limit its potential to prevent biodiversity losses.

To help address this issue, regional councils have come together to produce national-level guidance to consent applicants, council decision makers, and others on how to appropriately use offsetting to maintain biodiversity values under the RMA.

This guidance has been written by New Zealand's leading experts in biodiversity offsetting with significant input from a wide range of stakeholders, including from local and central government. The guidance is structured into five chapters, each of which is intended to be 'dipped into', rather than read cover-to-cover.



# Overview of guidance

**Below are brief descriptions of what readers can expect from the five chapters of the guidance. Three 'takeaway' messages are provided from each.**

## **Chapter One explains what biodiversity offsetting is and how it should be interpreted under the RMA.**

- Biodiversity offsetting and compensation should only be considered after actions to avoid, remedy, or mitigate have been exhausted, and thus apply only to residual adverse effects on biodiversity
- Biodiversity offsetting should not be confused with compensation. Compensation is more likely to be subjective, unquantified, and arbitrary, and it is always the least preferable response to effects management
- Biodiversity offsetting and mitigation are also not the same thing. Conditions on mitigation can be required by a decision maker but a resource consent applicant cannot be required to provide an offset (or compensation)

## **Chapter Two shows how to include biodiversity offsetting provisions in RMA planning documents.**

- The provisions of an offset policy should apply to any indigenous biodiversity, but the level of residual effect subject to offset provisions should be informed by the importance of the affected biodiversity
- The option to use 'trading up' offsets should be restricted to circumstances where the conservation outcome is demonstrably better than a 'like-for-like' exchange, for example by trading non-threatened biodiversity for threatened biodiversity
- Plans should provide high-level guidance to support the application of their biodiversity offset policies, including a framework for the general design of an offset

## **Chapter Three guides how to evaluate the adequacy of biodiversity offset proposals.**

- Biodiversity offsetting and compensation generate very different outcomes for biodiversity. Biodiversity offsets aim to provide biodiversity gains that are at least equivalent to losses, while compensation actions do not
- Demonstrating 'ecological equivalence' – a measure of similarity between biodiversity gains and losses – is a fundamental step in evaluating the adequacy of a biodiversity offset proposal
- It is common for a consent application under the RMA to include a combination of proposed mitigation, biodiversity offsetting and compensation actions. It is important to clearly differentiate between these actions to ensure that the decision maker understands the full nature of the exchange

## **Chapter Four explains how to design and implement effective biodiversity offsets.**

- The level of proof required to support an offset proposal should reflect the complexity of the biodiversity being offset and the likelihood of success
- Biodiversity offsetting 'currencies' and models that separate out the biodiversity elements that are being exchanged are preferable to those that group these measures into a single metric
- The success of biodiversity offset actions should be robustly monitored to ensure compliance with consent conditions. Council consenting staff should be adequately resourced and trained in this area

**Chapter Five explores some options for improving the strategic delivery of biodiversity offsets.**

- Additional biodiversity gains may be achieved by using biodiversity offsets on public land, already protected private land, or through existing programmes, but these each need to be evaluated in advance
- Monetary contributions should only be used to deliver biodiversity offsets under specific circumstances. Outside of these situations, monetary contributions should be treated as compensation only
- Several strategies can be employed in the absence of institutional mechanisms to secure biodiversity offsets provided in advance. These may include staging consent conditions, the use of an aggregated fund, or through third-party agreements

