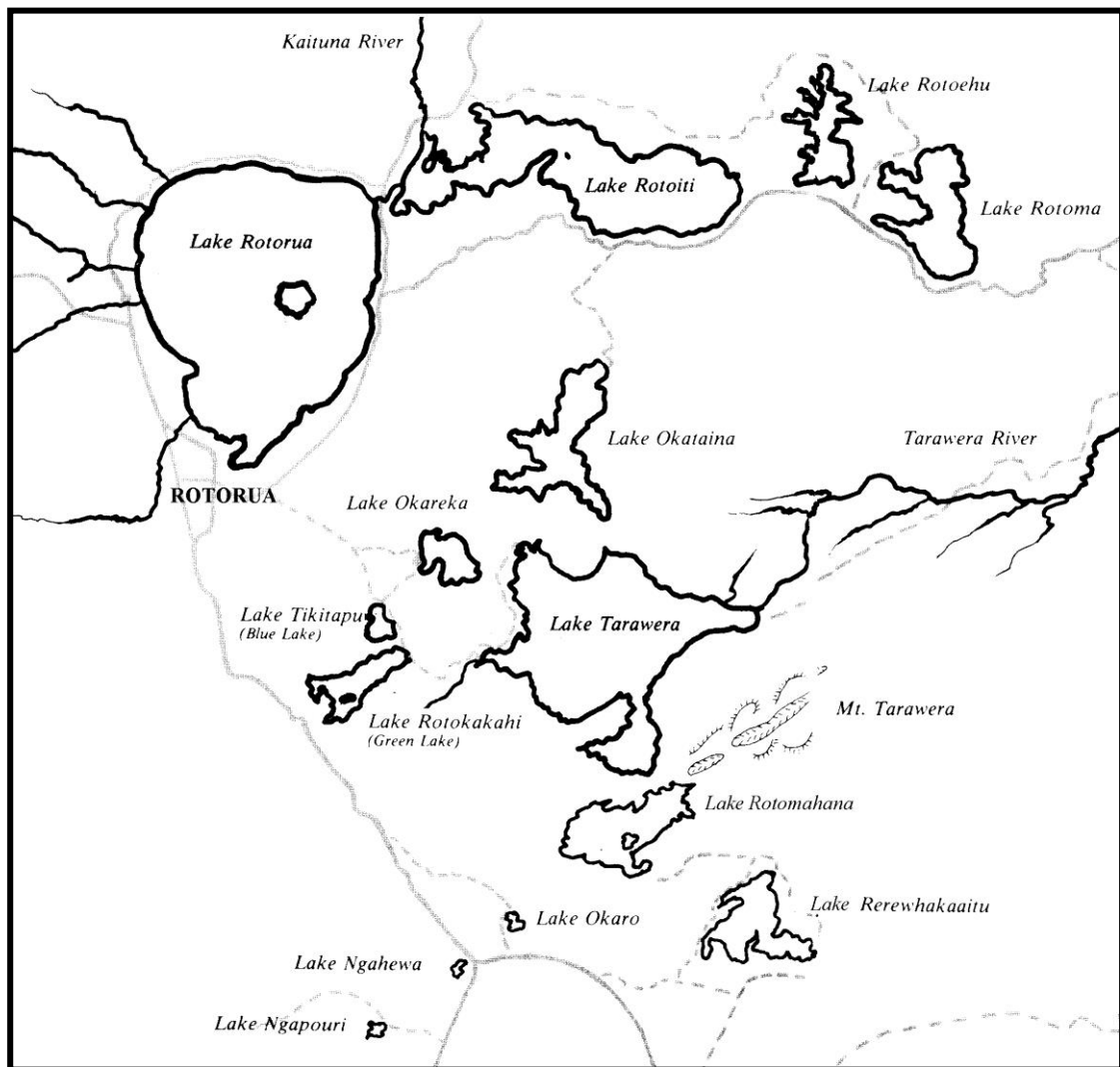

Proceedings

ROTORUA LAKES 2011

*How can the District Plan Help Water
Quality in Lake Rotorua
- Transferable Development Rights (TDRs)*



Symposium

Thursday 4th July 2013

RDC Civic Centre



How can the District Plan help Water Quality in Lake Rotorua?

Transferable Development Rights (TDRs)



EDITOR'S NOTE

Material for the Symposium Proceedings has been received as fully transcribed audio tapes and PowerPoint files. The editor then endeavoured to edit the spoken word to a written Word format and included graphs and pictures from the PowerPoint slides, with discretion, in the body of each presentation. Where possible slides that contained only words were incorporated into the document text. Not all slides were included. The papers were sent to the original presenter to ensure they were satisfied with the transcription.

Workshop sessions have been included. These are a little more difficult to transcribe and there may be some errors or misinterpretations in the editing.

I would like to thank all the presenters who have kindly helped me with editing. It is a mammoth and laborious task. In the interests of expediency and accuracy I very much appreciated their support. I would also like to thank Liz Miller who took note of the names of people with questions in the workshop sessions and my husband John who has also spent some time looking for spelling, grammar and senseless meaning. There will be further mistakes but it is more important to produce this document as quickly as possible.

Ann Green

Disclaimer: These Proceedings report the formal presentations and workshop sessions of the Symposium, which was designed to encourage open discussion amongst the stakeholders and those with a strong interest in the management and development of the Rotorua Lakes region. The information is **not** intended to substitute for official policy statements from parent organisations.

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FOREWORD - ROTORUA LAKES SYMPOSIUM 2013

John Green

Chair, LakesWater Quality Society Inc.

The Rotorua Te Arawa Lakes programme is now at a critical phase where nutrient budgets are to be established for landowners across the catchment of Lake Rotorua. The challenge is to reduce the existing nutrient load to the lake by over 43% by 2032.

Our challenge as a community is to achieve these nutrient reductions yet retain and encourage the productive capacity of the agricultural sector. We need as many tools as possible to create enough incentive to achieve these goals.

Transferable Development Rights (TDRs) are one of the tools LWQS are promoting to be included in the District Plan. They have been used elsewhere in New Zealand with mixed success but never before to achieve nutrient reductions in a catchment. This is a first, and an exciting new dimension to leverage off community interest to achieve a community outcome.

The purpose of a TDR is nutrient reduction which is leveraged by sub division: it is a right to sub divide gained by reducing nutrient flows to the lake, and therefore achieving an environmental benefit for the greater catchment.

The subject is complicated. This symposium was an opportunity to hear the background, debate the issues, and acquire an understanding of the principles. It will help an informed decision over whether TDRs should be used in the Rotorua catchment.

On behalf of LWQS, I extend our sincere thanks to all those speakers who prepared and presented papers. The voluntary time and energy required to produce such informed opinions is substantial and much appreciated. Thank you also to Mayor Kevin Winters and Cr Lyall Thurston for chairing sessions.

I also would like to thank Rotorua District Council for their support, the use of the Council chambers and for catering.

Session One

SESSION CHAIR - John Green, Chair, LakesWater Quality Society

THE DAY AHEAD

Warren Webber

With a professional background in agriculture and veterinary science, and a decade of participation in water quality issues for the Rotorua Lakes catchments, Warren brings an intense personal, but non-vested interest, to issues of nutrient management on the land and in our waterways. Conference management (international and domestic) helps to pay the bills, but voluntary community interests take up much of his time. As an appointee to the Stakeholder Advisory Group (StAG) which considers land management and land use change policy issues on behalf of the Te Arawa Lakes Strategy Group, he is closely involved with the challenges of nutrient allocation and incentives for change.

It is my job to give an indication of where we are heading in today's programme. During the day I will also facilitate discussion in the two workshop sessions. We are videoing the sessions and all questions and comments will be recorded, both in writing and on audio.

Why are we having this Symposium?

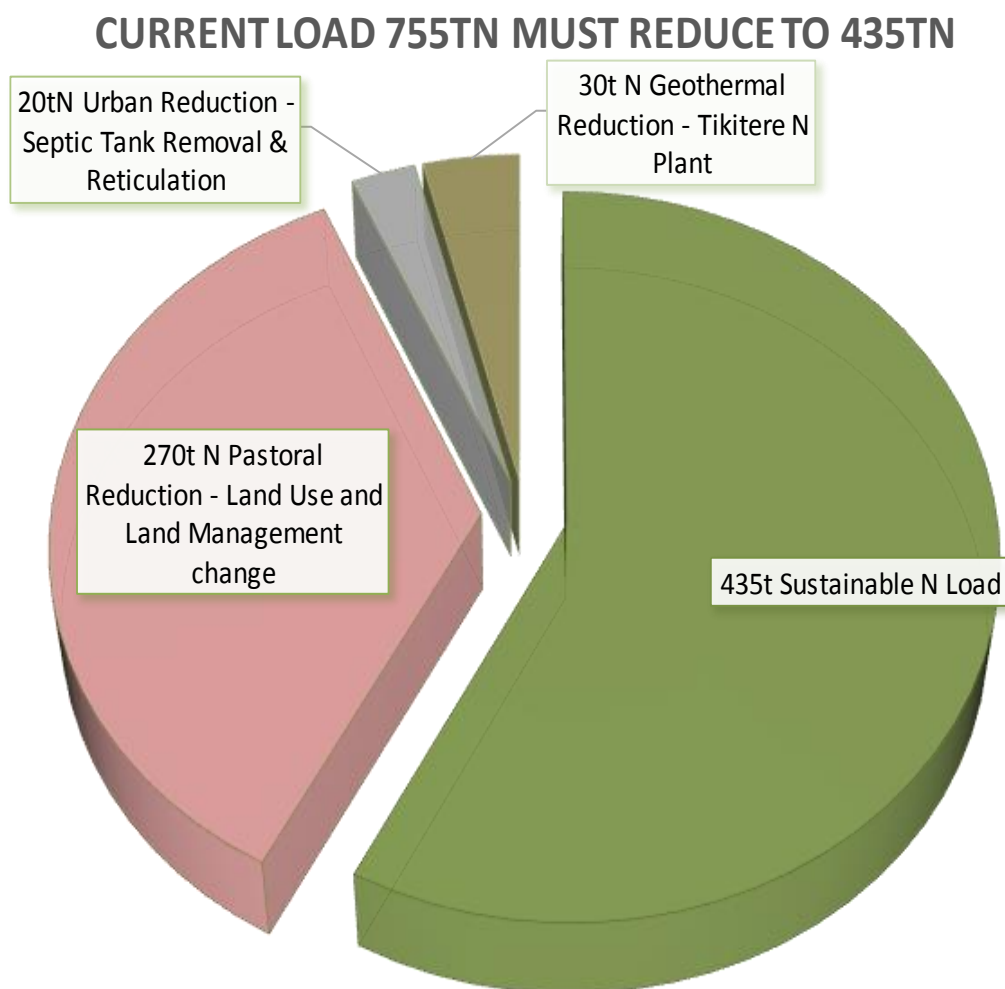
The Rotorua District Council District Plan (PDR) introduces Transferable Development Rights (TDRs) for the first time in this district. The LakesWater Quality Society has been advocating for this since 2008 and our aspiration is that over the next 10 to 20 years an extra \$20m incentive can be added to help farmers reduce nutrients. TDRs are a simple concept, but the devil is in the detail. The intent of this symposium is to bring greater community understanding to the detail and to explore the opportunities that TDRs can bring.

What is the context of this?

In 2011 the discharge of nitrogen to Lake Rotorua was 755 tonnes. 526 tonnes of that came from pastoral farming, which is just a shade over 70%. The sustainable load has been identified as 435tN/yr for the lake and 256tN/yr for pastoral farming. This means that a 51% reduction is required from pastoral agriculture if we are to meet our nutrient targets for the lake. In 2013 the Regional Policy Statement from the Bay of Plenty Regional Council now requires that the sustainable load of 434 tonnes per year be reached by 2032 with 70% of that target to be reached within 10 years, by 2022.

Slide 1 gives the same information in diagrammatic format. The green is the sustainable load to the lake, the pink is what needs to be removed from pastoral agriculture and the smaller segments are what will accrue from geothermal reductions, particularly the nitrogen removal plant at Tikitere, and the urban

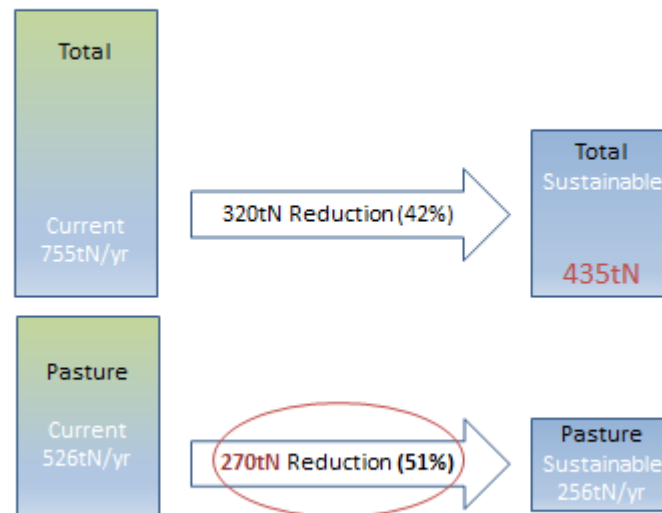
reduction through septic tank removal and sewerage reticulation. So it is a fairly big chunk that has to come out.



Slide 2 gives the same message. 755tN/yr is going into the lake now, and when the work is done, it needs to drop by 320tN/yr to get our 435 tonne per year load. The pasture component, 526 tonnes currently, needs to be reduced by 270tN/yr to get to 256tN/yr. This is the context that we are working in and we hope that TDRs will bring another tool to assist the process.

A lot of work is going on in the Stakeholder Advisory Group (StAG Group), a team with about 15 people who are community appointees. The StAG group reports to the Rotorua Te Arawa Lakes Strategy Group, which in itself is a body made up of three entities – the Te Arawa Lakes Trust, the Rotorua District Council and the Bay of Plenty Regional Council. The StAG Group is assisting to develop allocations and incentives; how we allocate the sustainable load and incentivise that change.

Target = 435t Sustainable Load to lake



Slide 2

Allocations are how the sustainable load of 256tN/yr is allocated to the farmers; what is going to be their share?

Incentives are payments for N 'purchased' from farmers to achieve those leaching reductions.

Transferable Development Rights (TDRs) for property are simply an extra incentive. We believe that it will be most usefully applied in an additive way, on top of any other incentives that are provided through the Regional Council or other means. The same kilogram of nitrogen can attract both base incentive funding from the Regional Council and qualify for TDRs.

What is a TDR?

A TDR is simply the right to subdivide one extra lot in a defined subdivisible zone. That zone is called the recipient zone and later in the day we will look closely at the extent of this recipient zone.

How will TDRs be created?

They will be earned by farmers, who are described as 'donors' for any qualifying N leaching reductions. Later we will look at the extent of the donor zone, what farms are able to be donors and what N reductions will qualify for TDR allocations.

So I have already raised a number of questions – What is a TDR? What will be the recipient zone? What will be the donor zone? Which N reductions will qualify? There are many more questions that we will address during the day.

We will debate and discuss, and together suggest some answers.

THE COLLABORATIVE PROCESS - THE NEW PARADIGM

Todd McClay

Todd was born in Rotorua and raised in Reporoa and Taupo. He has created and owned a number of successful businesses and has worked in a political capacity internationally, in the European Parliament. In 2000 he was appointed the Cook Islands and Niue Ambassador to the European Union. He was first elected in 2008 as the National Party candidate for the Rotorua electorate.

Todd has worked hard to service the needs of both the urban township of Rotorua, and the large rural constituency that makes up most of the Rotorua electorate. He recognises the vital role that rural New Zealand plays in the economic and cultural fabric of the country, and is committed to being an active voice in Parliament for all parts of the electorate.

Todd McClay was to present this section but unfortunately was not able to come. Ian McLean spoke on Todd's behalf, drawing on his notes.

Ladies and Gentlemen, it is obvious I am not Todd but on Todd's behalf, and my own, I would like to pay my respects to Maureen Waaka. She was not only beautiful, which is good in itself, but she was a great person, and we pay our respects to her.

I should say one thing about Todd not being here and that is that the whips will not let him go. The whips are somewhat mysterious figures; they wield immense power in Parliament. Their job is to make sure the Parliamentary system works effectively, and there is no appeal against their decisions. You will see this a bit as Todd now has assumed a ministerial post and they are particularly tough on junior ministers.

Todd sends his best wishes for the day and records his commitment to the lake and to farming; to the jobs, to the opportunities in the district. Todd would tell us that we have a unique opportunity here to do something that until now has not been accomplished anywhere in New Zealand. What has to be achieved is both a clean lake and jobs, and we cannot risk either. We cannot risk the quality of life which makes New Zealand a stand out destination for people to live and play.

The Land and Water Forum, in a wider context for all New Zealand, is about strong vibrant communities, responsible businesses and shareholders; stakeholders making decisions for themselves and for others. The Forum focuses on local economies, jobs, investments, income and clean water ways. In the Rotorua district a huge amount has already been done. Todd and I pay a tribute to those who have done this work. To the mayor and councillors, management and staff of Rotorua District Council, particularly for the great work with the sewerage, now almost right across the district. Kevin, you and your people are to be congratulated on that.

Secondly, to Environment Bay of Plenty, now promoted to the Bay of Plenty Regional Council, congratulations for all that the Regional Council has done. We have a number of councillors here today: Councillors Thurston, Oppatt and Eru. Congratulations to Te Arawa, for the work they have done, for their leadership contribution and for the work that individual trusts have done across the catchments. I would also like to pay a tribute to Professor David Hamilton who has provided the basis of the science and the drive and intellectual understanding to move ahead.

With all that effort, about half the lakes are fixed or on the way; it has been a huge success almost unparalleled in New Zealand. But progress has stuck with Lake Rotorua, our most important lake. It is stuck for all sorts of reasons, but as Todd pointed out the various groups were arguing and shouting at each other. I was part of one of those groups. I spoke quietly, I thought, but Todd says rightly that we in LWQS and the farming community were not communicating with each other. Todd initiated and worked through the Waiora Agreement bringing understanding between environmental activists, (I suppose that is LakesWater Quality Society), and what he calls 'rampant farmers'. It would be interesting to see what a rampant farmer might look like: perhaps after the field days. We each found that the others often meant the same things but in a different language.

Today, two years on we are much closer together. Progress was built on the Oturoa Agreement and the Bay of Plenty Regional Council has joined in and contributed to that. The Oturoa Agreement, as Todd points out, was the beginning of the end of the hostilities. The arguing is over, and now it is time to agree and move ahead. The whole country is watching Rotorua, watching our model for agreement and achievement, because if and when we succeed it is likely to be mirrored in many other catchments up and down the country. For this reason Todd points out we must succeed.

Why are incentives needed?

Incentives are needed because those who take action need to be involved with the process and own the outcomes. Every stakeholder must be treated equally as long as they are acting responsibly and in good faith and that includes the rural sector, the Regional Council and the District Council. Nobody has a right to put nutrients in the lake over and above their allocations.

It is important that there is certainty and people are not left not knowing where to invest, where to work and what their future will be in this district. It is important that there are incentives which will give farming a secure future and do it in such a way that incentives are far quicker than any strict rules alone could ever be to push a community to change.

What money could be on the table to incentivise nitrogen reduction?

This is a decision for ratepayers, because most of the money comes locally either through rates or by ratepayers paying themselves and bearing the costs. Because of the cost it cannot be done too quickly and yet it must not be done too slowly either. Todd commits central government to helping where it can. He points out

that we have already received a significant tax payer contribution, more than any other catchment is likely to receive in the future. He points out the tax payer funds cannot be reused to reduce rural productivity unnecessarily. That flexibility over the funding deed for Lake Rotorua has been agreed in principle; however funding availability is dependent upon progress. The progress is likely to be measured by government, not only on the speed of nutrient reduction but also on the co-operative approach to all decision making.

He challenges us all, central government, local government and the community to be on the same page. We have made progress but much more needs to be demonstrated. Writing rules will not solve the problem. We have to work together to solve the problems and that working together will involve a huge amount of detail. We will see some of the detail today in the TDRs. I suggest you do not get lost in the detail of the exact numbers. The target numbers are set, but do not lose the thread of the symposium by arguing over one particular number. The challenge for us is to look at the major policy issues behind each of the numbers. The TDRs are one of the many things that have to be worked through in the StAG Group and it is a challenge for us all.

Lake Rotorua is a wonderful lake, one that we have abused in the past, both city, lakeside and country. Around the lake most jobs are supported one way or another by our environment and much of our tourism and our attractiveness depends on the front-piece of the lake. Yet as a city and district we turned our backs on the lake. Now everyone is facing up to the problems and this is absolutely magnificent. I look forward in my life time to seeing significant improvement in Lake Rotorua, a beautiful lake set in a more prosperous district.

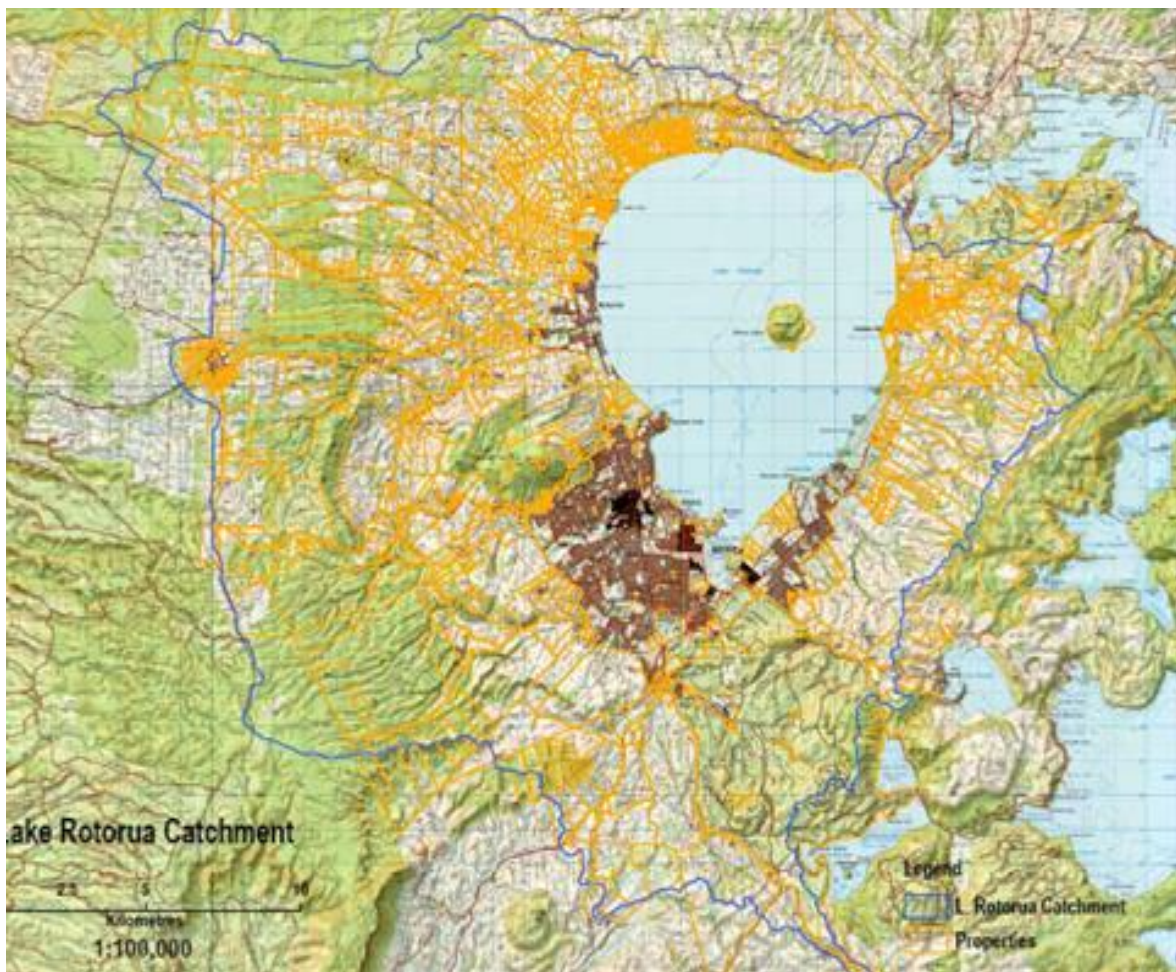
On Todd's behalf and my own I wish you well in the symposium.

TRANSFERABLE DEVELOPMENT RIGHTS AN OPPORTUNITY TO ASSIST IN RESHAPING THE ROTORUA CATCHMENT

Don Atkinson

Don is on the committee of LWQS and has been involved in advocating land use change for a number of years. He is a member of StAG which is advising BOPRC on the rules and incentive programme for the Rotorua Catchment. For 20 years he had a valuation practice in Whakatane specialising in rural and forestry valuations and land classification. He is also actively involved in a family dairy farm.

It is interesting to listen to Todd's points. Clearly there are some challenges that he has laid down for us, particularly the one of working together and tying dollars to that. Our challenge today is the opportunity to reshape the Rotorua catchment. It certainly needs to happen, but in a sensitive way, one that retains the agricultural base of this community and allows change that enhances the whole community. A poorer rural community will be a poorer district. We must be very conscious of that and be innovative in how we approach it.



