## **BEFORE BAY OF PLENTY REGIONAL COUNCIL**

IN THE MATTER

of the Resource Management Act 1991

**AND** 

IN THE MATTER

of Lake Rotorua Nutrient Management - Proposed Plan

Change 10 to the Bay of Plenty Regional Water and Land Plan

under clause 8B of Schedule 1 to the Act

**BETWEEN** 

**ROTORUA LAKES COUNCIL** 

Submitter

**AND** 

**BAY OF PLENTY REGIONAL COUNCIL** 

**Plan Change 10 Proponent** 

AFFIDAVIT OF GEOFFREY MURDOCH WILLIAMS
ON BEHALF OF ROTORUA LAKES COUNCIL

Sworn 5th April

2017

TOMPKINS WAKE

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 $\underline{theresa.lebas@tompkinswake.co.nz}$ 

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# I, GEOFFREY MURDOCH WILLIAMS, of Rotorua, Chief Executive, swear:

- 1. I am the Chief Executive of Rotorua District Council, a territorial authority constituted under the Local Government Act 2002 which operates under the name Rotorua Lakes Council ('RLC'). I am also the acting Group Manager of the Performance and Delivery Group of RLC.
- 2. Since being appointed to the position of Chief Executive, I have attended the majority of meetings of the Rotorua Te Arawa Lakes Strategy Group ('Strategy Group'). As a consequence, I have been present during most of the Strategy Group's discussions and recommendations on BOPRC's approach to the management of nitrogen in the Lake Rotorua catchment.
- 3. I am authorised to make this affidavit on behalf of RLC.

#### INTRODUCTION

- 4. RLC is a submitter on Plan Change 10 ('PC10') to the Operative Bay of Plenty Regional Water and Land Plan ('RWLP') under the First Schedule of the Resource Management Act 1991 ('RMA').
- RLC officers attending the hearing of submissions on PC10 in the week beginning Monday, 13 March 2017 subsequently advised me that I may be able to assist the Hearing Panel through the provision of information which may not be known to some of the Bay of Plenty Regional Council ('BOPRC') officers appearing before the Panel. This information relates to RLC's expressions of concern to BOPRC about the approach taken in PC10 to the management of nitrogen in the Lake Rotorua catchment.
- 6. Some of the information I refer to is recorded in the context of communications which include other matters that are not relevant to PC10. I have redacted reference to such matters in the copies of the relevant communications annexed to my affidavit.
- 7. In a similar vein, Strategy Group discussions and resolutions that I refer to in my affidavit are recorded in Agendas and Minutes which include other matters beyond what I understand to be the scope of the Hearing Panel's enquiries. Accordingly, I

y 6h.

have only provided relevant excerpts from the Agendas and Minutes in the annexures to my affidavit.

#### RLC'S EXPRESSIONS OF CONCERN TO BOPRC

- 8. I have been involved in many months' of discussion with BOPRC, both with the Chief Executive ('CE') of BOPRC directly and in the course of my attendance at Strategy Group meetings, on the subject of RLC's concerns with the approach taken in PC10 to the management of nitrogen in the Lake Rotorua catchment. The overwhelming majority of these discussions occurred before RLC lodged its submission on PC10 at the end of April 2016.
- 9. I have collated a chronology of discussions between RLC and BOPRC. I have focussed only on the record of those discussions which I believe is most relevant to what I understand to be the Hearing Panel's enquiries. I have collated the record into four groups on the basis of the general nature of the concerns discussed:
  - (a) RLC's concerns with the potential economic impact of PC10 on the Rotorua District's economy;
  - (b) RLC's concerns with the potential economic and social impact of PC10 on under-developed Maori land in the Lake Rotorua catchment;
  - (c) RLC's preference for trading of N before 2022 to enable land use change in line with a catchment sustainability plan; and
  - (d) RLC's proposal for a catchment sustainability plan (land use capability) to underpin the approach (including rules) to nutrient reduction for the Rotorua catchment.
- 10. I provide more detail on those discussions in the following paragraphs.

# RLC's concerns with the potential economic impact of PC10 on the Rotorua District's economy

On 11 November 2014 I provided a draft media release to BOPRC recording RLC's concerns about the potential economic impacts of BOPRC's proposed approach to nitrogen management on landowners within the Lake Rotorua catchment. A copy of my email and draft media release is attached as **Annexure 1** to my affidavit. I

y Gh.

note in particular the following excerpt from the draft media release which in my view best encapsulates RLC's concerns at that time:

Before more formal consultation is undertaken an assessment of the economic impacts of the proposed new rules is to be researched. If it reveals significant negative impact on landowners' economic circumstances, the process should be slowed so alternative nitrogen loss measures can (*sic*) to be identified...

12. At the Strategy Group's meeting on 10 March 2015, the report titled 'Nutrient Management Options for the Rotorua Te Arawa Lakes' was presented under Agenda Item 6.2 by Mr Lamb and Ms Moleta, seeking endorsement of a preferred nutrient management option as the start point for policy development. The meeting Minutes record RLC's desire to be informed of the potential economic impacts of BOPRC's proposed approach:

7.3 Nutrient Management Options for the Rotorua Te Arawa Lakes

... Mayor Chadwick asked that a presentation be provided to Rotorua Lakes Council's committee meeting on 20 May 2015...

**RESOLVED** 

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority...

3 Notes that Section 32 analysis will be undertaken to inform Councils on economic impacts of such rules.

[My emphasis added.]

- 13. I attach a copy of both the Agenda and Minutes of the Strategy Group's meeting on 10 March 2015 as Annexures **2** and **3** respectively to my affidavit.
- 14. I also note that the Strategy Group's meeting Minutes of 10 March 2015, attached as Annexure 3 to my affidavit, also record acknowledgement by BOPRC of RLC's request to BOPRC to present its economic analysis to RLC's Council meeting on 20 May 2015:

7.6 Lake Rotorua Nutrient Rules Update

Water Policy Manager Stephen Lamb provided the update report on the Lake Rotorua Nutrient Rules Project and the reprogramming of timeframes for notification extended to 30 June 2015. General Manager Environmental Delivery Warwick Murray referred to the request for the economic analysis to be presented to the Rotorua Lakes Council on 20 May. While timeframes were tight, he noted it was critical for stakeholders to have the opportunity to input into the process.

My Gh.

- 15. On 14 August 2015 I participated in a meeting between RLC and BOPRC during which RLC again expressed its concern about the potential economic impacts on the Rotorua District and RLC's desire to better understand these impacts. I recorded the main points of that meeting in an email to BOPRC's CE that same day, including the following:
  - 3. At this stage of the process, a better understanding (*sic*) the economic impact of the proposed rules framework is needed and there is a willingness to delay notification of the rules so this can be achieved.
- 16. A copy of my email to BOPRC's CE is attached as **Annexure 4** to my affidavit.
- 17. At the Strategy Group meeting on 16 October 2015, RLC representatives advised Group members that RLC still held significant concerns about the potential economic impact of BOPRC's approach to nitrogen management on the Rotorua District:
  - 4.2 Proposed Decision-Making Framework for the Lake Rotorua Low Nitrogen Land Use Fund

A member advised that Rotorua Lakes Council still had significant concern about the impacts of nitrogen removal on Rotorua's economy. They wanted more time to establish whether any other opportunities could be considered, prior to adopting the current decision-making framework and parameters.

- 18. A copy of the relevant excerpts of the Agenda and Minutes of the Strategy Group's meeting on 16 October 2015 are attached as **Annexures 5** and **6** respectively to my affidavit.
- 19. On 19 February 2016 I participated in a meeting between RLC and BOPRC during which RLC, once again, expressed significant concern about the potential economic effects of BOPRC's proposed nitrogen rules on the Rotorua District. Potential mitigation options were explored during this meeting. A copy of my email discussion with BOPRC's CE following this meeting is attached as **Annexure 7** to my affidavit. I draw the Hearing Panel's particular attention to the following excerpt from the email of the BOPRC CE to me recording the key points of that meeting:

Rotorua Lakes Nitrogen Reduction Rules

My an.

RLC made it clear that the council is very concerned about the possible economic impact of the Rotorua Lakes Nutrient Rules. Regional Council's position is that it stands by its Section 32 Report however it does acknowledge the concerns of RLC and others with respect to economic impact...

RLC's concerns with the potential economic and social impact of PC10 on underdeveloped Maori land in the Lake Rotorua catchment

20. On 9 October 2015 I attended a meeting between the Strategy Group and BOPRC. I emailed a record of the key outcomes of that meeting to BOPRC's CE. Those outcomes included acknowledgement that more work had to be undertaken to develop and assess options for under-developed Maori land in light of BOPRC's proposed changes to the RWLP. A copy of that email discussion is attached as Annexure 8 to my affidavit.

RLC's preference for trading of N before 2022 to enable land use change in line with a catchment sustainability plan

21. One of the outcomes of the meeting on 9 October 2015 between RLC, BOPRC and the Te Arawa Lakes Trust ('TALT') was to consider, in response to RLC's concerns, how to provide for the transfer of nitrogen before 2022 between properties based on the development of a catchment-wide assessment of land use capability. This is also recorded in the email discussion attached as **Annexure 8** to my affidavit.

RLC's proposal for a catchment sustainability plan (based on land use capability) to underpin the approach (including rules) to nutrient reduction for the Rotorua catchment

- 22. One of the most important outcomes in my mind from the meeting on 9 October 2015 was the beginning of an exploration between RLC and BOPRC of an approach to nitrogen allocation based on a land-use catchment sustainability plan, in other words a natural capital-type approach to the allocation of nitrogen. This is clearly recorded in sections 2, 3, 4 and 5 of the email correspondence attached as Annexure 8 to my affidavit:
  - 2. Retain 2022 targets, rules and core aspects of the programme
  - Introduction of a new mechanism to, prior to 2022, allow the transfer of nitrogen between properties (based on the catchment sustainability plan (land use))
  - 3. Need for further regulatory intervention to 2032

My 6h.

- Notify 2032 rules as being provisional... OR notify the intent to introduce new rules for 2032... based on the satisfaction of a number of conditions including;
  - 4. Review of allocation mechanisms and alignment with the catchment sustainability plan.
- 4. Develop a catchment sustainability plan (land use)
- Develop a catchment view of sustainable land use, including underdeveloped Maori land
- Consider future applicability of the framework to guide future consenting, allocation mechanisms and land-use designations
- 5. Re-alignment of the incentives board
- New terms of reference for the incentives board focusing on;
  - 1. Nitrogen reduction AND optimal land use (in alignment with the catchment sustainability plan)
  - 2. Oversee the development of the catchment sustainability plan (land use)
- 23. Between October 2015 and February 2016, there was much discussion between myself and BOPRC's CE on the option of establishing a Lake Rotorua Protection Trust to promote and oversee sustainable land use change in the Lake Rotorua catchment through a rule framework that would include an approach to nitrogen allocation aligned with a catchment sustainability plan. These discussions are recorded in the emails contained in **Annexure 9** to my affidavit.
- 24. I note in particular my email to BOPRC's CE on 1 December 2015, the final email in Annexure 9, which records the culmination of weeks' of discussion on the option of a Lake Rotorua Protection Trust and a rule framework providing for allocation of nitrogen based on a catchment sustainability plan. Unfortunately this discussion did not conclude in a resolution by either RLC or BOPRC to adopt this option. The discussion concluded on the basis of the email correspondence I have already included as **Annexure 7** to my affidavit, just a few days before notification of PC10, and has not been progressed since.

ROTORUA

this 5 day of 2017 before me:

A Solicitor of the High Court of New Zealand

Walter Swanson SOLICITOR

TLB-222361-143-732-2

" A "

# Kim McGrath

From:

**Geoff Williams** 

Sent:

Tuesday, 11 November 2014 12:27 p.m.

To:

Mary-anne Macleod - BOPRC (mary-anne.macleod@boprc.govt.nz)

Subject:

Conficential - lakes water quality

Attachments:

Media release - Lake catchment rules.docx

#### Hi Mary-anne

Attached is a draft media release, in conjunction with TALT, that we are contemplating regarding the proposed introduction of 'nitrogen rules' for the catchment.

You are aware that our Council is very concerned about the level of concern which exists in the community and believe this needs to be addressed. Councillors believe that the introduction of the rules should, if necessary, be delayed to allow further discussion, education and the implementation of alternative non-rules based interventions pending the development of a wider level of community understanding/buy in for a regulatory framework. We have had discussions with TALT and have ascertained that they also share this view. I should add that this in no way reflects a lessening of the Council's commitment to lake water quality.

The attached release has been drafted to try 'put at rest' some of the concerns and to begin building a climate of trust and confidence. I am mindful that you have communicated your Councils lack of willingness to follow this course of action, I would like to assure you that we are not intending to proceed at this point with the media release, but do want to discuss this further at the Friday meeting.

Best wishes

Geoff

This is the document marked with the letter " A" referred

to in the annexed Affidavit of Geoffrey Sworn at Rotorugon the Saday of Am

before me:

A Solicitor of the High Court of New Zealand

Walter Swanson SOLICITOR

ROTORUA





# **Draft Media release**

Date

# Te Arawa trust and Rotorua council push for delay to nitrogen land use rules Economic impact assessment

to determine progress of proposed nitrogen rules

The implementation of the Bay of Plenty Regional Council's proposed new <u>nitrogen</u> land use rules for the Lake Rotorua catchment <u>will-should</u> be delayed if <u>analysis of the the economic impact</u> on landowners is shown to be significantly negative.

The assurance from That is the joint call by Rotorua Te Arawa Lakes Programme partners Bay of Pienty Regional Council, Rotorua District Council and Te Arawa Lakes Trust fellows following strong opposition and concernconcerns expressed by affected landowners during recent informal consultation.

Before <u>more formal consultation</u> is <u>held-undertaken</u> an assessment of the economic impacts of the proposed new rules <u>will is to</u> be earefully researched. If this it shows reveals clear, significant negative implications which impact on the economic circumstances of landowners' economic circumstances, the process <u>will should</u> be slowed down and time will be taken to identify additional alternative measures by which to achieve the required reduction in nitrogen loss measures can to be identified, say the two Rotorua organisations.

Rotorua Mayor Steve Chadwick said her council and Te Arawa Lakes Trust both "We accept and understandood the level of concern which has been being expressed by landowners during this informal consultation—period,...

"This is particularly the case with sparticularly small block owners who may not previously have been aware earlier that they will would be affected by what's being proposed by the regional council.".

says Rotorua Mayor Steve Chadwick.

"We acknowledge the concerns of all the landowners about the land-use restrictions they they may re facefacing. T and their anxieties around land valuations and the economic impact the proposed rules could have for them, and the wider district, are genuine and shared.

"We're on this journey together with our community, and so we have to find a good balance – that's the challenge we need to be prepared to tackle to make sensure we get this tright," MayorMrs Chadwick saysid.

Te Arawa Lakes Trust chair, Sir Toby Curtis, "Thesaid Rotorua's lakes are were absolutely vital to our the district's cultural, social, environmental and economic wellbeing.

<u>"land-improving and protecting water quality in our lakes remains very-important of prime importance</u> — as does the economic sustainability of key sectors we rely on, and the wellbeing and future <u>economic</u> security of our residents,".

she says.

"We need to make sure that whatever it is put in place is going to do the least possible harm. We and we don't want to see the our aspirations for a strong and vibrant local economy we want for our district becominge a casualty of land use rules," he said.

We're on this journey with our community and we have to find a balance—that's the challenge we need to be propored to tackle to make cure we get this right," Mayor Chadwick caye.

[Bay of Plenty Regional Council comment]

[Sir Toby Curtis, chair of the strategy group, comment]

Meanwhile, support services for landowners are being developed following discussions at the mosta recent meeting of the Rotorua Te Arawa Lakes Strategy Group. The meeting discussed about concerns relating to about the health and wellbeing of landowners affected by the proposed new rules for the Lake Rotorua catchment. A proposed-draft package of support is expected to be presented at the Lakes Strategy Group's next meeting, in early December.

The proposed <u>land-use</u> rules <u>will-would</u> require reduced nitrogen discharges and <u>will-would</u> affect all rural properties over <u>2-two</u> hectares. The <u>draft-rules will-rules would</u> place <u>tougher-stricter</u> limits on nitrogen losses from rural land and <u>will-would</u> require annual reporting. Some properties <u>will-would</u> require resource consent <u>and will be allocated with</u> a nitrogen discharge allowance <u>which will need</u> to be met by 2032.

The proposed framework for the rules has been developed with a stakeholder advisory group which included landowner representatives, mainly from farming sectors. The current Recent informal consultation with landowners has been extended until the end of Ostober following produced strong reaction and opposition from small block owners.

Input-Feedback from landowners will be reviewed and is to be analysed with a view to the regional council formally notifying the proposed rules. At present which, at this stage, is this is expected to occur in March next year. A formal consultation process will would follow notification, providing landowners with another opportunity to have their say and make submissions.

#### The proposed approach to reducing nitrogen:

- The Te Arawa Lakes Programme is a partnership between Rotorua District Council, Te Arawa Lakes Trust and Bay of Plenty Regional Council and aims to improve and protect the water quality of the district's lakes.
- In 2010 a nitrogen limit was set for Lake Rotorua, allowing no more than 435 tonnes of nitrogen to go into the lake each year. To reach that target the amount of nitrogen going in to the lake needs to be reduced by 320 tonnes per year.
- 50 tonnes of the 320 tonne reduction requires requirement each year will be reduced through urban and engineering solutions such as wastewater treatment.
- The remaining 270 tonnes need to be achieved through reductions from rural land.
- The nitrogen removal target for the proposed new rules is 140 tonnes by setting nitrogen discharge allowances (NDAs) for properties.
- AA \$2.5m gorse conversion fund is expected to remove 30 tonnes of nitrogen by 2022 through the conversion of 870 hectares of gorse to production forestry, native bush or other low nitrogen leaching activities.

- A \$40m incentives fund aims to permanently remove 100 tonnes of nitrogen from the catchment through initiatives over and above required NDAs.
- A \$5.5m fund will support landowners to make decisions about how to reach NDAs.
- Rule 11, which came into effect in 2005, capped nutrient losses on properties in the Lake Rotorua catchment-but affected only farms/large properties???. The proposed new rules will set new limits and will affect all properties over 2 hectares, including lifestyle blocks.

-ENDS

For further comment:
Rotorua Mayor Steve Chadwick......
Te Arawa Lakes Trust Chair, Sir Toby Curtis.....

The Chairman and Wembers Rotorua Te Arawa Lakes Strategy Group

NOTICE IS GIVEN that the next meeting of the Rotorua Te Arawa Lakes Strategy Group will be held in The Council Chamber, Rotorua Lakes Council, Civic Administration Building, 1061 Haupapa Street, Rotorua on:

> EMBARGOED Until 2 working days before meeting on:

Tuesday, 10 March 2015

commencing at 10.30 a.m.

This is the document marked with the letter " for referred

to in the annexed Affidavit of Geoffre Foundoc

Sworn at Rotorua on the Staday of A before me:

> A Solicitor of the tigh Court of New Zealand

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council Walter Swanson SOLICITOR ROTORUA

3 March 2015

Proud Partners











# Rotorua Te Arawa Lakes Strategy Group - Terms of Reference

## 1 Interpretation

In these Terms of Reference:

"Organisations" means the Te Arawa Lakes Trust, the Rotorua District Council and the Bay of Plenty Regional Council.

"Rotorua Lakes" means Lakes Rotorua, Rotoiti, Rotoehu, Rotoma, Okataina, Tikitapu, Okareka, Tarawera, Rotomahana, Rerewhakaaitu, Okaro and Rotokakahi.

"Group" means the Rotorua Te Arawa Lakes Strategy Group, formed as a Joint Committee under Clause 30 of Schedule 7 of the Local Government Act 2002.

