

DOC's role in protecting biodiversity – a tricky job but report highlights room for improvement

A performance audit report by the Auditor-General identifies the need for improvement in how the Department of Conservation (DOC) prioritises biodiversity and how it partners with the community to manage biodiversity. Anderson Lloyd lawyers Maree Baker-Galloway, Mark Christensen and Stephen Christensen give some insight on the implications of the report.

Late last year the Auditor-General released a performance audit report on DOC prioritising and partnering to manage biodiversity (see <http://www.oag.govt.nz/2012/biodiversity>). The report, as suggested by its title, looked at how DOC prioritises biodiversity and spending on it and how DOC partners with other organisations.

DOC has a role in maintaining biodiversity on conservation land (covering a third of New Zealand), supporting private landowners and community groups with biodiversity initiatives and advocating in the Resource Management Act (RMA) process when a development could impact on biodiversity.

The report identifies a lack of information for measuring biodiversity outcomes and the importance of using standardised tools for reporting. DOC is currently implementing new biodiversity prioritisation tools that the Auditor-General approved of with some cautions relating to staff and community buy-in. DOC's reprioritisation means that some projects have been stopped and this has disappointed some project partners.

The report emphasises the importance of measuring the effectiveness of interventions to protect species or ecosystems. DOC has already identified that the ecosystems it manages are not representative enough (for instance not enough low lying land). To counter this, DOC is focusing work on 'prioritised management units' with a cluster of ecosystems. Professor David Norton was contracted by the Auditor-General to review DOC's prioritisation criteria. Professor Norton considers the DOC criteria to be sound and consistent with DOC's goal of increasing the number of species it protects.

DOC's new prioritisation tool is being used to guide involvement in Resource Management Act processes. For DOC involvement at least one of seven criteria must be met for a more in-depth assessment to take place. The criteria includes whether the work involves sites that have high biodiversity value. The report questions this further assessment: "*However, in the cases we reviewed, it was not clear to us how the various criteria were weighted at the next level of assessment, and biological information did not seem to be critical for prioritisation to be decided. In the examples we reviewed, decisions were made without confirming the condition of biodiversity values that could be affected. It is also unclear how the tool would result in more consistent decision-making when there is no weighting of criteria to guide staff about how to decide what would be a priority*" (para 3.37).

There is criticism in the report that conservation management strategies (DOC's statutory planning documents for conservation land) are out of date and that the renewal process is too slow. This delay is seen as diminishing the overarching strategy required to combat biodiversity decline.

The report investigates partnerships between DOC and local government and non-Government organisations (NGOs). Commercial relationships are not covered in any detail because the Parliamentary Commissioner for the Environment (PCE) is currently undertaking an investigation into the commercial use of conservation land. The PCE report is yet to be released.

The only commercial relationship analysed in the report relates to the Tiwai peninsula where New Zealand Aluminium Smelters Limited (NZAS) leases Crown land. A requirement of that lease is a plant and animal pest control strategy. The report notes that with difficult business conditions the company has decreased voluntary work but is still carrying out work required by its lease.

The conclusion is that "*NZAS's biodiversity action plan is a good example of how commercial partners can seek to incorporate biodiversity risk assessment and actions into their operational plans and how DOC might facilitate more of these when negotiating future commercial partnerships*" (para 6.44). Whilst the report notes that threats to biodiversity are well understood and that pest control is the single biggest determinant of biodiversity loss or gain, it does not address new ways of incentivising pest control beyond this one comment. We hope that the PCE's report investigates and suggests opportunities for commercial partners to be involved with pest control, being the biggest bang for buck for biodiversity.

The formal recommendations of the report are:

Prioritising to manage biodiversity

1. Put in place an implementation and risk management plan for its new prioritisation tools, ensuring that:
 - staff have the skills and support needed to successfully use the new prioritisation processes; and there is adequate ongoing consultation with communities and key stakeholders and partners as part of prioritisation; and
2. Ensure that there is effective long-term monitoring and reporting of the effects of biodiversity management, including through the Ministry for the Environment's national environmental reporting.

Strategic integration

3. Renew all conservation management strategies in a timely manner and before they expire;
4. Prepare and implement working agreements with local authorities as a standard practice for managing biodiversity in the regions; and
5. Establish longer-term plans and resourcing commitments with partners that are working on core biodiversity operations.

Working with others to manage biodiversity

6. Where biodiversity of national significance is at risk and requires timely and integrated responses, DOC's national office ensure that effective regional leadership and co-ordination with other agencies is in place to respond to risks appropriately.
7. Produce policies, practices, and tools for preparing working agreements and collaborative action plans that would be appropriate for the range of partnerships it will be involved in; and
8. Review the criteria for the Biodiversity Advice Fund for larger multiple-year collaborative projects, advocate for using standardised tools and templates, and set out specific reporting requirements for repeated funding applications.

Anderson Lloyd has over 20 years' experience advising on conservation issues, working for clients including numerous tourist operators, OceanaGold New Zealand, Solid Energy New Zealand, Meridian Energy, and public interest groups such as Public Access New Zealand, New Zealand Royal Forest and Bird Society, various Fish and Game councils and Whitewater New Zealand. In addition, Mark Christensen is on the board of WWF NZ, the chair of trustees for the Banks Peninsula Conservation Trust, and he has a longstanding involvement in the International Union for Conservation of Nature (IUCN), the world's largest environmental organisation. He is on the peer review panel for the development of IUCN policy guidance on biodiversity and extractive industries.

This Anderson Lloyd combination of working for commercial interests and environmental groups has resulted in a keen interest and national leadership into ways to reduce biodiversity decline such as biodiversity offsetting. Maree Baker-Galloway started her career acting for DOC and district councils on RMA cases and now represents a range of tourism and commercial clients with interests in public conservation land. Stephen Christensen has acted for major infrastructure projects on conservation land and for OceanaGold obtaining access arrangements.



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