What are TDRs and why are they important?

- Between ⅓ to ½ of pastoral area must change land use
- Nutrient Reduction is expensive - at least \$90m
 - \$45.5m potential
 - Supplement with TDRs
 - Farmers and landowners bear cost
 - Community impacted
- Target at least \$20m from TDRs
- What is the cost of failure????

TDRs are included in the Proposed District Plan. My first public proposal in respect to TDRs was back in 2007. The District Plan has not been revised since and this is our first opportunity to address it. It has taken a long time to come around but the opportunity is now here.

The District Plan is governed by the Regional Policy Statement (RPS) and has to take account of the fact that the RPS now requires the reduction in nutrients entering Lake Rotorua to 435 tonnes of nitrogen annually. There is no getting away from that, Council have got similar responsibilities to us in achieving this.

The required reduction from agriculture is 270t/N/yr. 70% must be achieved in 10 years and the balance in 20 years. This is a big ask because the nutrients from pastoral farming have to be halved. Best farm practices cannot achieve that by themselves. They will get between half to two thirds of the reduction and a greater amount if there is investment in farming infrastructure. To achieve the remaining reductions required a third to half of all pastoral land must change its use. However, we must be innovative in how that change occurs. I do not think anyone wants to see a large amount of farmland in the catchment committed to a single species, radiata pine. That would not be a good outcome.

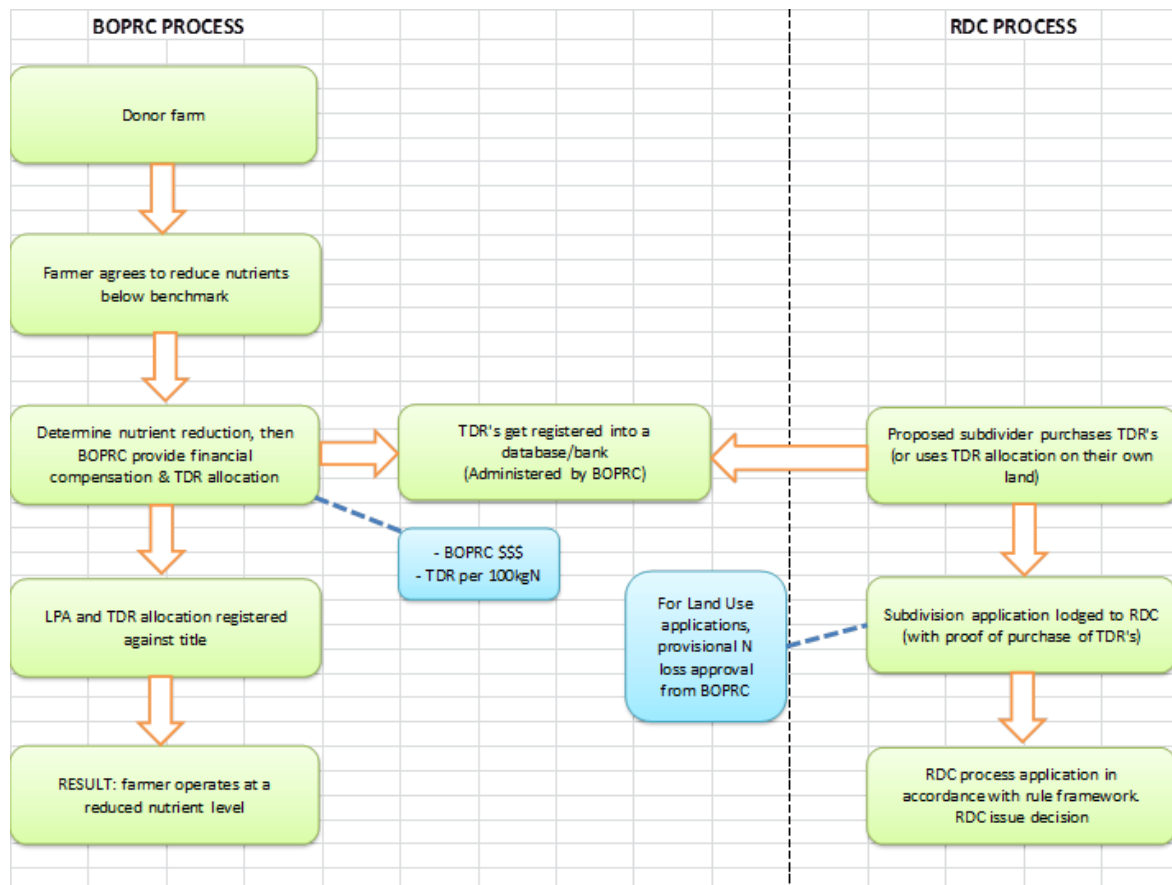
Nutrient reduction is expensive

Several studies have looked at the potential loss in value from the agricultural sector, suggesting it is about \$90 million. These are dollars that the rural community potentially stands to lose if we cannot be innovative and create value from the opportunities that arise. There is \$45½ million in central government and local body funding to assist in that process, which gets us half way there. But there is still a big gap for any community to take on the nose. We are attempting to address this by creating capital through the process of subdivision. Our target is to raise \$20 million from TDRs. That may be 1,000 TDRs at about \$20,000 each, less than that achieved in the Western Bay of Plenty District.

What is the cost of failure?

We know the rules are going to come but if we do not create a productive catchment our whole community will be impacted.

Transferable Development Flow Chart



Slide 2

Slide 2 shows what a TDR process might look like and how it happens. On the donor farm somewhere in the catchment the farmer agrees to reduce their nutrients below the benchmark through land use change. That benchmark is established in a best farm practice situation. The farmer goes to the Regional Council and commits to the reduce nutrients process. In that committal covenants will be registered against the farm title. A consent will be issued providing a Nutrient Discharge Allowance (NDA) that will require the farm to be utilised at the agreed level. The TDRs will be issued in accordance with the rules and are the property of that farmer who is free to sell them or retain them for later use. These TDRs should be held on a register, available to all, be transparent and have well understood rights of subdivision.

The farmer will be eligible for additional payments from the Incentive Scheme.

The sub-divider on the other side, wanting an opportunity to develop a property, needs to purchase those TDRs. It will be a market transaction; a vendor/purchaser situation, willing buyer and willing seller. The market will set that price underpinned by nutrient trading rights. I believe there will be a base price probably around \$20,000. The sub-divider will then apply to Rotorua District Council, TDR in hand, and providing the Council criteria is met, the sub-division would be granted. This could also happen if it was the donor property, they are not mutually exclusive.

A Sheep and Beef Farm

- Farm
 - 180Ha Steeper hill
 - 20Ha Undulating
 - Benchmarked at 18kg/ha
- Convert Hills to Forestry
- Retain pasture around homestead
- TDR Assessment - N
 - BFP 13Kg/ha
 - Revised NDA 4kg/ha
 - Reduction $9\text{kg} \times 180 = 1620\text{Kg N}$
 - At 100kg N/TDR
 - 16 TDRs issued
 - Title Covenanted
- Lodge TDRs on Register for Sale

In a practical example of a sheep and beef farm with 180 hectares of steeper hill country and 20 hectares of undulating country, the current benchmark is say 18 kilograms per hectare. Do not worry too much about the numbers, but assume that the farmer's desire is to convert the hills to forestry. Hopefully there is more opportunity on such a farm than forestry, multiple cultures, perhaps some bike riding tracks. There was a great example recently on Country Calendar in the Western Bays showing the diversity that can come through a forested rural farm utilising bike and walking tracks.

Let us assume that best farm practice is 13 kg/ha, a number that is still to be set. Putting it into forestry would take this rural block down to 4 kg/ha, a reduction of 9 kg/ha over the 180 hectares which is 1,620 kilograms of nitrogen. If, and I say if, a figure of 100 kg of nitrogen is set per TDR, that would equate to 16 TDRs. The title would be covenanted to ensure that the reductions in nutrients is achieved. The farmer lodges the TDRs for sale and hopes that a developer will come along and buy them.

The Developer

- Block
 - 20ha in premium location
 - Rural Zones or R4 Lakeside Settlement Zone
 - Subdivide into 10 lots
- Required to purchase 10 TDRs
- Discretionary (Restricted) Right to subdivided for residential/rural purpose or theme development
- Service provided
- Risk taker –
 - Outlay the \$ and make it happen
 - Minimising risk through certainty
- Opportunity to farm people instead of animals

The developer has 20 hectares of premium land, nice location in the rural zone or in a lake side settlement zone, wanting to subdivide it into, say, 10 lots. To undertake that subdivision the developer would be required to purchase 10 TDRs. This is the crucial issue and one needs to understand the consequences of it.

Historically everyone has had the right to subdivide their property given they can meet Council required criteria. The proposal here is that the requirement to surrender a TDR is the only way that one can subdivide property. This exclusivity is what will guarantee the \$20m. Conventional subdivision would undercut and undermine the value of TDRs. This would be ground breaking, I accept that, but if we are going to generate the cash that we want and have a community that is not damaged as a result of restoring the lake, we need to be creative. Where TDRs can be utilised and what associated conditions will apply, will be critical in establishing their worth.

The developer is the risk taker; buying the land, buying the TDRs, providing the services and then waiting - waiting for a buyer to come along with the cash to realise his investment. The biggest risk in developments is one of uncertainty. If we can provide certainty of subdivision through the TDR process, thereby removing this risk, we will add value to the TDR proposition. This should act as a stimulus to development.

Maori land

Maori land is a significant issue in our catchment. Maori are the largest farmers and collectively the largest owners in the catchment. They have corporations with highly productive dairy and pastoral farming. On the other hand the Maori Trustee administers numerous multiple ownership blocks which are lower producing.

Workshops

There are two workshop sessions during the day and a number of key questions which we need to explore and discuss.

Morning Session

- Where should the Donor and Recipient be located
 - Which Catchments
 - Restrict or Restrictive Discretionary - conditions
- What is eligible
 - Land use change
 - Land management change
- Quantity assessment of TDRs
 - How many kg per TDR
 - What benchmark
 - Who does the assessment
 - How does that impact on value
- How can Maori Land benefit from TDRs
 - Change in land use
 - Forestry
 - Lakeside sections
 - Freehold
 - Leasehold

Afternoon Session

- Where is the market
 - New opportunities
 - Inclusion of the catchment and Rotoiti
- How is the price set
 - Market
 - BOPRC
 - Underpinning alternative
- Nutrient reduction required per TDR
 - How many Kg for each TDR
 - ✱ 100 or 500Kg N
 - What impact \$\$\$\$\$
- Who administers the TDRs
 - RDC, BOPRC or Independent
 - Register or Direct
- How is this registered against the title

A challenging day. We have a major opportunity in front of us and I do hope that we are prepared to take that opportunity.

WHAT IS THE PROPOSED DISTRICT PLAN PROPOSAL?

Liam Dagg

Liam Dagg is the Planning Services Manager at the Rotorua District Council. He has been with Council since 2005 and before taking up the role as manager was the team leader policy. The district plan review as a public process was commenced under his supervision in late 2007. Producing a district plan that delivers meaningful options around land use change for lake water quality has been a major feature of the review process, with lake water quality identified as one of the important issues the community wants the next generation district plan to deliver on.

There have been some great speakers before me and I will make a determined point not to traverse in any great detail some of the points that have already been raised. In saying that, however, I would like to pick up on two threads. Warren said, 'the devil is in the detail'. That is true enough, but also Ian said, 'don't get caught up in the numbers,' because this is a Proposed District Plan.

Overview - What is the Proposed District Plan proposal?

We have designed it such that there is an opportunity, both informally in discussions like this, and formally through the Statutory Hearing Process associated with the Proposed District Plan, that we can develop TDRs further. That is a key point because, as Don highlighted, we can talk scenarios, models and options all we like. I have stood up in front of audiences and tried to articulate what TDRs are with limited degrees of success, so I am going to avoid that. What I am going to do is give you a fairly candid overview of the nuts and bolts of the Proposed District Plan. Being reasonably close to it, I can give you a 'warts and all' of the reasons and underlying factors that contributed to the words and gaps in the document and focus on those aspects we have identified where there is scope to work through, and tweak.

Through the presentations you have heard already and also the discussions you will hear later from Bay of Plenty Regional Council, it is evident that this is a team game. It is not just about the pointy haired policy planners sitting in the back room; writing the words and foisting it on the unknown world. It is at the extent of my knowledge or ability to add value to Transferrable Development Rights. My brain is at its capacity. We are looking for input from the public to take this to finality.

I will give you a quick overview of the Proposed District Plan 'hows' and 'wheres' of TDRs. It is silent or vague in some areas. Identifying quickly what is still open for debate and the next steps is very important in the context of how it fits in with the statutory process going forward not only from the District Plan, but the Regional Plan as well.

Some important things to remember

TDRs came late to the Proposed District Plan. Don said they have been floating about from a Rotorua perspective since 2007/2008. The Council did consider the

idea, but then stepped away; it fell into that too hard basket. But as the Regional Policy Statement grew legs and sharper teeth and was notified, it became apparent that we did not have many tricks up our sleeve in a district plan to give effect to the concept. It came back on the table and we said, 'Let's delay the notification of the District Plan for another 12 months so we can think about this further'. These processes have a timetable and we were also very mindful of the range of reforms that were happening at central government. With one eye on that we decided to go with what we had. One reason was the fact that the TDR provisions were not operative. They are related to the Land and Water Forum Rules; they technically should be operative on notification but they are not. When we notified the plan we made a special provision to switch them off.

So the conversation is well and truly open and there is scope for change on the words in the document. They are not written in cement or locked down. Keep this in mind for the workshops later on in the sessions.

Rightly or wrongly we have focused the TDR discussion on Lake Rotorua. I believe rightly for two reasons. It is one of the biggest problems and the District Plan has probably a 10 year life before it gets reviewed again. The decision was one based on where we were going to get the biggest bang for our buck. We identified a specific area where the TDR game could be played and where most dairy farms cluster, our target audience. Discussions later will be on sector allocations and the role of dry stock and the other pastoral groups and how the terms of reference may change, so I am not going to dwell on that at the moment.

The three major reasons TDRs made it into the Plan:-

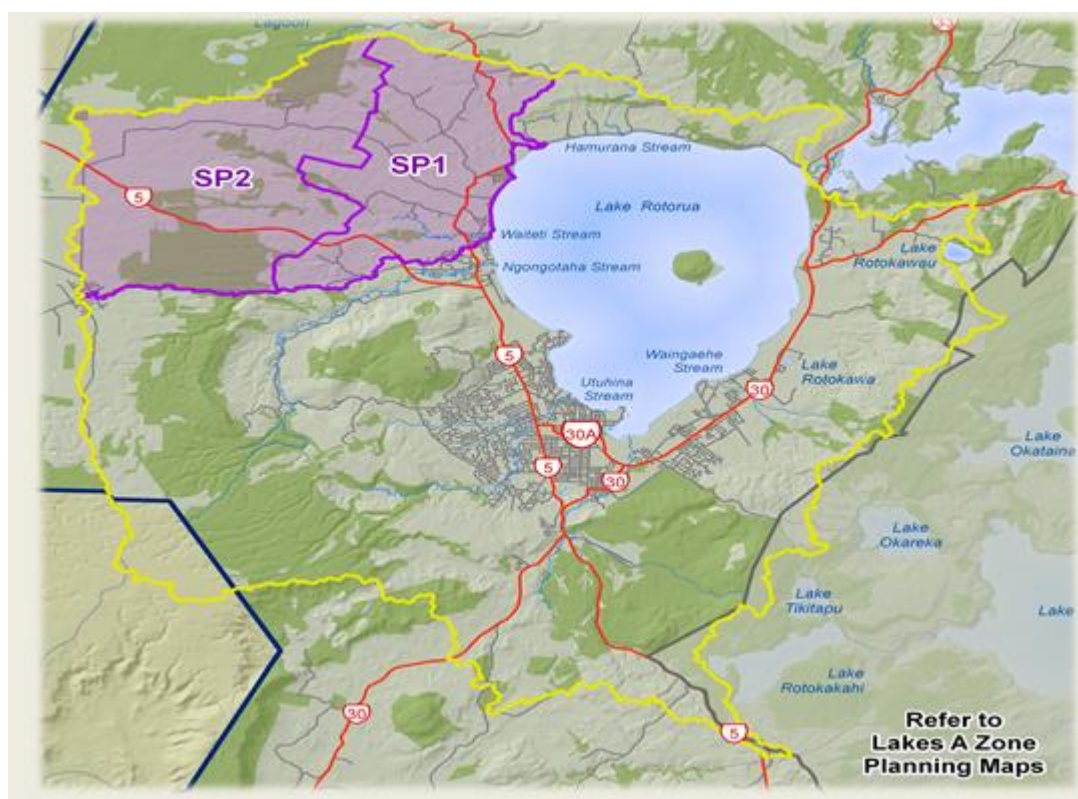
- To give effect to the Regional Policy Statement.
- The community has identified lake water quality as one of the top issues they want the District Plan to give effect to; something that has driven RDC. It is not just a Regional Council game but a 'What can the District Plan and District Council do in this space?' It is more than about sewerage reticulation; what tricks can we bring to it?
- Looking for land use options for farmers that fall outside areas that Council service.

This last point is a key driver in this discussion. Farms closer to town have greater potential in the market for rural residential subdivisions. But the majority of dairy farms are further afield towards the end of the catchment. **(Slide 1)** Our focus was on trying to incentivise that area and give a more level playing field. If subdivision was to be a process how could they play in that space? Don has picked up on that in his examples.

How and where is it proposed to happen?

In terms of the nuts and bolts of TDRs in the Proposed District Plan, one needs a compass and pick axe to find them. They do not jump out in a Superman costume; the elements are dispersed throughout a number of chapters. The key one is Part

Slide 1



9 of the rural chapter. To some extent it is in Part 12, the future growth chapter and in the subdivision chapter, Part 13, and there is also a set of strategic maps in the map book. That is where TDRs live and breathe.

The Proposed District Plan currently says that the TDR game can be played in the area called SP1 and SP2 (Special Planning Area 1 and 2). We will talk about what that means in a minute, but because we love crayons we have drawn an area, fairly arbitrarily, around the part of the Lake Rotorua catchment where most of the dairy farms exist. That is about as far as the science goes. The line that divides the SP1 and SP2 area is defined roughly by where the extent of our services are.

In terms of our planners' wonderful ability to murder the English language, Table 13.10.1 in the District Plan is the brains of the operation behind 'Rule 16':

- *Subdivision of land to create additional lifestyle lots within the special planning area SP1 in excess of the number of lots that can be created under rules 13.10.1.1 (c) and 13.10.1.1.(d) and that results in a reduction of nutrient losses*
- *If you are within the SP1 or 2 area and can demonstrate a significant nutrient reduction you get to play the game*
 - *SP 2 = donor area*
 - *SP 1 = recipient area (but you can be both)*

If you walk away from this discussion thinking, 'Oh my God I want to read the Proposed District Plan', it is a difficult document to navigate looking specifically for TDRs. Go to Table 13. We have rule envy with the Regional Council, they have Rule 11, we now have Rule 16 and it lays out the subdivision aspects.

If a farmer is within the SP1 or 2 area and can demonstrate a significant nitrogen reduction, they are eligible to either receive or donate Transferable Development Rights. We anticipate that the SP2 area is where most of the TDRs will be created from, the donor area Don spoke of earlier. In the framework of the Proposed District Plan, any rights created from SP2 can be put in SP1. Don said in SP1 you can also be a donor and recipient just to give it that greater level of complexity.

Talking about significant nitrogen reduction, and stressing what Ian McLean said, 'don't get caught up on the numbers', the Proposed District Plan drew a line in the sand and said:

The land use change shall achieve a nutrient loss reduction of at least 500kg below the donor property's current 'nutrient benchmark' or 'discharge allowance'.

We will talk about this further but there are a lot of submissions on this and the definition of significance, etc.

The mechanisms of TDRs are based on entitlements over and above the existing lifestyle lot allocations of the property. We have chosen not to get rid of that concept, currently in the Operative Plan, so a TDR is over and above what a farmer would get from a lifestyle lot allocation depending on the size of property.

Getting into the warts and all of it, the Plan says the minimum number of TDRs resulting from a significant nutrient reduction is 1, but is vague on the maximum and that is one of the issues we can talk through today. It is processed as a restricted discretionary activity, and from a planner's perspective that is slightly more flexible than a discretionary activity in the rural zone, but there is scope for further flexibility.

Some 20/20 hindsight comments

With 20/20 hindsight, coming from someone who is reasonably close to it and now looking back, it looks hard when you read the words again. I strengthened myself to do that over the last couple of days getting ready for this workshop. Table 13 is the rough 'How To' Guide, and there are a lot of built-in costs where we asked for specialist advice, reports, etc.

Is the restricted discretionary aspect too risk averse? If we want to incentivise do you make it controlled, or even still permitted? Something Dave Umbers may pick up on, in a market place where there are many options and diversity of lifestyle choices, how realistic is it for a Donor and Recipient to come together in a subdivision transaction to make this thing work? The Proposed District Plan espouses and articulates on this but going back to that line drawn in the sand, there is some reality yet to be tested.

The Proposed District Plan talks specifically about land use but is vague on land management change and whether TDRs have a role to play.

I struggle with the definition of a minimum lot size of 2,500 m² for a TDR but at the same time we talk about 'provided an average of 4ha is maintained'. This sounds good in theory but for the customer wanting to be involved in this process, it is hard to work out whether one can qualify as a recipient within that SP1 area. In terms of easy to use and engage with, there is some complexity built into it, rightly or wrongly.

Going back to the multiplicity of choices, who is going to play when there is so much land zoned rural residential? Dave Umbers and others may pick up on this. If it comes down to the zoning, for TDRs to be effective it needs a base line rural zone with a minimum of rural residential. That is something that needs to be looked at.

What the plan does not cover

The District Plan focusses on the process as if it were a resource consent but nothing beyond that. It does not talk about other aspects that the customer is probably most interested in:

- Who is the administrator?
- Who is the banker?
- Cap supply or unlimited release?
- How do normal people engage with it in the real world?

It also makes a tentative stab at other areas that could be identified as recipient areas. In one section of the Plan it talks about the east side or an area between Cookson Road and the existing urban edge. It also talks about an area to the south of Pukehangi Road and there are proposals through the submissions process that have identified even further.

A snap shot of feedback from the submissions

We had over 500 submissions. TDRs were a hot topic. Some said putting TDRs in the Plan is too soon. 500kg, the magic number, too high, too low, lots of submissions around that. Others were generally supportive of the concept, but extending the donor area out to the whole catchment. This picks up on the debate about do we focus on dairy, or do we broaden this out to dry stock and other pastoral users?

Some questioned whether TDRs are economically feasible. This is a discussion going forward. We have also had feedback from individuals within the donor or recipient areas that may not necessarily want to intensify. There are big debates happening in Hamurana and in the east side.

Next Steps

We are about to re-notify the Submissions Summary and call for further submissions. The combination approach that we are taking, these informal debates, discussions, and the formal process, I encourage you all if you have submitted to get involved. We are trying to get the hearings underway before the election, but definitely putting the more technical issues like TDRs further forward for a couple of reasons. They are technical and there is other research we need to do and we are waiting for the Regional Council planning process to line up as well. Hopefully early next year there can be a more informed conversation, but we are still aiming for a release of the decisions on the summaries by the 30th of June 2014. Some would say that is still too soon but we are only a couple of months out from our two year statutory time frame where we have to get that decision out the door and that is driving us at the moment.

Some parting shots

TDRs are not the silver bullet or going to solve all the world's problems. They were put in the Plan as a starting point or a line in the sand for discussions. We were on a timetable; we decided to roll with it. We knew it still had a few warts but here we are. The context is important in looking at whether TDRs are the cherry on the top of the cake or an alternative pathway depending on what other incentives or regional land plan rules come out of the box. They are still something I am struggling with.

TDRs are a good concept but if the economics do not stack up or the community does not want them, we are not going to die in a ditch on it. But I will stress that there is not a lot else in the District Plan tool box that has the sexiness or provides the potential that TDRs can provide if we get it right. I will leave you with that thought because they do provide multiple options and I personally believe that TDRs do have a role to play in this game and I am keen to hear from you all.

I thank you for your time.

John Green

Thank you Liam, I am pleased that you are able to say that you have not finalised TDRs yet. You have raised a lot of questions and it is going to be a real challenge for us to try and get our heads around some of these issues.

I have an example of a neighbour of mine who has subdivided his property and his compliance costs have been \$75,000, and he is in a zone allowing him to subdivide. \$75,000 plus he has had to give up reserves and a whole lot of things. The compliance cost area is one that I do feel that we must consider which TDRs should be able to reduce. We would have a more efficient situation but no doubt that will unfold as the day goes on.

A FARMER'S PERSPECTIVE

Stuart Morrison

Stuart's family came to farm in the Rotorua area in 1965. After a time away, including pursuing a career in industry, he returned. He has been dairy farming in the Lake Rotorua catchment for more than 30 years. He has been interested in, and part of the discussions about the lake and its catchment for a lot of that time, more particularly in recent years.