# 2 Purpose

The purpose of the Group is to contribute to the promotion of the sustainable management of the Rotorua Lakes and their catchments, for the use and enjoyment of present and future generations, while recognising and providing for the traditional relationship of Te Arawa with their ancestral lakes.

## 3 Membership

#### Six members:

- Two representatives from Te Arawa Lakes Trust
- Two representatives from the Rotorua District Council
- Two representatives from the Bay of Plenty Regional Council.

#### 4 Group Chairperson

The Group has agreed to rotate its Chairperson on an annual basis.

#### 5 Term of the Committee

This is a permanent joint committee under the Te Arawa Lakes Settlement Act 2006. The Te Arawa Lakes Deed of Settlement (December 2004) included clauses establishing the Group (Cultural Redress: Lakes Management and Relationships, clauses 9.1 to 9.3). The Terms of Reference for the Group come from a signed agreement between the three parties (dated 8 October 2004) and included in Part 1 of the Relationship Schedule to the Deed of Settlement.

# 6 Specific Responsibilities and Delegated Functions

The group will have the following functions:

- The provision of leadership to the Organisations and the community in relation to implementation of the Vision of the Strategy for the Lakes of the Rotorua district 2000.
- 2 The identification significant existing and emerging issues affecting the Rotorua Lakes.

- 3 The preparation, approving, monitoring, evaluation and review agreements, policies and strategies to achieve integrated outcomes for the Rotorua Lakes.
- The identification, monitoring and evaluation of necessary actions by the organisations and other relevant organisations.
- The receiving of reports on activities being undertaken by the organisations and other relevant organisations.
- Involvement during the preparation of statutory plans in relation to significant issues. Such plans include but are not limited to iwi and hapū management plans, district and regional plans, reserve management plans and annual plans.
- Involvement in applications for activities in relation to significant issues not addressed by existing policies of the co-management partners. Such activities include but are not limited to resource consents, designations, heritage orders, water conservation orders, restricting access to the lakes (during special events or in particular circumstances), and transferring and/or delegating of statutory authority.

#### Note:

The Rotorua Te Arawa Lakes Strategy Group reports directly to the Regional Council.

## **Public Forum**

- A period of up to 15 minutes may be set aside near the beginning of the meeting to enable
  members of the public to make statements about any matter on the agenda of that meeting
  which is open to the public, but excluding any matter on which comment could prejudice any
  specified statutory process the council is required to follow.
- 2. The time allowed for each speaker will normally be up to 5 minutes but will be up to the discretion of the chair. A maximum of 3 public participants will be allowed per meeting.
- 3. No statements by public participants to the Council shall be allowed unless a written, electronic or oral application has been received by the Chief Executive (Governance Team) by 12.00 noon of the working day prior to the meeting and the Chair's approval has subsequently been obtained. The application shall include the following:
  - name of participant;
  - organisation represented (if any);
  - meeting at which they wish to participate; and matter on the agenda to be addressed.
- 4. Members of the meeting may put questions to any public participants, relevant to the matter being raised through the chair. Any questions must be asked and answered within the time period given to a public participant. The chair shall determine the number of questions.

# Membership

Chairman:

Sir T Curtis (Chairman, Te Arawa Lakes Trust)

Deputy Chairman:

Mayor S Chadwick (Rotorua Lakes Council)

Appointees:

Bay of Plenty Regional Council

Chairman D Leeder Councillor N Oppatt

Councillor L Thurston (Alternate)

Te Arawa Lakes Trust

W Emery (Deputy Chairman, Te Arawa Lakes Trust)

K Biddle (Alternate)

Rotorua Lakes Council

Councillor K Hunt

Councillor G Searancke (Alternate)

Attendees:

M Mendonca (Operations Director, Ministry for the Environment)

Secretary:

S Kameta

Recommendations in reports are not to be construed as Council policy until adopted by Council.

# Agenda

- 1 Karakia
- 2 Apologies
- 3 General Business and Tabled Items

Items not on the agenda for the meeting require a resolution under section 46A of the Local Government Official Information and Meetings Act 1987 stating the reasons why the item was not on the agenda and why it cannot be delayed until a subsequent meeting.

- 4 Declarations of Conflicts of Interests
- 5 Previous Minutes
- 5.1 Rotorua Te Arawa Lakes Strategy Group Meeting 10 December 2014

3

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6.5	Lake Rotorua Nutrient Rules Update									
6.6	Lake Rotorua Catchment Stakeholder Advisory Group Update									
6.7	Te Arawa Lakes Trust Update									
6.8	Grow Rotorua Update									
7	Consideration of General Business									

File Reference:

4.01711

Significance of Decision: Low



Report To:

Rotorua Te Arawa Lakes Strategy Group

Meeting Date:

10 March 2015

Report From:

Stephen Lamb, Natural Resources Policy Manager

# Nutrient Management Options for the Rotorua Te Arawa Lakes

# **Executive Summary**

Staff have been considering nutrient management options for the catchments of Lakes Rotomā, Ökataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana and Rerewhakaaitu. Each of these lakes is identified as a "catchment at risk" within the Regional Policy Statement (RPS) but they are not protected from land use intensification under the current provisions of the Regional Water and Land Plan (RWLP). This report outlines five possible options for nutrient management for the Rotorua Te Arawa Lakes catchments:

Option 1: Maintain status quo

Option 2: Undertake private land use agreements

Option 3: Introduce a land use change rule

Option 4: Extend Rule 11 to all lakes (require benchmarking)

Option 5: Introduce specific rules for individual lake catchments

The benefits, risks, costs and outcomes of these options are assessed in Section 3 of this report and simplified in Appendix 1. These options do not need to be mutually exclusive, in the longer term it is likely to be a combination of the above options that will achieve lake water quality targets.

#### Recommendations

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- Receives the report, Nutrient Management Options for the Rotorua Te Arawa Lakes.
- Endorses the preferred option (Option 3: Land use change rule) as a start point for policy development for Lakes Rotomā, Ōkataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana and Rerewhakaaltu.
- Confirms that the decision has a low level of significance.

# 2 Purpose

This report presents a preferred nutrient management option as the start point for policy development in at risk lake catchments not protected under the existing provisions of the Regional Water and Land Plan.

# 3 Background

There is national, regional and local policy directing action on nutrient management of at risk catchments, which is discussed in further detail below. We are aware that there is a risk to water quality from uncontrolled development within the seven lake catchments excluded from Rule 11 of the RWLP (Rotomā, Ōkataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana and Rerewhakaaitu). And that this risk can also negatively impact on the viability of other nutrient reduction projects being considered such as sewerage reticulation.

# 3.1 Regional Policy Statement (RPS)

The RPS sets out a clear policy direction for the management of the twelve Rotorua Te Arawa lakes within the Rotorua Te Arawa Lakes Programme. In summary the water quality policies identify Lakes Rotorua, Rotoiti, Rotoehu, Ökaro, Ökäreka, Rotomä, Ökataina, Tarawera, Tikitapu, Rotokakahi, Rerewhakaaitu and Rotomahana as "Catchments at Risk". The water quality policies direct Council to:

- Establish contaminant limits within each catchment to achieve each lakes TLI (WL3B)
- Require consent for increased discharges (WL4B)
- Allocate capacity to assimilate contaminants within limits (WL5B)
- Manage nutrient reductions in excess of limits (WL6B)

# 3.2 National Policy Statement for Freshwater Management (NPS)

Key objectives in the NPS include protecting outstanding freshwater bodies and maintaining or improving freshwater quality. The NPS policies direct regional councils to make changes to regional plans to establish freshwater objectives and quality limits, specify targets and implement methods (regulatory and/or non-regulatory) to reach the targets.

Lakes Rotomā, Ōkataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana and Rerewhakaaitu currently meet the minimum acceptable state required under Appendix 2 of the NPS. Appendix 2 of this report indicates where the Rotorua Te Arawa Lakes sit within the attribute tables of the NPS for total phosphorus, total nitrogen, phytoplankton and E.coli.

# 3.3 Regional Water and Land Plan

Current Regional Water and Land Plan (RWLP) rules which apply to the seven lake catchments are summarised below:

- Under Rule 12 of the RWLP existing land uses and any changes in land use in the catchments of Lakes Rerewhakaaitu, Tarawera, Tikitapu, Rotomā, Ōkataina, Rotokakahi and Rotomahana are permitted activities.
- Forest harvesting by accredited forestry operators outside Riparian Management Zones or Sand Dune Country is a permitted activity. Following harvesting the land can be used for cultivation or grazing as a permitted activity as long as standards are met.
- Controlled activity consent is required for installation of a new bore and for discharging dairy effluent using spray irrigation or soil injection.

An advisory note in Section 9.4 of the RWLP states "where lake water quality breaches the TLI, Method 41 (Action Plans) and Method 52 (new regulatory rules to control nitrogen and phosphorus) will be immediately implemented". The TLIs for Lakes Rotomā, Ōkataina, Tarawera, Tikitapu and Rotokakahi are currently breached, however regulatory rules to control nitrogen and phosphorus have not been implemented.

The key issues, objectives, policies and methods of the RWLP that support nutrient management in the catchments of Lakes Rotomā, Ōkataina, Tarawera, Tikitapu, Rotokakahi, Rotomahana and Rerewhakaitu are included in Appendix 3.

#### 3.4 Action Plans

Key actions of the published action plans (Rotomā, Tikitapu and Ōkataina) and the draft action plans (for Tarwera and Rotokakahi) include implementing the policy direction of the RPS, a rules review and development of regulatory rules.

The farmer-led catchment plan prepared for Lake Rerewhakaaitu focuses on onfarm mitigation measures to reduce nutrient leaching and investigation of macromitigation measures and new and innovative technologies. There is no reference to development of regulatory rules in the farmer led catchment plan.

Lake Rotomahana has not triggered an action plan process at this time.

3.5 Previous Presentations to the Rotorua Te Arawa Lakes Strategy Group regarding Nutrient Management in the Rotorua Te Arawa Lakes.

On 24 June 2011 presentations on the legal mandate and timing and costs for "Developing Rules to Manage Nutrient Discharges to the Rotorua Te Arawa Lakes" were presented to RTALSG.

On 8 June 2012 the Group received the report on "Implications of Proposed Bay of Plenty Regional Policy Statement Water Quality Decisions for Rotorua Te Arawa Lakes".

These reports set the backdrop for developing rules to manage nutrient discharges in the Rotorua Te Arawa Lakes in order to give effect to the relevant policies in the Regional Policy Statement.

On 15 October 2014 technical statements from the Water Quality Technical Advisory Group and Sewage Advisory Group were provided to RTALSG. During the presentation Mr Bruere noted further consideration and work was being

undertaken by staff for those lakes not protected under Rule 11, which would be reported back to the Group at a subsequent meeting.

# 4 Description and Assessment of Options

Five nutrient management options (regulatory and non-regulatory) have been evaluated for Lakes Rerewhakaaitu, Tarawera, Tikitapu, Rotomā, Ōkataina, Rotokakahi and Rotomahana. Below is a description and assessment of the nutrient management options considered for the seven lakes. A tabulated version of the benefits, risks and costs is included in Appendix 1. These options do not need to be mutually exclusive, in the longer term it is likely a combination of the below options that will achieve lake water quality targets.

## 4.1 Option 1: Maintain status quo

This option continues with the Bay of Plenty Regional Council's current approach to managing freshwater quality in the Rotorua lakes under the Regional Water and Land Plan and within the Lakes Programme. The Rotorua Lakes Programme is responsible for improving and protecting water quality of the 12 Rotorua Te Arawa lakes, with the aim of achieving the water quality targets set in the RWLP.

Example: Non-regulatory methods for the lakes include monitoring and reporting on lake water quality (specifically TLI parameters), the preparation and implementation of Action Plans, research by Professor David Hamilton and other research organisations such as NIWA, GNS, AgResearch and SCION and encouraging the use of farm nutrient budgets and best management practices.

Reaching the target: Monitoring of the water quality in the Rotorua lakes indicates that the 3 yearly average Trophic Level Index targets are being met for Lakes Rotomahana and Rerewhakaaitu, are close to being met for Lakes Tikitapu, Ökataina and Rotomā and are not being met in Lakes Tarawera and Rotokakahi. Current actions are unlikely to meet the existing targets for some of the seven lakes.

Cost and payment: The operating expenditure for the Rotorua Lakes Programme is funded through general funds (50%) and targeted rates (50%) for projects not covered by the central government deed. Targeted rates for the Rotorua Lakes Programme will bring in revenue of over \$2,000,000 for 2014/15(BOPRC Annual Plan 2014/15). Rate payers will pay between \$75.58 and \$507.66 (including GST) for targeted rates per rating unit depending on the size of their property.

Risks: A report on the risks and opportunities for freshwater from land use intensification or land use change has been prepared for the Bay of Plenty region. The report indicates that there are a number of areas of exotic forestry located in lake catchments that could be appropriate for conversion to more intensive land uses, such as pastoral farming (refer to Appendix 4 for the map). At this time under Rule 12 of the RWLP existing land uses and any change in land use in the catchments of Lakes Rerewhakaaitu, Tarawera, Rotomā, Ōkataina, Rotokakahi and Rotomahana are permitted activities. Maintaining the RWLP status quo doesn't protect "catchments at risk" from intensification and there are risks that some landowners/new developers won't respond to non-regulatory methods.

Maintaining status quo risks significant future clean-up costs if water quality declines. Remediation costs of Lakes Rotorua, Rotoiti, Rotoehu and Õkāreka are

set at \$144 million over 10 years with \$72 million coming from central government and \$72 million from BOPRC and RDC.

There is also the possibility that other actions to improve water quality will be undermined if there are no rules to protect potential water quality gains (e.g. the Lake Tarawera sewerage scheme).

Benefits: The benefits of status quo include: allowing landowners the freedom to determine the appropriate use of their land; takes into consideration the existing land use and farm capital investment; less controversial than other options; avoids cost of a plan change; and no additional enforcement or monitoring costs.

Nutrient Management Effect: The nutrient management effects of this option are unknown and may result in maintaining, reducing or increasing nutrient levels in the lakes. However, it is likely that without some form of constraint water quality would worsen.

# 4.2 Option 2: Undertake private land use agreements

This option involves voluntary legal agreements between landowners and the Council to either reduce or maintain nutrient leaching levels from a property. To make it clear the assessment below has separated out whether the outcome is to reduce or maintain.

Reduce: Covenants and similar legal agreements restrict the landowner to the reduced leaching rate under the proposed land use for a 999 year period. These types of agreements have been undertaken in Lakes Ökaro, Rotorua, Ökāreka, Rotoehu and Ökataina and generally involve converting from high leaching land uses such as dairy to lower leaching land uses such as forestry. Example: In the funding deed \$500,000 was budgeted for land management change in Lake Rotoehu and \$1,000,000 in Lake Ökāreka for land management change. The amount paid per kilogram of nitrogen to convert dairy support and dry stock land into forestry varied depending on the private land use agreement.

Maintain: Although private land use agreements haven't been used to require a property to remain in an existing land use this option could be feasible in lake catchments such as Rerewhakaaitu and Rotomā if Council did not want to proceed with a regulatory option and preferred compensation. This has not been done in the Bay of Plenty region in the past.

#### Reaching the target:

Reduce: The opportunity to reduce nutrient inputs into the lake from private land use agreements means this option in conjunction with a regulatory option could achieve the reduction targets set in action plans for some of the seven lakes.

Maintain: Paying landowners to maintain a certain land use will not achieve the TLI targets without additional actions because five of the seven lakes do not currently meet their TLI target.

#### Cost and payment:

Reduce: If private land use agreements were the preferred option it is likely additional budget would be required to fund the agreements. In deed lake catchments funding of between \$500,000 and \$1,000,000 has been set aside per

lake for land use / management change. Based on the above amounts private land use agreements for the additional lakes may be budgeted for between \$3.5 and \$7 million. Additional resources will be required to manage and monitor the agreements post signing to ensure that the nutrient gains can be documented, confirmed and reported.

Maintain: There is over 7,000ha of forestry (excluding Crown owned land) in the seven lake catchments. Given there are no examples of compensation (based on opportunity cost) being paid to remain in a land use it is difficult to estimate the cost of maintaining the current level of forestry in the seven catchments. It is assumed that it would be a lower amount than conversion to a lower leaching land use however given the amount of forestry within the lakes catchments it is assumed it would be unaffordable.

RIsks: Private land use agreements are unlikely to capture all agricultural and forestry properties that could intensify within a catchment and as such are unlikely to be successful without being combined with regulation. If 100% coverage was required then the price of purchasing development rights would be likely to increase substantially the higher the proportion of coverage that is achieved.

Benefits: The benefits of this option include: allowing landowners the freedom to determine the appropriate use of their land; takes into consideration the existing land use and farm capital investment; potentially less controversial than regulation; avoids cost of a plan change; and simple to enforce and monitor.

Nutrient Management Effect: The nutrient management effects of this option would depend on landowners buy in but is likely to result in maintaining or reducing nutrient levels in the lakes.

# 4.3 Option 3: Introduce a land use change rule

This option involves regulatory intervention to manage land use change in the lake catchments not currently covered under Rule 11 of the RWLP. The proposed provisions would require any new intensive land use (including dairy farming, dairy support, commercial vegetable and fruit growing, cropping, drystock farming) to apply for resource consent prior to any conversion taking place.

Satellite images and existing consents could be used to identify existing land uses at the time of capping. The level of land use detail required by Council would be considered under the next step but it could vary between a property being identified by its' major land use down to stocking ratios and areas in each type of land use. Other variations may be whether all dry stock farming is grouped together or separated into sheep and beef, dairy support, intensive beef, deer etc.

Example: Under this option existing land use activities within the seven lake catchments would continue to be a permitted activity (provided certain standards are met). Converting to a higher leaching land use activity could be considered a discretionary activity (or non-complying) which could be declined or granted consent (with or without conditions).

The consents team would need to consider whether the proposal will result in an increase in diffuse nutrient discharges, the mitigation measures proposed, the ability of the water body to assimilate the contaminants without compromising the values and limits set, the other activities and actions being undertaken within the catchment and the cumulative effects of all activities within the lake catchment.

Reaching the target: Given that five of the seven lakes do not currently meet their TLI targets the proposed rule will not achieve the TLI targets without additional actions.

Cost and payment: The main costs of the land use change rule are the cost of a plan change, monitoring and enforcement, the opportunity cost to landowners from restrictions on their land and a reduction in productive land value. It is estimated a simple plan change could cost upwards of \$300,000, and that monitoring and enforcement costs will be low as large scale land use change is likely to be visible or require additional consents in the case of dairy farms.

An assessment by Nimmo Bell in 2003 looked at the difference between the productive value under one land use compared to that of another to show the cost or benefit of that particular shift in land use or the loss in value to the landowner if the potential to make this shift is removed. The report calculated restrictions could result in opportunity cost of between \$470/ha to \$3,454/ha (NPV) depending on the intensity level and original land use.

In addition, the draft 2014 Telfer Young report on land values in the Rotorua area and the Lake Rotorua catchment suggests that location within a catchment with restrictions causes a loss of capital value. This analysis indicates that Rule 11 had a negative value impact of between 10% and 20% for drystock farms and 15% and 20% for dairy farms. It is noted that there are large parcels of Māori owned land in all seven lake catchments where land value impacts will be minor as the properties are unlikely to be sold.

If farm nutrient plans were required as a standard of permitted activities, the estimated average cost per farm is likely to be around \$5,000 every 5 years if an agricultural consultant service is needed (based on Fact Sheet 9 for Lake Rotorua catchment rules).

Risks: The proposed land use change rule may not capture the intensification of an existing land use. This risk is considered to be mitigated in five of the lake catchments by land use cover in Ökataina (87%), Tikitapu (95%), Tarawera (75%), Rotomā (70%) and Rotokakahi (71%) being predominantly forest. In Lakes Rerewhakaaitu and Rotomahana land use cover is predominantly pasture however the farming communities are actively engaged in reducing nutrient leaching through the Rerewhakaaitu project and both lakes currently meet their TL! targets.