I have been asked to give a farmer's perspective on Transferable Development Rights. I have talked to only a few about this so the comments I give are largely what I think about it.

The idea has been around for a while as others have mentioned. I remember it being promoted by Nigel Wharton from the District Council back when we were on the Land Use Futures Board. As a farmer I do appreciate the efforts of LakesWater Quality Society in supporting and encouraging a better understanding of the concept and how it might be used.

The cost of change and why Rotorua needs TDRs

What are the drivers for change and where do TDRs fit in? The target set by the Regional Council requires a reduction of the loss of nitrogen from pastoral land of 256 tonnes or around 50% of what nitrogen losses have been, a pretty big target. Land management change to best practice, good environmental practice you might say, will go some way towards meeting this target. But we are looking at significant land use change.

The Rotorua Primary Producers' Collective (an association of most of the catchment farmers), with the support of the Regional Council, undertook a study called the Farmers Solution Project which identified the capital cost to farmers derived from the loss of earnings and further losses to sheep and beef farmers, in capital value to be in excess of \$130 million to meet that target. An incentive fund proposed of \$45.5 million could offset this. But the difference, \$80 to \$90 million, is the damage to farmers' balance sheets.

There have been other estimates but the order of magnitude is not too different. Some of that cost is about moving with the future. Moving to a way of farming where we are looking at reducing our loss of nutrients. But the remainder for farmers in the Rotorua catchment is still a big ask and a direct cost to them.

There are some emerging trends and challenges. The lake is currently meeting its TLI target. There is discussion about why this is so and what this has to do with the long term health of the lake and its future management. That discussion will continue, but for now nitrogen is the issue and I think at some level nitrogen will continue to be the issue. The District Council is asking for permission, through the resource consenting process, to increase their discharges of nitrogen to the lake by 21 tonnes or 70%, so this is another challenge.

Back to farming - change to farm management practices that minimise nutrient losses will cost money and investment here for the future of farming. But the only significant way to limit losses to the extent that the target asks is ultimately to reduce the productive capacity of the land. This is what we call land use change. It generally means reduction in land values.

There are going to be new ways of doing things, but we are facing this now. Pastoral farmers face a significant challenge in terms of cash flow and losses in capital on their balance sheets. What it comes down to is the more tools we can find to ease the process of change then the more financial resilience there will be in the rural sector and the greater the chance of a vital economic contribution in the future. That is what we want, and this is where Transferable Development Rights will play a part.

I believe that TDRs are a good idea. They are another way to incentivise change. They are another tool in the tool box. They could allow farmers to retain capital or claw back some of the losses forced by the process of land use change.

The question for farmers is – **What is the value proposition?** A wider question is – **How much difference could TDRs play as an agent for change?** These questions are obviously linked. The better the value, the greater the influence on change. **What could be their impact for the catchment?**

I am no expert in the possible dynamics of the TDR market, but I will speculate on what I see as some of the major influencing factors and leave it to others to inform us as to their relative importance:

- How big is the market, how deep?
- What number of rights on offer at any particular time?
- What is the ability of the market to absorb those on offer?
- The potential for farmers hinges on their value and that depends on the market. What is the value to the purchaser?
- What will increase the value of TDRs?

The approach proposed by the Council is too restricting in regard to the recipient areas. I believe that to get the best out of TDRs we may need to loosen the restrictions that constrain or diminish their value and therefore constrain their contribution to solving the problem. The more demand from buyers with higher value propositions the better. The answer could be to open the recipient area to include the whole catchment and perhaps further to other lake side areas to tap into that higher value. Of course the District Council will do what they need to do to constrain any inappropriate development in that regard.

The other side of the equation is supply, the ability of the market to absorb the number generated. Factors influencing this include Rotorua's growth rate and the underlying demand for small blocks. The rule changes around nitrogen losses allowed will further influence this market. I do not have the answers here but when it comes to supply if those that generate TDRs can hang on to them, that is the

donors, as part of their right to subdivide, then perhaps the supply issue will work itself out over the long term.

There is a strong argument for making the whole catchment a donor area. It has merit as a qualifying loss such as 500 kilograms being proposed will be of value to the community wherever it is achieved in the catchment. On the other hand that increases potential supply and suppresses the value of each. However if the farmer can hold that right over the long term perhaps this effect can be managed.

One idea put forward is that subdivision should be restricted to manage supply. Keep the numbers down, keep the value up. I do not believe that constraining supply by limiting existing subdivision rights is necessarily the right thing to do, but there may be some answers in there. Subdivision under existing rules will continue to be a valuable way for land owners and the community to meet their multiple objectives. Land use change to lower nutrient loss will be another subdivision objective, albeit one that moves higher in the order of priority. In this context then TDRs will have to stand on their own merits to some degree.

What difference will they make? I think it is a bit hard to say. Opening up the recipient area will create a better market and better value. Opening up the donor area will be a more even handed approach, but create more supply. Restricting supply throws up other problems.

Finally, the bottom line for the community is to have a contributing rural economy. The more wealth sustaining activity we can keep and foster while maintaining and improving those environmental and other qualities that we all value, the better. TDRs are another tool that will assist in this and it deserves our support.

QUESTIONS AND CLARIFICATIONS

Kevin Winters, Mayor of Rotorua, Chair of Rotorua Te Arawa Lakes Strategy Group:

Thank you for your presentations this morning. They have been helpful to clarify my own mind. The question to help me get through this process is one that Warren put up. We have this bucket of money from the Crown through the change in the Trust Deed to help incentivise nitrogen reduction. On the other hand we have TDRs. Are we going to allow double dipping into TDRs as well as incentivising the nitrogen use? I do not expect an answer today, but it should be clarified by this group by the end of the day for our District Plan.

Warren Webber: Yes thanks Kevin, it is an important question. I have tried to encourage anybody talking about TDRs to lose the term 'double dipping', because it has serious negative connotations. The two options are additive. The same kilogram of nitrogen attracts both a base incentive and a TDR and this is what we propose. The other is to have it substitutable. If you take one or the other, you do not qualify for the alternative. Much will depend on what sort of change qualifies for TDRs. For example, if we say only land use change to forestry qualifies for TDRs, then we would argue that that type of change is necessary for the catchment in terms of achieving the targets for a large number of reasons. It is also most likely to have the greatest impact on the capital value of that land. Therefore whatever we do should encourage that change to the utmost, and having an additive process has a strong advantage.

Don Atkinson: I do believe that TDRs by themselves are inadequate to provide the necessary incentive to get across the line; they are not going to be enough.

Te Taru White, Deputy Chair, Te Arawa Federation of Maori Authorities, Trustee in Pukahukiwi Kaokaoroa Inc. which is a major dairy farm on the border of Lake Rotorua and Rotoiti.

I am increasingly frustrated by the fact that there is a significant issue for major stakeholders. They are not here. That is an issue that the Te Arawa Federation of Maori Authorities will try to address. Maori will not understand or participate in this because they are not here.

Don made a comment that one third to a half of the pastoral area in the Lake Rotorua catchment must change in order to meet the targets. This was endorsed by Liam saying that the draft proposed District Plan commented on land use change, but was limited regarding management change. Can I draw the assumption that the Council has given up on land management change options?

I am an advocate for clean energy farming models as opposed to traditional grasslands pastoral farming which use super phosphates. The soil has been injected by 'steroids' in order to keep it breathing and alive. I would rather look at

other models of farming practice that enable us to meet the targets and achieve the water quality regimes we demand.

Can I draw a comment from you around land use change versus land management?

Warren Webber: I will generalize and say that if we could achieve the targets that we need without any land use change at all it would be our preference. If we were able to keep a vital rural economy and farming enterprise without land use change that would be the ideal. Land management change is certainly not off the table and is a significant component of the reductions that we expect. We understand that DairyNZ has quite a lot of novel technology coming through about potential mitigation for nitrogen through management means, be it pasture change species or whatever. If land management change will do it, we would love to see it.

Liam Dagg, Rotorua District Council: The wording of the rules in the Proposed District Plan is slanted towards land use change. Regarding the objectives and policies we have a bob each way in terms of introducing the element of land management change and the role TDRs could play.

Returning to the conversation about double dipping, if TDRs get a significant nutrient reduction over the line, and it is a combination of land management and land use change, or one or the other, we will probably introduce enough flexibility to prevent it being a restriction. But it is difficult to answer, and the rules have kept to a reasonably firm line as the RPS is given which enables land use change and that is what we have directed the rules towards. But once we know the full suite of where TDRs are in the District Plan and it stacks up with the Regional Land Plan rules and the incentives package then we will be able to have a more informed debate.

Don Atkinson: Generally it is accepted that dairy farmers are getting more efficient and that efficiency is about land management change. A good example of land use change is where the dairy farmer decided to become a goat farmer. Following on from your comments, Te Taru, land management change is where the existing utilisation of land is retained and that would be more efficient.

Stuart Morrison, Farmers' Primary Collective: Nitrogen is one of the hardest nutrients to contain. There is a lot of work going on to try and address how to farm better. The answers are not there yet, but the urgency of this problem is overcoming those efforts to some degree. But the farmers that I talk with want to continue to be farmers and they will make every effort to do that through land management change.

Warren Parker, Scion: This is just a point of clarification. To create a market based instrument, about 2,000 TDRs, the incentive on their donor, the farmer, is very clear – what's the real incentive for the recipient?

Don Atkinson: For the recipient who is the developer, the ability to subdivide is the big issue. If they are competing against properties within the market place that do not need to buy a TDR there is an unfair advantage and we will undermine the value of TDRs. The concept of whether people need to give up their right to subdivide, unless in association with TDRs, to create greater value for the catchment needs to be addressed and debated.

Warren Parker: The supplementary to that is to create the market amongst land users. There will be properties that want to have lower levels of input that will trade with those that want higher inputs, which is more like the Lake Taupo model, is it not?

Say I am a high input farmer. I become a donor and establish some TDRs. What is the incentive for a low input farmer to buy?

Don Atkinson: We could have the debate now but I suspect that we should probably hold it until the session on this subject. I do not want to unload it all at this point. How they are underpinned and their value will be discussed.

Warren Parker: It would have been good just to have had a clear incentive for the property developer, the recipient.

Warren Webber: I took from your question, Warren, that there is an overlap between the nitrogen trading scheme and the TDR scheme. I do not think there is any overlap intended. A TDR only confers the right to subdivide, it does not confer rights to sell nitrogen or trade nitrogen. The end trading is supported but it will be a separate issue.

Ian McDowell, McDowell Real Estate: With Don's example there was a 20 hectare lot divided into 10 sites which is 2 hectares each. Liam is talking about limiting to a minimum subdivision of 2,500 square metres, but an average of 4 hectares. What are the proposed subdivision restrictions to the recipient areas?

Warren Webber: This is a specific topic that is going to come up later in the day. What will define the recipient and the donor areas? So if we may I would like to hold on until that paper is introduced. We are also out of time in terms of the morning session so unless there is a pressing question could I suggest that we break now for morning tea, John.

John Green: Yes the whole idea of the programme was to get the broad concepts first and then drill down as we go through the day. There will be opportunity for all that detail to occur and be debated. We will break for morning tea quickly and we need to be back here at 11.

Session Two

SESSION CHAIR - Lyall Thurston, Bay of Plenty Regional Councillor

WHERE ELSE HAVE TDRs BEEN APPLIED

Phillip Martelli

Phillip originally hails from Reporoa. His upbringing and living rurally in the Western Bay of Plenty District for many years, including developing his own orchard, gives him a strong appreciation of the rural environment. Phillip has been with the Western Bay of Plenty District Council for 23 years. As the policy planning manager he has been involved with the evolution of the Protection Lot Rule in district plans from the very beginning. Originally they were bush protection lots for on-site subdivision but now they are a tradable commodity allowing the rights to a title to be transferred to elsewhere in the district.

The Western Bay of Plenty District Council Protection Lots

I originally came from Reporoa but I have been with the Western Bay of Plenty District Council for 23 years and involved with TDRs right from the very start. When I first arrived we already had a Protection Lot Rule, and by the way we use the name Protection Lots when we talk about TDRs. Protection Lot is the overall umbrella, the rule that we are talking about, TDRs are one version of that which is the transferable option versus the onsite option.

1989 Bush Protection Lot

In 1989 the original Bush Protection Lot rule was 10 hectares of bush that entitled the owner to an extra title and the house had to be associated with that bush area. If it was down the back of the farm you had to put in a long driveway. In 1994 we produced the first District Plan under the RMA. We changed the rules, more to refine the amount of area of land that was involved. We particularly distinguished between native forest versus regenerating forest. The minimum lot was 2 hectares, with multiple lots at 1 per 10 hectares.

We also introduced Protection Lots if there was a landscape or heritage feature that was of value and listed in the District Plan. It was not just about bush. The big change was that the new site, or new title created, could be anywhere on the property.

1997 Protection Lot Rule

In 1997 we moved on, expanding the Protection Lot Rule to include ecological features more than bush. We brought in riparian margins and wetlands. As you are aware here, it is about water quality and these margins and wetlands are far more valuable at protecting water than bush and they are under a greater threat than bush in our district.

Our transferable option was introduced for the first time. Originally you could transfer your TDR to anywhere in the rural zone. There were no questions asked except that the recipient title being transferred to had to be bigger than 12 hectares and multiple lots were at 1 per 4 hectares. A 16 hectare property would have 1 additional title. 20 hectares could get 2 additional titles and a 50 hectare block could have 8 additional titles above what would have previously been allowed, which was only the 1. It became quite an incentive for recipients.

Expectation of the Recipient

What was the expectation of the recipient? Firstly, it would cost money for someone to buy in, so they would go to the high valued sites. Probably places with views near the harbour or elevated with panoramic views. They would be close to towns because that is where lifestyle people want to be, they are townies not farmers. They would be economically attractive to the donor, in other words, they would get good money out of it and make it worthwhile.

What was the reality?

What we got was large farms cut up into lifestyle blocks. Often up the end of unsealed roads, which is not really where we wanted to have lifestyle people living. Interestingly many are still vacant. In 1994 when we produced the District Plan there were 2,000 vacant rural lots in our district. In 2009 when we reviewed the Plan there were 4,000 vacant lots in our district. The supply far outstripped the demand.

There was also a restricted return to the donor, and this is something that we may get to in the workshops later on. The price settled down initially to about \$20,000 per lot and has since moved up to around \$25,000. My personal view, and our view at the time, was it was too cheap; they should have been higher, around \$50,000 or more. We can probably come to the reasons for that later because it is how the market does not always work in the perfect sense.

The large blocks of non-threatened bush were protected. But we did not mind that because they were formally protected and removed from the threat of clearance in the future. There was also great value in bringing in the riparian margins and wetlands and in fact now people are planting out their riparian margins, their streams and replanting their wetlands with the idea of coming back to us in 4 or 5 years' time to get a Protection Lot.

2009 District Plan First Review of Protection Lots

In 2009 we did our first review of the District Plan and made some significant changes. We put a limit on the onsite Protection Lots with a maximum of 5 and on unsealed roads a maximum of 2, or transferred them to the new Lifestyle Zone only. We changed from the recipient area being at large to a targeted recipient area that we now call Lifestyle Zones. There are 3 zones, the largest being the Minden just out of Tauranga.

We wanted to target recipient areas rather than pepper potting lifestyle blocks across the whole district. We needed to better meet lifestyle demands because

they did not want 3 or 4 hectares; they wanted a small block, with views and close to town on sealed roads. It was also to reduce the fragmentation of good farm land.

Lessons learnt

Firstly, it is how you sell it. When we first put it out people said, 'Huh, why do I have to buy one of those things to subdivide?' In reality the Protection Lot system is not about subdivision, it is about environmental protection. Subdivision just happens to be the vehicle used for protection. Once we worked that through with the community they were fairly accepting.

There were benefits all round. The subdivider got additional lots that they were not otherwise entitled to and happy to make more money than they otherwise could. The feature owner was able to get money out too because they were getting cash that they otherwise would not get. There was an environmental gain to the community at no cost to the rate payer. Advantages all around.

In terms of the terminology used about TDRs, Protection Lots are one tool in the tool box. We have a number of others as they do not suit everybody. Do not expect every farmer to pick it up. It will be personal, it could be for production changes, or a whole range of other reasons. But it is one of a number of tools available.

Another lesson learnt was that everything has to be certified by a suitably qualified person. You cannot take just anybody along and say, 'Oh yeah, that's a good bit of bush, it meets the requirements of what your plan says'. We have an acceptable list of certifiers that we know, trust and audit. The surveyors and subdividers know if they go to that person it will be a good job and we are not going to peer review and cost more money. We do from time to time audit those certifiers and they are aware of that. It is part of ensuring that our system is working. It also means that the certifiers know at the end of the day they are working for the Council, not for the land owner who is trying to make a profit.

It is important to get the physical and legal protection of the feature sorted out. In the earlier days we found that when the title was about to be issued (s224 of the RMA) the person was not ready. We took a bond or did something else on a promise that they would do it one day. Then we had a devil's job of enforcement to get them to fix it; fencing being the biggest issue. Now if it is not up to scratch by the time s224 is applied for, that person will not get the s224 to allow the title to be issued. That is the best incentive you can ever have.

Monitoring is very important. These areas need to be monitored on an on-going basis to ensure compliance and follow-up with new owners. Our system starts with visiting every year and then once we see the owners doing a good job, maintaining the fences, controlling the weeds and doing everything required, we move to a 2, 3 or 4 year return basis; others we review yearly and keep on their case. At the end of the day Protection Lots make money and we want to ensure we are getting

value for that money. They cannot just walk away, let the fences fall and allow stock back in. That is not acceptable.

One of the debates to come will be about feature criteria from the donor point of view. We learnt that this must be clear and certain so people understand what the council are talking about.

There are a lot of figures around nutrient levels which need to be worked through. It is important to understand how much fertiliser is put on a certain amount of land, what is going to meet the measure and what won't? This has to be easy to monitor so when the Council checks in a couple of years' time it is still correct. Retired land planted in trees is easy to figure out, but with fertiliser application we have to be more careful.

The important question on the recipient side is, 'Is there a market and how big is that market?' How big is the demand for lifestyle and rural residential type developments? We have far more bush than we could ever produce lifestyle blocks but we are not worried because we know that not everyone is going to want such blocks. The question of 'Is there a market?' is something to balance in the mind, because if there is not a demand it will suppress prices and the farmers will not be happy to meet their end of the deal.

Following on from that, is the need to be clear on where the new development should be located. Infrastructure, roading and water supply are big issues. Then there is also the reverse sensitivity issue. Does the community want a lot of lifestyle blocks in amongst farms? We certainly did not want them amongst our orchards and farms which is why we went to the lifestyle zone alternative. In fact as an important part of our lifestyle zones the only way people can subdivide is by getting a TDR. They do not have any subdivision rights as of right, partly because most of them have already subdivided over the years and have no rights left. Those that could were relatively relaxed about it because we put some other rules in place to get around that. That adds value. Those people in the lifestyle zones had no expectations before the District Plan review that they were able to subdivide. They now have a huge bonus that they were not previously entitled to.

Lifestyle blocks are in identified places of high demand; they command high prices and the expectations on a bare block of land of 3,000 square metres to a hectare should be at least \$200,000 to \$300,000 for a title with good views. One should be able to pay a good price for a TDR and still make a profit. Technically people could afford to pay up to \$100,000 for a TDR and still make \$100,000 profit. This was the case in 2009 when we notified our District Plan with these rules, but then the global financial crisis came along and everything has been flat for a while. The markets have only just started to pick up again.

It is important to be clear around the use of criteria versus defined areas for the recipient and what suits the district. We went from district wide to specific areas to manage other effects. It is something to toss around in Rotorua in terms of where that is and where the best demand is. Where are the recipient areas, are they the

best places, are there other effects in those recipient areas? It could be reverse sensitivity, and are you going to command higher prices than you might get if you go somewhere else?

The recording system has to be a good one. It is important to be able to keep track on where all these things are going. We do not keep a register of potential donors; it is up to the market to make that work. We have one or two surveyors and real estate agents that know where these blocks are and what is happening. They do the trading, we just pick them up on our system when a subdivision comes in and we manage the way through the process. We know who has used it, where the recipients are and so on.

So these are our lessons learnt.

WHAT LAND IS INCLUDED?

Neil Oppatt

Neil has served the Rotorua District as both a Rotorua District Councillor for 15 years and now 9 years as a BOP Regional Councillor. Throughout this time Neil has been actively involved in the cleanup of Rotorua's lakes. He is presently a BOPRC appointee on the Rotorua Te Arawa Lakes Strategy Group and was an RDC appointee on its predecessor.

He has held positions as Chairman of RDC's Finance Committee, BOPRC's Operations and Regulations Committee and the Special Projects Committee set up to address Rotorua lake issues. Neil chaired the Lake Okareka Action Plan Committee and was a BOPRC appointee on the Lake Tarawera Action Plan Committee. Presently he is the BOPRC appointee on the Rotorua catchment Stakeholders Advisory Group.

How to maximise the value of TDRs?

Don earlier spoke about a farm, Summerhill Farm, over in the Western Bay of Plenty that was on Country Calendar recently. It is based around a sheep and beef farm on 50% of the land area and 50% is a wide range of production trees and bike and walking tracks are used for commercial recreation.

My guiding principle for this talk is how do we maximise TDRs?

- Restrict Rural Subdivision to TDRs
- Wide Recipient Land Offering
- Minimal Consent and Compliance Costs
- Flexible Recipient Land Size
- Ready Supply of TDRs
- Donor land from anywhere within the Catchment

A lot of people have said, 'Don't get too hung up in the detail'. These statements about what I believe we should be doing may not necessarily be what our Regional Council believes or what will come out of this talk but I am putting these ideas up to help the debate.

Two speakers have mentioned numbers today. One has suggested that the loss of capital value for pastoral farmers in the district is likely to be around \$90 million. Another said it will be \$125 million. It is really not important what that amount is, the point is it is substantial. Our Council sees it a substantial loss by a handful of people. There are a limited number of economic ways to lessen the financial impact on that small group and the task today is how we maximise the potential of TDRs.

At the moment, hopefully with the Government's support, the Councils will put \$45½ million on the table. Don suggested a potential \$20 million created out of the catchment from TDRs but we are still short of the economic loss that is likely to be sustained by a handful of property owners. It is absolutely vital that we maximise the value of TDRs.

How do we do that?

Restrict rural subdivisions to TDRs - That has been said by a number of speakers and certainly Phillip's experience from Western Bay suggests that if there are ways to maximise the value, TDRs have to be the only way that anyone can achieve rural subdivision within the Rotorua catchment. I believe that we should restrict future rural subdivision with a requirement for a TDR for each new parcel of land created.

Wide Recipient Land Offering - I believe that the greater the offering of land the better the market is able to choose where the valuable bits are. I suggest that right now nobody really knows where the market would aim to find recipient lots. We have to go outside the Lake Rotorua catchment, certainly outside the SP1 zoning, for donor area if we want to maximise the value of these TDRs.

All rural land including marginal zones should be available to be subdivided with TDRs, but the really valuable properties are probably as small as 1,000 square metres and more likely to be the ones closest to the lakes. If we are truly serious about helping a small number of people in our community limit their loss as a result of the Regional Policy Statement requirement for nutrient reduction we have to look at all opportunities to maximise the value of those TDRs.

Minimum Consent and Compliance Costs

I am not so certain that TDR value is a factor of supply. To me it is more a factor of what is the value of that TDR. To a developer, what does it allow them to do? From a developer's point of view there are three things that are important.

- Greater the Certainty – Greater the TDR Value
 - Lesser Restrictions and Limitations – Greater the TDR Value
 - Lesser the Consent Time – Greater the TDR Value
 - Rural serviced areas – Controlled Activity
 - Non-serviced areas – Limited Discretion
 - Waiver on Development Impact fees

- 1) **The greater the certainty of what you can do with a TDR, the greater the value of that TDR.** People are prepared to pay more if they can get

certainty. John mentioned his neighbour; \$75,000 for a resource consent. For somebody who has a right to subdivide spending that sort of money to utilise that right is not uncommon in the Regional Council. If we can provide certainty around that, with certainty usually comes less cost.

- 2) **Lesser restrictions and limitations** - The more rules, the more lines drawn on plans, the more reports that are required the lesser the value of the TDR, because effectively the value of the TDR is going to be offset by the professional cost to achieve the right to subdivide.
- 3) **Lesser the consent time** - the longer it takes to get from determining to go with a development and actually being able to put spade in ground the greater the cost.

These things go round in circles. As we go forward we have to look for rules and a plan that gives greater certainty, has the least number of restrictions and limitations and has the fastest route from start to finish.

Rural Serviced Areas - Controlled Activity

I believe that in rural serviced areas, the SP areas, they have to be controlled activities. Developers start getting excited when they know that they can go through a controlled process because it reduces cost, it reduces time and it increases certainty.