Benefits: A regulatory option is more likely to fulfil the policy intent of the NPS and RPS, assist in achieving the Objective 11 targets, meet the vision of the Strategy for the lakes of the Rotorua District and the recommendations within the draft and published action plans. The key RPS water quality policy this option focuses on is Policy WL4B (requiring consent for increased discharges in catchments at risk) which requires that "in catchments at risk, a change in land use likely to result in the discharge of Increased amounts of nominated contaminants be allowed only if resource consent is obtained".

This option is also more likely to encourage and protect capital investment made to improve water quality, protect the nutrient gains achieved, residential property prices and trout fishery revenue, while avoiding degradation and future remediation costs.

An example of future capital investment is the combined Rotoiti Rotomā sewerage scheme. BOPRC is likely to contribute \$8.6 million including \$1.9 million for Lake

Rotomā and \$2.7 million for Lake Rotoiti (budgeted for in the 2014/15 Annual Plan) and an additional \$4 million requested at the Regional Council meeting on 19 December 2014. The Rotoiti/Rotomā Sewage Technical Advisory Group provided a statement in August 2014 to the Rotorua Te Arawa Lakes Strategy Group identifying:

"Although restrictions on nutrient losses from land use apply to Lake Rotoiti through Rule 11 of the Regional Water and Land Plan, there are no rules restricting land use at Lake Rotomā. Therefore, the benefits of nutrient reductions from advanced treatment of wastewater may be at risk due to uncontrolled or inappropriate land use activities in the future. Given the \$10-\$13M investment in protecting water quality of Lake Rotomā through implementation of the advance wastewater treatment, it is critical that land use planning rules are in place to ensure land use is consistent with maintaining or reducing diffuse-source nutrient loads to the lake, so that lake water quality is maintained or improved."

Nutrient Management Effect: The nutrient management effect of this option alone is likely to result in maintaining nutrient levels in the lakes. There is the potential for this option to result in reduced nutrient levels when combined with non-regulatory options.

# 4.4 Option 4: Extend Rule 11 to all lakes (require benchmarking)

This option involves regulatory intervention to manage all discharges (diffuse and point source) in lake catchments not currently covered under Rule 11 of the RWLP. This option would require detailed information over a number of years from the landowner to determine a nutrient benchmark for the property. It is likely that the nutrient benchmark information requirements would be similar to those requirements in Table 39 of the RWLP for Rule 11.

Example: Under this option existing intensive farming operations (including dairy farming, dairy support, commercial vegetable and fruit growing, cropping, sheep and beef farming, deer farming) could require consent as a controlled activity requiring nutrient benchmark information be provided to Council. An application for a controlled activity under a regional plan cannot be declined.

If an applicant wished to increase their nutrient discharge allowance beyond their nutrient benchmark this would require consent as a discretionary activity (or non-complying) which could be declined or granted consent (with or without conditions). When determining whether or not an application should be granted the consents team would need to take into consideration the same matters as listed in Option 3 and any others they may consider appropriate.

Reaching the target: Given that five of the seven lakes do not currently meet their TLI targets the proposed rule will not achieve the TLI targets without additional actions.

Cost and payment: Refer to option 3 for details on some of the costs involved with a benchmarking rule. In addition to the costs in option 3 a benchmarking rule is likely to incur costs from consent preparation and processing fees, benchmarking properties and monitoring compliance with those benchmarks.

It is estimated that benchmarking may take on average 25 hours per farm and that there are approximately 93 pastoral properties within the seven lake catchments.

Based on the above figures it would take around 58 weeks for 1 FTE to benchmark all pastoral properties within the catchments. It is noted that a number of the rural properties in Okataina have been benchmarked where they straddle the Rotorua catchment and that Overseer runs have been undertaken on the majority of Rerewhakaaitu and Rotomahana farms.

Waikato Regional Council staff responsible for monitoring compliance with the Taupo catchment benchmarks estimate it takes between 4 and 8 hours per property to check compliance. If all pastoral properties were monitored annually it could take up to 18 weeks for 1 FTE depending on land owner cooperation in supplying data, clarity of the data and complexity of the farming operations.

The resource consent application deposit for BOPRC is \$774. Consent officers have estimated that simple dairy effluent consents might cost around \$1000. Depending on the complexity of an application it is estimated that applications for new regulations might cost on average between \$1000-\$2000.

Risks: The key risks to the efficiency and effectiveness of a benchmarking rule is unforeseen delays in benchmarking properties within the seven catchments and the ability to monitor compliance with the nutrient benchmarks. One way to mitigate the risk is by requiring controlled activity consent for all existing intensive farming properties within the catchments and requiring the nutrient benchmark information as part of the consent application. Monitoring to ensure compliance is another way to test the effectiveness of the rule.

Benefits: Refer to option 3 for details on the benefits associated with a regulatory option such as benchmarking.

Nutrient Management Effect: As with option 3 the nutrient management effect of this option alone is likely to result in maintaining nutrient levels in the lakes. There is the potential for this option to result in reduced nutrient levels when combined with non-regulatory options.

## 4.5 Option 5: Specific rules for individual lake catchments

This option involves specific regulatory interventions for each lake catchment as previously anticipated under the RWLP. There are a total of 12 lakes covered by Objective 11 which could potentially have specific catchment based rules (five currently covered by Rule 11 and an additional seven outside of Rule 11).

Example: The Lake Rotorua rules project is an example of specific regulatory intervention for an individual lake catchment. Lake specific rules along with an incentives programme are being designed to meet the nitrogen limit set in the Operative Regional Policy Statement of 435 tonnes per annum by 2032. The project has already been running for several years and has had significant community involvement through the formation of the Lake Rotorua Stakeholder Advisory Group in September 2012.

Reaching the target: Once rules are in place and in conjunction with non-regulatory methods it is possible that the TLI targets for the lake catchments could be met.

Cost and payment: As with other regulatory options 3 and 4 above, the main costs of developing lake specific rules are the cost of a plan change/changes, monitoring and enforcement, the opportunity cost to landowners from restrictions on their land and a reduction in productive land value. The extent of these costs will vary

depending on the level of regulation required. If regulation is more restrictive the costs faced by the agricultural sector will potentially be higher than those estimated in option 3 (for reduction in land value and opportunity cost). The cost of a plan change or multiple plan changes for individual lake catchments will exceed the costs of the previous regulatory options and could cost upwards of \$1.4million (excluding Environment Court appeal costs) based on previous estimates. The cost of the Lake Rotorua plan change (including Environment Court appeals) is outside of this estimate and is anticipated to cost over \$1 million alone.

Risks: Key risks for this option include time delays to prepare the lake specific rules, and uncertainty as to whether they will become operative due to complexities and duplication. Specific catchment based plan changes were undertaken for Lakes Ökäreka (Proposed Plan Change 5 – Rule 14) and Ökaro (Proposed Plan Change 6 - Rule 15). These plan changes were notified in August 2007, however on 17 September 2009 Council's Policy and Planning Committee withdrew the plan changes in response to legal advice. The legal advice from Cooney Lees Morgan dated 11 August 2009 noted that "while it is appropriate for Action Plans to be tailored for a particular catchment, it doesn't follow that a separate set of Rules should be generated for each. That approach is likely to involve considerable duplication giving rise to interpretation issues and confusion".

Benefits: Refer to option 3 for details on the benefits associated with a regulatory option. In addition to the benefits in option 3 there is the opportunity for regulatory rules to achieve reductions in nutrient inputs to lakes and achieve the TLI targets rather than maintain existing inputs. Specific catchment based rules will allow flexibility in the approach taken to solve water quality issues which is beneficial where the severity of the water quality issues vary significantly from catchment to catchment.

Nutrient Management Effect: This option is likely to result in reductions of nutrient inputs into specific lake catchments where regulated to meet TLI or alternative targets. As with the Lake Rotorua plan change the rules may be used in conjunction with non-regulatory options to achieve reductions.

# 5 Preferred Option

Option 3 is the preferred option as it is considered the most efficient and effective way to manage nutrient inputs within the seven lake catchments. A land use change rule will stop large scale conversion in at risk catchments without the intensive resource demands or delays of benchmarking and will provide protection to capital investments and nutrient gains made to improve water quality in a timely manner.

It is acknowledged that the key risk of option 3 is that it does not capture intensification of an existing land use or changes within dry stock farming. Mitigating factors for this are:

- the existing land use cover of five of the lake catchments is predominantly forest (between 70% and 95%);
- a maximum herd size is included as a condition of consent for consents to discharge dairy shed effluent, so any increase in dairy herd size beyond the limit specified would require a new consent (to change a consent condition);

 the farming communities of Lakes Rerewhakaaitu and Rotomahana are actively engaged in reducing nutrient leaching through the Rerewhakaaitu project and both lakes are currently meeting their TLIs.

Placing more stringent rules than option 3 on Lakes Rerewhakaaltu and Rotomahana at this time when they meet their TLIs and the community is engaged risks losing the goodwill of the community which has been built up over several years through the Rerewhakaaltu project.

Option 3 will not require reductions in nutrient leaching and given that five of the seven lakes do not currently meet their TLI targets the land use change rule will not achieve the TLIs alone. This rule will need to work in conjunction with non-regulatory actions such as sewerage schemes, land use change to lower leaching activities, best management practices, pest control and further research.

A regulatory approach will meet the policy intent of the NPS and RPS and is considered to be consistent with the vision of the Strategy for the Lakes of the Rotorua District and the recommendations within the draft and published action plans.

This option will not solve all water quality issues in the seven lake catchments but given the simplicity of the option proposed it is anticipated it can progress through the plan change process and be implemented more quickly than alternative regulatory options. If Council delays applying regulatory nutrient management options there is a significant risk forestry blocks around Rotomā will be converted to pastoral farming and nutrient gains from non-regulatory actions will be at risk.

#### In the future:

- If further regulation is required to achieve reductions Council will have the opportunity to take the learnings from the Lake Rotorua plan change.
- Further information will be available at a later date such as the Tarawera groundwater modelling due for completion early 2016.

## 6 Next Steps

Any feedback received from the Group on this report, will be reported to the Regional Direction and Delivery Committee.

# 7 Financial Implications

#### **Current Budget**

Notification of a plan change to the Regional Water and Land Plan for nutrient management of priority catchments in the region is identified as a key project in 2014/15 (year three of the Ten Year Plan). The proposed plan change including consultation is covered by the Strategic Policy (responsive policy) budget.

#### **Future Implications**

Further development, consultation and implementation of the preferred option will have resourcing implications for Council, individuals and the community. However, given the intended simplicity of the rule it is anticipated implementation costs will be low.

Section 32 of the Resource Management Act requires robust cost and benefit evidence to support Council's preferred option. These costs will continue to be documented throughout the policy development process.

Gemma Moleta
Policy Analyst (Natural Resources Policy)

for Natural Resources Policy Manager

2 March 2015

Analysis of options	Status quo "do nothing"	Private land use agreements	Land use change rule	Extend Rule 11 to all lake (benchmark)	Specific rules for Individual lake catchments
In line with Part 2 of the RMA	✓ potential	✓ potential	<b>V</b>	<b>V</b>	
Meets the intent of Policy WL 4B of the RPS			4 .	1	1
Meets the littent of Objective A2 of the NPS to maintain freshwater quality		✓ potential	<b>'</b>	· ·	
Assists in achieving Objective 11 of the RWLP		1	/	1	1
Consistent with Lake Action Plans		1	1	1	1
Meets the vision of the Strategy for the lakes of the Rotorua District		✓ potential	1		1
Simple to enforce and monitor	1	V	1		
Avoids cost of a plan change	1	4			
Avoids cost of economic incentives	4		1	<b>√</b>	
Allows landowners the freedom to determine the appropriate use of their land	<b>*</b>	· ·			
Less controversial	1	✓ potential			
Utilises community good will		-			
Can focus on properties with largest potential impact/risk		✓			
Could achieve gains above capping		1			
Caps land use cover at existing levels			V -		
Sets a leaching rate and caps leaching at that level				· · · · · · · · · · · · · · · · · · ·	
Won't have an immediate impact on landowners that maintain status quo	<b>Y</b>	/			
Takes into consideration existing land use and on farm capital investment			1	<b>*</b>	✓ potential
Protects capital investment made to improve water quality and nutrient gains achieved		✓ potential	1	· ·	<b>*</b>
Assists in the maintenance of the Mauri of the water		✓ potential	1	V	<b>V</b>
Protects residential property values (which are affected by water quality)		✓ potential	1	1	4
Protects trout fishing revenue		✓ potential	1	1	1

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Avoids degradation and future remediation costs		✓ potential	<b>✓</b>	V	1
Focuses community attention on the lake water quality issue			1	1	1
Specific to the issues of the catchment		1			/
Flexibility in approach to solve water quality issues		V .			
Some landowners and/or new developers won't respond to non- regulatory methods	1	1	T 10 10 10 10 10 10 10 10 10 10 10 10 10	****	
Doesn't protect catchments at risk from intensification	1	1			
Undermines other actions taken to improve water quality in catchments	1				
Future clean-up costs if water quality declines	1				+
Community investment on alternative water quality actions withheld due to uncertainty	1				
Reduced opportunities to use water for other purposes in the future if water quality declines	1				
Degradation and future remediation costs	1				
Unlikely to capture all agricultural and forestry properties that could intensify within a catchment (coverage issue)		· ·			
Cost of legal agreements and buying nutrients (affordability)		· ·			<del></del>
Opportunity cost to landowners from restricted future land use change		· ·	4	1	1
Reduction in land value		1	~	✓	✓ potentia
Doesn't stop other landowners in the catchment intensifying		V			Potential
Greater cost to Council where there are lots of small pastoral blocks		1			
Does not capture Intensification of an existing land use			1		
Cost of a plan change			7	V	1
Inequity for landowners of undeveloped land			1	1	
Cost to landowners of consent preparation and processing fees			<b>V</b>	1	7
Benchmarking time and resource intensive				1	✓ potentia
Monitoring time and resource intensive				1	potentia
Permitted activities difficult to take enforcement action against				1	Postilitia
Delays In benchmarking				✓ potential	
Higher costs and longer timeframes for multiple plan changes					

# **APPENDIX 2**

Lakes assessment against the NOF of the NPS

# Lakes assessment against the NOF of the NPS

The Rotorua Te Arawa Lakes are monitored for a range of attributes, most notably total phosphorus (TP), total nitrogen (TN), chlorophyll-a and secchi depth (water clarity). These are used to calculate a trophic level index (TLI) for the lakes and targets for this are set in the Bay of Plenty Regional Water and Land Plan. NOF banding results for TP, TN, chlorophyll-a and cyanobacteria biovolume (some productive lakes) over the past five years are given in Tables 1 to 5.

Table 1: NOF banding for Total Phosphorus (annual median) in lakes.

Total Phosphorus	2009/10	2010/11	2011/12	2012/13	2013/14
Rotomahana	В	С	С	С	C
Rerewhakaaitu	В	В	В	A	A
Rotokakahi	С	8	В	В	В
Tikitapu	Α	`A	Α	Α	A
Okataina	А	В	E BALL	В	8
Tarawera	A	В	С	В	В
Rotoma	Α	А	A	A	A
Rule 11 Lakes				7,000	
Õkaro	р	D		0	С
Rotorua	C	C	В	В	8
Rotoehu	D .	C	С	С	С
Rotoiti	В	С	8	В	В
Okareka	A	A	Α	В	A

Table 2: NOF banding for Total Nitrogen in lakes.

Tota! Nitrogen	2009/10	2010/11	2011/12	2012/13	2013/14
Rotomahana	8	В	В	В	В
Rerewhakaaitu	В	8	В	В	В
Rotokakahi	A	Α	Α	Α	Α
Tikitapu	В	Α	Α	Α	A
Okataina	Α	Α	Α	Α	Α
Tarawera	A	Α	Α	A	A
Rotoma	Α	A	Α	Α	A
Rule 11 Lakes			deserting to the first		en a
Ökaro			T)	D	0
Rotorua	В	Α	В	В	A
Rotoehu	В	A	A	Α	A
Rotoití	В	В	8	A	A
Okareka		В	8	В	В

Table 3: NOF banding for Phytoplankton (Chlorophyll-a annual median) in lakes.

Chlorophyll-a	2009/10	2010/11	2011/12	2012/13	2013/14
Rotomahana		1 E E	В	8	B
Rerewhakaaitu	С		В	В	В
Rotokakahi	Α	Α	A	A	A
Tikitapu	A	A	Α	Α	В
Okataina	E	B	8	Α	A
Tarawera	A	A	A	A	Α
Rotoma	A	A	Α	Α	Α
Rule 11 Lakes				THE THE THE SECOND TO SECOND S	
Ökaro	С	С	С	С	8
Rotorua	D	D	C	C	С
Rotoehu	C	C	C	c	С
Rotolti	С	С	С	В	В
Okareka	8	В	В	8	. В.

Table 4: NOF banding for Phytoplankton (Chlorophyll-a annual maximum) in lakes.

Chlorophyli-a (Max)	2009/10	2010/11	2011/12	2012/13	2013/14
Rotomahana	A	8	A.	Α	Α
Rerewhakaaltu	A I ·	A	A	Α	Α
Rotokakahi	A	Α		A	Α
Tikitapu .	A	A	A	A	Α
Okataina	MEALIN	A	+ A	A	A
Tarawera	Α	Α	A	A	Α
Rotoma	Α	Α	A	Α	Α
Rule 11 Lakes					
Ökaro	С	D	D	D	C
Rotorua		С	В	C	В
Rotoehu		В	В	В	А
Rotoiti	B.L.	В		A:	. A
Okareka	A	Α	A	A	Α

Table 5: NOF Banding for Cyanobacteria - planktonic (biovolume, mm³/L), 2011 to 2014, in lakes and lake fed rivers.

Cyanobacteria biovolume	2011-2014
Te Wairoa Stream (Lake Rotokakahi)	Α
Rule 11 Lakes	
Lake Ōkaro	0
Lake Rotoehu @ Kennedy Bay	А
Lake Rotoehu @ Otautu	A
Kake Rotoiti @ Hinehopu	Α
Lake Rotoiti @Okawa Bay	С
Lake Rotoiti @ Okere Arm	Α
Lake Rotoiti @ Otaramarae	A
Lake Rotoiti @ Te Weta	A L
Lake Rotorua @ Hamurana	Α.
Lake Rotorua @ Holdens Bay	Α
Lake Rotorua @ Ngongotaha	A
Ohau Channel	A

Cyanobacteria results are unavailable for most of the lakes as we have insufficient data at this time. The results are based on 80th Percentile and calculated using a minimum of 12 samples collected over 3 years. Most of the Rotorua Te Arawa lakes don't really suffer from cyanobacteria bloom.

Most lake sites fall into the 'A' Band for the human health attribute E.coli (primary contact recreation) for the last five years, three sites at Lake Rotorua fall into the 'B' Band (results not tabulated here).

## **APPENDIX 3**

# Relevant sections of the Regional Water and Land Plan

## Relevant sections of the Regional Water and Land Plan

**Issue 12 –** Water quality in some streams, rivers, lakes, estuaries, harbours and coastal margins in the Bay of Plenty can be adversely affected as a result of use and development activities.

Objective 11 – The water quality in the Rotorua lakes is maintained or improved to meet the following Trophic Level Indices:

(c)	Lake Ōkataina	-	2.6
(d)	Lake Rerewhakaaitu	-	3.6
(g)	Rotokakahi	-	3.1
(h)	Lake Rotomā	*	2.3
(i)	Lake Rotomahana	•	3.9
(k)	Lake Tarawera	-	2.6
<i>(I)</i>	Tikitapu	¥"	2.7

**Policy 21** – To manage land and water resources in the Bay of Plenty within an integrated catchment management framework to:

- (a) Maintain or enhance water quality in individual lakes to meet their Trophic Level Index ('TLI') and Water Quality Classification.
- (b) Require the management of nitrogen or phosphorus in individual Rotorua lake catchments.
- (c) Reduce cyanobacterial algal blooms on the Rotorua Lakes by managing nutrient inputs in the lake catchment.
- (I) Manage land and water resources according to realistic management goals that are appropriate to the existing environmental quality and heritage values (including ecosystem values) of the location.