Non serviced areas - limited discretion

Those discretions should be around things like density. Phillip talked about reversed sensitivity, roading costs, and things like sewage and water which are not such an issue in the Rotorua catchment. We have 1,500 odd properties in the zero to 2 hectare area in the Rotorua catchment that are outside reticulated zones. They will be captured by the OSETP Plan, just being finalised at the moment. Our Council believes that this method is affordable to deal with their level of nutrients.

Waiver on Development Impact fees

I believe that we have to take a serious look at the area of impact fees and costs. Is this something the community wants? The non-payment of an Impact Development Fee, as the law is written, means that the community wears the cost. If we do look to waive Impact Development Fees then we are talking about the greater community subsidising the process of utilisation of TDRs.

Flexible recipient land size

Once again the market will decide what size. The question is whether we can pre-guess what the market wants. I thought 2,500 square metres. The more I listened to the previous speakers, I could not see any reason why that should not go down to 1,000 square metres. Rotorua District Council's basic principle in the district, certainly when I was on it, was that when getting below 1,000 square metres the land available is limited for trees or to maintain bush. So I would not suggest below 1,000 square metres, but I do believe that there are places in the catchment where 4 hectares gives no greater benefit to the wider community than say 1,000 square metres.

Ready Supply of TDRs - This has been talked about quite a bit too. There should be a ready supply of TDRs and donor land from anywhere within the Rotorua catchment. It really does have to be an open market. The TDRs for developers need to sit on a shelf where they can be accessed. The idea that two people are going to somehow meet, gaze into each other's eyes and come to a deal on the transfer of a TDR at a given point of time, adds a level of uncertainty and extra cost. The idea of a tradable market or the way Western Bay does it was quite a good approach.

Donor Land from Anywhere within the Catchment

It does not matter where a 100kg reduction of nitrogen comes from. Up at the top of the catchment or down at the bottom, it is still 100kgs of nitrogen that is not going into the lake. The only difference is how long it takes to get in there. We are talking the long term, a 20 year programme. What we want to see is the reduction coming from people who have a plan for their property that can benefit by being able to pick up the economic value from a TDR.

Maori land

I also sit on the StAG Group and it has been really interesting. I am getting a feel for what the impact on pastoral farmers, particularly the dairy sector, and particularly for Maori land owners. It is a vexed question. The good thing about TDRs is that Maori can get the economic value off their land by reducing nutrients and that creates a subdivision. But it does not require them to sell their land to produce that subdivision. Maori land owners, on multiple owned Maori land, are different to other owners in the catchment. They do not have the economic tool of carving off a piece of their land to help pay for the change of land use, or change of business use of their property. TDRs at least give them an ability to also get some economic value out of subdivision within the catchment.

INCENTIVISING CHANGE IN THE LAKE ROTORUA CATCHMENT

Anna Grayling and Alistair MacCormick

Anna Grayling is the Rotorua Lakes Business Manager for Bay of Plenty Regional Council. After completing a Bachelor of Law and a Bachelor of Sciences at the University of Waikato, Anna's career began as an ecological consultant. Following this role, Anna spent five years in planning and policy for both the district and regional councils. For the last five years Anna has been dedicated to the Rotorua Te Arawa Lakes Programme. She is now the project lead for the Incentive Fund Development for land-use change in the Lake Rotorua catchment.

Alastair MacCormick has worked as a Lakes Restoration Officer with the Bay of Plenty Regional Council since 2007. His primary function has been the implementation of nutrient discharge limits under Rule 11. An experienced user of the Overseer nutrient budgeting software, and with broad knowledge of farming systems in the catchment, he also provides information and advice on the issues and complications associated with nutrient accounting.

Kia ora, it is Te Wiki o Te Reo this week. I am not going to give my power point presentation in Te Reo, I am just not that clever. I will caveat the presentation with the fact that there are lots of changes happening in the programme at the moment, so whatever I say is not necessarily fixed in stone. It is just lessons learnt from where we are at in the Regional Council. My learned colleague Alistair McCormick is here as an expert in nutrient management and the use of the overseer programme. I have asked him to come along because I would like to have a brief presentation and then free up some time for specific technical questions that you may have about the management of nutrients and the measurability of that on individual properties.

Today I will go through what the objectives of incentives are in the context of the Rotorua catchment. What the potential application could be and talk about the application of TDRs to what type of change or use. I will address the question that Kevin Winters had about the double dipping and talk about how we see the best way of working in an holistic approach. I will look at what base line we want to incentivise changes from and what are the options and the next steps.

We are in the development phase of rules at the Regional Council. There are lots of decisions yet to be made which will change the impact on the community. When we talk about incentives and providing ways and means for people to move to a lower nutrient rural economy in Rotorua we are yet to decide what the magnitude of those impacts will be on what sectors of the community. We have not made any decisions on the design or the implementation of these to date.

The Objective

The way we see it, which is not written in any document, is that the objective of the incentives is to incentivise actions on the land which are going to reduce the nutrient load to the lake. You have heard from other speakers this morning that the

significance of the load is huge. We are talking a major magnitude of change required. The previous speaker, Phillip Martelli from Western Bay, pointed out an important point – look at how much you have. They have heaps of bush. Well, we have heaps of nitrogen. In the context of a 270 tonne reduction target that is a lot of lots available.

The Application

The application covers off a question that came earlier from Te Taru White about the land use change versus land management change. Land use change and incentivising it is not new to the Regional Council. We have been incentivising and making payments to individual land owners to reduce nutrients and take action on their property since 2008. We have done this in the Lake Okareka catchment, Lake Rotoehu and in the Lake Rotorua catchment. The preference we have taken incentivising land use change, as it may be termed today, has not been because we preferred it necessarily over management, it was because it was the certainty of the reduction.

I want to stress land use and land management are on the same continuum. An example would be where we have properties with nutrient benchmarks greater than 10 tonnes and greater than 20 tonnes for a holistic individual property. Now arguably changing 3 hectares of a 2,000 hectare property into forest in the context of how land owners manage a property might not be seen as land use change. It is a management change taken by the individual farmer. Bear in mind what it is we want to determine, *use versus management*. We realise it comes down to ensuring the certainty of the reductions that are being made. If we want to make sure that we are not paying for somebody to come from good management practice that is a design principle that can be included.

Looking at it another way, it is not just the certainty but the significance of the reduction. A 500 kg reduction in the context of a property with a benchmark allocation of 10,000 kgs is quite modest and the measurability of that reduction through overseer might be difficult. There are benefits of having a certain measurable reduction but it can increase complexity. There is no right or wrong way, it is finding the balance to approach it and I realise that putting forward a very simple '2 hectares equals this much' has got some appeal.

There are a lot of intricacies and some of this will be remedied with the roll out of the new lower allocation delivered through the Regional Water and Land Plan rules. Some of the issues that we are faced with now under a Rule 11 regime we might not face in the future. It is important to enable flexibility in the development of the policies to ensure that the transition to the new regime continues to have significant gains for water quality.

The benefit with not limiting policies to land use change is having a 10 year plan. I was comforted by what Liam Dagg said earlier, that we are looking at management changes and able to be adaptive because there will be more innovative ways of reducing nutrients in 10 years than what we perceive right today.

Holistic Approach

Regarding the question of double dipping, we are currently establishing the principles and framework for a nutrient reduction fund. What we need to remember is that it depends on where reduction is from and the staged level approach. If somebody applies the new rules and they want to make a reduction of 500 kgs and sell those nutrients back to the Regional Council and get a TDR, which is fine. If they then want to do something else and apply for the incentives fund, that is also fine.

The issue we are talking about is making sure that people do not say, 'Great I'm going to do a 500 kg reduction and get a TDR, then I will go to the Regional Council and ask as well for a nutrient incentive for that same 500 kgs.' That is pretty much a non-starter; it would not happen because in our Regional Policy Statement is a principle that we have to manage this in a fair and equitable fashion. I think everyone in this room would agree that double dipping is not fair. But it would be unfair for people who are making a significant change to not be eligible for both the incentives fund and a TDR, if the magnitude of change warranted it, and it was deemed to be fair and equitable.

Another point is that when we talk about these reductions, the Bay of Plenty Regional Council will be managing and maintaining the nutrient reduction data base. The farmers all agree that the future of farming in this catchment is going to rely on everybody, whether they are applying for incentives or TDRs or not. They will need to manage and monitor nutrients on their property, irrespective of TDRs or incentive schemes. The rules that require significant reductions in nutrients will require that anyway. The on-going monitoring cost of enforcing a TDR will be the same, because we will do nutrient management monitoring and compliance with land owners anyway. There would not be an additional cost associated with TDRs as in the case with Western Bay where they might not have been going out to land owners checking their bush, but for the TDR.

Our view at the moment is that Liam and I will be working in the incentives environment and that we will be taking a holistic approach.

What is the appropriate base line?

The current base line that we have in our Regional Water and Land Plan is what people were doing between 2001 and 2004, the Rule 11 benchmark. The Regional Policy Statement has a principle about not incentivising or rewarding people for moving from their base line in the 2001 benchmark years to what may be perceived as good management practice. I assume that neither the community nor the politicians would want to give out rewards for nutrient reductions within that range. Don earlier termed these management changes. In the new regime if you have reached the goal required by good management practice, anything below that would probably result in investment and infrastructure, major changes. It does not matter whether anything below that is land use or land management.

Some people would argue that benchmarks in 2001 may have been above good management practice, something to consider when setting the base line for

incentivising or giving out TDRs. It might be argued that the principle does not matter, if we remove 500 kgs who cares if it is at the top of the mast or at the bottom.

What impact is the allocation going to have?

Depending on how the Regional Council and the StAG Group decide to allocate, it might have a significant impact on where the level is set. If the level of allocation is set at the target level, then it is probably less of an issue. If the allocation level is set above the sustainable load we might want to provide incentives only below that level. These are all questions coming up in the near future and we cannot make informed decisions until the allocation mechanism and rules are further developed.

Eligibility

From the incentive scheme and funding perspective we believe it must be for land within the whole Lake Rotorua groundwater catchment. This is not necessarily the case for TDRs. The overall incentives fund being developed needs to allow equal access and be fair and equitable. We are enabling anyone within the groundwater catchment for Lake Rotorua to apply for funding and be eligible.

We need to have the reductions below a demonstrated level to be eligible and targeted at diffuse discharges only. I assume that the TDRs will be doing the same and that it will be a binding agreement in perpetuity, so that reductions made are secure for future generations.

Alistair McCormick is here to talk about any of the technical aspects of land management, overseer or nutrients if you have any questions.

TDR SIZE AND QUANTITY

Simon Park

Simon Park has been contracted by BoPRC for several years to provide advice on land use and management in the Rotorua Lakes catchment. Since 2012 this has included working with LWQS and the Farmer Collective on collaborative solutions for Lake Rotorua, especially regarding farm nutrient losses. He is the secretariat support person for the Lake Rotorua Catchment Stakeholder Advisory Group (StAG). Simon has an MSc in Earth Sciences from Waikato University. He has previously worked at MfE on sustainable land use policies and has processed resource consents at regional and district council levels.

‘TDR size and quantity’ is an ambitious topic which encompasses many issue already touched on this morning by other speakers. I am going to narrow down my talk to illustrate by examples what a TDR might mean at the farm level and the implications of the TDR rules that exist in a draft format or have been discussed at the stakeholder group (StAG). The ‘principles of nitrogen allocation’ have been an important topic at StAG group meetings for the last 6 months. Recently the Regional Council staff put forward a paper with hard numbers around the two main options, ‘grand parenting’ and ‘sector averaging’. It brought focus to the allocations debate. The same is true of TDRs – examples of how TDRs might work bring focus to understanding the concept of TDRs.

Here are two hypothetical examples which we might derive questions and considerations when drafting TDR policy.

- | | |
|------------------------------------|-------------|
| 1. 100 ha dairy farm, Benchmark | = 45 kgN/ha |
| 2. 100 ha drystock farm, Benchmark | = 16 kgN/ha |

Tentative TDR rules:

- a. 500kgN minimum qualifying N loss.
- b. Full or partial land use change will qualify for TDRs
- c. Prerequisite is that N reduction from land use change is > 10% of BM
- d. Whole property meets N allocation rules at following N discharge levels
 - dairy 25kgN/ha
 - drystock 8kgN/ha
 - trees 4kgN/ha

For the sake of this exercise, each farm is 100 hectare in size. The numbers pertaining to 100ha can readily be multiplied to simulate larger properties, or divided by 100 to determine per hectare impacts. The N discharge levels reflect average values from the Lake Rotorua Catchment Farmer Solutions Project (FSP). viz. 45kgN/ha from dairy farms, and 16kgN/ha from drystock.

The tentative TDR rules reflect current thinking, and some of them are more tentative than others. The 500kgN minimum qualifying quantity is already in the Proposed District Plan. We have assumed a requirement that only land use change would qualify; that land management change would not. To reduce the margin of error associated with *Overseer* modelling, I have also assumed that only changes greater than 10% of benchmarked values would qualify for TDRs. Benchmark values are assumed as the threshold from which TDR entitlement is derived. The N discharge levels correspond with allocations which over the pastoral catchment would achieve a sustainable load consistent with the 435tN target for Lake Rotorua by 2032.

Dairy example Option 1

Benchmark	Area, ha	kgN/ha	kgN
pasture	100	45	4500
trees	0	4	0
total	100		4500

N allocation	Area, ha	kgN/ha	kgN
pasture	100	25	2500
trees	0	4	0
total	100		2500

Dairy Option 1 - minimum to get 1 TDR and meet N allocation

Option 1	Area, ha	kgN/ha	kgN	kgN below BM
pasture	87	28	2448	1467
trees	13	4	52	533
total	100		2500	2000

Here is my hypothetical dairy farm, with a benchmark of 45kgN/ha, which over 100ha corresponds to 4,500kgN. At a Nitrogen Discharge Allocation (NDA) of 25kgN/ha, the required reduction would be 20kgN/ha (2000kgN over 100ha). 25kgN/ha would be extremely difficult to achieve for a dairy farm in this catchment, on these soils, and with typical rainfall.

The Option 1 example, in terms of a mitigation option, explores the bare minimum that would generate a single TDR of 500kgN equivalence. The numbers have been manipulated to achieve a 500kgN reduction, and also meet the 10% of

benchmark threshold. Land management change down to 28kgN/ha (difficult to achieve) would not be eligible for TDRs, but the change from 25kgN/ha to 4kgN/ha on 13ha does qualify. Adding the 13ha of trees is necessary to meet the required average NDA of 25kgN/ha.

Dairy example Option 2

Dairy Option 2 – try 25% land use change and meet N allocation

Option 2	Area, ha	kgN/ha	kgN	kgN below BM
pasture	75	32	2400	975
trees	25	4	100	1025
total	100		2500	2000

2 TDRs
> 500kgN
> 10% of BM

32 more do-able

This option manipulates the numbers a bit further, to achieve 2 x TDRs and a more achievable nitrogen loss rate (32kgN/ha) from the balance of the dairy farm. This would require 25% of the dairy farm to be changed to trees to meet the average NDA of 25kgN across the whole farm. This would qualify for 2 x TDRs. Whether that is attractive or not will be up to individual farmers to decide, but these are the sort of numbers that might deliver that 25kgN/ha NDA.

Dairy example Option 3

Dairy Option 3 – try 100% land use change

Option 3	Area, ha	kgN/ha	kgN	kgN below BM
pasture	0	na	0	na
trees	100	4	400	na
total	100		400	4100

8 TDRs

A 100% land use change would be very costly in terms of capital value loss. This option would generate 8 x TDRs at 500kgN equivalence. Of course if the N equivalence was lower (eg.100kgN per TDR) you would create more TDRs; but this runs the risk of reducing TDR \$ value by creating too many in the market place.

What loss of value for a dairy farm?

In the following table I have estimated the loss of land value; this is rather dangerous stuff, but I can speculate because I am not a council staff member. The table is busy, but please bear with me as I work through the detail. We have

Option 3 (100% land use change), and also Option 2 (25% land use change). The loss of land value is estimated for land use change at \$20,000/ha, based on a dairy farm valuation in the mid to low \$20K, and a forestry valuation of around \$3000/ha. The numbers were provided to the Farmer Solutions Project by a valuer.

\$ value	Option 3 - full LUC	Option 2 – 25% LUC
land value loss est. \$/ha	20,000	20,000
gross value \$ loss (LUC)	2,000,000	500,000
est. pasture land value loss	0	375,000
combined gross value loss	2,000,000	875,000
Incentive \$/kgN	227.50	227.50
incentive \$ rc'd	932,750	455,000
Shortfall	1,067,250	420,000
Consider TDR value		
breakeven value per TDR	133,406	210,000
estimate value per TDR	30,000	30,000
total TDR value	240,000	60,000
combined TDR & incentive	1,172,750	515,000
net value loss	827,250	360,000

FSP estimated
\$22,000/ha

20% less
MS/ha, 20%
less value/ha

Not credible



The 100 hectare dairy farm is losing about \$2m in value with 100% land use change, and a little under \$1m with partial land use change. With the partial land use change, I have also assumed a value loss of 20%, because dairy land tends to be valued on its milk solids production.

How is the value loss softened by incentives? The main incentive scheme assumes \$227.50/kgN (\$45.5m/200tN). Incentives certainly make a difference; we have chopped nearly \$1m off the loss for Option 3, and half of that for Option 2.

The break-even value for a TDR would need to be \$133,406 and \$210,000 respectively – values which are unlikely to be realistic in the market place. If we assume \$30,000 per TDR, and combine this with the main incentive package, we still end up with losses in value of \$827,250 and \$360,000 respectively.

This is an arbitrary exercise but does illustrate the potential financial impact. Perhaps, we need to structure the TDRs so that more incentive is available through the TDR mechanism?


Impact on the drystock example farm

This assumes an 8kgN/ha required NDA average for the property – it is probably impossible to practically farm at that level.

With a 25% land use change, and a challenging 12kgN/ha achieved on the balance of the farm, the 300kgN reduction achieved would not qualify for a TDR (because of the 500kgN required minimum reduction assumed); nor would that combination achieve the 8kgN/ha required NDA average.

To generate even 1 x TDR under these assumptions requires 50% land use change.

Benchmark	Area, ha	kgN/ha	kgN
pasture	100	16	1600
trees	0	4	0
total	100		1600



Allocation	Area, ha	kgN/ha	kgN
pasture	100	8	800
trees	0	4	0
total	100		800

8 impossible

Drystock Option 1 – try 25% land use change and 12

Option 1	Area, ha	kgN/ha	kgN	kgN below BM
pasture	75	12	900	300
trees	25	4	100	300
total	100		1000	600

12 challenging

Above allocation

Nil TDR

Drystock Option 2 – try 50% land use change and 12

Option 2	Area, ha	kgN/ha	kgN	kgN below BM
pasture	50	12	600	200
trees	50	4	200	600
total	100		800	2000

50% trees: viable?
Implies reconfiguration?

1 TDR

Is catchment change viable?

We know farmers are not that keen on farming trees instead of animals, but it also implies that we may need to do some creative thinking about re-configuration. There might be several dry stock farms that are able to collaborate in terms of a joint proposal to have a viable farm, a viable forestry block and advantage from TDRs.

Some TDR Lessons

These are some of the lessons that I have drawn out of it.

1. 100% land use change option is a major restriction, particularly for dry stock farms
2. TDR value will be better protected by restricting TDRs to land use change only
3. TDRs can be a useful 'top-up' to other incentive programmes.
4. 500 kgN per TDR leaves a value gap
5. 100-200kgN equivalence per TDR may add total value, but only if oversupply does not depress TDR value

WORKSHOP SESSION 1

Warren Webber: It has been a great session so far and we have appropriated a whole hour between now and lunch to encourage discussion and debate around what you have heard in the first session.

- Eligibility
 - Donor / Recipient land
 - all 200tN (LMC and LUC)? Or only definitive LUC?
 - from what base? (benchmark or prudent practice?)
 - minimum qualifying reduction? (500kgN in PDP)
- Quantity (capped?)
- Value
- Size (kgN per TDR)

This slide attempts to summarise some of the topics and issues that have been raised. We are not going to do anything warm and cuddly like break out into groups or put post-it notes on the wall, we are going to talk together. We will look at the slides, if people have got questions that are specific to this morning's sessions then we will address those as well. Please do not be limited to anything that is on there, I just invite your questions and debate.

Giselle Schweizer, Dairy Farmers Collective and member of the Stag Group:

A question relating to Anna Grayling and Simon Park's presentation that I want clarified in terms of the double dipping. I missed Kevin Winter's question on that so I do not know what was said earlier, but I hope I have misunderstood Anna's assessment of the double dipping feasibility. It was apparent from Simon Park's presentation that we do need to have double dipping. His slide showed how much of the loss could be mitigated by the incentive scheme, an additional amount of loss could be mitigated by the TDR scheme and but there was still a lot of loss that the farmers were going to have to wear. So to me that shows why double dipping is essential, because even with double dipping farmers are going to bear probably 50% of the loss. It fits in with the principles that Anna had of equity and fairness and it is not in any way, manner or form contrary to those principles.

But my concern was that Anna Grayling said something about not being able to double dip, could Anna clarify if possible.

Warren Webber: A very apt question. Perhaps before we answer that could I invite the speakers from this last session to come forward and we can reference this workshop please.

I will have a crack at this question in the first instance because I answered the Mayor's question earlier on. I have tried to encourage the term double dipping not to be used because it has negative connotations. However we all know what we

mean. By double dipping we mean that it is additive. There is a base incentive, call it Anna's cheque book. We also have a TDR which is an additional incentive and we will call that Liam's cheque book. What our society is promoting is that the same kilogram of nitrogen can qualify for Anna's cheque book and for Liam's and therefore the two will be additive. That is what our intent is. Now perhaps we could ask Anna to see whether that is what she meant or not.

Anna Grayling, Bay of Plenty Regional Council: Yes it is clear that it is about the principle of equity and fairness. It is fair and appropriate to have both TDRs and also incentives. It depends on the figures that we are talking about. What we do not want is to have somebody with the perception of getting both if they do not need them. For example if somebody had 500 kgs there is no assumption about being automatically eligible. But it can be additive. We have not come to any of the funding criteria for the incentive scheme so I am not going to say, 'Yes everybody is going to get cash' at the moment, because I cannot say that on behalf of the Regional Council, but the principle is additive. There is nothing to say if you get one you cannot get the other.

Gisele Schweizer: I do not understand what you are saying about the 500 kgs. That is what you started from and then you went on to say it probably could be additive for large amounts, but you are saying in a small amount it will not be additive. I do not understand.

Anna Grayling: We have not made the decision on that yet through the incentives fund. The principle is that if it is fair and equitable and if what Simon is showing is fair and equitable on a 500 kg basis because people are going to suffer that much loss, then that is fine.

Warren Webber: Simon, I wondered whether I could ask a question about some of the detail. Your presentation was excellent in terms of its demonstration of what can happen. I was a little concerned that we were comparing a 100 hectare dairy farm with a 100 hectare dry stock farm, because it could well be that TDR eligibility changes significantly if you have 200 hectares of dry stock farm.

Simon Park: That is quite right. You would need to multiply them out. The average dairy farm in the catchment is around 200 hectares. There is a huge range of dry stock farms because there are many small blocks right through to very large units, including Maori Trusts and it is hard to talk about averages. So it was a little crude, just selecting 100 hectares. You have to multiply or divide. Larger dry stock farms are more likely to meet the threshold, but proportionally it is going to be more difficult in the numbers I was playing with.

Don Atkinson, LWQS: I want some clarity and discussion around this 500 kilograms. There is some misunderstanding. I understand the 500 kilograms to be the minimum reduction needed to qualify for a TDR. But if one adopts 100 kilograms per TDR one would be getting 5 TDRs. Under the District Plan there is 500 kgs and it is being interpreted as one TDR per 500 kilograms of nutrient

reduction. That is a factor of 5 and it has a huge impact in respect to the financial contribution this is going to have.

If we step back a moment and accept that we have 270 tonnes to come out and say 100 tonnes are going to be incentivised. At 100 kgs per TDR that would mean 1,000 TDRs as the maximum level. If we are at 500 kilograms per TDR we are down to only 200 TDRs being available in the market place for a 20 year period. I do believe that the market has the ability to absorb the 1,000 TDRs if we can target those premium places.

The value of the TDR will be determined by the market and in relationship to the value of the section, not by the number of kilograms that makes up the TDR. So we are going to say, 'This programme will produce either \$20 million on one side, or on the other side, it is going to produce \$5 million.' It is not worth getting out of bed to make \$5 million for all the work that will go in. I would like comments in respect of this please.

Neil Oppatt: I am happy to answer that. I do not know what the exact fall out of the numbers will be, but we need to minimise the loss for a handful of farmers. The only way we are going to minimise that loss is to squeeze every last dollar out of a TDR. So my thinking, and once again I have not tested it with colleagues and members of the StAG Group, but I thought we were looking more like 100 kilograms per TDR. Put in this context, and it is hard to know, we are probably talking about 2,000 properties in the rural area that will not be reticulated, that are below 40 hectares. I have heard about 1,500 between 0 to 2 hectares in area. So Don your 1,000 might be a 50% increase on what is there now, when you look at the size of the catchment and over 20 years, if you spread it out. Hopefully sooner or later the recession will be behind us. If we are able to choose the most attractive sites, and not too selective about how small a recipient block can be, and spread across Lake Rotoiti as well, there are a number that would attract a good price per TDR. Don talked of \$20,000 and Simon talked of \$30,000 a TDR.

We are therefore talking of lot values in the Rotorua/Rotoiti catchment of around \$250,000 up to \$1million if you stepped out into the water and had a 1,000 square metres lot. As a percentage on a \$300,000 lot the TDR would be about 6% of the total cost and if that 6% means you do not have to grind your way through the planning process its very very good value for money. It does not take much to work out that if the process is seamless with few costs, there is potential to get what Simon suggested, \$30,000.

I was interested to hear what Phillip said about Western Bay. There are parallels there, he was talking of \$20,000 to \$25,000. I come back to the fact that we have to make these TDRs really valuable to reduce the financial hurt on a handful of people who are very much a major productive part of our community.

Warren Webber: Ok, thanks for that Neil. In the Beca Report which was part of the lead up to some of the science surrounding this programme, it was suggested that there is only a market for 20 lifestyle blocks per annum over a 10 year period,

a total of 200. If we sized our TDRs at 200 kilograms and we capped the quantity, and no one is suggesting that we will, but if we did, that would only be sufficient to incentivise 40 tonnes. Frankly, as Don says, it is not worth getting out of bed for. We need to incentivise 200 tonnes, or if we spread it over what we currently call land management change and land use change, limiting it to conversion from pasture to forestry, we still have to incentivise about 100 to 130 tonnes. Don commented about the size of the TDR, I would say that if we are going to go with those levels then the TDR size needs to be 200 kilograms and we will end up with a 1,000 TDRs. If you go with this bit down here the size of the TDR needs to be 100 kilograms to give you 1000 TDRs.

We do not need to worry about capping. We have either 100 to 130 or 200 to incentivise, so we will end up with a natural cap of about 1,000 TDRs if we size it right.

A question of Phillip Martelli. I was interested in your comment about how you left it to the real estate agents to sort out the administration. Could you expand on that. Gwyn Morgan is talking about administrative mechanisms later on, but a brief comment to clarify please.

Phillip Martelli, Western Bay of Plenty District Council: It was a conscious decision from Council's point of view not to get involved in that part of the market; and let the market sort it out. We found two or three surveyors and a real estate agent who took charge, identified the bush and did the wheeling and dealing. At the end of the day it all comes to us through a subdivision application, and that was the stage we wanted to get involved. One of the reasons why our TDR values were so low was that it was controlled by two real estate agents and they felt that the value of \$20-\$25,000 was fair and would not deal with any farmer who wanted to sell their lot for more. We believed they should have been worth a lot more, certainly on high value sites. In talking with the exact same real estate agent about high value sights, lifestyle blocks with lovely views are worth about \$300,000, one could afford to pay up to \$100,000 for the TDR and there would still be a \$100,000 profit.

It is important to know the market and where the value is at the other end. If it is for low value sites then those people will only pay for low value TDRs and that is not attractive to the farmer. I cannot comment about this area, but the figures need to be worked through in terms of the things that Simon was saying and where is the cut-off point.

One reason why we did not get involved with a register was it meant a lot more work for Council. Why should we get involved and almost become the sales agents when in fact the market itself was doing it for us.

Warren Parker: One of the propositions in this is land and capital values and anyone who has been involved in any aspect of farm valuation knows that broadly it runs at so many dollars per kilogram of milk solids. Generally if you increase your production you get a higher land value. The importance for a farm in the long

term is profitability and free operating cash flow. I am interested in what the base level for capital valuation is and why that is driving so much thinking here. Secondly, thinking about the types of schemes to encourage behaviour, what is the merit of a TDR versus getting the ETS working properly, paying a proper price on carbon which would encourage proper land use change.

Warren Webber: I would like to think that you were right about the ETS. I will put my hand up and say, 'Let's make that additive as well'. Would anyone like to respond to that please?

Neil Oppatt: I would say once upon a time we did think it was going to be one of our major tools, it has not gone away.

Warren Parker: Capital values are an important factor and the market operates in capital values as we have seen with the lift in dairy farms from 2007 to 2012. Where will we set that and why would we protect it at that particular valuation? How do you work it out over a 20 year period?

Simon Park: I am the one who put capital values up on the screen with some trepidation because I am not a valuer or a developer. I drew on the numbers that were in the Farmers Solutions Project and they came from Reid and Reynolds, a leading local valuation firm. They indicated dairy farm values of around 25,000 a hectare which is less than what it is in other regions because of the current constraint under Rule 11. They suggested that dry stock values were around 10,000 a hectare. They might have been rough estimates but they were good enough for that analysis.

When you look at the value loss on a dairy farm for land use change as a capital value calculation and compare it with the impacts in terms of farm profitability, it suggests that dairy farms valued about right in terms of the profit they could make per kilogram of N leached. It comes back to a question of how relevant are these capital values in the calculation. It is very much to the forefront of farmers' minds when thinking about potential losses they could be facing.

Where it became more difficult was on dry stock valuations. Even a fairly modest one of 10,000 per hectare, because of the comparatively lower profitability despite the lower leaching, the analysis suggested that it was overvalued. They were likely to suffer the greatest value loss, which could not be represented in farm modelling and profit and loss calculation. In a sense the market was not behaving rationally in valuing dry stock farms at that level.

We have some expertise in the audience, Bernie from Rabobank and Brett from NTech, who probably know more about these valuation issues as well as what the likely demand for lifestyle blocks is, because clearly without adequate demand the whole thing looks a little shaky.

Warren Webber: We have two questions outstanding but we will hold these for the moment and ask if one of the valuers or consultants would like to respond to that topic.

Bernie Gardiner, Rabobank: I was going to raise a question on the values anyway because I believe Reid & Reynold's (now called TelferYoung), valuation would be based on comparable sales. If so, \$20,000 would seem fairly light and unfortunately because of the comparable sales utilised for a base or benchmark for those valuations it would generally take account of the negative connotations of being in the catchment. In effect the farmers are getting penalised twice and those values used earlier would mean that the actual loss to the farmer could be quite significantly higher than what was portrayed.

Dan Marsh, Environmental Economist, University of Waikato: In the past I have been invited to address the LakesWater Quality Society on different issues including who should pay. I am not sure if this is the right time to bring a perspective which has been somewhat missing. There has been a great line up of speakers but the one perspective that you do not seem to have so far is that of an Environmental Economist. We do specialise in looking at costs and benefits of different policies from an overall point of view. What I see here is a proposal to raise money by restricting the ability to subdivide. Effectively it is a proposal to sell off the right to subdivide and the suggestion that in some sense this will raise money. But it is not raising money; it is what we call a transfer payment. It is a movement from one place to another. It is important to be clear when talking about some of the questions here. If we decide that the right to subdivide has to be purchased and that that will have a certain value because the supply will be restricted, someone has to pay for that. The people who are paying for it are the developers and those that would like to live in rural areas who end up paying more. What we have is a proposal to tax these people. We have a proposal to use that money to pay to farmers to persuade them to reduce their nitrogen.

Now this may well be a good way of doing it, but we need to be clear that that is what we are doing. When talking about how to design the TDR in order to maximise their value, we are really saying, 'How much should we tax developers and those who would like to live in rural areas in order to transfer it to farmers?' Obviously the more we restrict the supply the more we make their use flexible and certain, the more we are effectively making that transfer.

This may or may not have been the right time to make those comments but I hope they bring a useful, different perspective.

Neil Oppatt: I agree with you totally. What you are saying is correct and is exactly what we are doing, but we have to look at it in the context of the big plan. There are a number of people in this audience that have had to put their hands in to their pockets and change the way that their household effluent is dealt with. Tax payers, ratepayers of the Bay of Plenty region, Rotorua district ratepayers have all been required to put their hands in their pockets to provide incentives for lake side communities to be reticulated.

When you go right through how we get down to the required sustainable nutrient load, it is what Councils do. Councils look at the impact of trying to achieve something on the affordability of the community to be able to undertake what is in essence for the greater community good, or some might say, is your responsibility. Our Council is upfront. Yes it is a transfer of money from one side, but personally this whole issue is about the right to subdivide; I have always understood that nobody has a right to subdivide. The community confers that right on a property. When we produce a district or regional plan the community is conferring ability for somebody to extract some wealth out of land they own that may not have had that right when they purchased that property.

The community is conferring a right to property owners through a TDR system and for that there is a fee. That fee helps a part of community because of the rules, not because incentives are going to be provided. It is a requirement and TDRs provide that ability. We can do it through straight taxing. We cannot do it through Regional or District Council rates, but as part of the formula. You are saying it is another form of tax but when you look at it in its totality my colleagues and I have made a decision that we believe that it is right and fair and a way of achieving reducing the nitrogen load.

Warren Webber: Before we move to the next question I would like to say that I do agree with you Dan in the sense that it is the transfer of costs. However as part of this process, depending on how the recipient and donor zones are zoned in the future District Plan, there will be mitigation of costs on the developer. That chap down the road from John Green who paid \$75,000 may not incur such costs if he is able to purchase a TDR to achieve the same thing. There may be some transfer of revenue away from surveyors, consultants and lawyers and a few different transfers, but it is an umbrella. I accept what you say though.

Phillip Martelli: A quick response from a subdivider's perspective. In our situation there was no option to subdivide so by putting this in place there would be an opportunity not available before. In which case a subdivider would be more than happy to have to pay, because they can make money they were not able to before. You are right in theory, but then you have to look at the practical reality of what happens in the market. There needs to be flexibility.

Te Taru White, Federation of Maori Authorities: I am trying to get my head around all this as a trustee on a farm that is milking 1,150 cows on a 1,600 hectare property on the shores of Lake Rotorua and Rotoiti, and the Kaituna and Ohau Channel. Clearly we have the Council on our back in my view as we track this through, and it is a picture of change or be damned. If we do change and decide to go down that track my gut feeling on the figures that I have seen is in the vicinity of a \$1-2 million loss. We are here for the long term, we are not going away, we are not like corporate farmers, and whatever it takes to contribute to cleaning up our lakes we will put up our hands.

However, getting back to the land use change and land management issue, Don defined it very clearly as a change from dairy farming to goat farming. Anna

mentioned that it is for matters of certainty. I saw the numbers reaching 25 kilograms of nitrogen for a 100 hectare farm that was profit which is hugely challenging. I am assuming that it is based on the traditional grasslands models of farming which is the paradigm that is in the industry right now. I have been working with people looking at clean energy models of farming that focus on the soil as part of the nitrogen reduction regime, getting back to a more natural way of farming. What benefits that might add in addition to the on-farm mechanics of feeding platforms, reducing stock sizes and other things, which we are prepared to examine.

We are prepared to take the challenge looking at methodologies on farm management that can contribute and go beyond the thresholds you are talking about. That might take us 5 years but we would rather invest in that process than accept that we must go to land use change and something else. If it is land use change then we will go down that track, but how was that sort of philosophy incorporated in the value add of this whole system? I cannot track everything through myself, but I have to go back to my trustees and articulate to them that our future is looking rather bleak. I have already said that and challenged them by saying, 'Is this a business we can afford to be in?' This is why we are now looking at other models of farming because we do like to dairy farm. It has been very good for us over the last 17 years. We have been part of the contribution of a billion dollars' worth of enterprise that has contributed annually to this region and why not? Why shouldn't we continue? The challenge for us is on the cards and I want to know whether the type of thinking I am talking about is valued in the whole scheme of things?

Simon Park: The Regional Council probably has a pretty flexible and broad take on what might be considered in nitrogen mitigation. The numbers I used were conservative industry standard approaches using farm modelling software to look at profit and *Overseer* to look at nitrogen loss. The number I put up of 28 was what a recent expert panel considered in the Rotorua Catchment to be the low end of N loss. It required barn housing of cows during winter to manage the urine and effluent and reduce the N loss from that dairy system.

Yes it is conservative; it does not look at the analysis of biological farming systems. I did see a presentation on this issue from Noel Bartram who is a leading farmer in the Lake Taupo catchment, and he had a pretty blunt take on it. He said if the mitigation option was not in *Overseer* he was not interested because it was not going to attract the funding under that scheme.

So there are some issues here. Councils tend to be risk averse and unless the science has proven a method and it becomes an option in a tool like *Overseer*, it is probably going to be difficult to attract incentive funding. Alistair may be able to expand a little on that because he is the *Overseer* guru.

Alistair MacCormick, Bay of Plenty Regional Council: What Simon says is correct. At the moment the only tool we can measure with is *Overseer* and reduction gains, or the value of a change, are measured that way. When people

come to us with proposals the first thing I say is we need to do the science and get it into *Overseer*, which is quite a challenging job. I would encourage Trusts and people like you to put pressure on Council to assist in that area.

Te Tara White: Yes I am very clear that the science behind this is unproven and I am also very clear that over the next 5 to 10 years with the window of opportunity we have we are prepared to go down the track of trying to lead the science by offering up our property to look at clean energy models, along with several others. I believe the current system is besotted with this whole traditional grass lands approach and all geared towards it. We are talking about opening up a whole new paradigm of farming. I want to put the challenge of the science out there. We are not just looking at a group of Maoris on the Ohau Channel plugging a few inputs in. We have a sea of piranha, of biological suppliers coming to our door. But it is not about supply, it is about test models, and it is important, not only for the issue we face, but for the industry as a whole.

Warren Webber: I would be surprised if the developers of *Overseer* are not considering this issue on their wish list. Certainly DairyNZ are. The position statement on the Rotorua catchment in 2011 had organic farming listed as a possible mitigation tool and they were brave enough to put a figure of 46% reduction by introducing organic farming to the property. But the problem I have is – where is the science? Terms like ‘biological farming’ and ‘organic farmers’ suffer from lack of clear definition as to what exactly they are. They are deserving of further scientific research.

John Green: Warren, can I just interrupt here please. We are talking about subjects that we have had in previous symposiums which was all about the science and the nitrogen/phosphorus issues. We are not here to talk about this subject; it is taking us off TDRs. TDRs are a tool to help farmers reduce nutrients. We are getting back into the old story about N and P and the farm practices and that is another subject, if you do not mind me saying so.

Warren Webber: Yes John, I take your point that this is not what the TDR symposium is about. Anna wants to make a final comment on this and then I want to switch the subject please.

Anna Grayling, Bay of Plenty Regional Council: This is crucial for eligibility whether considering land management or land use change in relation to TDRs. Only in relation to TDRs is this relevant, and we have to consider things that are measured, or not measured through *Overseer*. The Council has used funding before for gorse which was not measured through *Overseer*. We had good science to say that it was something that would reduce nutrients to the lake. It was not in *Overseer* although it is in the queue to be developed into *Overseer*. Even though we are a risk adverse bunch our Councils are still very pragmatic. We need to consider who gets the TDRs. If it is only something considered through *Overseer* then it is making decisions that will not be funded, or you will not be incentivising gorse and that is outside the TDR scheme. In relation to what you need to discuss today that is where you need to focus your discussion for TDRs.

John Green: I would like to go back to Phillip. I enjoyed your comments and could you help me here? At the moment the District Plan has the donor and recipient areas fairly close to each other. We have talked about increasing the value of TDRs. To me that is lake side communities. We have 12 lakes here. We have an A zone which is not being brought into the District Plan as yet, but as a general principle would it not be better to target all of the lake side communities as zones where we can take up TDRs? To me those lakes offer a huge opportunity and are where the value lies.

A second question is about the donor area. I took on Neil Oppatt's comment; the donor area should be the whole Rotorua catchment in my mind. I believe that we have the donor and recipient areas wrong in the District Plan. I would be very interested in your comments. We have this wonderful resource of lakes and lakeside areas, of which I have 10 acres, but I cannot subdivide, yet I could put 5 sections in. This concurs with Dan Marsh's point, I have no rights whatsoever to subdivide. Whereas a TDR approach could give me rights if it included the Rotoiti area. If I was at Okareka I would have no rights either because it is also under Zone A, but potentially we could get it there. Phillip, could you talk about the donor and recipients areas, because your experience was it did not work to start off with and you had to refine it?

Phillip Martelli: It did not work originally because the recipient and donor could be in the whole district. Most of the subdivisions occurred up the back of unsealed roads, high up in the hills where people were not interested in buying, which is why we have a lot of empty lots still out there. What you say about around the edges of lakes, from a theoretical point of view, is correct, because that is where the highest value sites are likely to be, or places that have beautiful views. Therefore people would pay more for TDRs. The question to ask your community is – do you want that level of development around your lake sides? Is it going to have other impacts on lake amenities, landscape views, etc.? Then you might have a conflict.

It is not for me to judge, it is for your own community to work out. Do you want a lot of houses all the way around your lakes? In Tauranga we do not want to see Tauranga city as an urban development stretch all the way from Tauranga up to Waihi Beach. We have strong landscape rules around the margins of Tauranga harbour. That is a community debate. There will be other areas where lifestylers could go.

When I talk about lifestylers, it is about people on, say, 3,000 up to 1 hectare sites. Not 4 hectare hobby farmers, which is different again. There will have to be a discussion within this community about where to go. Whilst the high value places might be there, there may be other reasons to say 'No' to subdivision.

John Green: What about the donor?

Phillip Martelli: The donor is across the whole district. Because we talk about bush, riparian margins and wetlands we target the whole district. What is the focus in Rotorua? If it is only on Rotorua and Rotoiti then obviously those are the

catchments where you will focus your donor. Why would you bring in other catchments that do not need extra incentives if there are no environmental problems? It is about where the environmental issue comes from?

Peter Buckley, CEO, Waikato Regional Council: Phillip, in your presentation you were going to talk about Franklin. Before Franklin was divided they had TDRs and from my recollection once the boundary was put in the value of the TDRs on the Auckland side were worth exponentially more than they were on the Waikato side. The Aucklanders bought up TDRs on the Franklin side and sold on the Auckland side. The money that people who sold them on the Waikato side got was a reasonably fair deal. They have since stopped it but I do not know why. Would you like to comment on the Franklin situation, because I saw it in your speech and was looking forward to it?

Phillip Martelli: I am not sure how that ended up as I am not familiar with Franklin. Franklin followed Western Bay in how they did their TDRs and Rodney was the other District Council also doing it about the same time. Rodney's case was interesting in that the farmers, who were the donors, bought sites and became the recipients and did the transfer without transferring any money. They became developers in their own right and this happened quite a lot in the Rodney situation, but I cannot comment on Franklin.

Ian McDowell: We have 6 hectares in Cookson Road. My question is – has any consideration been given to the people in the recipient areas who live on a nice 4 to 6 hectare block and do not want to have a subdivision right next door to them? We are zoned Rural A, or Rural 1 in the new proposed District Plan. The Council Town Planning Committee approved a subdivision of 7 small sections next door to us. We appealed this at great expense. Most people who live on a 4 to 6 hectare lot do not want to have a whole lot of neighbours next door. I do not think any consideration has been given to them at all.

Phillip Martelli: You raise a valid concern; it is what the community wants in consultation. We went through that with our community to produce our District Plan when we talked about changing the regime. The people that were in these new lifestyle zones knew what was intended and for us it was not a problem. They could not wait for us to make it happen because those people on their 4 to 6 hectare blocks were looking at the opportunity it gave them that they would not otherwise have. So in our district it was not an issue, but the Councils will have to go through that community consultation process.

Neil Oppatt: Can I also say Ian that there was a very similar case here and our Council appealed it. I think Phillip said that if the community understands the reason why we want to do this, which is to protect the lake, then maybe that discussion would be different. I have not come across a ratepayer yet that is not concerned about the long term quality of Lake Rotorua, including every pastoral farmer I know. Right now people are challenging the existing Plan and achieving sub divisional rights with next to no environmental benefit for the greater catchment.

The debate I would love to see with RDC and the community is about how far the community is prepared to bend to achieve the ultimate goal. Bear in mind it is a new District Plan and that is the time to introduce changes to the status quo. There are two ways to do this. RDC and Regional Council could rate more if it was deemed to be the way to help the properties that have to make substantial financial changes. But I suspect we are at the limit of what people are prepared to accept as their fair rating contributions to fixing Lake Rotorua. The wider debate with the community would be - How far are we prepared to change some of the principles around how the lakes community should develop to protect the lake?

Phillip Martelli: When I did my presentation I purposely put up some photos of what I believe Rotorua could look like. When Rotorua residents look at what a standard rural subdivision looks like and it is more of the same - just more houses, I could understand that they do not want more of that. Ian, I know where you live and understand why you would have objected. But if that was part of a complete re-landscaping of the Rotorua catchment and you could see some real enhancement of the environment around where you live, I wonder whether it might change your mind for you and your neighbours and those other people living in the Rotorua catchment.

Part of selling our lifestyle zones was that we did not just do the cookie cutter and say, 'Right now people can go and subdivide'. It was accompanied by a full structural plan that provided for a lot of greenways, walkways and equestrian trails but the Council decided to get rid of those at the last minute. So it is not just your normal lifestyle subdivision but something with more character. It is a long term vision for a plan that will take 30 or 40 years before it comes in.

Mary Stanton: Kia ora katou katoa. I would like to speak on behalf of our children and grandchildren. I am speaking about the Ohau Channel and Mourea area and we are stakeholders. I was born on the Ohau Channel 68 years ago. I know that area, it is a very sensitive area and we always look at the environment and of course water quality. My question comes from our children; our children are saying to us today, 'Nan, why can't we build on our own land? Why can't we work, create jobs within our own local hapu and iwi where we were born?' This is a land change you are questioning. Go back to your community and ask what your community wants. We know what we want. 20 years ago I was the Secretary to the Lake Rotoiti Ratepayers Association and I fought to get a water supply for Mourea, because our people wanted to build on our own land. It was hard, it was a battle and in the end we gave way to sewerage because we wanted to protect our lakes. So we have a sewerage system and Mourea was the first, I remember that. I also remember my father, Stan Newton; he fought with all the elders from Ngati Pikiao and Te Arawa to take the sewage out of the lakes. We have successfully done that, but it is not complete and I am not happy, because Rotoiti and Rotoma deserve better treatment. That is to come.

Now I say to you – Why are you hesitating? Why are you not giving our children the opportunity to live on their own land and to work it? We have forestry, reserves, which go for 80 years, 3 rotations – do we always have to rely on

forestry? Not everybody wants to work in forestry, but it is our bread and butter. We have businesses to run forestry so we will keep at that, but we need to get different opportunities with land change. I would like to see our children not say, 'You can stuff your land, we are going to Australia, we are going to immigrate. We are going to the mines.' It hurts; it really hurts when they say that. 'We are going to work in Australia; they can provide us with better money.' A lot are doing that. They are taking off and flying out to work in the mines. Do they have to go there? Are you forcing them there? Get real. This is our home and we deserve better. I want to see our people have better homes, warmer homes, a quality of life. Give it to them; because it will not be long, we elders will be gone, as we lost Maureen, time is limited, time is precious. We come to the Council for help and we hope to get that help such as the symposium. John, congratulations, and to your dear wife. You are working hard and I really admire you, congratulations. But we need more support, we cannot just be working with dairy farms and forestry, we need more. Kia ora katou katoa.

Anna Grayling: Thanks Mary, that is a really good point you make about not limiting our options for the future in Rotorua and it is definitely the Regional and District Councils' view that to get to where we need to be in 2032 is going to require some innovative solutions and we cannot rely on forestry as the only one.

It is a good time to mention that we are running an innovation contest because we want to get great business cases to take to land owners so that they do not feel that they have only one viable business option in pine trees. The innovation contest will be launched soon and there will be a lot of media about it. We are doing this to come up with solutions for the rural community. Please do not think it is just about us pushing forestry and it is the only one stop shop for 2032. That is not the case at all.

Phillip Martelli: There is a good example over our way. A Maori Trust had 700 hectares, with 100 hectares of bush on it. By using the TDR approach they got \$2½ million in their coffers to put into their own whanau and education. The issue here is if the dollars are right to make it work then there is a chance to use money for other benefits.

Don Atkinson: I would like to put on the table the underpinning of the value of TDRs, because that directly relates to how much we get out of it. I do believe that they will be underpinned through a nutrient trading scheme assuming that it comes into play. Ultimately a farmer will have the right either of going through the TDR incentive route, or alternatively he could say, 'Blow that, I'll just go and trade the right that I have already got, to a dairy farmer because he will be able to pay the most'. We will not get a win out of it, but it will reduce the number of people that want to take that course. A dairy farmer's nitrogen equivalent is probably worth closer to \$1,000, not \$200 to \$400, which he might get out of the TDR plus incentive system. So there is a strong underpinning of an alternative market that I am sure will exist under the new trading regime.

Warren Webber: That is a good point Don. We do need to realise that it is not obligatory for any donor property if they reduce nutrients to accept incentives from Anna's cheque book or TDRs from Liam's. They may well say, 'Ok, I've reduced my leaching by 20 kilograms per hectare, I'll sell it to the dairy farmer up the road'. That is part of the nitrogen trading mechanism that we have alluded to previously.