**Policy 22** – To research and monitor the effects of land use practices on surface and groundwater quality, and take appropriate action within the framework of this regional plan (including future plan changes) where such investigations indicate land use has significant adverse effects on water quality, or there is a high risk that future development would adversely affect water quality. This is particularly relevant to lakes, and groundwater used for municipal water supply.

Policy 27 – To use a range of mechanisms, including education, and regulation where necessary and appropriate, to avoid, remedy or mitigate the adverse effects of land use activities on water quality, or for soil conservation purposes, in order to achieve stated environmental objectives. Areas of particular concern in the Bay of Plenty are riparian margins, steep slopes, erosion-prone soils, the recharge areas of potable groundwater supplies, and the catchments of the Rotorua lakes.

**Method 41** – Develop and implement Action Plans to maintain or improve water quality to meet the TLI set in Objective 11...

- 3(g) Determine if regulatory measures are necessary to control the discharge of nitrogen and phosphorus, or both, from land use activities in the lake catchments.
- 4(a) Implement the lake water quality improvement measures identified and agreed to in Stage 3.

Method 52 – Use the following process to include regulatory measures in this regional plan to control the export of nitrogen and phosphorus from land use activities in the catchment of lakes that:

- 1. Exceed their TLI specified in Objective 11, where the 3-year moving average TLI for the lake exceeds its designated TLI specified in Objective 11 by 0.2 for 2 years; OR
- 2. Are at risk of declining water quality, as identified by Method 41 Stage 1(b)(i).
  - (c) Initiate a plan change in accordance with the Act to include regulatory measures in this regional plan to address the export of nitrogen and phosphorus from land use activities, including land use changes, in the specific lake catchment.

## Rule 11 - Key points summarised in the following pages

## Rule 12 - Permitted - Changes in Land Use in the Catchments of Lakes Rerewhakaaitu, Tarawera, Rotomā, Ōkataina, Tikitapu, Rotokakahi, and Rotomahana

Any existing land use or change to a land use activity in the catchments of Lakes Rerewhakacitu, Tarawera, Rotomā, Ōkataina, Tikitapu, Rotokakahi and Rotomahana, is a permitted activity, until a plan change is initiated to include specific rules for individual lake catchments that have been identified as at risk in Method 41, or where the 3-year moving average TLI for the lake exceeds its designated TLI specified in Objective 11 by 0.2 for 2 years.

Rule 13 - Restricted Discretionary - Changes in Land Use in the Catchments of Lakes Rerewhakacitu, Tarawera, Rotomā, Ökataina, Tikitapu, Rotokakahi, and Rotomahana Any change to a land use activity where the proposed activity causes an increase in the export of nitrogen or phosphorus from the property in the catchments of Lakes Rerewhakacitu, Tarawera, Rotomā, Ōkataina, Tikitapu, Rotokakahi and Rotomahana, where:

- 1. The lake is identified as at risk of water quality decline in Method 41, or
- 2. The 3-year moving average TLI for the lake exceeds its designated TLI specified in Objective 11 by 0.2 for 2 years.

Is a restricted discretionary activity.

This rule is not operative until a plan change is initiated to include specific rules for individual lake catchments that have been identified as at risk in Method 41, or have declining water quality as measured by lake water quality monitoring.

Rule 11 -Summary of key points

Table 36 - Rules in Rotorua Lakes

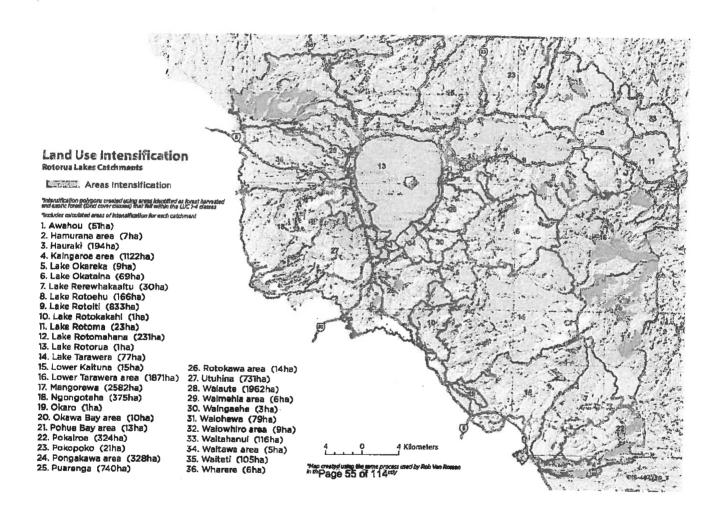
Land Use	Applicable Environment Bay of Plenty Rules
Reticulated	Rule 11 - indicates that the effects of reticulated urban areas and lakeside
urban areas and	settlements will be addressed through the control of point source discharges.
lakeside	Rules 11F and 37 – apply to point source discharges of sewage and stormwater,
settlements	which are managed by Rotorua District Council. Rule 11F restricts any increase in
	nitrogen or phosphorus from a point source discharge.
	Sewage – Resource consents limit the allowable nitrogen and phosphorus
	discharge from sewage treatment plants. Rotorua City's nutrient loading from
	sewage has been reduced from 130-150 tonnes nitrogen per year and 33.8
	tonnes phosphorus per year (prior to land-based discharge in 1988), to less than
	30 tonnes nitrogen per year and less than 3 tonne phosphorus per year (2004).
	Reticulation of other urban areas and lakeside settlements will reduce the
	nutrient loading compared to the current outputs from septic tank systems by up
	to 80%. Refer to the Rotorua District Council Long Term Council Community Plan
	('LTCCP') for reticulation dates for other areas in the Rotorua Lakes' catchments,
	which will be refined in future editions of the LTCCP or as a result of community
	decisions.
	Urban stormwater – resource consents will require the appropriate management
	and treatment of urban stormwater to ensure no net increase of nitrogen or
	phosphorus within the lake catchment from a discharge (refer to section 4.2 of
	this regional plan).
Non-reticulated	Septic tank discharges - Refer to the On-Site Effluent Treatment Regional Plan.
urban areas and	The rules in that plan require the nutrient loading from septic tank discharges
lakeside	within 200 metres of the lakeshore, or on properties less than 4 hectares within
settlements	lake catchments, to be substantially reduced from 40-70 grams nitrogen per
	cubic metre to 15 grams nitrogen per cubic metre. This requires the installation
	of an advanced treatment system. Some urban areas and lakeside settlements,
	and small rural properties will be reticulated over time and will then be covered
	by Rule 11.
	Stormwater discharges managed as per Reticulated Urban Areas (refer to (a)
	above).  Rule 11A – permitted providing the nutrient export levels remain below 10 kg per
Properties <0.4	Rule 11A – permitted providing the nutrient export levels remain below 10 kg per hectare per year (excluding the discharge from on-site effluent treatment
hectares (4,000	
m²) where the	systems).  Recognises that low-intensity lifestyle blocks have minimal nutrient exports,
nitrogen output	while requiring landowners to retain the low intensity land use.
from the	While requiring landowners to retain the low intensity land use.
property is less	
than 10 kg per	
hectare per year	Rules 11B, 11C, 11D and 11E – establishes a nutrient benchmark that landowners
Other land uses	cannot breach. Sets a cap on the level of nutrients from rural land uses within
	each of the targeted lake catchments.
	each of the targeted lake catchinents.

Table 39 - Rule 118 Nutrient Benchmark Information Requirements

	General Information
1	Land area.
2	Soil drainage class and soil characteristics.
3	Rainfall.
4	Slope / Topography.
5	Land cover and land use on the property (including percentage of land area in different land uses).
6	Percentage of riparian areas of rivers, streams and lakeshore on the property that have been fenced, or in retirement plantings
7	Area of wetlands on the property.
8	Number of houses on the property.
9	Type of sewage treatment for the houses on the property.
10	Fertiliser application – type and amount of fertiliser, and percentage of amount applied in
	May, June and July.
11	Type of livestock on the property.
12	Peak number of livestock by stock type.
13	For beef properties, the percentage of female livestock.
14	Number of livestock taken off the property, or put onto a wintering pad/loafing pad/feedpad during winter.
15	Where a wintering pad/loafing pad/feedpad is used, the waste treatment and disposal system for the wintering pad/loafing pad/feedpad.
16	Crop type(s), and area in each crop. This includes forestry.
17	Volume of irrigation.
18	Supplementary stock feed purchased or sold off-farm.
19	Description of other land management practices relevant to nutrient management.
20	Annual exports from the property (e.g. crops, livestock, milk solids etc).

## **APPENDIX 4**

Rotorua lakes potential land use intensification



Minutes of the Rotorua Te Arawa Lakes Strategy Group Meeting held in the Council Chamber, Rotorua Lakes Council, Civic Administration Building, 1061 Haupapa Street, Rotorua on Tuesday, 10 March 2015 commencing at 10.30 a.m.

Present:

Chairman:

Sir T Curtis (Chairman, Te Arawa Lakes Trust)

Deputy Chairman:

Mayor S Chadwick (Rotorua Lakes Council)

Appointees:

W Emery (Deputy Chairman, Te Arawa Lakes Trust), Councillor K Hunt (Rotorua Lakes Council), Councillor L Thurston (Alternate

Bay of Plenty Regional Council)

In Attendance:

Bay of Plenty Regional Council: W Murray (General Manager Environmental Delivery), S Lamb (Manager Water Policy), H Creagh (Manager Rotorua Catchments), G Moleta (Natural Resources Policy Analyst), A Bruere (Lakes Operations Manager), S Kameta (Committee Advisor), M Bell (Project Coordinator), R Cross (Team Leader Land Resources), R Mihinui (Chief Executive, Te Arawa Lakes Trust); G Williams (Chief Executive, Rotorua Lakes Council); Ministry for the Environment: M Mendonca (Operations Director), M Harte (Policy Analyst); Lake Rotorua Stakeholder Advisory Group: T Kingi (Chair), S Park (Secretariat); Grow Rotorua: Attendance in part – F Pauwels (Chief Executive), M Smith (Marketing Manager); four members of the public including L Meharry, H Prior and W Webber.

Apologies:

Chairman D Leeder, Councillor N Oppatt (Bay of Plenty Regional

Council)

## Opening announcement

Due to a delay in the Chair's arrival, the Deputy Chair assumed the chair and declared the meeting open.

### 2 Karakia

An opening karakia was provided by W Emery.

#### 3 General Business

The following item was raised for discussion under General Business.

1) Lake Rotokakahi algal bloom

This is the document marked with the letter "C" referred to in the annexed Affidavit of Geoffrey myrdoch williams Sworn at Rotom on the day of before me:

Soffestor of the High Court of New Zealand

Walter Swanson SOLICITOR POTORUA

## 7.2 Programme Status Report - Rotorua Te Arawa Lakes Programme

Refer PowerPoint Presentation slides 1-4 (Objective ID A2040523) and video clip <a href="https://www.youtube.com/watch?v="https://ww

Manager Rotorua Catchments Helen Creagh presented the programme status report for the period December 2014 to February 2015. The report also sought approval for a change request to transfer funds into the current 2014/15 financial year for the Lake Rotoehu land use change agreement. Ms Creagh provided an overview of programme highlights. She advised investigations into the corrosion on the Ohau Wall was a costly process, but would be completed by the end of June and reported to the Group meeting in May. In relation to Rotorua Lakeside Concert sponsorship, a video clip was put together to showcase the programme at the concert and this was played to members at the meeting.

The Chair commended the quality of reports provided for the meeting. Sponsorship provided by both Councils for the LakesWater Quality Society symposium was noted and thanks expressed by the Chair. Mayor Chadwick acknowledged lan McLean for his outstanding chairmanship at the symposium. Regarding the appointment of an Incentives Board Director, shortlisting of candidates had taken place with an announcement imminent.

The Deputy Chair commented that the significance statement included in the report recommendations had negative connotations for the community and asked that they be removed from all future reports.

### Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Programme Status Report Rotorua Te Arawa Lakes Programme.
- 2 Approves Change Request 18 (Lake Rotoehu Land Use Change) included in Appendix One.

Thurston/Chadwick CARRIED

## 7.3 Nutrient Management Options for the Rotorua Te Arawa Lakes

Refer to PowerPoint Presentation (Objective ID A2046049)

Water Policy Manager Stephen Lamb and Planner Gemma Moleta presented five possible options for nutrient management in Rotorua Te Arawa Lakes catchments not currently protected from land use intensification under the Regional Water and Land Plan. Ms Moleta outlined an assessment of the options, recommending the Group endorse Option 3 as a start point for policy development.

A member supported in principle, the endorsement of Option 3 (Land use change rule), subject to receiving feedback on the draft section 32 analysis, following its consideration by the Stakeholder Advisory Group (StAG) in mid-April and the Regional Council's Regional Direction and Delivery Committee meeting on 12 May. Mayor Chadwick asked that a presentation be provided to Rotorua Lakes Council's committee meeting on 20 May. A further report would come back to the Group at its next meeting on 22 May.

## 7.5 Rotorua Te Arawa Lakes Programme - Annual Work Programme 2015/2016

Refer to PowerPoint Presentation slides 6-7 (Objective ID A2040523)

The report sought approval for the Rotorua Te Arawa Lakes 2015/16 Annual Work Programme. Manager Rotorua Catchments Helen Creagh outlined the key priorities for the three deed funded lakes, noting the \$3.3M low nitrogen land use budget multi-year appropriations and work occurring to maintain momentum to commence Tikitere plant construction in 2018/19.

A member queried whether the Deed agreement should be reviewed. Ministry for the Environment Operations Director Mike Mendonca said options could be explored, but that careful consideration was needed before taking the matter to the Minister.

## Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Rotorua Te Arawa Lakes Programme Annual Work Programme 2015/2016.
- Approves the provision of the Rotorua Te Arawa Lakes Programme Annual Work Programme 2015/2016 to the Ministry for the Environment as required by the Deed of Funding Agreement.

Hunt/Emery CARRIED

## 7.6 Lake Rotorua Nutrient Rules Update

Water Policy Manager Stephen Lamb provided the update report on the Lake Rotorua Nutrient Rules Project and the reprogramming of timeframes for notification extended to 30 June 2015. General Manager Environmental Delivery Warwick Murray referred to the request for the economic analysis to be presented to the Rotorua Lakes Council on 20 May. While timeframes were tight, he noted it was critical for stakeholders to have the opportunity to input into the process.

#### Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Receives the report, Lake Rotorua Nutrient Rules Update.

Hunt/Thurston CARRIED

## 7.7 Lake Rotorua Catchment Stakeholder Advisory Group Update

Stakeholder Advisory Group (StAG) Chair Tanira Kingi provided his report and briefed members on key areas of focus for StAG during meetings held in December 2014 and February 2015.

Members queried the significant increase in estimated levels of leaching following version changes to Overseer. Members were advised that Overseer was initially a monitoring tool that had been developed over time for nutrient budgeting and used by

owned and swimming and boating were not permitted, a health warning on the lake had not been declared. Since then the lake had reduced from the red alert level.

## 9 Closing karakia

The meeting closed with a karakia provided by W Emery.

The meeting closed at 11.51 a.m.



### Kim McGrath

From:

**Geoff Williams** 

Sent:

Friday, 14 August 2015 117 p.m.

To:

Mary-AnneMacleod

Cc:

Steve Chadwick; Jean-Paul Gaston; Craig Tiriana

Subject:

Meeting agreements from today

Hi Mary-Anne,

Please find below the understanding Steve and I took awayfrom our meeting today.

- 1. All parties continue to be committed to the vision that the lakes of the Rotorua District and their catchments are preserved and protected.
- 2. There is also recognition of the need to achieve a balance between conflicting aspirations and in particular economic development alongside enhanced lakes.
- 3. At this stage of the process, a better understanding the economic impact of the proposed rules framework is needed and there is a willingness to delay notification of the rules so this can be achieved.
- 4. There is however pressure to make progress and a final decision as to notification will need to take place early next year (Timeframe to be confirmed by the Regional Council).
- 5. It is important that 'round table' meetings with the Primary Producers Collective and Federated Farmers be undertaken and importance placed on reaching a mutual understanding of the potential impact of the rules framework along, ideally, with an agreed way forward.
- 6. It is appreciated that achieving full agreement may not be possible, in which case the Lakes project partners will need to make a final determination.

Geoff

**Geoff Williams** *Chief Executive* **P**: 07 351 8320 | **M**: 0212424064

E: geoff.williams@rotorualc.nz | W: rotorualakescouncil.nz

A: 1061 Haupapa St, Private Bag 3029, Rotorua Mail Centre, Rotorua 3046, New Zealand

ROTORUA LAKES COUNCIL

This is the document marked with the letter "D" referred to in the annexed Affidavit of Scoffee Myrdoch Williams Sworn at Rotomon the Stay of Difference and Document Market Williams Sworn at Rotomon the Stay of Difference and Document Market Williams Sworn at Rotomon the Stay of Difference and Difference

A Solicitor of the High Court of New Zealand

Walter Swanson SOLICITOR ROTORUA

The Chairman and Members Rotorua Te Arawa Lakes Strategy Group

NOTICE IS GIVEN that the next meeting of the Rotorua Te Arawa Lakes Strategy Group will be held in The Council Chamber, Rotorua Lakes Council, Civic Administration Building, 1061 Haupapa Street, Rotorua on:

> EMBARGOED Until 2 working days before meeting on:

Friday, 16 October 2015

commencing at 10.30 a.m.

This is the document marked with the letter " = "referred"

irdoch Williams

to in the annexed Affidavit of Seoffrey Mayor at Rotorugon the Saday of Autobefore me:

A Solvenor of the High Court of New Zealand

Walter Swanson SOLICITOR

POTORUA

Mary-Anne Macleod **Chief Executive Bay of Plenty Regional Council** 

9 October 2015

**Proud Partners** 







With funding from





## Rotorua Te Arawa Lakes Strategy Group - Terms of Reference

### 1 Interpretation

In these Terms of Reference:

"Organisations" means the Te Arawa Lakes Trust, the Rotorua District Council and the Bay of Plenty Regional Council.

"Rotorua Lakes" means Lakes Rotorua, Rotoiti, Rotoehu, Rotoma, Okataina, Tikitapu, Okareka, Tarawera, Rotomahana, Rerewhakaaitu, Okaro and Rotokakahl.

"Group" means the Rotorua Te Arawa Lakes Strategy Group, formed as a Joint Committee under Clause 30 of Schedule 7 of the Local Government Act 2002.

## 2 Purpose

The purpose of the Group is to contribute to the promotion of the sustainable management of the Rotorua Lakes and their catchments, for the use and enjoyment of present and future generations, while recognising and providing for the traditional relationship of Te Arawa with their ancestral lakes.

## 3 Membership

Six members:

- Two representatives from Te Arawa Lakes Trust
- Two representatives from the Rotorua District Council
- Two representatives from the Bay of Plenty Regional Council.

## 4 Group Chairperson

The Group has agreed to rotate its Chairperson on an annual basis.

## 5 Term of the Committee

This is a permanent joint committee under the Te Arawa Lakes Settlement Act 2006. The Te Arawa Lakes Deed of Settlement (December 2004) included clauses establishing the Group (Cultural Redress: Lakes Management and Relationships, clauses 9.1 to 9.3). The Terms of Reference for the Group come from a signed agreement between the three parties (dated 8 October 2004) and included in Part 1 of the Relationship Schedule to the Deed of Settlement.

## 6 Specific Responsibilities and Delegated Functions

The group will have the following functions:

- The provision of leadership to the Organisations and the community in relation to implementation of the Vision of the Strategy for the Lakes of the Rotorua district 2000.
- 2 The identification significant existing and emerging issues affecting the Rotorua Lakes.