I would like to ask from what base for donor eligibility. Currently the proposed District Plan says the base from which they will allocate will be the 2004 benchmark for the property. That could mean that one dairy farm starts at a base of 60 and his neighbour down the road starts at a base of 35. Is that equitable? Is that what we want, or is there an alternative? Do we start from a defined base, which might be prudent farm practice, which is my preferred term, and that might be 40 kilograms for dairy and 15 kilograms for dry stock? Can I have some comment about what sort of base we should be working for when we allocate these TDRs or other.

Anna Grayling: If I could suggest that there is an 'or other'. At the moment we are in the process of allocating the nutrients which will be the 'or other'. We have signalled that the 2004 benchmark year has over allocated nutrients, so there is too much been given out. At the moment the Regional Council Policy Team is working on how to allocate the smaller amount. If you wanted to take another allocation depending on where that is, and that will be pending further decisions, that 'other' could be the new allocation.

Joanna Carr, Sheep and Beef Farmer on StAG: What Simon was talking about may be a conversation that we had the other day and it pertains probably to 'other' and a suggestion that came forward was leasing. If a farmer can get to the target, instead of selling nitrogen, it could be leased to other farmers. It is about maintaining the equity on the farm balance sheet. You do not require it for the current farm system or what you are producing, but you do want to hold on to it on the balance sheet and your equity, and you then lease it for a prescribed time.

Dan Marsh: You asked for comments on the issue of whether to go for benchmarks or go for grand parenting. To me the question is exactly the same question that people debate when they say, 'What is the fair mechanism for allocating nitrogen in a catchment?' In principle going for prudent farm practice is a good idea. I have reviewed this in some detail as to what has happened around the country and while in principle it is a good idea, at the end of the day every farmer would argue that they are efficient. Once you start saying that you are going to benchmark and the levels should be prudent farm practice the problem will be - how are you going to define it? Every farm might have a slightly different soil type, or different rain fall. There may be different circumstances which would mean that each farmer could say that they had been prudent. It is a difficult trade-off between going for grand parenting and what might be fair which is to go for different levels of prudent farm practice.

Session 3

SESSION CHAIR - John Green, Chair, LakesWater Quality Society

A REAL ESTATE AGENT'S VIEW

Dave Umbers

Dave comes from a background of a career in farming where he progressed from being a shepherd to a manager of a large scale drystock farm. He then changed careers to Real Estate in 1996.

During the last 17 years Dave has worked in a variety of roles from a sales person to manager to principal and now business owner at VIPREALTY. During this time he has been involved in many millions of dollars' worth of rural transactions. As a business owner and real estate professional he is very interested in the future direction farming will take to ensure our grandchildren will inherit a place to live that is at least as good, if not better than what we have today.

After listening to everybody I have deleted half of my talk as much has been covered. But during the process of the morning I developed an idea of what is missing from this Symposium. There are a couple of major issues that have not been addressed and possibly people are even scared to talk about them. So I am going to be a little non-PC in what I talk about.

The fundamental principle that I see is that all the dairy farmers in the caldera are treated equally. In my view there is equity in life for everything and the likes of Stuart Morrison who has lived in the caldera for 35 years should be treated differently from someone who purchased a dairy farm when this issue was on the table. In business, if things are going to change, and one buys knowing full well of that risk, you wear that risk personally because that is the nature of the beast. I believe we need to step back and say, 'Hang on, some of these guys have purchased these farms inside the last 3, 5 or 10 years and this has been a burning issue during the time that they purchased'. Is it fair that the rest of the farming community wear their loss?

This is an issue that needs discussion because the farmers who have been here for over 30 or 40 years deserve different treatment from the ones who came in the last 5 years knowing there was a big risk. The rules have changed and Taupo is a good example. Anyone who bought there was running a risk of losing money.

Another aspect is the volume of TDRs and what is a realistic value for them. My concern is that the Rotorua market is like Mars compared to Tauranga. I have been selling here for 17 years and it is a very difficult market to make a living in. Ten years ago I used to go to the Professionals car park and there would be all

manner of new cars parked. Go to any real estate car park now and half the cars are bombs. It is not an easy market to sell in and yet today we are talking about sales of bare blocks, 200, 500 or 1,000, the sort of numbers I do not believe are realistic.

To give an example, there are about 10 sales a month in Rotorua for existing lifestyle properties. If we try to sell 500 blocks over the next 10 years, that is one a week. I would be quite happy to retire on a full time lifestyle block, but I would probably earn about \$20,000 a year. The reality is we need demand to soak up those numbers to create the compensation for dairy farmers. So returning to my first point, as far as compensation to dairy farmers is concerned, they have made losses, and some have made far greater losses than others. Some have not protected themselves against losses by blindly buying their farms believing that the rules will not change.

There has been talk of \$90-120 million compensation for those people to leave their farms with all their equity intact. Is it fair on the rest of the community that they wear the loss that they have created themselves? This is a controversial point. I have a bullet proof vest on and my car has bullet proof glass. If you see me driving around the rural community do not shoot me.

The other question is the research; before I started my business I researched to find out whether my business would have a demand. Is there sufficient demand to get the numbers we are talking about? Has anybody knocked on the doors of people who own the land and asked if a TDR would help them with subdivision of their land? Would they take it up? Or would they want to protect the integrity of their lifestyle block and make sure the other lifestyle blocks do not crowd them out and spoil the character of where they live?

I have lived in the country for 16 years and if somebody decided they were going to subdivide my next door farm and add a house I would feel two things – I would be annoyed because its ruining the character of my property and it would probably be costing me equity in loss of value, because the person who wants to live on my property when I do sell it will think it is worth less than what I thought it is worth before they came along.

The key ingredient for high quality land for TDRs would be great views, north facing, handy to the city and attractive contour, which Phillip talked about earlier. But is there room for another Brunswick Park, or Parklands subdivision? There are 19 bare blocks in Brunswick Park and heaps of bare blocks in Parklands as well. Duncan Realty is doing the subdivision in Central of about 29 lots. So there are already a lot of bare blocks around Rotorua. I am not sure that \$300,000 for a larger bare block, which has been talked about, is realistic for it to be profitable with a TDR attached.

I have my doubts but with a smart variation maybe TDRs could work. Around the world, particularly in America, there are developments on golf courses, building houses around the fringes. One thing that Rotorua is renowned for is its outdoor

adventure place to live. My view is that a developer with a specific theme, or multiple themes for outdoor enjoyment, would fly. But a very long term view has to be taken. We are not realistic in doing major developments in Rotorua over the next 5 or 10 years. We have to look out 20 or 30 years to see such projects.

I suggest we create developments that have mixed components of lifestyle - semi urban, urban, even apartments, in spectacular places. This is where a lot of consultation has to take place, because for those TDRs to be valuable there has to be real value in where they go.

This means that resource consents need a longer life. Currently we have 5 year resource consents which is a short time frame. It is very hard to sell a development inside 5 years and many developers have gone broke. There needs to be a long term strategy for resource consents and they need to be easily renewed for a longer life.

My own view is that these types of developments are beyond the current capacity of private developers. The global financial crisis has put a lot out of business. Today the risk is too great for people to do developments which might take 10 years to sell. They need to be in partnership with Iwi, Regional Council, District Council and maybe even the Crown and the local community because we need to create something spectacular, world leading and a new type of environment.

What would they look like? We need to have a massive replanting of natives around Rotorua and create a Redwoods environment with mountain bike tracks, an urban wonderland with forests and parkland in abundance. The one referred to earlier on Country Calendar recently was what I am thinking. For TDRs to work they have to be very valuable.

I am not a communist but I like the concept of community market gardens around a satellite suburb which supplies produce to that community free of charge. There would be benefits for living in that community. We need to get away from more houses for the sake of compensating our dairy farmers and create something unique and magical that people really want to live in.

In Hamurana there is already traffic congestion coming into Rotorua township at 8 a.m., even though there are double lanes. Talking of 500 or 1,000 extra properties in that area, imagine what coming to work in the future would be like. Nobody is going to want to live there.

Regarding the process of TDRs, to establish the market value of them they should be done through a tender or auction process and released on to the market slowly to preserve their real value. I agree entirely with the previous speakers who suggest that we have to go right outside the caldera for the recipient zones. But we do not want to overpopulate the edges of the lakes. In Europe that is exactly what they have done. There are houses almost around the entire perimeter of every lake. We want to retain our beautiful character, something which brings so many people to New Zealand, and particularly to Rotorua to play.

I believe TDRs can work, but I also think we need to take a good hard look at the compensation we are talking about for farmers, because we are not all equal.

John Green

We have a few minutes, is there anybody who would like to ask questions of Dave?

I would like to make a comment because I have the role of Chairman of Grow Rotorua and we are in the process of analysing the growth opportunities for the Rotorua District and will be reporting back to the community in early September.

Currently we have 21 projects, all of which have the potential to bring in \$1 to \$1½ billion worth of business. They are mainly on themes which embrace retirement, the aging and the health and wellness aspects of Rotorua which are unique. There are some wonderful showcases around the world which we could pick up and run with them as developments.

Another area is district heating schemes and bringing back the geothermal fields for heating houses. We now understand the geothermal fields, how they interact and work. The science has been applied and the technology is now so different to when they were shut down in the 1980s. There are also huge opportunities in agriculture and many other areas. Rotorua has not taken advantage of the opportunities and assets it has, for one reason or another.

Whether the community embrace these I do not know. I can only lead a horse to water, we cannot make it drink. But I have a feeling with the way the Maori economy is going that the amount of money out there means that money is not the problem. It is a case of getting better partnerships from Maori/*Pakeha*. There is a need for change and a need to pursue new opportunities. Picking up Mary Stanton's point regarding employment, if we got the aged care health and wellness business going in a much bigger way, we would create jobs. In my Grow Rotorua hat I see there are huge opportunities for Rotorua.

I have two friends who have gone down to Bethlehem Country Club after living here for 70 years. I say, 'Why are you retiring down there?' They reply, 'You come down and see what we have bought into to enjoy our retirement, there isn't anything like that up in Rotorua.' Why can't we build something like that?

Nick Miller - Just a quick comment and a question. I appreciated the reality check. You mentioned at the end there about tendering TDRs and releasing them in a managed fashion. Could you expand on that because that sounded a promising way of trying to maintain TDR value.

Dave Umlers - My view is that if there is a huge uptake of farmers wanting to take up TDRs and if they come onto the market and flood it they will have no value. We need to protect the value otherwise the process has no integrity. The best way to do that is to slow release because supply and demand creates value. If TDRs are highly sought after, and people are prepared to pay \$50,000 or \$100,000 for the

valuable properties, if they are on the market at \$25,000 we will never know whether that is their true market value. If they are worth \$25,000 it will be established through the tender process. It would be set by market forces. Tender or a public auction is a great way to set values. I am not talking as a Real Estate agent here, it is what I believe is the best process where one finds out their real worth. It may be that we do not have to sell as many as we are thinking now to get the money needed, especially if compensation for the farmers is graduated.

Bernie Gardiner, Rabobank – I understand the rational in trying to maximise those values. The problem is that the majority of farmers have loans, some bigger than others, and acquiring those funds early in order to compensate for the loss of income and value, most would not be able to await for some date in the future.

Dave Umbers - Fair comment. I also meant to mention that the allocations of TDRs should be related to the length of ownership of the properties as well as the factors linked to nitrogen. If you have owned a farm for 35 years, you deserve to have more TDRs if you are prepared to mitigate the loss, and more so than if you only owned it for 2 years. There could be a mechanism rewarding change of land use for a long term farm - it is probably a socialist way of thinking.

For the value to be retained we cannot afford to have 100 TDRs come on the market at the same time. The reality is there may only be 20 or 30 a year selling. If that happens the TDRs are going to be a waste of time. But if a sufficient volume is sold to maximise the return on a long term process it could be worthwhile.

Unknown speaker - Dave, we missed a bit of a session this morning, but I was not sure why the TDR zone was so limited. You talked about widening it to outside of the caldera. You will get into some overlapping issues here when we consider Waikato's approach.

Dave Umbers - I am thinking more of the high value areas, such as in Tarawera, Okareka and the other lakes.

Unknown speaker - So recommend taking it wider?

Dave Umbers - Yes, because a good example is a lake edge property at Okareka worth probably about 1.2 million, in Rotorua it is worth \$500,000. Unless it is a stunning property, there is a massive difference in value.

IMPLICATIONS AND OPPORTUNITIES FOR MAORI LAND IN THE ROTORUA CATCHMENT

Arapeta Tahana

Arapeta is the Portfolio Manager, Waiariki Region, at Te Tumu Paeroa. He works with Maori land owners to enable them to achieve higher aspirations for their land and assets. He also collaborates with a wide range of other people and organisations, from owners in Māori land blocks, to government agencies, private sector companies and experts in many fields to find innovative and pragmatic solutions to the challenges of growing Māori. He is an elected member on the Māori Advisory Committee to RDC working to develop a meaningful partnership between Te Arawa and the Council.

I work for Te Tumu Paeroa, previously the Maori Trustee which I will tell you about later on. Before that, I grew up at Lake Rotoiti, right on the lake edge. All my life I have been near the water, around our land and, probably more importantly for me, on my tribal lands viewing it from a Maori and cultural perspective. I have been in my role with Te Tumu Paeroa for about 8 months so I am definitely not the expert in terms of this particular kaupapa but I will share with you some of the generic challenges that we face as Maori and the development of our land and how it applies to this particular catchment. I will also give you information about Maori land in the catchment and what proportion that makes up and the challenges that we face.

Unfortunately I was not able to be here this morning so some of what I say may be repetition or out of context with other discussions but bear with me. I am not a technical person, nor an economical analyst, so do not ask me any of those questions or the mechanics of TDRs. There are plenty of smart people in this room who can tackle that.

I also acknowledge that there are other Maori land owners here who are welcome to chip in. This presentation is from my perspective and what I have learned in my life in Rotorua and involvement with Maori land. I would also add that I cannot verify the accuracy of some of the data in this presentation. It is a difficulty for many people involved with this programme. Having a true and accurate understanding of the numbers is an on-going challenge that we all face, and for Maori we are a bit further behind in that.

Current N load to Lake Rotorua is = **755tN/yr**
The sustainable lake load = **435tN/yr**
(to achieve water quality target of TLI 4.2)
Reduction needed = **320 tN/yr**
Pastoral sector needs to reduce by **270tN/yr**

**A Rotorua Community Challenge,
not limited to the Lake Rotorua catchment**

You may have seen these figures many times but I wanted to recap briefly. The difference is that it is not a Lake Rotorua catchment challenge, it is a Rotorua community challenge and from a number of perspectives. From our Maori world view we are connected not only from a people and genealogy, but also in terms of our environment. Growing up beside Lake Rotoiti I realised that what happens at Lake Rotorua obviously affects Lake Rotoiti. Many here are directly involved in the Lake Rotorua catchment, but the challenge is for the wider community.



Slide1

I will start my korero with where I come from and what Maori land means for me. **Slide 1** shows the view from our dining room table. I do not say that to impress you, but the whole picture is to impress upon you the perspective of Maori land. At the top right is my daughter, Te Kirihana. On the left is her great great-grandmother, Hana. The land we live on is from Hana's side of our family. Her father's name was Tanu and the name of the particular land parcel we live on is Te Waioira a Tanu, which in English is translated to the 'invigorating waters of Tanu'. This picture illustrates that for Maori, land ownership is inter-generational. Between my daughter and my great grandmother, there are 200 odd years of history. Back further, to her father and beyond there is potentially 400-500 years of history.

Our connection with the land is much more than just a place to live and the economic benefit that we get out of it. Recently I buried my daughter's placenta on

our land, as is mine, and many of my nephews and nieces. My father and his generation are all buried there too.

I want to paint the picture of how important land is from a cultural perspective. Through history, Maori land has been our economy; our sustainability came off Maori land, the economic side of things makes sense to us.

Maori land development, Maori land business and sustainability



Slide 2

These paintings show that when Europeans settled in Aotearoa Maori were traders. 'Once we were Warriors', but also 'Once we were Traders'. We were entrepreneurial people trading with settlers and other countries. Part of what our organisation, Te Tumu Paeroa, is trying to do is inspire our people in business development and the development of our land. We were entrepreneurial and innovative and we need to get back to that thinking. Something happened between European settlements and now, but it is turning around and there are huge opportunities in the Maori economy.

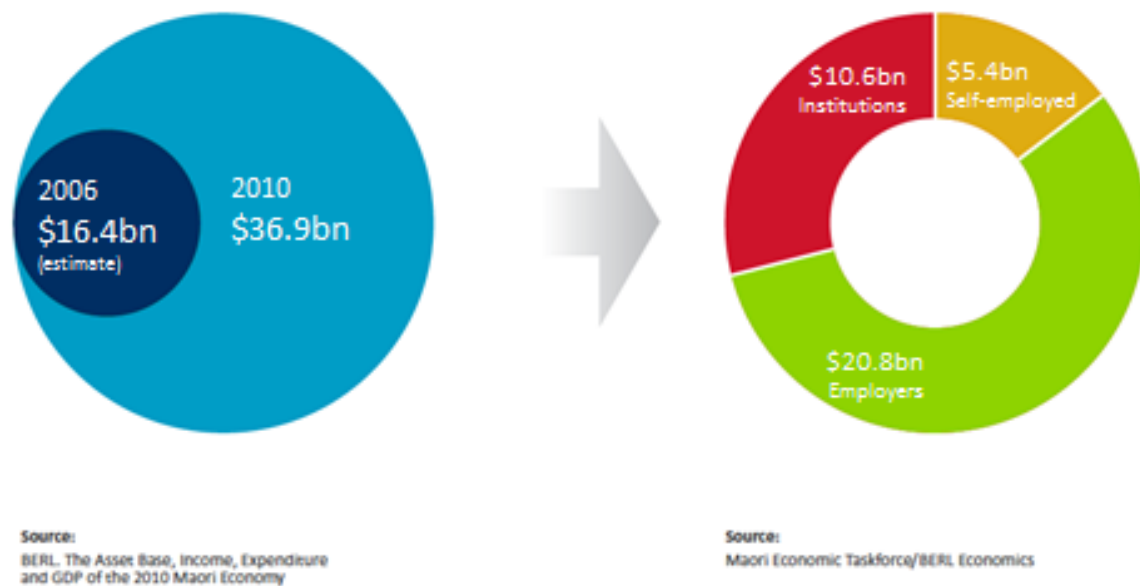
Koura, or kawai the name we use for them, is the fresh water crayfish that are in our lakes. When I was a kid we had rules about when we could get koura. Not rules written in legislation, rules that my grandfather told my father and my father

told me. Allocation and sustainability are not foreign concepts to Maori. At Lake Rotoiti there were boundaries between each hapu and we only fished within our boundary and it was all about sustainability and making sure that there was enough to feed everybody.

The Maori Economy

Slide 3

The Māori economy is growing fast



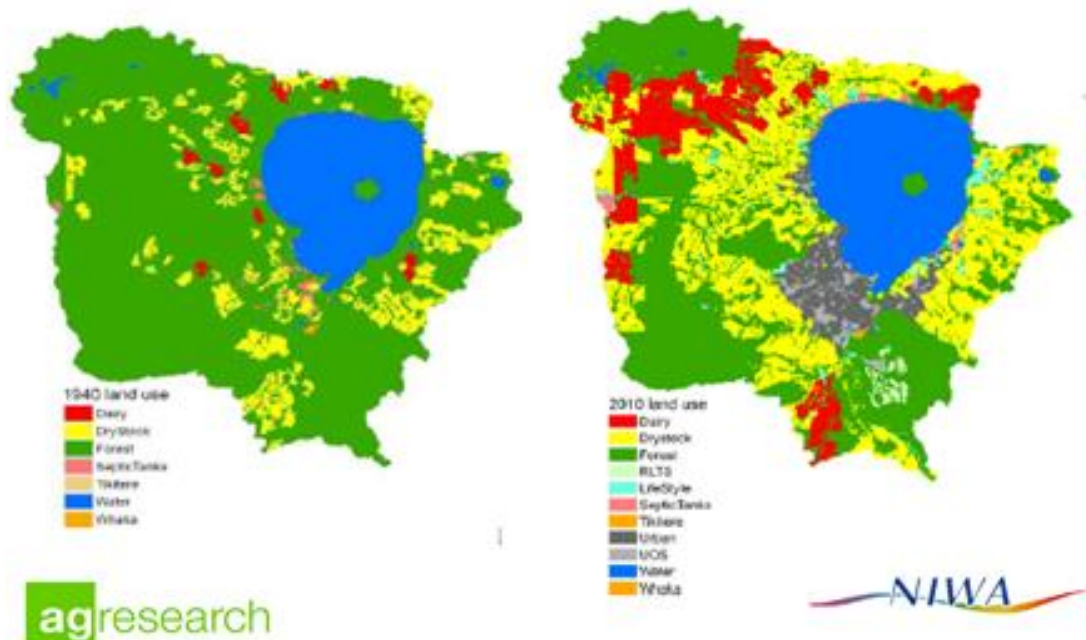
In 2006 it was estimated that the Maori economy was \$16.4 billion, in 2010 \$36.9 billion. Maori land sits in the institution side of things, as well as Treaty settlements. Of that \$10.6 billion, about 80% of it relates to Maori land. There is a misnomer that people believe Maori are wealthy now because of Treaty settlements. In fact the bulk of our wealth is in our Maori Land Trusts and that is very true of Te Arawa. Although we have three settlement organisations and settlement redress, the wealth actually sits outside of those in our Maori Land Trusts.

However the Maori economy is growing fast and brings with it a whole lot of opportunity for Maori. We are challenged with being asset rich, and cash poor. But things are changing rapidly and with it the opportunity to unlock potential with Maori land and other assets that we have.

Slide 4 shows the land use change from 1940 to 2010 and the rapid growth and intensity. The challenge is how do we reverse that picture, in an innovative way that does not impact the economics and social make up of our community?

Slide 4

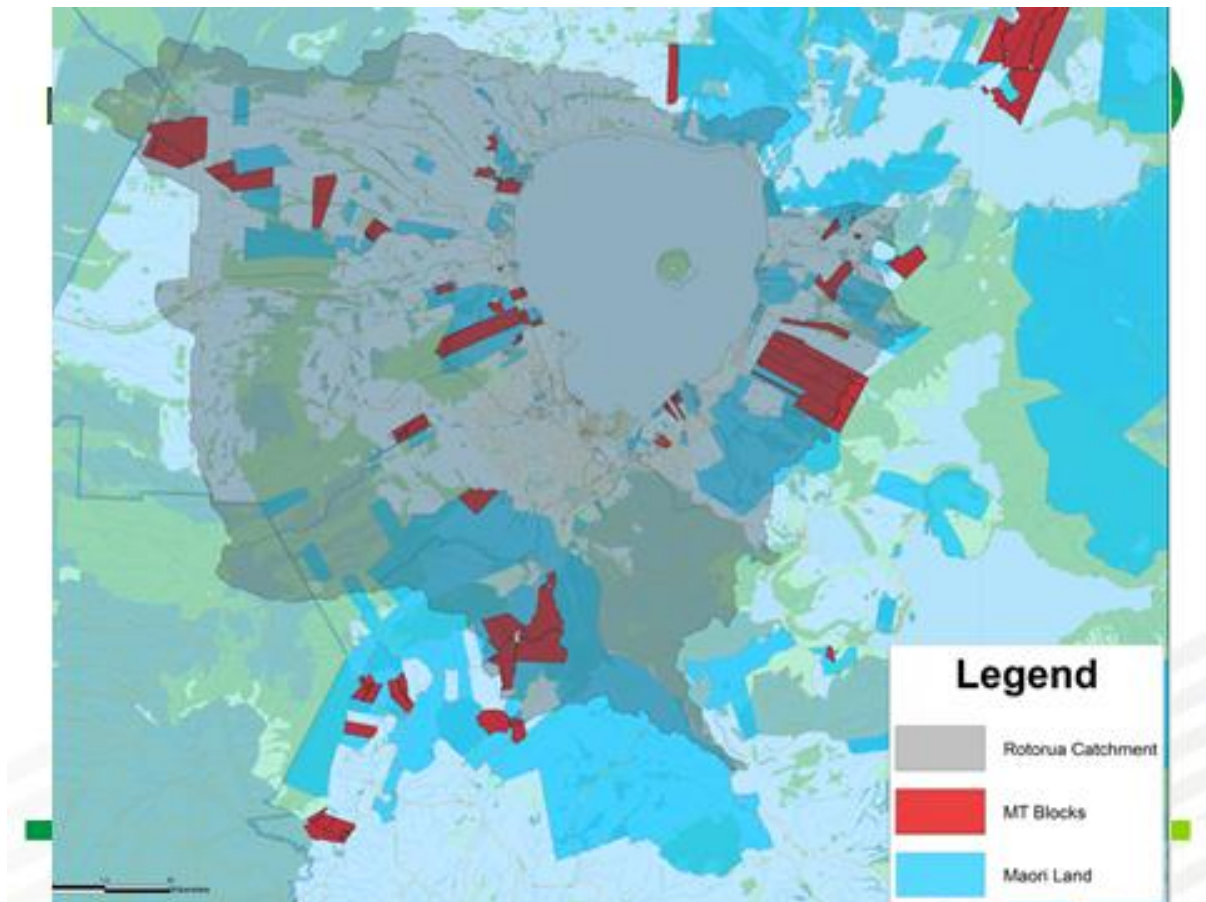
LAND USE 1940 & 2010



Maori Land in the Rotorua Catchment

- 740 Maori land blocks making up approximately 20% of catchment land area
- 60 blocks greater than 50 ha making up 87% of Maori land area
- 587 blocks are less than 5ha in size making up 3% of Maori land area
- 72% of Maori land classed LUC 4-6
- 16% of Maori land classed LUC 7-8
- Estimated 20,000 – 30,000 owners affiliated with this land

Slide 5 shows Maori land within the Rotorua catchment. The grey area denotes the catchment boundaries and the blue and red parcels are all Maori land. The red parcels are administered by Te Tumu Paeroa and I will talk more about the detail as we go on. Maori land is significant, estimated at about 20% of the catchment.