- 3 The preparation, approving, monitoring, evaluation and review agreements, policies and strategies to achieve integrated outcomes for the Rotorua Lakes.
- The identification, monitoring and evaluation of necessary actions by the organisations and other relevant organisations.
- The receiving of reports on activities being undertaken by the organisations and other relevant organisations.
- Involvement during the preparation of statutory plans in relation to significant issues. Such plans include but are not limited to iwi and hapū management plans, district and regional plans, reserve management plans and annual plans.
- Involvement in applications for activities in relation to significant issues not addressed by existing policies of the co-management partners. Such activities include but are not limited to resource consents, designations, heritage orders, water conservation orders, restricting access to the lakes (during special events or in particular circumstances), and transferring and/or delegating of statutory authority.

#### Note:

The Rotorua Te Arawa Lakes Strategy Group reports directly to the Regional Council.

## Public Forum

- A period of up to 15 minutes may be set aside near the beginning of the meeting to enable members of the public to make statements about any matter on the agenda of that meeting which is open to the public, but excluding any matter on which comment could prejudice any specified statutory process the council is required to follow.
- The time allowed for each speaker will normally be up to 5 minutes but will be up to the discretion of the chair. A maximum of 3 public participants will be allowed per meeting.
- 3. No statements by public participants to the Council shall be allowed unless a written, electronic or oral application has been received by the Chief Executive (Governance Team) by 12.00 noon of the working day prior to the meeting and the Chair's approval has subsequently been obtained. The application shall include the following:
  - name of participant;
  - organisation represented (if any);
  - meeting at which they wish to participate; and matter on the agenda to be addressed.
- 4. Members of the meeting may put questions to any public participants, relevant to the matter being raised through the chair. Any questions must be asked and answered within the time period given to a public participant. The chair shall determine the number of questions.

## Membership

Chairman:

Sir T Curtis (Chairman, Te Arawa Lakes Trust)

Deputy Chairman: Mayor S Chadwick (Rotorua Lakes Council)

Appointees:

K Biddle (Alternate, Te Arawa Lakes Trust), W Emery (Deputy Chairman, Te Arawa Lakes Trust), Councillor K Hunt (Rotorua Lakes Council), Chairman D Leeder (Bay of Plenty Regional Council), Councillor N Oppatt (Bay of Plenty Regional Council), Councillor G Searancke (Alternate, Rotorua Lakes Council), Councillor L Thurston (Alternate, Bay of Plenty Regional Council)

Attendees:

M Mendonca (Observer, Ministry for the Environment)

Secretary:

S Kameta

Recommendations in reports are not to be construed as Council policy until adopted by Council.

## Agenda

- **Apologies**
- 2 General Business and Tabled Items

Items not on the agenda for the meeting require a resolution under section 46A of the Local Government Official Information and Meetings Act 1987 stating the reasons why the item was not on the agenda and why it cannot be delayed until a subsequent meeting.

- **Declarations of Conflicts of Interests** 3
- **Previous Minutes**
- Rotorua Te Arawa Lakes Strategy Group meeting 22 May 2015 4.1

- 5 Reports
- Report from Te Arawa Lakes Trust Te Tuapapa o ngã wai o Te 5.1 Arawa (Te Arawa Cultural Values Framework)

11

SUPPORTING DOCUMENT - Te Tuapapa o ngà wai o Te Arawa (Te Arawa Cultural Values Framework)

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5.7	Lake Rotorua Catchment Stakeholder Advisory Group (StAG) Update	12
5.8	Report from the Lake Rotorua Incentives Board	123
6	Consideration of General Business	

File Reference:

4.02096

Significance of Decision: Low



Report To:

Rotorua Te Arawa Lakes Strategy Group

Meeting Date:

16 October 2015

Report From:

Warwick Murray, General Manager Environmental Delivery

## Proposed Decision-Making Framework for the Lake Rotorua Low Nitrogen Land Use Fund

## **Executive Summary**

As part of the Integrated Framework for the Lake Rotorua water quality solution, \$3.3 million has been allocated through the Deed of Funding to assist those affected by new draft rules for Lake Rotorua. The money is specifically allocated to trialling low nitrogen land use options for the Lake Rotorua Catchment.

Through a stakeholder workshop and work with the Lake Rotorua Stakeholder Advisory Group a decision-making framework is proposed here to allocate the funding. The recommendations in this paper are not entirely consistent with the recommendations of the Lake Rotorua Stakeholder Advisory Group (StAG). The primary difference is that it is recommended here that the assessment panel be comprised entirely of Land Technical Advisory Group representatives rather than various representatives, including those elected by the Stakeholder Advisory Group and its members. The other major difference is that it is proposed to bring final components of the framework back for consideration by the Strategy Group, prior to calling for expressions of interest rather than proceeding direct to the expressions of interest process as was recommended by the StAG.

The proposed decision making framework includes: the establishment of an assessment panel and various tasks associated with establishing the fund (refer Appendix One), seek final approval from the Strategy Group to proceed with expressions of interest, call for expressions of interest and full proposals, funding decisions and finally a review of the decision making process and recommendations on allocation of remaining funds.

There are no funds currently allocated to the \$3.3 million low nitrogen land use fund in the approved 2015/2016 Annual Work Programme. Should funds be required to fund projects during this financial year they will be sought through the Programme's change management process. Some funds will be required to be allocated in this financial year to enable the first round of decision making under the fund to be implemented.

#### Recommendations

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Proposed Decision-making Framework for Low Nitrogen Land Use Fund.
- Agrees that fund documentation will be developed and presented to the Strategy Group for final decision. This will be undertaken prior to the Assessment Panel calling for expressions of interest and full proposals to the \$3.3 million Lake Rotorua Low Nitrogen Land Use Fund.
- Adopts the Decision-Making Framework for the Low Nitrogen Land Use Fund outlined in this paper (also refer Appendix One).
- 4 Agrees that the Programme Steering Group appoint members of the Land Technical Advisory Group to the Assessment Panel to ensure a suitable mix of expertise.
- Agrees that for successful applications, funds will be allocated as part of 2016/2017 Annual Work Programme. If funding is necessary in the 2015/2016 financial year, Ministerial approval will be sought through an Annual Work Programme amendment.
- Agrees that, following its completion, staff review the success of the first funding round and make recommendations to the Rotorua Te Arawa Lakes Strategy Group for its improvement.
- Requests that the Ministry for the Environment seek Ministerial approval to amend the approved 2015/2016 Annual Work Programme to bring forward \$70,000 of the 2016/2017 budget into 2015/2016 to cover the cost of running the funding process, fund the assessment panel and any technical advice they require to assist their decision making, refer Appendix Three).
- 8 Confirms that the decision has a low level of significance.

## 2 Background

The Rotorua Te Arawa Lakes Programme (the Programme) sought approval from the Crown to reallocate \$45.5 million of existing Deed funding to support the Programme's Integrated Framework to address excess nitrogen runoff in the Lake Rotorua Catchment. Of this it was requested that:

- \$40 million is allocated to purchasing nitrogen from the catchment; and
- \$5.5 million is to support the delivery of the Integrated Framework.

Cabinet approved the reallocation of funds in April 2014, specifying how the Crown portion (50%) of the \$5.5 million may be used as follows:

"That of the \$2.75 million Crown funding to support landowners to achieve nitrogen discharge allowances, the funding be used for: Farm business planning and trials of low nitrogen land uses".

The Regional Council has agreed its funds are to be used to support land use change in the Lake Rotorua Catchment.

The Advice and Support service produces Nitrogen Management Plans and provides business planning services to landowners in the Lake Rotorua Catchment affected by the draft new rules, and has been allocated \$2.2 million of the approved \$5.5 million. This paper and recommendations relate to the remaining \$3.3 million budget comprising of \$1.65 million from each of Bay of Plenty Regional Council and the Crown.

Of the total \$3.3m budget it is proposed that decision-making and support budget be a maximum of \$330,000 (10%). Up to \$70,000 of this total is sought to run the first round of decision-making as per the recommendations of this paper.

In order to ensure the decision-making process incorporates the needs of stakeholders, staff conducted a workshop with 15 representatives of various stakeholder groups. Participants were able to comment on criteria for the fund and the decision-making process. The workshop also generated discussion on desirable qualities of the fund. These aspects have been considered and incorporated where possible into the decision-making framework proposed in this paper. Further, following the workshop, a draft paper and decision-making framework was discussed by the Lake Rotorua Stakeholder Advisory Group (StAG) on several occasions, feedback received and subsequent changes made.

The changes made as a result of StAG input largely relate to including an expression of interest round in the decision-making process and a more extensive terms of reference for the assessment panel. At the stakeholder workshop and at StAG meetings it was recommended that the assessment panel include technical expertise but also stakeholder representatives. It is recommended in this paper that the assessment panel is entirely made up of Land Technical Advisory Group members, primarily to better manage actual and perceived conflicts of interest.

## 3 Decision-Making Framework

#### 3.1 Purpose

To encourage the trial, local application and uptake of low nitrogen land use in the Rotorua Catchment.

The Proposed Decision-Making Framework includes six steps and these are outlined in Appendix One. Two sets of evaluation criteria, against which expressions of interest and proposals will be assessed, are also provided in Appendix Two.

Aspects of the proposed Decision-Making Framework are explained below.

## 3.2 Focus Areas

Expressions of interest and full proposals will be considered in three focus areas, related to the level of development and investigation required. For very new land use options, field trials and investigations may be necessary. For more progressed land use options, it is necessary to establish applicability to the Rotorua Catchment specifically. And for those land use options in which these two steps have already taken place, we would primarily be concerned with the question of uptake by catchment landowners. A single application may contain all focus areas, but it may be necessary to have particular milestones within the project that manages each stage.

## 1 Establish potential for low nitrogen land use

This focus area is concerned with new innovative land uses that have not yet been investigated by field trials and investigations. In this instance the fund would look to support on the ground trials and investigations.

## 2 Application of low nitrogen land use in the Rotorua Catchment

This focus area is concerned with land use that has been established by previous investigations and trials to have potential for low nitrogen loss. In these instances, the fund would look to support the ways in which this existing information could be applied to the Rotorua Catchment.

## 3 Uptake of low nitrogen land use by Rotorua Catchment landowners

This focus area is concerned with land use that has established low nitrogen potential in the Rotorua Catchment. In these instances, the fund would look to support the extension of this information to catchment landowners and uptake of low nitrogen land use by them.

The focus areas are intended to accommodate different levels of development of alternative land use and land management options. By having three levels of support, the fund may apply the most appropriate assistance in relation to the Lake Rotorua Catchment, and minimise duplication of existing information.

## 3.3 Assessment and Eligibility Criteria

There are two sets of criteria proposed for the fund. Expressions of interest will need to address how they meet the eligibility criteria (which follow the Fund Focus Areas) in order for the assessment panel to request a full proposal. This stage is intended to ensure that the assessment panel's time is used effectively, and provide clear communication to potential applicants about what will and will not be covered by the funding proposals. It also ensures that applicants can be more confident in spending resources making full proposals. It enables the assessment panel flexibility to apply the investment plan for the life of the fund, as per their proposed terms of reference.

For those expressions of interest that meet the eligibility criteria, the applicants will be invited to submit a full proposal for consideration by the assessment panel, against the assessment criteria. The assessment panel will recommend to the Strategy Group how full proposals will be weighed against the assessment criteria.

#### 3.4 Assessment Panel and Terms of Reference

As a result of work at the stakeholder workshop and work with the StAG, it was generally recommended by those groups that the assessment panel is made up of landowner and Incentives Board representatives who would draw on Land Technical Advisory Group expertise as required. However, this paper recommends that the assessment panel is made up entirely of Land TAG representatives. The purpose of this is to, as far as possible; avoid any actual or perceived conflicts of interest. It is acknowledged that actual and perceived conflicts of interest may still exist within the Land Technical Advisory Group; measures will put in place to manage these, as is required by the recommended inclusions in the Terms of Reference for the assessment panel.

If the decision-making framework recommended in this paper is adopted the Programme Steering Group will appoint three members of the Land Technical Advisory Group to the assessment panel to ensure a suitable range of expertise, e.g. economic, cultural, agricultural. The proposed terms of reference also provide the ability for the assessment panel to co-opt specific expertise for decision-making if they require it.

It is proposed that the assessment panel has a broad terms of reference (refer outline in Appendix 1). The proposed terms of reference includes: assisting staff with development of applicant resources for the expressions of interest and full proposals, development of the investment approach for the fund over its life, recommending criteria weightings, assessing expressions of interest against eligibility criteria, for those that meet the eligibility criteria calling for full proposals, assessing full proposals and recommending proposals for funding (including conditions), guiding staff on communicating project outcomes to landowners, reporting to StAG (or successor).

On all aspects of their Terms of Reference related to expenditure, the assessment panel makes recommendations only, to the relevant financial delegation within the Rotorua Te Arawa Lakes Programme.

## 3.5 Active vs Passive Approach

At the stakeholder workshop two different allocation approaches were discussed, active and passive.

A passive approach would see the public present applications following a prescribed process and timeframe. The programme would support decision-making, monitoring and support functions, with successful applicants undertaking the bulk of solution work.

An active approach would see the programme determining funding based on identified catchment needs. This approach would see staff play a greater role in determining and implementing solutions.

These approaches are not mutually exclusive, and a combination of the two is possible. For the first allocation round, it is recommended the programme pursue a passive approach. Depending on the success of the first funding round and the investment plan developed by the assessment panel, further funding rounds or a revised approach may not be necessary.

#### 3.7 Review

Following the completion of the first round of proposals staff coordinate a review, of its success including the following:

- Feedback from applicants, both successful and unsuccessful.
- Feedback from assessment panel members.
- Feedback from other stakeholders.
- Comparison of recommended projects against the purpose of the fund, including gaps.

• If a change to active approach is recommended, or amendments to the passive approach.

This will form the basis of recommendations to the Rotorua Te Arawa Lakes Strategy Group.

### 3.8 Funding Approvals

Though the reallocation of the budget was approved by Cabinet in 2014, in order to make payments against the fund, the item needs to be approved by the Minister within an Annual Work Programme as specified by the Deed of Funding. The Deed requires an Annual Work Programme or Annual Work Programme amendment be endorsed by the Steering Group and Strategy Group prior to seeking Ministerial approval. An Annual Work Programme amendment is sought as part of the recommendations of this paper (refer Appendix 3).

It is intended that if projects require funding in the 2015/2016 Financial Year a change to the Annual Work Programme will be requested through an amendment to the existing Annual Work Programme. For future financial years, funding will be requested through the respective Annual Work Programme.

## 4 Financial Implications

### **Current Budget**

There was no funding set aside in the 2015/2016 annual work programme budget for this low nutrient land use fund. While it is unlikely that any funding will be required to fund specific proposals during this year, \$70,000 will be required for resources, including personal, to run the decision-making framework, to reimburse the assessment panel and to cover any costs of expertise they need to co-opt. Approval is therefore sought to amend the 2015/2016 Annual Work Programme (Appendix 3) to bring forward \$70,000 of the \$3.3m fund from future years into the current year.

Any successful applications to the call for proposals will be budgeted as part of future Annual Work Programmes. In the unlikely event that proposals do require funding in the current financial year, approval will be sought at a subsequent RTALSG meeting to make a further amendment to the Annual Work Programme to bring more funding forward.

#### **Future Implications**

All budgets for the Lake Rotorua Low Nitrogen Land Use Fund are included in the 2015-2025 Long Term Plan of the Regional Council and in the Deed of Funding Agreement with the Crown.

Helen Creagh
Manager, Rotorua Catchments

for General Manager Environmental Delivery

8 October 2015

## APPENDIX 1

## Final \$3.3 Million Process

\$3.3 Million Low Nitrogen Land Use Fund - Proposed Decision Making Framework

### Step One: Establish Fund Framework

- 1. Staff establish Assessment Panel membership (refer section 3.4 of Council report).
- 2. Staff establish Terms of Reference for the Assessment Panel to Include, as a minimum, the following:
  - Assist staff with development of applicant resources for the expressions of interest and full proposals.
  - Contribute to the development of the investment approach for the fund over its life (until 2022 or when the funding is exhausted). The plan will ensure the practical application of low nitrogen solutions in the catchment are heavily provided for.
  - Recommend decision weightings to be used to assess proposals against the Assessment Criteria.
  - Check Expressions of Interest against eligibility criteria.
  - Call for Expressions of Interest to the fund in accordance with the Eligibility Criteria. For those applications that meet the eligibility criteria, call for full proposals.
  - Assess full proposals against assessment criteria, seeking any technical advice required.
  - Recommend (to the relevant financial delegation within the Lakes Programme)
     proposals for funding, including conditions and milestones to be included.
  - Receives updates on the implementation of investment approach, including when conditions of agreements and milestones have been adequately met.
  - Guide staff in developing and implementing a plan for communicating information on project outcomes to landowners to enable uptake of intellectual property developed with the fund.
  - Reporting to StAG (or successor) at least quarterly.
  - Declaring and addressing conflicts of interest.
- 3. Staff finalise fund framework for approval by the Rotorua Te Arawa Lakes Strategy Group, in collaboration the Assessment Panel, including:
  - Investment approach for the fund over its life
  - Eligibility Criteria and Assessment Criteria (including weightings).
  - Fund Focus Areas
  - Integration of above documents, ensuring consistency and that the practical application of low nitrogen solutions are heavily provided for
  - Assessment Panel Terms of Reference

#### Step Two: Approval of Fund Framework

- 4. Seek approval via Annual Work Programme amendment for resources to run the fund for the 2015/2016 financial year.
- Seek approval from the Rotorua Te Arawa Lakes Strategy Group for fund framework developed in Step One.

Step Three: Preparation of application material, and call for Expressions of Interest to the Fund

- 6. Staff, with Input from Assessment Panel, develop application material, communications and timeframes for first round.
- 7. Assessment Panel call for Expressions of Interest asking questions related to the already determined eligibility criteria of the fund which are as follows:
  - Who is the applicant for the fund (including any partners to the application).
  - Explain how the proposal will achieve measured or modelled Nitrogen reduction.
  - Explain how the proposal satisfies at least one of the fund focus areas:
    - Establish potential for low nitrogen land use
    - Application of low nitrogen land use in the Rotorua Catchment
    - Enables/assists landowners in the Lake Rotorua catchment to take up low nitrogen land use.

#### Step Four: Assessment

- 8. Steps as follows:
  - a. Assessment Panel/staff check Expressions of Interest against eligibility criteria.
  - b. Assessment Panel calls for full proposals for those applications that meet the eligibility criteria.
  - c. Panel assess applications against assessment criteria, seeking Land TAG advice on technical aspects of proposals if required to aid in their assessment and recommendations.
  - d. Assessment Panel recommends (to relevant financial delegation) proposals for funding, including recommendations of conditions and milestones to be included.

## Step Five: Implementation

- 9. Staff update Stakeholder Advisory Group (or successor), Programme Steering Group, Rotorua Te Arawa Lakes Strategy Group on the implementation of investment approach.
- 10. Assessment Panel advise on communicating information to landowners to enable uptake of intellectual property developed with the fund.

#### Step Six: Monitoring and Review

- 11. Staff Review Process after first funding round and make recommendations on next steps based on any unallocated funds (refer section 3.6 of Council report).
- 12. Staff, based on recommendations of the Assessment Panel and decisions the Rotorua Te Arawa Lakes Strategy Group, prepare a monitoring plan for the management of projects awarded funding.

## APPENDIX 2

Final Criteria

# **Eligibility Criteria**

### The proposals must:

- Be focused on measured or modelled Nitrogen reduction.
- Have the ability to be applied in the Rotorua Catchment.
- Satisfy one or more of the fund focus areas:
  - 1. Establish potential for low nitrogen land use
  - 2. Application of low nitrogen land use in the Rotorua Catchment.
  - 3. Uptake of low nitrogen land use by landowners in the Rotorua catchment.
- Be for a minimum of \$10,000. The fund may cover the entire cost of the project, however can leverage other funding.

NB: Crown funding allocated here is to support landowners to achieve nitrogen discharge allowances, the funding must be used for trials of low nitrogen land uses.

# **Assessment Criteria**

- 1 Is application to the Rotorua catchment, and local interest considered?
  - Is uptake by catchment landowners considered, including Maori owned land?
  - Is there wider support for the solution, or community barriers?
  - Is there interest from land owners?
  - Does the proposal outline an extension, education or communication component?
  - Does the proposal include relevant members of the community?
- What is the Nitrogen reduction opportunity?
  - Is there a nitrogen reduction opportunity?
  - For focus area (1), does the proposal outline trials and investigations to establish potential for reduced nitrogen loss?
  - For focus area (2) does the proposal examine the local application of land use already established to reduce nitrogen loss by trials and investigations?
  - For focus area (3) does the proposal action uptake of low nitrogen land use by landowners in the Rotorua catchment?
  - Is the proposal consistent with Cabinet approval for funding?
- 3 Does the proposal demonstrate capability to deliver the project and ensure suitable project management?
  - Does the proposal contain adequate information to determine viability?
  - Is the project management and project team outlined, and appropriate?
  - Does the proposal contain plans for evaluation and monitoring of benefits?
  - Does the proposal contain timeframes, after which conclusions may be made on the potential for nitrogen reduction, local application or uptake by catchment landowners?
  - Are risks identified and mitigated? Is the level risk acceptable? Does the proposal leverage funding from other sources?

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- 4 Are broader benefits included and articulated?
  - Does the proposal show commercial viability? Are points to market established or explored?
  - Does the proposal offer other benefits to the Programme and/or the community?
  - Does the proposal create jobs or additional economic return?
  - Is there additional investment or infrastructure needed to realise benefits?
- 5 To what extent does the proposal align with existing policies?
  - Is the project consistent with Regional Policy Statement targets for nitrogen reduction?
  - Is the proposal consistent with Science Strategy?
  - Has the project been endorsed by the Land Technical Advisory Group? (if required).
  - Is the proposal consistent with the relevant Te Arawa Cultural Values Framework and relevant iwi and hapu management plans?

# **APPENDIX 3**

# **Annual Work Programme Amendment**

Amendment One - To the Rotorua Te Arawa Lakes Programme Annual Work Programme 2015/2016

### 1. Purpose

The purpose of this amendment is to seek an update to the Rotorua Te Arawa Lakes Programme (The Programme) Annual Work Programme (AWP) 2015/16, as endorsed by the Rotorua Te Arawa Lakes Strategy Group (RTALSG) on 10 March 2015 and by the Minister for the Environment (the Minister) on 21 April 2015.

### 2. Overview

The Programme works in a changing environment therefore the interventions in a given AWP may change. For this reason, the Deed of Funding allows for the Programme to seek an amendment to the existing AWP, for consideration by the Minister.

The approved 15/16 AWP included the high level objective of:

 Commence implementation of agreed Decision Making Framework for \$3.3m budget to support above the line land use change and management.

With details outlined as below

Above the Line - Nitrogen Management Support - (\$5.5 Million)

Low Nitrogen Land Use Budget (\$3.3 Million): At the time of preparing this Annual Work Programme a framework is being proposed for deciding how this budget will be spent to best support low nitrogen land use. Depending on the proposals submitted and approved under this framework the Programme will pursue those, seeking further funding through multi-year appropriation as required.

### 3. Update

The Programme has worked to agree a decision making framework, which seeks to confirm strategy, scope and criteria for the Low Nitrogen land Use Fund (the Fund) in late 2015, and a call for expressions of interest in early 2016. For this groundwork, the Programme is requesting an amendment to the 15/16 AWP for an additional \$70,000 to allow for this preliminary process to be adequately resourced. This includes the allocation of staff time and the appointment of an assessment panel to:

- Support the finalisation of the investment plan and weighting of criteria for the fund.
- Assessing expressions of interest against the eligibility criteria
- For those that meet the eligibility criteria, calling for full applications,
- Assessing full applications against the fund criteria
- Making recommendations for funding to the appropriate decision making body within the Programme, including approval of Crown funding via an AWP or AWP amendment.

It is intended at this stage that allocation of the first round of the fund be funded as part of the upcoming 2016/17 AWP.

### 4. Financials

The inclusion of \$70,000 brings the total of the "above the line" Nitrogen Management Support in the 2015/16 AWP to a total of \$570,000 (\$285,000 each from the Crown and the Bay of Plenty Regional Council). The increased \$35,000 from the Crown will be included in the second payment following receipt of the 6 monthly reports, as per the deed of funding with the Crown.

Minutes of the Rotorua Te Arawa Lakes Strategy Group Meeting held in The Council Chamber, Rotorua Lakes Council, Civic Administration Building, 1061 Haupapa Street, Rotorua on Friday, 16 October 2015 commencing at 10.30 a.m.

Present:

Chairman:

Sir T Curtis (Chairman, Te Arawa Lakes Trust)

Appointees:

Chairman D Leeder, Councillor N Oppatt (Bay of Plenty Regional Council), W Emery (Deputy Chairman, Te Arawa Lakes Trust), Councillor K Hunt, Deputy Mayor D Donaldson (Rotorua Lakes Council)

In Attendance:

Bay of Plenty Regional Council - W Murray (General Manager Environmental Delivery), M MacLeod (Chief Executive), S Kameta (Committee Advisor), H Creagh (Manager Rotorua Catchments), A Bruere (Lake Operations Manager), S Lamb (Natural Resources Policy Manager), H Ngatai (Communications and Marketing Advisor); Rotorua Lakes Council - G Williams (Chief Executive), I Tiriana (Public Relations Advisor); Te Arawa Lakes Trust - R Mihinui (Chief Executive Officer), L Ngawhika (Executive Manager), Ministry for the Environment - M Mendonca (Operations Director), M Harte (Analyst, Remediation Projects); Lake Rotorua Stakeholder Advisory Group - Dr T Kingi (Chair), S Park (Secretariat); T White (Programme Director, Lake Rotorua Incentives Board); Members of the public: J Green (LakesWater Quality Society), G Rice, W Webber, L Meharry, H Prior and

Apologies:

Mayor S Chadwick (Rotorua Lakes Council)

1 Karakia

The meeting opened with a karakla provided by W Emery.

2 Declaration of conflicts of interest

Nil

3 Previous minutes

The minutes were confirmed without further discussion.

3.1 Rotorua Te Arawa Lakes Strategy Group meeting 22 May 2015

# Resolved

This is the document marked with the letter "F" referred to in the annexed Affidavit of Seoffrey murdoch williams Sworn at day of him and seoffrey murdoch williams before me:

A Solicitor of the High Court of New Zealand

Walter Swanson SOLICITOR ROTORUA That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Confirms the minutes of the Rotorua Te Arawa Lakes Strategy Group Meeting held on 22 May 2015 as a true and correct record.

Oppatt/Hunt CARRIED

# 4 Reports

4.1 Te Tuapapa o Nga Wal o Te Arawa (Te Arawa Cultural Values Framework)

Refer Publication 'Te Tuapapa o nga wai o Te Arawa – Te Arawa Cultural Values Framework' and PowerPoint Presentation (Objective ID A2196985)

Te Arawa Lakes Trust Chief Executive Officer Roku Mihinui provided a presentation on Te Tuapapa o Nga Wai o Te Arawa — Te Arawa Cultural Values Framework, which had been developed by the Trust and Te Arawa Iwi for the management of the Te Arawa Lakes. Mr Mihinui outlined the five guiding values and principles of how the framework could be applied into tangible actions.

Mr Mihinui advised the framework had been formally approved by the Trust and socialised with the community. It had been presented to the Regional Council's Komiti Māori and would be presented to Rotorua Lakes Council and other organisations over the coming months. He advised the Trust was working with the Ministry for the Environment to look at how the framework could be used as a mechanism for other organisations nationally. The framework was also unanimously supported by the lwi Leaders Forum, who were keen to see it adopted as part of the Forum or individually by its members.

Operations Director Mike Mendonca noted that since the Environmental Reporting Act had been passed in September, the Ministry was keen to see the framework feed into the first synthesis report on freshwater.

Members congratulated Te Arawa Lakes Trust on the framework and its development.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report and presentation, Te Tuapapa o Nga Wai o Te Arawa Te Arawa Cultural Values Framework.
- 2 Adopts Te Tuapapa o Nga Wai o Te Arawa Te Arawa Cultural Values Framework.

Hunt/Oppatt CARRIED

4.2 Proposed Decision-Making Framework for the Lake Rotorua Low Nitrogen Land Use Fund

Refer PowerPoint Presentation (Objective ID A2200682)

The report was presented by Manager Rotorua Catchments Helen Creagh and sought the Group's approval to adopt a decision-making framework for determining allocation of the Lake Rotorua Low Nitrogen Land Use Fund and to allocate future budget funding of \$70K for assessment panel administration costs in the current financial year.

Mis Creagh provided background on the fund and outlined the proposed steps for establishing an assessment panel and evaluation criteria for assessing application proposals. Ms Creagh noted that staff's recommendations differed to the views of the Stakeholder Advisory Group, that the assessment panel comprise Land Technical Advisory Group members rather than sector representatives and that final approval of the funding framework be decided by the Group, prior to calling for expressions of interest.

A member queried the scope and financial viability of the fund and whether it would provide the necessary outcome. Members received clarification that the fund could apply to business case analysis and feasibility and that evaluation criteria would ensure viability of applications before funds were allocated. Further comment noted that the fund was targeted at industry and farmers as affected parties and considered that it would need to be optimised and leveraged by industry.

The report recommendations were supported by a member, considering that they reflected the desire of farmers who wanted funding to assist with low nitrogen land use solutions to enable them to deal with new rules.

### MOTION

Moved: Councillor Oppatt

Seconded: Chairman Leeder

That the report recommendations be adopted.

A member advised that Rotorua Lakes Council still had significant concern about the impacts of nitrogen removal on Rotorua's economy. They wanted more time to establish whether any other opportunities could be considered, prior to adopting the current decision-making framework and parameters.

### AMENDMENT

Moved: Deputy Mayor Donaldson

Seconded: Councillor Hunt

That the matter lies on the table until the next meeting.

Following further discussion and concern about the impacts to timing, it was agreed to hold an extraordinary meeting to consider the matter further. The mover and seconder of the amendment agreed that it be withdrawn.

The amendment was WITHDRAWN.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Proposed Decision-making Framework for Low Nitrogen Land Use Fund.
- Agrees to defer the matter to allow the Strategy Group partners to reach agreement on the scope of the project and terms of reference of the assessment panel, within the framework of the Cabinet decision.

- 3 Agrees to hold an extraordinary meeting to consider this matter further no later than 6 November.
- 4 Confirms that the decision has a low level of significance.

Donaldson/Hunt CARRIED

# 4.3 Rotorua Te Arawa Lakes Programme Annual Report 2014 - 2015

Refer PowerPoint Presentations (Objective IDs A2200877 Slides 1-4 and A2200670)

The report was presented by Helen Creagh Manager Rotorua Catchments with support from Lakes Operations Manager Andy Bruere and sought approval of the Rotorua Te Arawa Lakes Programme Annual Report for 2014-2015. Ms Creagh outlined key highlights and milestones for the 2014-15 financial year with an overview of water quality trends provided by Mr Bruere.

Members sought and received advice on several matters and approved the annual report for submission.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Rotorua Te Arawa Lakes Programme Annual Report 2014 - 2015.
- 2 Approves the Rotorua Te Arawa Lakes Programme Annual Report for submission to the Ministry for the Environment.
- 3 Confirms that the decision has a low level of significance.

Donaldson/Leeder CARRIED

# 4.4 Rotorua Te Arawa Lakes Programme Three Year Plan

Refer PowerPoint Presentation Slides 5-7 (Objective ID A2200877)

Helen Creagh Manager Rotorua Catchments provided the report that sought approval for the Rotorua Te Arawa Lakes Programme Three Year Plan for the financial years 2016/2017 to 2018/2019. Ms Creagh provided background on the three year plan and outlined key actions for Deed funded and non-deed funded lakes.

Members accepted the recommendations, approving the three year plan, with no further discussion.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Receives the report, Rotorua Te Arawa Lakes Programme Three Year Plan.

- Approves the Three Year Plan, as attached, for sub-mission to the Ministry for the Environment in accordance with the requirements of the Funding Deed for the Programme.
- 3 Confirms that the decision has a low level of significance.

Leeder/Hunt CARRIED

# 4.5 Rotorua Te Arawa Lakes Programme Status Report

Refer PowerPoint Presentation Slides 8-11 (Objective ID A2200877)

Helen Creagh Manager Rotorua Catchments provided the report that updated the Group on the current status of the Lakes' programme and sought approval of two change requests for activity funding approved in previous years.

An overview was provided on progress made on the programme workstreams and programme highlights. It was noted that the decisions being sought were provided for in the Long Term Plan and had a low assessment significance rating under the Local Government Act.

Members adopted the recommendations without further discussion.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

- 1 Receives the report, Rotorua Te Arawa Lakes Programme Status Report.
- 2 Approves Change Request 27 (attached), Lake Rotoehu Land Use Change.
- 3 Approves Change Request 31 (attached), Tikitere Zeolite Project.

Oppatt/Leeder CARRIED

# 4.6 Update on Lake Rotorua Nutrient Management Draft Rules

Natural Resources Policy Manager Stephen Lamb presented the report that provided an update on Lake Rotorua Nutrient Management Draft Rules. Mr Lamb outlined the engagement process to date. He advised members that staff were continuing to liaise with key stakeholders, listen and evaluate feedback and apply understanding around points of challenge.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Receives the report, Update on Lake Rotorua Nutrient Management Draft Rules.

> Leeder/Hunt CARRIED

# 4.7 Lake Rotorua Catchment Stakeholder Advisory Group (StAG) Update

Refer PowerPoint Presentation (Objective ID AA2201832)

Lake Rotorua Catchment Stakeholder Advisory Group (StAG) Chair Dr Tanira Kingi presented his report that updated the Group on focus areas of StAG since the last Group meeting in May 2015.

Dr Kingi delivered a presentation that outlined stakeholder views following stakeholder meetings held on 24 September and 13 October. Members were advised that farmers wanted better information on provisional nutrient discharge allocations, status assessments for small land blocks, impact assessments for Te Arawa landowners and support for under-developed Māori land. Key issues raised related to the rules and nutrient allocations between 2022 and 2032, information gaps and uncertainties around the lake's response to phosphorus, economic impacts, Overseer, alternative farm systems and land use change options. Farmers considered there was a need for an adaptive management process to be incorporated into the rules framework and for the Incentive fund to be retained post 2022.

Dr Kingi outlined two adaptive management options and a potential accord that StAG would be considering further to seek a consensus for recommendation.

It was noted that the opt-in option was inconsistent with the framework and could have potential implications for Cabinet. Additionally, they had not been raised or considered by the Regional Council. General Manager Environmental Delivery Warwick Murray advised staff were gathering information on the two options and would undertake further analysis once StAG had reached agreement.

### Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Receives the report, Lake Rotorua Catchment Stakeholder Advisory Group (StAG) Update.

Hunt/Emery CARRIED

# 4.8 Report from the Lake Rotorua Incentives Board

Lake Rotorua Incentives Board Programme Director Te Taru White was in attendance to present the first update report from the Incentives Board.

Mr White provided background on the Board's establishment and landowner activity and progress that had been achieved over the past six months. He noted that two non-binding heads of agreements to negotiate had been signed with landowners and a project established with small land block owners that had the potential for providing a template for other smaller blocks. Mr White advised that while there were challenges and uncertainties, the Board was clear about their mandate and confident on improving and securing nitrogen reductions.

# Resolved

That the Rotorua Te Arawa Lakes Strategy Group under its delegated authority:

1 Receives the report, Report from the Lake Rotorua Incentives Board.

Emery/Oppatt CARRIED

# 5 Closing Karakia

The meeting closed with a karakia provided by W Emery.

The meeting closed at 12:58 p.m.

From:

**Geoff Williams** 

Sent:

Wednesday, 24 February 2016 11:38 a.m.

To:

Mary-AnneMacleod

Subject:

RE: Key points from meeting

Hi Mary-Anne,

Thanks for your notes. We are having a discussion with full Council tomorrow to get their steer on next steps, will keep you in the loop on this.

This is the document marked with the letter "G" referred to in the annexed Affidavit of Geoffeet Murdo

Sworn at Rotor son the 5

before me:

Walter Swanson

SOLICITOR ROTORUA

Regards

Geoff

Geoff Williams Chief Executive

P: 07 351 8320 | M: 0212424064 | E: geoff.williams@rotorualc.nz | W: rotorualakescouncil.nz

From: Mary-Anne Macleod [mailto:Mary-Anne.Macleod@boprc.govt.nz]

**Sent:** Sunday, 21 February 2016 10:05 p.m.

To: Geoff Williams

Subject: Key points from meeting

Hi Geoff

Here is my attempt at the key points from our meeting on Friday. Actions (and context only). Can you let me know if these aligns with your big take-outs re actions. It would be good to get together to discuss more fully in the next week or so.

regards

Maryanne

General Discussion

Acknowledged that the councils have different operating styles which can cause misunderstandings at time.

RLC talked about their vision 2050 and the importance of economic development as a key plank of that vision. The Mayor noted the importance of their aggressive growth agenda.

The use of both letters and regulatory tools was raised and discussed.

Use of joint working parties seen as positive.

Action: Regular meetings required to minimise any risk with next meeting to be held in approximately 4 weeks - hosted by the Regional Council.

# Rotorua Lakes Nitrogen Reduction Rules

RLC made it clear that the council is very concerned about the possible economic impact of the Rotorua Lakes Nutrient Rules. Regional Councils position is that it stands by its Section 32 Report however it does acknowledge the concerns of RLC and others with respect to economic impact. Both councils agreed that actions to assist in mitigating any economic impact were important. Two mechanisms were discussed

- (1) The proposed trust RLC see the development of a Trust from the current incentives board model as a mechanism that can be used to mitigate the possible impacts using the \$43 million as leverage
- (2) A parallel trust with a focus on sustainability of the Rotorua District possibly with a key focus on the impact of the rules on the economy. There was no agreement on what such a Trust would do or its initial focus with quite differing views on its possible initial focus.

Action: RLC and RC staff to continue to work on the Trust proposal. (Note: RC have been working with RLC to get a paper to the RC council meeting in March (prior to the next RTLSG meeting)).

Action: Maryanne and Geoff to further discuss the concept of a parallel trust with a focus on the long term sustainability of the Rotorua District to determine if there is an agreed area of interest to pursue jointly.

# Septic Tanks when Reticulation is on its way

RLC asked what the position of the RC was with respect to new builds and septic tanks where reticulation is close.

Action: Maryanne to follow up and respond back to Cr Donaldson

Regards Mary-Anne

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

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1-1

# Kim McGrath From:

Mary-Anne Macleod < Mary-Anne.Macleod@boprc.govt.nz>

Sent:

Monday, 12 October 2015 4:14 p.m.

To: Subject: Geoff Williams
Re: 9 October Lakse Water Quality Discussions

Hi Geoff - thanks for this. I am in a meeting until after 6 today but will look at this evening and will get back to you first thing in the morning.

Regards Mary-Anne

This is the document marked with the letter "H" referred to in the annexed Affidavit of Geoffrey murdoch williams Sworn at Rotor ugon the Saday of Anna 2017

before me:

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

sent via iPad

A Sonstor of the High Court of New Zealand
Walter Swanson
SOLICITOR
ROTORUA

 $\verb| > On 12/10/2015, at 2:56 pm, "Geoff Williams" < \\ \frac{Geoff.Williams@rotorualc.nz}{} > wrote: \\$ 

> Hi Mary-anne,

> Please find attached our take on the outcomes of the discussions we had on Friday.