Slide 5

A lot of our land is not appropriate for dairy and pastoral activities. That said though, Rotorua is an anomaly in the way the land is used. Dairy farms are on quite steep land. The challenge for Maori is understanding what can be done on this kind of land to provide a decent return for our people.

Another important point to note is that of those 740 entities we estimate that there are about 20,000 to 30,000 owners. I am a trustee on one block with 13,000 shareholders, which creates a big challenge.

Approximately 50% of Maori land is involved in sheep, beef and dairy which equates to about 5,000 hectares. I have had a real challenge pulling together these numbers with limited or inaccurate data so take this data with a grain of salt. As part of the StAG group, my job going forward is to get more accurate data and to understand the true picture of ownership of Maori land.

What contribution does the 20% of Maori land in the Rotorua catchment make to the nutrient loss? Knowing that would tell us how much is our part of the problem. At the moment I assume it is 20% of the problem and we want to work with everybody else to solve the problem.

Maori land	20% of catchment
Rule 11 land use	% of Maori Parcels
Sheep/Beef	39.01
Bush	36.22
Pines	8.67
Dairy	8.21
Other	6.03
Cropping	1.45
Deer	0.41

Te Tumu Paeroa Administered Maori Land

Approximately 68 blocks totalling 5,000 ha

- Dry stock 3,222ha 64%, 31 blocks
- Dairy support 1,033 ha 21%, 11 blocks
- Forestry 578 ha 12%, 7 blocks
- Cropping 112ha 2%, 9 blocks
- Other 91 ha 1%, 11 blocks

Total Dairy Support & Drystock = 4,255 (21% of pasture in catchment)

Te Tumu Paeroa administers 68 blocks in the Rotorua catchment. Te Tumu Paeroa was previously the Maori Trustee which since 2009 has been independent of government. It previously was part of the Ministry of Maori Affairs. In 2011 Jamie Tuuta was appointed as the new Maori Trustee, the CEO of the organisation. In the last year and a half he has changed the direction and focus of the organisation.

The Te Tumu Paeroa Vision is around mobilising Maori land and assets to create this generation's legacy. In Maori we say:

Utaina te waka, hapainga ko te hoe, kia tuputupu te whai oranga

By finding and executing solutions that allow Maori to realise higher aspirations for their land and assets

It has a slightly different meaning than the English that I prefer. *Utaina te waka* talks about loading your waka, your ship, your vehicle with the right tools, the right people to get the job done. Historically we have not necessarily had the right capabilities amongst our organisations to drive our development. We have relied on pulling in outside consultants. I have nothing against that; there is a place for it. But we have found that outside consultants do not always understand the wider perspective of Maori land development and the multiple objectives we are trying to achieve.

Hapainga ko te hoe talks about lifting up the paddle and paddling. There is no point in having a great vision if we are not willing to do the work. The message for Maori is that we need to take more responsibility and work harder in changing the situation. That waka has already left; the Maori economy is growing quite significantly and we are right on track.

Kia tuputupu te whai oranga is about creating wellbeing for our people and our whenua, our land. The way to do that is by finding and executing solutions that allow Maori to realise high aspirations for their land and assets.

Historically Maori land owners tended to have low aspirations for their land. They accepted what they had, partly through unawareness of how to play the game of business and work in a western world. But that is changing and Te Tumu Paeroa wants to inspire Maori to have higher aspirations. We have been benchmarking the best farms and horticultural units in the country. One of our goals is to have Maori land performing in the top quartile, because at the moment the land utilised is about 30 to 40% below average.

There is a whole chunk of underutilised land, about 1.5 million hectares of Maori land throughout the country, 20% of it performing averagely, 40% of it under performing and another 40% unutilised. That is 500,000 hectares of land which, if its potential could be unlocked, would provide a huge contribution not only for Maori, but also the wider New Zealand economy.

We have three pillars to our strategy. One is connecting with our people. It is important that owners are engaged in the development of their land. The second is how to get the most potential out of the assets we already have? The third is how do we grow those assets once we have achieved the potential out of our land?

The Key Challenges Facing Maori

1) Multiple bottom lines to align with our world view

A Maori land administrator assisting a trust to manage their business balances a number of factors. How to get the best economic growth out of the land, but at the same time protecting the land to a standard that our people are happy with? How to distribute the wealth that we create in a way that makes a meaningful difference for our people? Although the Maori economy is growing, Maori wellbeing is not, so how do we transfer that wealth creation to our people in a way that lifts the quality of their lives?

2) Asset rich, cash poor but rapidly changing picture

We are asset rich with land and the resources that come from it, but cash poor. However that is rapidly changing here and many other areas around the country.

3) Limited but growing Maori capability and capacity to drive integrated economic, social and cultural growth

I mentioned earlier external consultants. Te Tumu Paeroa has specialist roles to achieve good quality thinking in different areas. Maori currently represent approximately 20% of our staff numbers. We believe in getting the best person for the job and learn what we can.

4) European land title system conflicts with Maori concepts of ownership

When the European Land Title system was put in place it conflicted with Maori concepts of ownership which did not refer to land as belonging to an individual. It was always about collective ownership and not about saying this piece is yours. Unfortunately to participate in a western legal system we had to adopt this which presented some challenges to our way of thinking. Some of our people think from an individual ownership perspective. A lot of owners say, 'What money am I going to get out of it?' But to me that is not a Maori way of thinking. There is work going on in the Maori economy on the integration of business principles – how we do business, how we can be profitable in the way that we traditionally think and marrying the two up.

5) Te Ture Whenua Maori Act 1993

This is the legislation that governs Maori land and comes with restrictions and challenges in the way we develop our land and the need to seek Maori Land Court approval in certain circumstances. Currently there is a review of the Te Ture Whenua Maori Act to unlock some of those issues. For example, we need to go to the Maori Land Court to enter into long term leases. This is one of the things that we are trying to change to give us the same rights as a company would have.

6) Fragmentation of ownership

I have been a trustee for 3 years on a trust with 13,000 owners. The ownership list was 10,000 when I started, and in 3 years it has grown by 3,000, partly to do with the baby boom and timing. There are a lot of people coming into that age and succeeding to their shares. The challenge is that every year we accommodate more people. The economics of distributing benefits to 13,000 people becomes very difficult. Another difference for Maori land is that owners are not shareholders as in a listed company and do not bring cash to the table. We have to make the most out of what we already have and the cash flows the other way.

7) Disengaged owners

Many people have not lived near their land, or know where it is, or even have an interest in their land, yet we have to account for them as shareholders and send correspondence. It is hard to know if what we are doing is making a difference to those owners. This is why connecting with our people is a strategic pillar for Te Tumu Paeroa in order to change that picture and have our people involved and

interested in their land again and bring back the technical capability and capacity which those owners potentially represent.

8) Diaspora of the Maori Population

Many of my relations now live in Australia. I want to give them the opportunity to come back. The economics are better for them over there, but we have an opportunity to change that and bring our people home.

9) Low/Undefined Aspirations

We want to raise our aspirations not only from a purely Maori point of view. What are our aspirations and also benchmark ourselves against the best in the country.

Implications of TDRs

Assume that 20% of the nutrient reduction challenge lies with Maori. Our fear is that potentially we will be locked in low producing/profitable land use. This is not just a concern for Maori, but all land owners in the district. There is also a fear that we will pick up a disproportional share of the cost to clean up partly because of the historical context of Maori gifting land to support the development of the city, reserving land not only for Maori purposes in terms of culturally sensitive land, but also in terms of scenic reserve, bush that can be enjoyed for the public good. However I am fairly confident that is not how it is going to play out. The involvement I have had in the StAG group is that it is about being equitable; it is about everyone chipping in and doing what they can.

88% of Maori land is LUC 4-8 land use classification, steep land. What is the best use for this land within N-loss constraints? In general we start from a lower cash capital or profitability base and are never going to realise the capital value of our land. Te Tumu Paeroa is focussed on cash flow because we cannot farm for capital gain. We are never going to sell that land so we have to think differently in managing our business. We have some of the largest farms in the catchment with highly productive farms. Even though there are 740 entities that are involved in this conversation, probably we can only make a difference with about 50 or 60.

Opportunities for Maori Land

My view is always to look at the glass half full and there are a lot of opportunities. The principle of sustainability and collective responsibility aligns with Maori Values; it aligns with our traditions, the way we used to do things historically.

There are opportunities to look at offsetting the impacts of nutrient and profit loss collectively as Maori land owners. We own land within the catchment, but also a significant amount outside the catchment. I am not specifically talking about nutrient trading, but there are a lot of opportunities to work together in business ventures by bringing in capital from outside the catchment.

Te Tumu Paeroa encourages leveraging scale through collective development. We have been involved around the country with collective dairy farms, multiple land blocks that are not big enough in themselves to support a dairy farm. There are opportunities in this catchment.

Potential catchment use and innovation relates not only to TDRs. I am interested in getting down hard numbers on what other opportunities there are. As Maori we do not know yet what we can do or what our options are.

There has been a lot of research on goat farming within Te Tumu Paeroa. Potentially it is a great solution for this catchment if we can get a processing plant in the area and Maori are keen to investigate other parts of the value chain.

Integrated (in and out of catchment) farming systems, aquaculture, small block innovation and collective developments are other opportunities for our land in and outside the catchment. I have been involved in research over the last couple of years looking at potential koura farming within our lakes. We have salmon farms around the country, is there an opportunity to grow koura within a lake? There is a market for it both nationally and internationally. Restaurants were paying about \$90 a kilo for koura. We think there is huge opportunity to use our lakes as farms for koura. We have been working with the Cawthorn Research Institute who have scoped a scientific programme to work out how to do it. It is about a \$2 million cost in going through that process. I am open to any idea that we can look at. It is about being smart with the resources we have.

For me the greatest challenge is really about innovative thinking and I have stolen this quote from Abraham Lincoln who said:

'The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new so we must think anew and act anew.'

That is one of the challenges that we have here, we need to let go of some of dogmas of the past and the way that we used to think about farming, land development and economics and think anew and come up with some innovative solutions.

John Green - Thank you Arapeta that is one of the best and most insightful speeches I have heard on the Maori economy and all the details of it. Thank you very much for your contribution. The more we can understand each other's resources and opportunities the more likelihood there is that we can achieve them collectively. Hopefully that makes it even better for us all.

MECHANISMS & ISSUES

Gwyn Morgan

Gwyn has been working in the policy field for over 20 years with Fonterra, Auckland Regional Council, DairyNZ and Federated Farmers. His experience through all of these roles has been working in the sustainable farming area. This has included policy development and implementation as well as extension tools that enable farmers to adapt to policy change in a way that is economically viable. TDR's are one of these tools available and they can be useful but that is dependent on many variables.

The first thing to make clear today regarding the notified Rotorua District Council Proposed District Plan and in particular Rule 13.10.1 and its associated parts in terms of TDRs is:

- 13.10.1.1 - 2 - 500kg reduction
- 13.10.1.1 – 3 Management Plan with subdivision application
- 13.10.1.1 – 4 Nutrient Loss Assessment Report

There is an assumption that they will apply. We know that they are proposed, we know that they could change and the key is to keep an open mind about how they might look in the end. I was encouraged by Councillor Oppatt's comments around the activity status of TDRs, looking at how it might apply in the future.

I am going to talk about the issues associated with TDRs in the Western Bay Plan change in relation to farming and tax issues. I will also show an overseas case study. In New Zealand the TDRs have been used quite widely by many District Councils but not in relation to nutrient reductions. I have found an example on Long Island in the USA which is to do with nutrient reductions around sewage.

Are TDRs the right mechanism to reduce N? Federated Farmers consider it a useful voluntary tool as anything that reduces nutrients is good. We looked at where else TDRs had been used and why I had to go offshore to find an example.

Is it the best tool? TDRs are usually used for native bush protection as opposed to transferring an issue. Protecting a bush lot to get a subdivision right is quite different to exporting a nutrient issue from one zone to another.

TDRs cannot be reversed, once they are in place they are there for perpetuity and go to the next land owner. Whatever limit agreed stays in place.

Do TDRs and the rules at the moment fit with N reduction initiatives? I am talking about Rule 11, in the spirit of the Oturoa agreement and no longer being in court. I just signed the consent order for the RPS last week over the provisions around the 435 tonnes in 20 years. At the same time we must ensure that whatever rules the District Council put in place, they must dovetail with the Regional Land and Water

Plan. When this is reviewed, and we know Rule 11 is going to be reviewed, it cannot contradict or oppose the position of the final District Plan.

The StAG group consider that in terms of N reductions the end result must be that farming remains economical. We have a 20 year RPS envelope to address this issue. Looking at what trialling and research alternatives AgResearch and Dairy NZ have achieved in the last 20 years, we do not have to fix everything today. We need to keep the long term time frame in perspective and allow enough flexibility for new technologies to be adopted in the future.

From an economic perspective what happens if TDRs do not sell? What happens if there is no market? \$20,000 has been the bandied around number in valuation as a one off reward per TDR for a limit on production in perpetuity. A particular land owner in this generation gets a one off benefit, but is the market price going to justify that TDR what the land owner gives up going forward? Over the 20 years \$20,000 is not even 10% of the loss of production from N.

Also touched on today, is the long term land value capital loss. What has not been talked about are the tax implications of TDRs. Keith Turner, from nsaTax, a law firm in Auckland, suggested that any gain on sale could be taxable as general business profits (Income Tax Act 2007):-

- as a profit making undertaking or scheme
- as personal property acquired for disposal
- or as income under ordinary concepts
- land taxing provisions could apply to the underlying subdivision itself

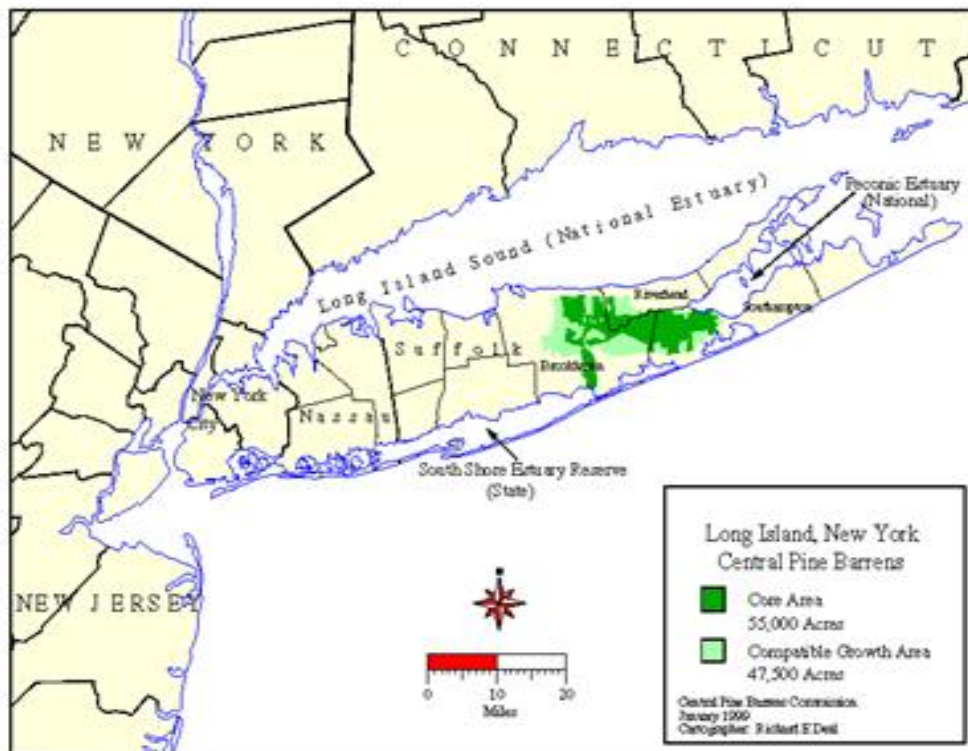
Therefore TDRs could be a tax liability for the donor and developer. They would need tax advice for the best way to set them up. For a farm such as Simon presented today, taking one of those options for 8, 9 or 10 TDRs, it would potentially be quite a big tax liability.

Mechanisms

The talk today around free market or a TDR bank, annual allocations or a limit, and which is the best solution, is really hard to know until the market indicates what it is doing. How do we know what it will do and the best way to regulate it? Do we issue 20 a year or 10, or 5, or per zone, or region wide, or the whole catchment? It is important to build in flexibility and a simple system with tangible benefits to both sides.

The case study I will talk about shortly developed TDRs in a particular way and some good things happened and some not so good things. King County, Washington State, USA, was an example of a way to deal with simplifying the system and easing the burden on the donor. They had a public benefit running system where they got a rebate for doing work on top of other initiatives.

Case Study - Long Island Pine Barrens, Long Island, New York, USA



Slide 1

When you think of nutrient reductions you probably do not think of New York, but for 30 to 40 years they had a problem with sewage. In 1993 the New York State Legislature introduced an Act to protect the 55,000 acres of pines known as the Pine Barrens (in the dark green in **Slide 1**) through the development and implementation of a comprehensive land use plan. There was too much treated sewage going into the waterways of Moriches Bay and Great South Bay. Their council decided that there must be a way to remove the sewage (N and P). All of Long Island's drinking water comes from ground water wells in the Pine Barrens (the dark green area); none of the island's water comes from reservoirs. They re-zoned the light green area and said, 'We can have some development there if we introduce a TDR scheme associated with removing N from the sewage away from the coast to the inland. How are we going to do that?'

They included the towns of Brookhaven, Riverhead and Southampton into a scheme hosting the sending and receiving areas and the Greater Suffolk County receiving areas as well. In Riverhead a Pine Barrens Credit was equivalent to 300 gallons (1,135 litres) of raw sewage flow per day per acre. The sewage was exported out into one of the developments in the Greater Suffolk area. Essentially they were moving the risk and reducing the leaching into another area.

The final allocation led to a credit certificate in exchange for a permanent conservation easement. This meant that to subdivide in the light green zone you

had to give up a portion of land between 2 and 4 hectares and had a right to put in a septic tank which was purchased with the TDR. The process was complex, but they thought it was a way to solve several problems. The new credits go onto the market to be sold to 'redeemers' or 'credit wholesalers'.

They did have site redemptions capped to avoid 'piling on', basically to avoid throwing too much on to the market, or the opposite effect, getting 8, 10 or 12 close knit subdivision lots within a certain area, so there was not a huge infrastructure burden.

From a governance perspective, the Pines Barrens Commission was set up to approve and implement the Central Pine Barrens commercial plan. They hear and decide on the allocation appeals and establish the policies. They also established a Pine Barrens Credit Clearing House Board run by the Suffolk County to keep the credits in one place and control the sale and purchase of those credits and link them directly back to the consents. They apply the county plan, overseeing the initial credit allocations, manage the funds and establish operational policies.

The Credit Certificate administration was:

- Issued simultaneously with the placement of a conservation easement on the sending/donor property
- Issued only by the Clearinghouse
- Redeemable, Saleable or Transferable
- Serial numbered
- Assigned to a specific owner (not bearer documents)
- Registered with the Clearinghouse
- Tracked by the Clearinghouse

The consent process for the receiver, not the donor, was a separate process.

What happened?

Over 15 years 906 conservation easements and credit certificates were issued. Of those only 38% (344) were redeemed and used for subdivision. 62% were declined lawful building consents and not sold. One reason was because they had a separate process for establishing a credit and then getting a conservation easement. Apart from the consent process, all credits were issued with the conservation easements, but there was no guarantee with the activity status of the consent applications that they would be granted. Neil touched on this earlier - controlled versus restricted discretionary or discretionary activity status. Developers had bought the certificates thinking they could do developments closer to the trees and export the sewage, achieving a good environmental outcome and more high density housing.

In reality what happened was that they did not get consents. It put a huge burden on the Council Authority to manage the infrastructure for the subdivisions going ahead and over the 15 years they fell behind. Even though they granted consents they did not have the infrastructure in place for the consent holders to build their properties.

One of the limitations was that the receiving area was across 4 different parts of the State. That is not the same as Rotorua, SP1 and SP2 which are within a limited zone. If they had changed the system to have one receiving environment and the whole area as donors it would have made a big difference to their infrastructure expenditure and possible to keep a check on the development and contributions.

One developer was upset that they had bought a lot of these credits and TDRs and they were ready to do a subdivision near Riverhead but their consents were not granted even though they had complied with everything that was required. There was a back log of infrastructure work to be done and they could not give them what was needed to build houses.

On 25 June 2013 the developers, Pluralis LLC, a company which owned nearly 50% of the outstanding Pine Barrens Credits, took a law suit against Suffolk County in the Supreme Court against a value loss of \$20million in damages sought. They had been sitting on these credits for 15 years; they could not enact them or get a consent, nor sell them. At one stage they were worth US\$110,000, but because they could not do anything with them for lack of infrastructure they dropped to US\$7,500. So this case study is a good example of things not to do.

Take Home Message

Donor properties in the whole catchment would work, but make sure the receiving environment is limited to a zone with good infrastructure. The activity status of the consents within the receiving environment should be as closely controlled. There needs to be certainty. Spending \$100,000 on a credit and getting a TDR that cannot be used for the proposed purpose, even though it complied with the District Plan when applied for, is appalling. The Council would be better to not grant the consent. We do not want to end up in that position.

There is a lot of work to be done. What we can learn from the Long Island example is that if it is not tied up tightly right from the start there will be some big headaches 15 years down the track.

WORKSHOP SESSION 2

Warren Webber: We are going to limit this workshop to no more than half an hour as opposed to the hour that was timetabled. One, because we have covered a number of the issues that could be raised from this afternoon session, but two, I want to make sure that Bal and Ian have ample opportunity to present their summation of what has happened today.

Cr Dave Donaldson, RDC: Firstly an apology because I have got to leave very shortly for another meeting. The Pine Barrens scenario really addresses an elephant in the room around this whole discussion and it also gets back to Dave Umbers question – is there room for another Brunswick, or another similar subdivision in Rotorua? The resource consent for discharge of Rotorua's treated waste water is hanging over this whole discussion. Is there room for another development like that? There is no room until we have that issue sorted out, because in my view we simply cannot accept any more inflows into our waste water treatment plant until we get that clarified. It hangs over our work in the area of the proposed waste water schemes for two lakes. It is a concern when talking of where another 500 or 1,000 lots might be subdivided and come on the market over 20 years. We have a problem in sorting out where our treated waste water is going to go in the future.

John Green: Quite frankly I am disappointed to hear that Dave because we obviously have been thinking about growth in a way which planned for the efficient disposal of sewerage treatment. Our society has been pushing very hard to get lake side sewerage in. It is very disappointing to hear that you are struggling in the Whaka Forest to the extent that you are. We are aware of the issues and it seems to me that it is definitely an elephant in the room. There are two issues. RDC has not got a consented activity at the moment because it is in breach, but it is more about what happens in 2021 when you apply for a new consent. It is not practical, it is drowning the forest as there is not enough area. As a community we need to think about this before spending more and more capital. Whilst enough nitrogen has been stripped out of the waste water, it is not so much a nitrogen issue as it is a saturation of a forest which was not designed to suck up water to the extent that it now receives. The community needs to take this on board as a serious task to get resolved quickly. If we want to achieve growth in this district, growth will come from people, people mean waste, and so it needs to be resolved.

Dave Donaldson: We cannot go on doing what we have done. We had a hui here and were told by one Iwi, who have recently had costs awarded against Council in the Environment Court, that they will only support the consent application if we proceed on the basis of in-catchment solutions for discharge of treated waste water. That is a huge challenge and we have to work on it as a district together. It is a limiting factor in terms of further development and I agree with you 100% – how can we have more growth until we crack that nut and get it sorted?

John Green: Putting my Grow Rotorua hat on, we should be thinking about the solution now and not worrying about 2021. It is a 'now' problem. Maybe we need a symposium on that subject.

Neil Oppatt: It is an issue that needs to be fixed and it will be fixed. Our Council has told RDC we are prepared to do whatever we can to work with them to solve the problem. But what we are talking about here is a mechanism that is going to hopefully be around for 20 years and we do not stop what we are doing. Most of us did not think we were coming here today because RDC has an urban waste water consent issue. It will be fixed, we do not have a choice.