> We were very pleased with where we got to and feel that the programme changes outlined will work well in addressing existing concerns and ensuring ongoing commitment to the programme.

> Look forward to hearing from you.

>

> Kind regards

> Geoff

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> < 9 October Lakse Water Quality Discussions.pdf>

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# Lakes Water Quality Programme

Te Arawa Lakes Strategy Group Position

# Introduction

The nature of the existing lakes water quality programme was discussed at an extraordinary meeting of the partners of the Te Arawa Lakes Strategy Group on Friday 9<sup>th</sup> October.

This paper documents the common ground which was reached and the nature of the revisions to be put forward for adoption at the next meeting of the Te Arawa Lakes Strategy Group to be held on Friday 16<sup>th</sup> October.

# **Proposed Amendments**

# 1. Revised Programme Objective

Proposed new umbrella programme objective:

To restore our lake, grow our economy and support our people, Toi te Mana, Toi te Whenua, Toi tū te Tangata

# 2. Retain 2022 targets, rules and core aspects of the programme

- Reduction of <u>at least</u> 44tN by 2022
- Use of a rules based approach
- Nutrient Management Plans (holistic approach) to achieve and maintain a managed reduction (five-year view)
- Additional work to be undertaken on the establishment of options and flexibility to develop underdeveloped Maori land
- Introduction of a new mechanism to, prior to 2022, allow the transfer of nitrogen between properties (based on the catchment sustainability plan (land use))

# 3. Need for further regulatory intervention to 2032

- Science reviews to be carried out in 2017 & 2022
- Review RPS provisional targets beyond 2022 allocation, targets and mechanisms
- Notify 2032 rules as being provisional (back-out) (OR notify the intent to introduce new rules for 2032 (back-in) in 2022) based on the satisfaction of a number of conditions including;
  - 1. Outcomes of the planned science reviews
  - 2. Ongoing Lake TLI levels
  - 3. Review of progress in reaching the 2022 targets across all work streams
  - 4. Review of allocation mechanisms and alignment with the catchment sustainability plan
  - 5. Land-use changes and options for under-developed Maori land

# 4. Develop a catchment sustainability plan (land use)

- Develop a catchment view of sustainable land use, including under-developed Maori land
- Objective being to provide an integrated decision support system to assist future land use decisions
- Support the transfer of nitrogen between properties
- Wherever feasible align funding, investment, regulatory and planning decisions with this framework
- Consider future applicability of the framework to guide future consenting, allocation mechanisms and land use designations

# 5. Re-alignment of the incentives board

- Realignment of the reporting line for the Incentives Board to the Te Arawa Lakes Strategy
   Group
- New Terms of Reference for the incentives board focusing on;
  - 1. Nitrogen reduction AND optimal land use (in alignment with the catchment sustainability plan)
  - 2. Oversee the development of the catchment sustainability plan (land use)

- 3. Administer and leverage the \$5.5m (debt, guarantor approach, other funders e.g. RLC)
- 4. Implementation of demonstrable alternative land use models for the achievement of the remaining 96tN which are economically sound
- 5. Identify and promote additional mechanisms to support the achievement of the remaining 96tN (e.g. District Plan Changes, Strategic land purchasing)
- 6. Ensure farm practice 'tool box' support is available
- Alignment of the work programmes of Grow Rotorua and the Lakes Technical Advisory
   Group to support the realigned incentives board

From:

Geoff Williams

Sent:

Wednesday, 14 October 2015 3:13 p.m.

To:

Mary-AnneMacleod

**Subject:** 

Hi Mary-Anne,

RE: Response to 9 October Lakes Water Quality Programme paper

Walter Swanson

SOLICITOR

This is the document marked with the letter " T "referred to in the annexed Affidavit of

day of

Sworn at Roto rugon the 5

before me:

Seems to me we are making the Colored Se

A Solicitor of the High Court of New Zealand Today we discussed further the proposal we tabled last Friday with our council and also covered your suggested amendments. Whilst very pleased with the progress we have made, they are very uncomfortable about the position on the rules and would much rather have a 'back-in' clause. However, after a lot of discussion they ended conceding that this was something they could possibly live with.

The only real issue they do have, is the terms of reference for the incentives board. There is a strong belief that we do need to introduce some change to recognise the importance of looking at optimal land use from an economic perspective when accessing proposals as opposed to simply 'buying nitrogen'. The introduction of a new body is something which also needs discussion but not before we have reached a satisfactory resolution on the terms of reference.

I understand we are looking to meet at the end of the day tomorrow which I think is a great idea.

Best wishes

Geoff

**Geoff Williams** Chief Executive

P: 07 351 8320 | M: 0212424064 | E: geoff.williams@rotorualc.nz | W: rotorualakescouncil.nz

From: Mary-Anne Macleod [mailto:Mary-Anne.Macleod@boprc.govt.nz]

Sent: Wednesday, 14 October 2015 9:25 a.m.

To: Geoff Williams

Cc: Kingi, Tanira (Tanira.Kingi@agresearch.co.nz); Roku Mihinui; Fiona McTavish; Warwick Murray; Eddie Grogan

Subject: Response to 9 October Lakes Water Quality Programme paper

Importance: High

Hi Geoff – thank you and your team for putting together the draft you sent through on Monday. There are a number of points of agreement however there are also some material changes to intent that I need to highlight. I have attached a re-edited version, the key points are set out below under the original headings from your paper. I would also note that I have not had the chance to have this checked by my technical advisors.

I have copied Tanira and Roku into this - I am not sure if they saw the original but good to have them in the loop on this as they were at the meeting.

I think the best way forward is to convene another meeting to work this through and wondered if late Thursday afternoon or Thursday evening would suit. Happy for me and Doug to come to Rotorua.

# 1: Revised programme objective - no change

### 2: Retain 2022 targets et.al

- Clarified that current rules up to 2022 would proceed and added a bit of detail as to what those would be this is for clarity (note that it is quite limited)
- Left the nutrient management plan as worded but added that the N part of it would be statutory. I did this as I wanted to be clear that the other nutrients in the plan would not have limits set as such in consents but would take us towards what we needed. I wanted to ensure that the a consent requirement in terms of enforcement were limited to nitrogen
- Agree with trading mechanism but not before 2022 (this is one of those material differences). This would be a
  problem in terms of getting the 100 tonnes from the incentives fund but agree that we want this mechanism
  developed in this time and it could then contribute to the decision in 2022 to opt-out. I also note that the STaG
  were very clear that they did not want this prior to 2022.

# 3: Need for futher regulatory et.al

- Have written this as an opt-out provision as we are not comfortable with the opt-in due to the uncertainty, the time it would take to develop and the loss of focus on the 96 tonnes (further work would be required on what this would look like and we are doing some work on that now)
- Added the trading mechanism in here as a factor
- Moved the review of the RPS provisions to read as part of the opt-out clause as it would be part of this.
- Changed the wording from provisional rules as there are no such things in the RMA in this context

# 4: Development a catchment management plan

- Added purpose statement re additional mechanism ...
- Trading post 2022 not prior

# 5: Alignment of the incentives board

- Have split this into two sections incentives board and the establishment of a new Future Focused Land Sustainability Organisation (FFLSO)
- Have said more independence for Incentives board but not said would report to RTLSG
- Have not included the expansion of the Incentives board purpose but given that wider scope to the new FFLSO
- Many of the functions listed in your version I have put into the scope for the FFLSO
- Funding of 3.5m is what is avail that is not earmarked already for assisting farmers to meet the setup above (obviously this would have to be agreed by Council and MfE)
- As you can see from above we are not comfortable with a total reworking fo the incentives board focus but do see the value in the sustainability plan and a mechanism to implement it.

Hope all that makes sense and happy to discuss. I will also get Kelly to follow up about a meeting on Thursday.

Regards
Mary-Anne

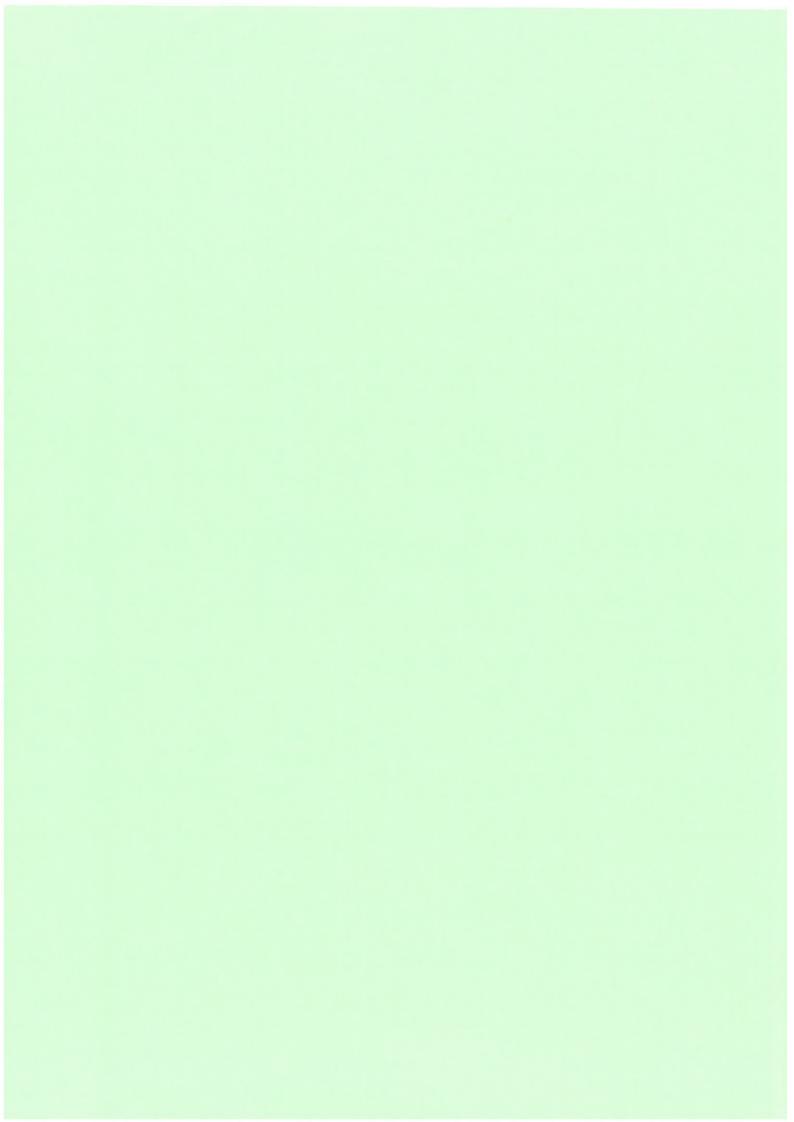
Mary-Anne Macleod | Chief Executive | Bay of Plenty Regional Council | Tauranga, New Zealand | Ph: 0800 884 881 x9332 | Web: www.boprc.govt.nz

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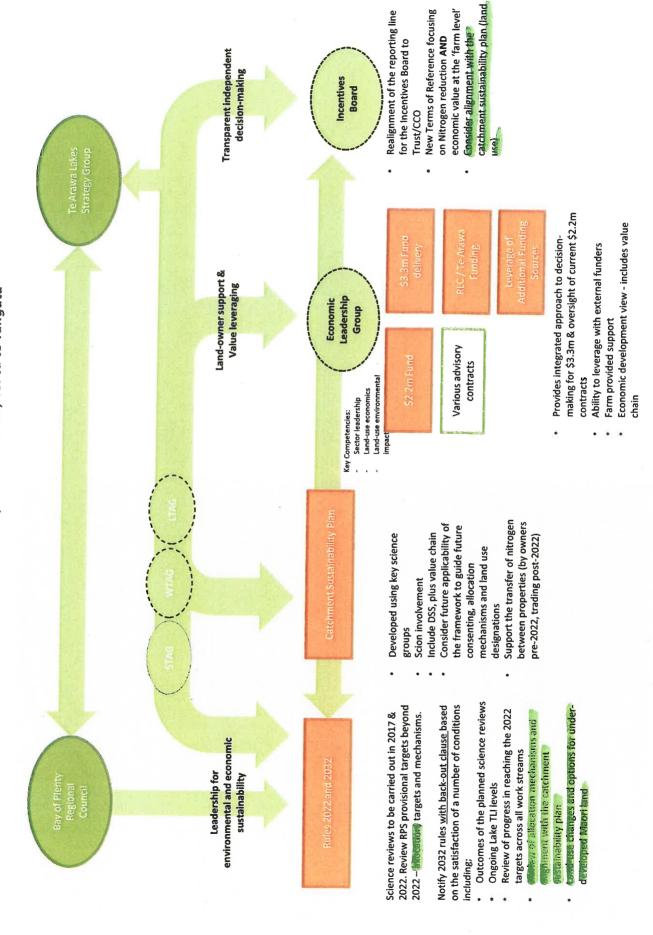
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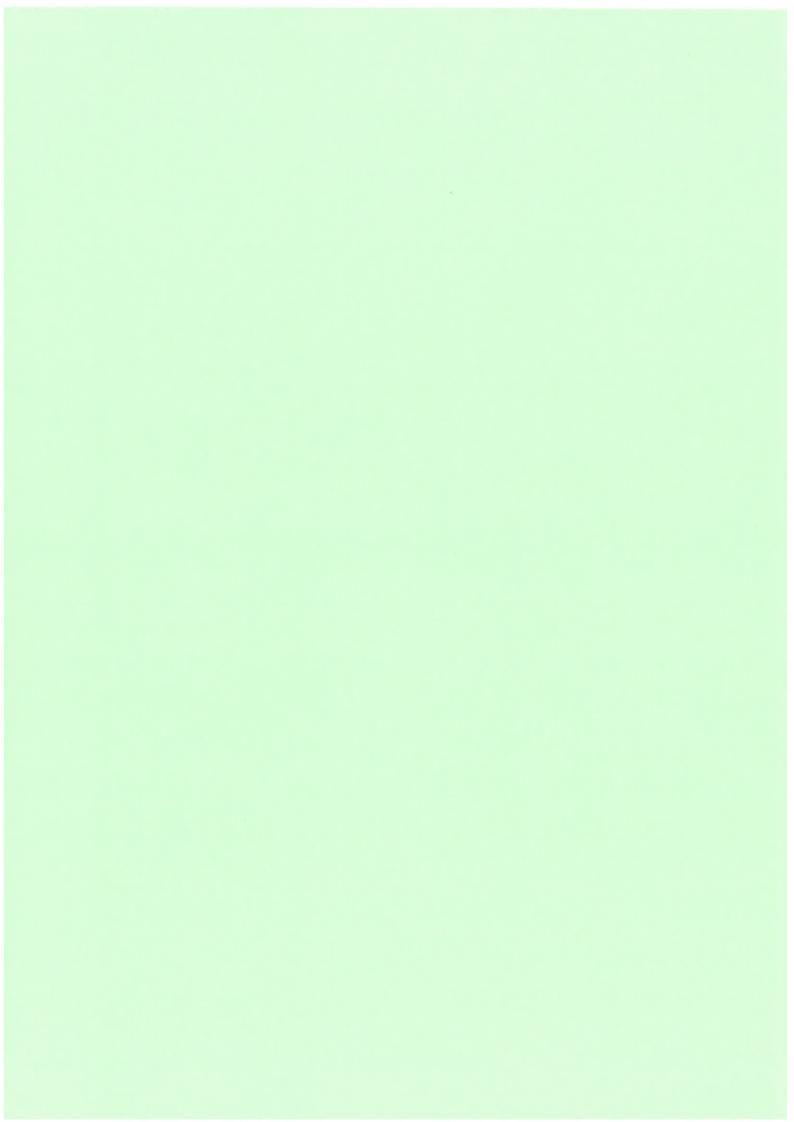
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From:	Mary-Anne Macleod <mary-anne.macleod@boprc.govt.nz></mary-anne.macleod@boprc.govt.nz>
Sent: To:	Thursday, 29 October 2015 7:47 p.m.
Subject:	Geoff Williams Re: Updated programme structure
Hi Geoff. Yep great day	today. Will give you a ca tomorrow. Any particular time suit
Cheers	
Maryanne	
Mary-Anne Macleod	
CEO Bay of Plenty Regional C	ouncil
bay of Fielity Regional C	buildi
sent via mobile	
> On 29/10/2015, at 5:19	9 pm, "Geoff Williams" < <u>Geoff. Williams@rotorualc.nz</u> > wrote:
>	
> Hi Mary-Anne, >	
> It was great seeing you	today, the launch at Opotiki went well and was certainly very good for that community.
>	·
> JP and I have spent a lo	t of time looking at the diagram from Fiona and trying to reconcile it with our perspective.
argely maintain what ha	approach embodied in the proposal is to add some new features and but, at the same time, salready been planned.
>	
> Whilst we agree with m	nany aspects, to us the proposal is overly complicated and misses some key opportunities which
we see as being crucial. I he lakes programme sho	n order to keep things moving we have worked up a simplified version of our view as to how ould be shaped, see attached.
•	
We are also aware that	Te Arawa are now also actively looking how the programme could be reshaped and are keen
o put their ideas on the t	table alongside our thinking. I understand that their intention is to also canyass the livito
oush our two week windo	nandated. Steve discussed this Doug today with the observation that we will likely need to ow out somewhat to accommodate their work.
· · Anyway, lets talk if poss	ible tomorrow
	iste tomorrow.
Geoff	
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# A proactive and systematic way to restore our lake, grow our economy and support our people, Toi te Mana, Toi te Whenua, Toi tū te Tangata





From:

Mary-Anne Macleod <Mary-Anne.Macleod@boprc.govt.nz>

Sent:

Monday, 2 November 2015 12:34 p.m.

To:

Geoff Williams

**Subject:** 

Rotorua Lakes Programme stuff

Hi Geoff - hope you had a great weekend. Just wanted to touch base on the Rotorua Lakes stuff

I understand that JP has a copy of the revised Low Nutrient Land Use Fund paper which need to be be signed off today so it can make the agenda timeframe. I have had a look at it and it has been changed to add in more economic focus with the assessment panel and also more in the terms of reference re economic focus. MfE have had a look at it and have ensured that we have not endangered the cabinet decision and funding.

It is important that we get any comments back as soon as we can so we can make any further changes required and get MfE approval (re cabinet requirements).

With respect to the rest of the programme I am keen to continue those discussions as I don't think we are far apart and I note your comment that we are just doing that final sorting that the partners need to do.

I am out of the Region pretty much all week (in Wellington and Auckland for various meetings) but happy to talk by phone. I would be keen to get together next week and at this stage have free time after the special RTLSG meeting on Tuesday if that would suit you. If Tanira was available it would be good to also have him along and Roku so we can see how the Te Ararawa Group would also fit in.

In the meantime I will try and get my thoughts on where I think things are at on paper and if I do will flick it through to you.

Can you let me know how next Tuesday looks for you.