Listening to the last speaker, our Council accepts that there is not a demand for another Brunswick. Brunswick as a development has been unspectacular. It says a lot about what communities want today. If you create the right environment, the environment that the market wants, then it attracts people wanting to buy in.

I would be the first to say that if it is more of the same TDRs will not be a very effective solution or a creator of offset wealth or value for pastoral farmers. The next step is that the community needs to think about what the future Rotorua catchment will look like. What will it physically look like? If it looks like it is now there will not be a lot of extra people coming to live in this town.

We do know that we have some market advantages and Grow Rotorua has highlighted them. There are good examples around the world showing that if you create the right recreational environment it will draw people to come and live here. But more of the same, we will not be very successful.

John Green: There is no question that Rotorua needs to identify 6 jewels of its crown and promote them in a way which is quite a unique experience. It does do that in certain areas. I was pleased to see that Rotorua got into the Red Bull magazine as number 8th best mountain biking experience in the world. That might have been helped by a few good marketing videos but there has not as yet been a concerted strategy on what Rotorua can really do. That is what they are asking Grow Rotorua to do and we are seeing great opportunities and we have will get them out there.

Coming back to TDRs, they are one small tool in a big box that we need. We were lucky to get the \$72 million from the government at the time. Steve Chadwick was very instrumental in getting it and knows how hard it was. So far we have managed to hold on to and it has been a great challenge. It was suggested that no money would ever go to help farmers reduce their nutrient loads but we have been able to think differently and we must continue to think differently to move forward and improve.

Coming back to TDRs, from what I have heard today it seems if we can get recipient zones to be in key locations where we can create unique value then they have a good change of working. If we look at it in that way it is not going to be like the example that Gwyn talked about where they created a huge challenge for

themselves with multi layers of administration and so on. We need to keep TDRs simple and effective. They are there to achieve certain outcomes which are environmentally and community friendly and result in suitable housing for people who want to live by the lakes or have beautiful views. TDRs are an opportunity the community should explore.

Justin Ford-Robertson: I came here hoping to understand why we want TDRs. I understand that Council completely rejected them in February 2010 and I have not heard anything to give me confidence that we should be reconsidering them now. I am more confident with contributions from Te Taru and Arapeta and now from John that we should be looking to the future. We should be looking to what we want to create in Rotorua. If we cannot measure nutrients from Overseer maybe we can measure the nutrients that we are not putting back on the land. We can measure how much is going in to a digestion plant for example to produce energy out of those nutrients and a soil conditioner that can go back on the land in a safe way. If we can start integrating those with water systems, with energy systems, with self-sufficient communities which are springing up all over the world where they are self-sufficient in water, where waste is not considered to be a bad thing, it is a resource to be used. We can start creating communities where people do want to be. This is the integration of walkways, of cycle ways, having some security over your own energy, water and food supplies. We can have these communities, it is not a thing of the future, they are happening right now. What we therefore need to figure out is what we need to do to make that happen.

Don Atkinson: Before you close I would like you to test the room to find out the views on some of these major concepts we have tested today - where the donor area should be, where the recipient area should be and the compulsory nature of TDRs associated with subdivision. Those are the three key areas.

I do support the speakers, Dave Umbers in particular and his vision about what needs to happen. Certainly the status quo is going nowhere and this is going to take vision.

Warren Webber: There were a couple of things that were on the list and we dealt with them earlier. Neil Oppatt referred quite eloquently to the need for a donor to find a recipient and gaze into their eyes and do a deal on a TDR. It is important to note that that is in the Proposed District Plan, the message I am getting from today is that it probably should not be so unless anybody wants to comment about that specifically we put that one to bed?

The validation of reductions is going to be a modelling exercise in conjunction with what the Regional Council does and their other allocations and incentive programmes. I do not want to labour the administrative aspects which will evolve. The only other comment I would like to say is what an excellent presentation from Arapeta, thank you. Are there any other Iwi who would like to make any comment about the opportunities for Maori land, particularly in relation to TDRs?

Te Tara White: Firstly I thought Arapeta's presentation was excellent and we fully support it. In terms of TDRs we have to get our people engaged in the conversation. I mentioned earlier we are not here and in order to get some changed thinking around the question we have to understand it first. I would challenge a number of people here whether they fully understand it and they are in this room, let alone a group of people not here. I have spoken to Arapeta about the need to have a forum to involve that part of the community, and given the 20% of land base that we have, not to involve them in the conversation is nonsense. So we remain uninformed and that is not the fault of anybody, it is an issue that we have to address internally.

In regard to TDRs moving forward it has been very clear that it is a tool. A tool that still has a lot of work to be done and I think it is a tool worth considering. It is a tool on the table with whatever other options might be out there and I accept that too. In terms of my conversation around the notions of clean energy model farming, I see that as a way forward for us, how that links with TDRs is another matter to be considered.

In Arapeta's presentation he showed pictures of Lake Rotoiti. It was about cleaning the environment and reconnecting to the cultural values and synergies. Our development is not just about the bottom line, its quadruple bottom line. The reality check is that is where it is for us. We are definitely players, we are here forever and we are owners in a sense of the legislation, but guardians in the sense of future generations.

I am sitting here thinking about my grandchildren as I am sure are others here too. We are united in that particular approach and as far as Maori are concerned we want full participation in this. We need to know more and we will try to activate ourselves to get that understanding.

I know that is not specific around what the real opportunities are. Arapeta put them up there. There are a number of items on the table, but we want to grow Rotorua, we want to be part of it, we want to be part of the solution around the waste water treatment issues. The issue at Rotoma is a bit of a knock back but most of our Iwi support what happened out there in terms of the hands up. There are some issues we still have to resolve. As you know we are quite considerable land owners in that area and we want to ensure that any solutions are appropriate to our cultural concepts.

My colleagues here are all from the Te Arawa Federation of Maori Authorities and we have a meeting tomorrow to talk about some of these issues. Clearly we want to support what has been said today. We are open to the conversations and we do not see any threat to us, we just see opportunities.

Geoff Rice, Tapuika Iwi Authority: If I could take us out of town a bit and talk about Tapuika which is an Iwi that I have something to do with and we have just completed a claim. Following up what Arapeta was talking about, the difficulty for Maori when you do a claim and, as in our case come out with about \$16 million, it

all sounds wonderful. The trouble is there is only about \$3 million of cash and we have forestry locked up to 2070. That makes it very difficult to turn it into any sort of a return. So it is important we understand that it looks nice up front but at the end of the day there is a long wait before we get anything back.

Having said that, TDRs, if I am an investor and want to develop and get involved in them, I am going to want to see something a bit better than what I have heard today. It frightens me because we have a long way to go before we start applying this tool. In a town like Rotorua if we do not get it right we are in deep trouble and we are in trouble already. So we better make sure it is right whatever we do.

Warren Webber: I am going to draw the general discussion to a close at this point. I would like to take up Don's suggestion for a quick straw poll of the three significant issues that have been raised today. A very important one is the location of donor land. Currently it is confined to SP2 which is a block of land up beyond Ngongotaha.

- Is the general consensus that the donor land should be extended to the Lake Rotorua rural catchment?

Yes

In terms of the recipient zones we have heard some diverse argument and Gwyn has given us a caution relating to the Long Island experience. But as a general statement -

- Would this group support the extension of the recipient zone beyond the current SP1 to embrace other high value locations, perhaps other lakes as well as Lake Rotorua, given that there will be appropriate covenants to how that would be implemented?

Half the hands in favour, none against

- Who supports TDRs being a pre-requisite to subdivision?

A few in favour, half the hands against

SYMPOSIUM INSIGHTS ON USE OF TDRS

Bal Matheson

Bal is a specialist in resource management and environmental law, and is a partner in Russell McVeagh's Environment, Planning, and Natural Resources Group. He provides strategic advice for, and leads, many large scale infrastructure and commercial projects from the conceptual stage through to obtaining consents. This includes applications in the energy sector (hydro-electricity generation), industrial air discharge projects (sulphur, PM10, solvents), manufacturing, infrastructure (gas and electricity transmission, bulk water supply, wastewater, trade waste), mining (quarrying, clean fills and mining), contaminated land (assessment and remediation), dairy (manufacturing sites and dairy farms), residential (retirement villages, aged care facilities, townhouse developments), education facilities, large scale subdivisions, and town centre developments (retail, commercial).

Bal has a particular interest in water related topics. He is co-author of the 'Water' chapter of the 4th Ed. and online editions of New Zealand's leading environmental textbook Environmental and Resource Management Law (Ed. Nolan, D.A.), and has been involved in many projects involving water takes and discharges. Most recently this has included acting for TrustPower Limited on its successful application to vary the National Water Conservation Order (Rakaia River) 1988, enabling the development of a comprehensive irrigation and generation scheme on the Canterbury Plains, while ensuring that the outstanding characteristics identified by the Order remained protected.

Bal also has considerable experience in related fields of the Public Works Act 1981 (acting for both those acquiring land and landowners who are subject to Public Works Act procedures), Local Government Act processes (rating, development contributions), law reform, and, under the Resource Management Act 1991, district and regional plan formulation.

I was fortunate enough to spend this last summer with my young family of four children around Lake Rotoiti and I am delighted to be able to contribute my time and expertise to preserving such a taonga, the significance of which I can understand having spent just a short time here.

It has been a very interesting day. I come from a legal perspective and the 'goods' and 'bads' that go with it. My practice is generally developer focused so I do understand the frustrations of land being zoned where no one will buy it, obviously a key point.

Before I get into the detail I want to say something about the Resource Management Act which is one of the umbrella Acts that governs our thinking here. The first point made admirably by Mr Oppatt is that the RMA does indisputably remove private property rights. The RMA does affect what we all do with our land. In many ways it represents a social contract that says, 'We will restrict what you can do on your land for the benefit of other people'. This leads to the second point which is very relevant in Auckland at the moment. People are saying, 'We really

like intensification, we think Auckland has to intensify, but we'd really like you to do it in some other suburb'.

It is very easy to quantify the costs for each of us: 'This is going to cost me this much time'; 'This is going to cost me this much money to go through this process'. It is very rare to sit back and think about quantifying the benefits that one gets. That would be my challenge to those that do complain about the controls, whether it be under the RMA or any other regulation. You do have some costs imposed on you, but you also get a lot of benefits. Think about the benefits.

A TDR is a way of helping somebody change the way that they use their land. It is a way of reflecting controls that have been imposed on those people and, that in itself, is not unusual. The RMA controls the way people use their land all the time, as it and previous planning legislation, always has. There have been controls on how to use the land and even a specific provision that says the Council are generally not liable to pay out if they change the rules and say the land cannot be used in the way it has been previously.

The Western Bay of Plenty is a very good example of a TDR in terms of how they are able to be used. One of the issues is the difficulty in a temporal separation between the creation of a TDR and its ultimate use. That is an issue for those who create TDRs. Another example is the Heritage TDR which is operating in Auckland City and has been successful for a number of years. The rules say if there is a 4 story heritage building on site one could build 8 stories on that site, then you can effectively sell 4 stories to somebody else. That other person can then build a 12 story building in a zone where they could only build an 8 story building. And the heritage building is protected on its site because that site is now capped at 4 stories.

A TDR is a very similar example in that it is a development right essentially taken from one person and given to someone else – if you do not demolish your building and build an 8 story building we will compensate you by giving you rights that you can sell to somebody else to use. In the case of TDRs here in Rotorua – you give up some productive potential of your land and we will compensate you by giving you an equivalent reduced right to sell to somebody else. One of the subtleties about the TDR for nutrients is that in the example I gave it is about a building height on one site being transferred from one site to another site. Here it is about a reduction in nutrient discharges from one site, leading to an ability to subdivide on another site - which is a lot harder to conceptualise and to capture in a rule framework.

The second point I want to make is about people that say, 'It's all very hard', 'We didn't want to do it last time because it was too hard.' That should set off flashing lights and the response should be: 'Well actually that's probably a damn good reason to do it sooner rather than later.' If it is hard now it is only going to get harder in 10 years' time.

In that regard, with respect, the Environment Court's decision on the One Plan in relation to water quality and specifically nutrients I think really grasped the nettle, which at the same time obviously upset a lot of people. The Court did make some good comments about nutrient management. One of which was that it is only going to get harder, there is no perfect solution and we do not have all the answers. But if we do not start now we are never going to get to the end. You have to start some time and somewhere. That is not to say jump in without a proper assessment and plans, absolutely not. But it also means that you must not end up suffering from paralysis by analysis.

The RMA requires one to look at the sustainable management of natural and physical resources. It requires regional policy statements to be given effect to by district plans and that is the challenge for the Rotorua District Council. The benefit of TDRs is that they will reduce nutrients into the water, but TDRs themselves have a different type of effect and this effect will occur somewhere else in the district. However, to create something you have to give something and in this case it is giving the right to subdivide somewhere where you might not otherwise have been able to.

There is probably a reason for not being able to subdivide in that place, so you should not pretend that a TDR subdivision right does not have an adverse effect, it is different; in a different place, and different effect, but it is an effect. The piper has to be paid. The RMA does give you an ability to spread the costs of a change of land use across the community. TDRs are a way of doing it. There are lots of different ways for the cost to be spread across communities; differential rates, rates, development contributions; and TDRs are just another emerging example of doing this.

Coming from a legal background I always say to my staff we should be very proud of being pedantic and be careful about the words used, whether spoken or written. Because if you want to say what you mean one has to be careful about those words used. They will be interpreted and applied. So with rules. Clarity is to the fore and Mr Dagg's forthrightness was much appreciated. My look at the rules currently proposed is that they are far too complicated and need significant simplification.

From a legal point of view (particularly enforceability) there is a difference between land use change and land use management. Land use change is legally easier to police. Looking across a paddock at somewhere that is meant to be growing trees but seeing cows means something is clearly not right! It is much harder to sit there, unless you sit for days at a time (in which case you will probably get arrested for stalking), and see whether someone has adopted best farm practice.

Likewise the example of bush lot covenants - 'You shall not chop down trees' – is reasonably easy to police. Imposing best farm management is much much harder to police. From an enforceability point of view that would be a key issue. I agree that land use management should be recognised. The challenge will be how to make it enforceable in the long term.

When the LakesWater Quality Society asked me to give them my thoughts on TDRs, they were horrified 45 minutes later when I was still asking how this system would work. The first thing I said was, 'Why would anyone buy it? Where is the market for this? You have to create something that somebody wants!'

The point has been well made today. There are a lot of rural subdivided lots and reasons why they have not sold. One is a global financial crisis and the other is that nobody wants to live there. I know because I spent most of my summer, when I was not playing lifeguard, looking around to buy a house. There are no houses for sale in places where people want to live. I can assure you of that. There are houses three gullies back, with a lovely rural, rustic aspect where you spend most of the weekend digging out weeds. Try and find a lakeside property of around 1,000 square metres. A TDR will be worth far more than \$20,000 if you target your recipient areas where people want to live.

I absolutely endorse the suggestion that recipient areas be clearly defined for a number of reasons. Talk to the people selling the houses, ring the wastewater treatment plant or the traffic people, and say:

- Where do people want to live?
- Where are the infrastructure constraints?
- How many houses could we put on this line?
- What do we need to do?
- How much traffic can this area accommodate?

Then create an area for a TDR subdivision. They will be attractive lots and the infrastructure will either be there (or can be installed) because the analysis has been done. Some landowner will no doubt make an absolute fortune, but that is inevitable.

There is no reason why you could not identify a number of separate areas as TDR recipient areas where you would have difficulty getting a subdivision consent now. Make sure they are not in visually inappropriate places, culturally sensitive or otherwise inappropriate locations. Target the recipient areas to somewhere where you want houses to be.

These locations also need to be clear to the community because it is a cost for them. People do not necessarily want more lakeside houses but the reality is the more valuable you make the TDRs, the faster they will get taken up, the more effective and legitimate will the TDR programme be.

The observant ones among you would have noticed that when the question was raised whether I agree with imposing a prohibited activity status on subdivision *unless* you had a TDR, I was very much a lawyer right? I did not put my hand up or down - I put it halfway up (or halfway down, depending on your perspective on life). And that means sort of maybe. Legally, you can make anything a prohibited activity in your Proposed Plan. I always see the challenge as being to see whether 'it' survives it into the Operative Plan or not. The prohibited activities in New

Zealand include nuclear power stations in the Waitakere City Council district, as it once was, because they were paranoid that someone might put a nuclear power station there. There are few prohibited activities because legally those are things that should never ever, ever happen. That is a very high threshold.

I am slightly concerned that you would struggle to get a prohibited activity rule through the Environment Court, i.e., in effect saying to people 'You have to have a TDR in order to subdivide in a rural zone.' That is not to take away from my earlier comments, namely that you do not necessarily have a *right* to subdivide in the first place. You do not have a *right* to make more money out of your land. If everyone was given that right we would be in all sorts of trouble.

Morally you could probably justify a prohibited activity for subdivision unless you had a TDR, legally you could probably mount a reasonable argument to do it, but I think practically there is a much better way. Rather than focus on the stick, focus on the carrot. Look where people want to go and create an incentive for the use of TDRs, rather than a barrier forcing people to use TDRs.

My suggestion is that a rule is drafted to create a TDR and one applies for a resource consent to do that. If the criteria are not met then there is no consent. A consent would require either land use change or land use management change to occur and constitutes a record of the TDR. It would be subject to conditions such as adopting certain practices which come with an enforceability risk and say, 'You must subdivide, you must covenant this land, you must retire this land, you must do a certain number of other things.' Importantly if one adopts that approach the TDR would take effect immediately and last forever and not lapse. A lapse date could be legally extended well beyond 5 years, which is a matter for the Council, and no legal barrier.

The benefit comes from the temporal separation that I talked about earlier. Bush lot subdivisions for protection do not get a section 224(c) certificates until the covenant is ready to be lodged on that bush lot. There is a temporal connection between the protection and the benefit. For TDRs here in Rotorua, farmers wanting a TDR might take the view, for example, to retire marginal land and, because of benefits and incentives from other regional rules coming down the track, they would apply for TDRs and keep them in their pocket to maybe use later. The farmer might think there will be costs retiring that land from production but on the other hand if it has to be retired anyway, maybe there is benefit from another incentive payment then why not look for that opportunity. Who wouldn't?

My suggestion would be get a consent to have a TDR. If you do keep it and later want to use a TDR you can check the consents register which is publicly available and see who has a TDR. That way you will not run the risk of randomly running into people in the street, looking into their eyes and asking "Do you have a TDR?" (which would probably also get one arrested). That person can negotiate and decide whether or not they want to sell their TDR.

The benefit of a consent is that it is a simple, very clear record. There is no need for another register. The conditions of the TDR donor are clearly set out in the consent and it is an enforceable document. It runs with the land, the consent may require the land to have property restrictions (e.g. encumbrances or covenants registered against the title), and it could be implemented immediately. Legally it is an interesting beast, like a reverse land use consent in a sense because it is a restriction saying you will not to use land in a certain way, as opposed to being given permission to use land in a certain other way.

Another benefit of a register is that when a TDR is used up, for example, having bought a development lot, or sold a TDR to a developer who uses it for a TDR subdivision, the consent is simply cancelled. There is a record of that too. There are no Pine Barren certificates lying around which look like Monopoly money, and probably was in the end. A consent simply gets surrendered. Nice, easy and clear.

In conclusion I do not have a problem with people receiving an incentive payment, after having obtained a TDR, from some other scheme. They would have to meet the limits of that scheme. The simple fact is farmers will take a hit from the proposed rules restricting nutrient discharges. The issue is how to spread that cost out among the community. It is not as if those farmers are getting a windfall, in which case it would be inappropriate. If they are not getting a windfall then it is hard to see how morally it could be wrong. Why should someone not be able to access a regional or government incentive scheme just because they have also taken advantage of a TDR type approach?

There will be a cost to the community of improving water quality, which is unavoidable. There are a number of options in the RMA to allocate that cost across the district. In my view, the cost to landowners of reducing those nutrient loads below best practice is a cost that should be shared. It should not be borne by one or two individuals who happen to be doing the best they can on their land and doing what they want to do. Farmers will be farmers and may want to keep farming. I come from a farm and I can understand that too.

Just to emphasise the point again, the stronger you make the demand the higher the value and the faster TDRs will be taken up. But the community needs to accept that to make the demand higher, the effects will be higher. To make the demand such that people will pay \$50,000, \$60,000 for a TDR, which is perfectly possible, those TDRs must be on sites which are visually attractive and have benefits for people to live there. There is no point zoning land if nobody wants to live there.

SYMPOSIUM INSIGHTS ON USE OF TDRS

Ian McLean

Ian is a life member and committee member of LWQS, and helped develop this Symposium. He was formerly chair of the society and led the transition to LWQS from the Lakeweed Control Society, as well as the first symposia in 2001. Ian was an MP for Tarawera for 12 years. He has considerable governance experience as former chair of the Earthquake Commission and the Parliamentary Public Expenditure Committee. For over two decades he has worked in earthquake insurance and related emergency management.

On behalf of LakesWater Quality Society I would like to thank Bal for the huge contribution he is making towards the Rotorua lakes district by his participation in this work.

I will start with a brief apology to people who may have been concerned at incomplete proposals. The intention of today's Symposium was not to present a complete picture, a chart of how TDRs should work. For those of you who could not see how it fits together, my apologies. It was never the intention. The intention was to draw you in to help the picture be drawn, rather than to present a complete object.

I grew up in Whakatane, in the Bay of Plenty. A few times every year or two I used to go along the coast to a small fishing village called Tauranga with a beach not half as good as Ohope. But I used to come to Rotorua every 2 or 3 months if I could. What a great place it was. Exciting thermal, great lakes to swim in, bush to walk in. Looking at the two now there is a huge difference. I am not suggesting Rotorua should emulate Tauranga, but I would suggest that the status quo is not an option. The status quo is not an option for the lakes and it is not an option for the district. Doing nothing is not an option.

The question was raised several times asking what the market for TDRs would be. I was thrilled by Dave Umbers' presentation as to the possibility of a spectacular themed development, and to see his picture of what could be built and then sold, not just in New Zealand, but overseas as well. TDRs will not create the market, but TDRs may unlock the possibility of the market being created. It is not possible at the present time for people with the imagination that Dave and other people like John Sax have shown to go out and create the market.

As someone who has lived in the Rotorua district for 30 or 40 years it is easy to get despondent, but one of the things that is most encouraging is the resurgence of Maori economic activity and vitality. It affects not just the land itself but much wider than land alone. I believe that is one of the greatest hopes for the future of our district. If it can be harnessed it will be great.

The question was raised as to whether TDRs should apply to land use or land management. The argument for saying the TDRs should only apply to land management is essentially administrative convenience: it makes it easier in the office. But it is not necessary to restrict that because as Anna Grayling pointed out, with the use of *Overseer* now embedded in what the Regional Council is doing. Hence there is already established a measurement scheme on which TDRs and Regional Council incentives can be based.

On one hand there is land use change, pine trees instead of dairy cows. On the other hand there are possibilities of developing new ways to stop nitrogen seeping into the lakes. Which should we encourage? Which one should we seek public money for? Which one should the authorities encourage? One that is going to be worse for the district or the one that is going to be better? The argument is incontrovertible that TDRs should apply to land management change beyond best practice as well as to land use change.

The word flexibility was used. It is clear that in this scheme - which has to been set up for a long time - lots of changes may occur in the world outside and in the district as well. If there is an attempt to pin down every moving part it will be almost impossible in the future for adaptations to be made. For example, determining the number of TDRs required is a real challenge. A bigger challenge is to have enough flexibility to satisfy the needs of the market so as to get the best value and at the same time give enough certainty so that the players in the market can plan their own activities with certainty.

Somebody suggested that TDRs are not a silver bullet that will fix the lakes or employment in the district. But TDRs are one source of funding. It was suggested as an alternative that a fund should be set up from which money should go to pay farmers to make the change and then over time the fund can be repaid. The question is – ‘Where’s that fund going to come from?’

I am not sure whether the new Chief Executive of the Rotorua District Council has found \$20 million sitting in the bottom drawer. I know that Bill English will not be giving an extra \$20 million here when he has every district in the country facing problems like ours. Even the Bay of Plenty Regional Council would find it difficult to take \$20 million extra and put it in here. It is simply not realistic to say ‘Let’s get the money from somewhere else’, and not know where that somewhere else is.

As far as the lakes are concerned we have to look at realistic sources and ways ahead, Farmers face reality even more so. The situation has now been reached where farmers will carry the residual cost of change. The targets are set in the RPS and have to be met. There is a certain amount of money coming from government, some from the Regional and District Councils and the rest of the cost will fall on farmers. That is the way it is and I do not believe it is fair that we should ignore ways to assist farmers. I do not believe it is in the interests of the district if there are alternative imaginative ways in which funding can be found.

TDRs are one of those ways and I hope as the District Plan goes through its processes that a way will be found to make it workable. I hope that you will all contribute to the further work with the District Council. Today has given me significant confidence that some of the very hard issues can be tackled so that Rotorua is again that exciting, attractive, fascinating wonderful place with a beautiful lake that I remember from my youth.