Regards Mary-Anne

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

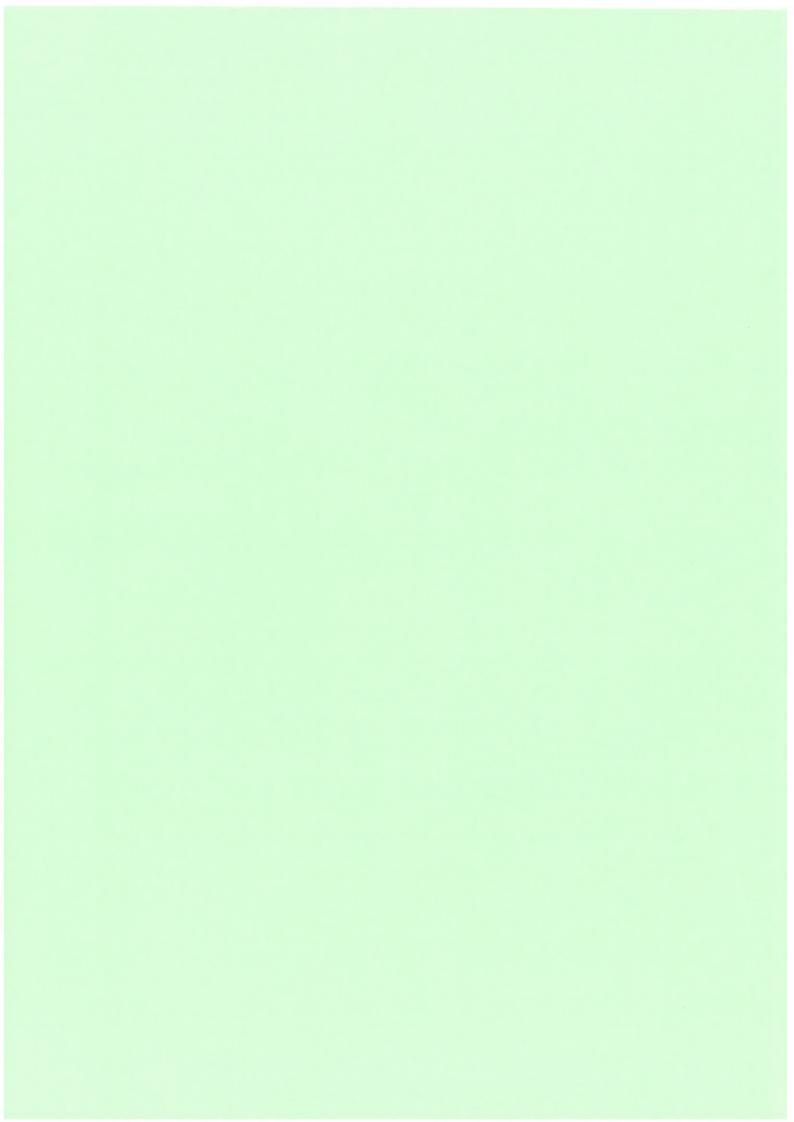
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From:

Mary-Anne Macleod <Mary-Anne.Macleod@boprc.govt.nz>

Sent:

Wednesday, 4 November 2015 6:45 a.m.

To:

Tanira Kingi; Kelly Paterson

Cc: Subject:

Geoff Williams; Jean-Paul Gaston; Roku Mihinui Re: Low Nitrogen Land Use Fund and other matters

Hi all - happy to meet late afternoon on Monday

Regards Mary-Anne

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

sent via iPad

On 4/11/2015, at 12:07 am, "Tanira Kingi" < Tanira.Kingi@scionresearch.com > wrote:

Kia ora Geoff/Mary Anne - any chance of meeting the week of Monday 9/11 after 1pm? I'm out of the country till the weekend so not able to talk till then.

I do think that there is enough common ground to build on and a face to face is needed to pull a part the sticky parts that are causing the blockages.

The Te Arawa position will take some time to consolodate but there is a general concensus on the key components. Roku and I will draw a schematic up by the end of this week and will present to the te Arawa chairs next week as well.

Regards Tanira

Sent from my mobile 0274334303

----- Original message -----

From: Geoff Williams < Geoff. Williams@rotorualc.nz>

Date: 03/11/2015 10:44 AM (GMT+12:00)

To: Mary-AnneMacleod < mary-anne.macleod@boprc.govt.nz >

Cc: Jean-Paul Gaston < <u>Jean-Paul Gaston@rotorualc.nz</u>>, Roku Mihinui < <u>roku@tearawa.iwi.nz</u>>, Tanira Kingi < <u>Tanira.Kingi@scionresearch.com</u>>

Subject: RE: Low Nitrogen Land Use Fund and other matters

Hi Mary-Anne,
I think there is some talking past each other going on here.
To be clear, we are not questioning the criteria for or purpose of the \$3.3m fund.
The point of difference is the mechanism by which this, along with the other associated funds, are administered.
Our view is that the creation of multiple administrative boards and advisory groups creates unnecessary, expensive and confusing bureaucracy.
Instead, we need a simple, easily understood mechanism to administer funds, coordinate initiatives and to provide leadership on land use change. The Taupo trust is a good example of this.
We have previously discussed the fact that Steve and Doug discussed and agreed the need to move the next Strategy group meeting to allow Te Arawa time to work up their position. I am therefore confused as to the haste to complete a report which essentially cements in the original thinking of the Regional Council.
You make a number of assertions as to Mfe's requirements. Whilst these are important and do need to be taken seriously, we also need to have a work program shaped in such a way that we are all confident that the intended outcomes will be delivered. This is not the case at present.
Could I suggest therefore that the proposed paper be held pending a wider discussion between the partners and agreement on the best administrative/leadership structure for the work program. This we believe is crucial and should drive the nature of the recommendations to the strategy group. Obviously this will require a delay in the scheduled strategy group meeting however this has already been agreed by your Chair, the Mayor and I understand also Sir Toby.

Happy to talk further.

From: Mary-Anne Macleod [mailto:Mary-Anne.Macleod@boprc.govt.nz]

Sent: Tuesday, 3 November 2015 9:05 a.m.

To: Geoff Williams < Geoff. Williams@rotorualc.nz >

Cc: Jean-Paul Gaston < Jean-Paul.Gaston@rotorualc.nz >; Roku Mihinui < roku@tearawa.iwi.nz >; Dr

Tanira Kingi < Tanira. Kingi@scionresearch.com>

Subject: Low Nitrogen Land Use Fund and other matters

Hi Geoff, Roku and Tanira

I am in Wellington today and tomorrow but happy to talk if it is useful.

Geoff - I understand from an email from JP that RLC will not support the revised Low Nitrogen Fund paper.

quote - The RLC does not support the use of a panel to manage this fund. You have made a couple of comments about our proposed Economic Leadership Group in the report but fundamentally the \$3.3m will be run separately on its own track.

As you are aware MfE are a key funder in this project with a \$72 million dollar investment (including covering some of the STW costs historically and in the future).

The \$3.3m Low Nitrogen Land use fund and the \$2.2 farmer assistance fund have been set up with the express purpose of assisting farmers to make the transition to the rules framework and to assist them in assessing and utilising the funds available via the incentives board.

I believe that we have gone as far as we can to accommodate the economic development focus with this fund by adding two people with an economic development focus and with changes to the scope and to go any further risks unraveling the agreements to date. It also puts at risk the cabinet funding - not just for this fund. The MfE position is set out in a quote below.

From a funding standpoint (original appropriation, cabinet decisions etc), economic development is not a focus of this fund. It can be an additional benefit, but provision of crown funding is limited to activities that maintain/improve lake water quality (this is in the deed and cab decisions). For this reason, can the paper outline that the two additional panel members are to ensure economic development is considered, rather than making economic development a focus of the fund, (which is outside the appropriation conditions and may throw up issues when releasing funding.)

Bay of Plenty Regional Council has an agreement with the Crown and the partners that we will match Crown Funding for this part of the programme (including the incentives board etc) dollar for dollar).

It is not possible to turn the funding around to an economic development focus. The changes to the fund will however move it in that direction. An Economic leadership group to help guide and advise the RTLSG and the various components of the programme, and to assist in the facilitation of land transfer options is a key instrument that can do this without the encumbrances of the cabinet paper or past agreements. I would recommend Regional Councillors look positively on putting funding into the setting up and running of such a body (especially if it was matching funding in conjunction with RLC or others).

I am also still supportive of other changes (within the scope of the cabinet paper) to recognise the importance of economic impact on decision making.

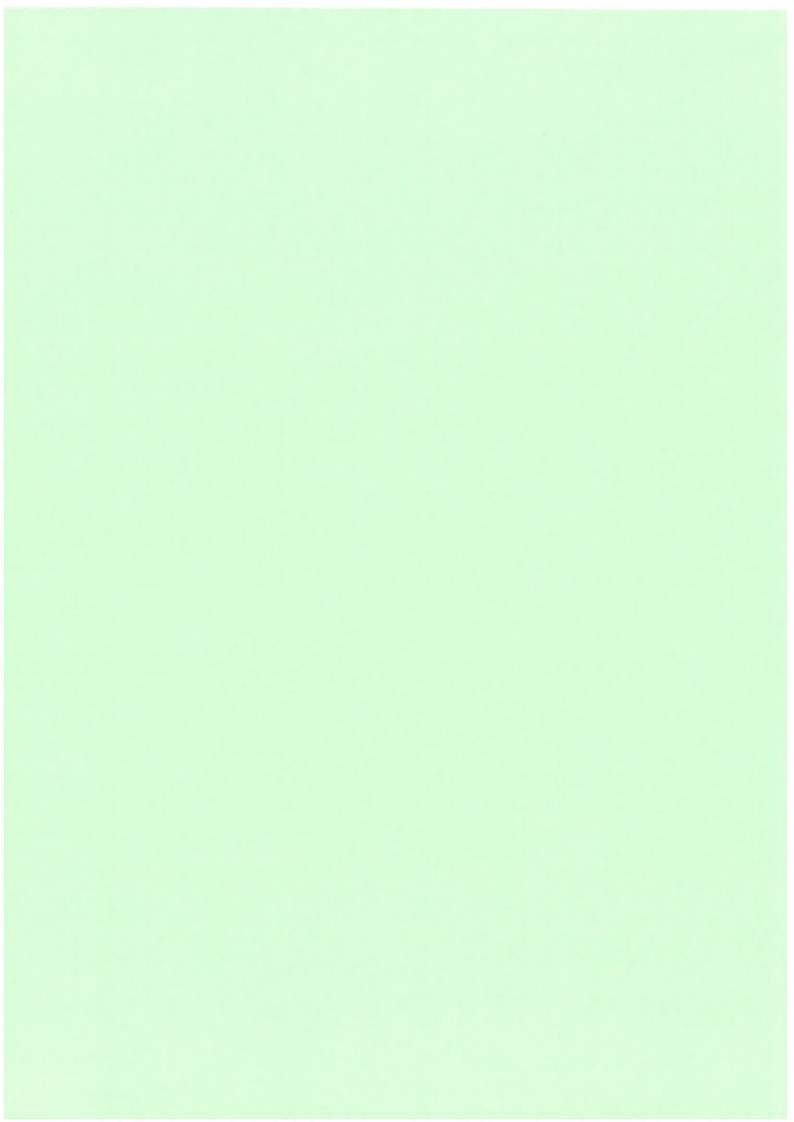
I have asked staff to make some more minor changes to the Low Nitrogen Land Use paper to make the addition of the economic component as clear as possible. With those changes I am comfortable to put the paper back to RTLSG and to ask our members to vote in support of the revised assessment panel and scope. A final copy will be circulated to all later today.

I sincerely hope that the changes made in this paper, the commitment to continue to explore how the economic focus gets recognised in all aspects of the framework and my personal commitment to work with you to set up a economic leadership group with funding will be sufficient to see this paper get support from your councillors.

kind regards
Mary-Anne
Mary-Anne Macleod
Chief Executive
Bay of Plenty Regional Council - Toi Moana
sent via iPad
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From:

Mary-Anne Macleod <Mary-Anne.Macleod@boprc.govt.nz>

Sent:

Wednesday, 4 November 2015 7:16 a.m.

To:

Geoff Williams

Subject:

Re: Low Nitrogen Land Use Fund and other matters

Hi Geoff - I am writing this from a very wet and miserable wellington where I am going back over the emails to find the common ground. I am keen to see if there is a "talking past" element as you have suggested below specifically on the matter of the administrative structure that has been set up. If we can sort that we might have a way forward.

You noted that from the RLC perspective there were multiple administrative boards and advisory groups. It would be great if you could re-state what RLC would see as an effective administrative structure in terms of reporting lines, membership, operating parameters and relationship with RTALSG/MfE/Partner councils.

As I see it the way it is currently set up there is one "Board" which is the Incentives Board. All other parts of the Programme are directly administered by the RC, reporting to the RTALSG. The Assessment Panel in the LNLUF a panel of experts retained on contract to the RC. The Taupō Trust did have a mandate to do stuff similar to the LNLUF with a specific focused on getting farmers over the line to sell nutrients.

Regional Council is also charged with administration of the Cabinet Funding within the scope of the Cabinet decision.

If we can agree on an administrative structure that does not endanger the MfE funding and cabinet decision, and keeps faith with the integrated framework and farmers and keeps a focus on the cleanup of the lake and removal of N then we may have found some of that common ground we are looking for.

Your thoughts on this would be most welcome.

cheers Mary-Anne

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

sent via iPad

On 3/11/2015, at 10:43 am, "Geoff Williams" < Geoff. Williams@rotorualc.nz > wrote:

Hi Mary-Anne,

I think there is some talking past each other going on here.

To be clear, we are not questioning the criteria for or purpose of the \$3.3m fund.

The point of difference is the mechanism by which this, along with the other associated funds, are administered.

Our view is that the creation of multiple administrative boards and advisory groups creates unnecessary, expensive and confusing bureaucracy.

Instead, we need a simple, easily understood mechanism to administer funds, coordinate initiatives and to provide leadership on land use change. The Taupo trust is a good example of this.

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Could I suggest therefore that the proposed paper be held pending a wider discussion between the partners and agreement on the best administrative/leadership structure for the work program. This we believe is crucial and should drive the nature of the recommendations to the strategy group. Obviously this will require a delay in the scheduled strategy group meeting however this has already been agreed by your Chair, the Mayor and I understand also Sir Toby.

Happy to talk further.

Geoff

From: Mary-Anne Macleod [mailto:Mary-Anne.Macleod@boprc.govt.nz]

Sent: Tuesday, 3 November 2015 9:05 a.m.

To: Geoff Williams < Geoff.Williams@rotorualc.nz>

Cc: Jean-Paul Gaston < <u>Jean-Paul.Gaston@rotorualc.nz</u>>; Roku Mihinui < <u>roku@tearawa.iwi.nz</u>>; Dr

Tanira Kingi < Tanira. Kingi@scionresearch.com >

Subject: Low Nitrogen Land Use Fund and other matters

Hi Geoff, Roku and Tanira

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quote - The RLC does not support the use of a panel to manage this fund. You have made a couple of comments about our proposed Economic Leadership Group in the report but fundamentally the \$3.3m will be run separately on its own track.

As you are aware MfE are a key funder in this project with a \$72 million dollar investment (including covering some of the STW costs historically and in the future).

The \$3.3m Low Nitrogen Land use fund and the \$2.2 farmer assistance fund have been set up with the express purpose of assisting farmers to make the transition to the rules framework and to assist them in assessing and utilising the funds available via the incentives board.

I believe that we have gone as far as we can to accommodate the economic development focus **with this fund** by adding two people with an economic development focus and with changes to the scope and to go any further risks unraveling the agreements to date. It also puts at risk the cabinet funding - not just for this fund. The MfE position is set out in a quote below.

From a funding standpoint (original appropriation, cabinet decisions etc), economic development is not a focus of this fund. It can be an additional benefit, but provision of crown funding is limited to activities that maintain/improve lake water quality (this is in the deed and cab decisions). For this reason, can the paper outline that the two additional panel members are to ensure economic development is considered, rather than making economic development a focus of the fund, (which is outside the appropriation conditions and may throw up issues when releasing funding.)

Bay of Plenty Regional Council has an agreement with the Crown and the partners that we will match Crown Funding for this part of the programme (including the incentives board etc) dollar for dollar).

It is not possible to turn the funding around to an economic development focus. The changes to the fund will however move it in that direction. An Economic leadership group to help guide and advise the RTLSG and the various components of the programme, and to assist in the facilitation of land transfer options is a key instrument that can do this without the encumbrances of the cabinet paper or past agreements. I would recommend Regional Councillors look positively on putting funding into the setting up and running of such a body (especially if it was matching funding in conjunction with RLC or others).

I am also still supportive of other changes (within the scope of the cabinet paper) to recognise the importance of economic impact on decision making.

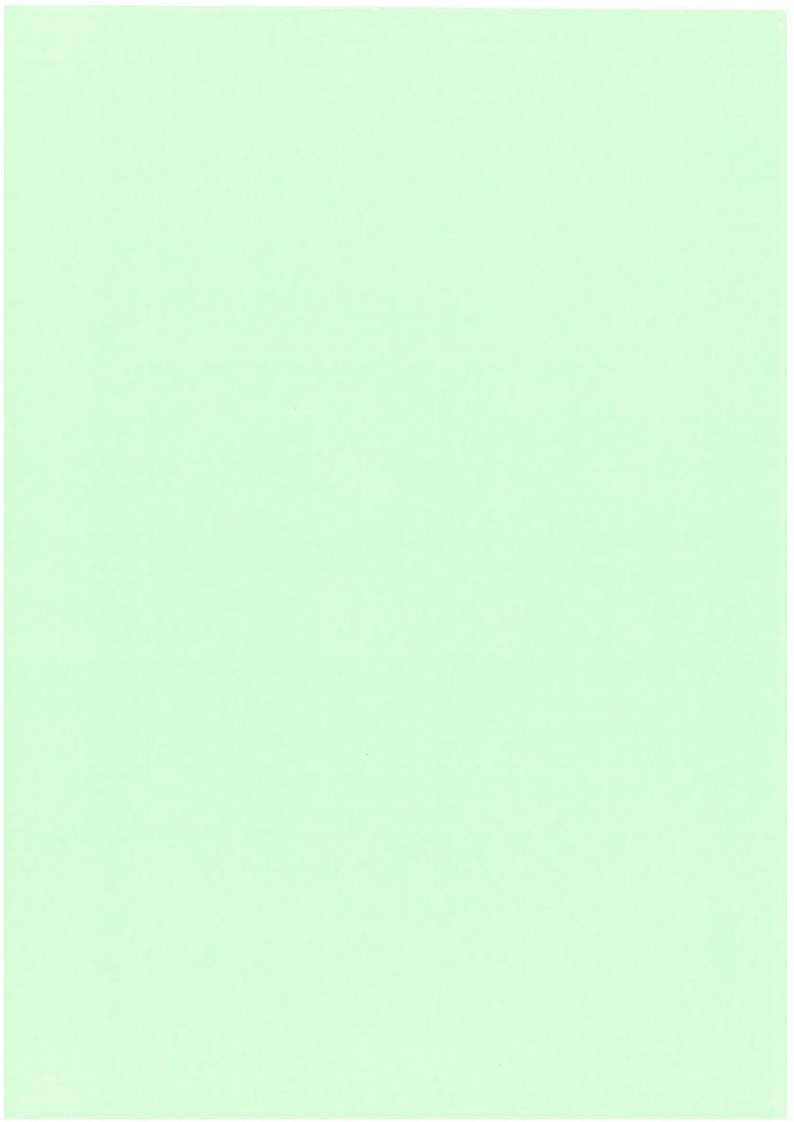
I have asked staff to make some more minor changes to the Low Nitrogen Land Use paper to make the addition of the economic component as clear as possible. With those changes I am comfortable to put the paper back to RTLSG and to ask our members to vote in support of the revised assessment panel and scope. A final copy will be circulated to all later today.

I sincerely hope that the changes made in this paper, the commitment to continue to explore how the economic focus gets recognised in all aspects of the framework and my personal

sufficient to see this paper get support from your councillors. kind regards Mary-Anne Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana sent via iPad Email disclaimer: This email and any attachments are confidential. If you are not the intended recipient, do not copy, disclose or use the contents in any way. If you receive this message in error, please let us know by return email and then destroy the message. Bay of Plenty Regional Council is not responsible for any changes made to this message and/or any attachments after sending. This e-mail has been checked for viruses and none were detected. This email has been filtered by SMX. For more information visit smxemail.com This e-mail message has been swept for viruses and none was found. Content was not checked Email disclaimer: This email and any attachments are confidential. If you are not the intended recipient, do not copy, disclose or use the contents in any way. If you receive this message in error, please let us know by return email and then destroy the message. Bay of Plenty Regional Council is not responsible for any changes made to this message and/or any attachments after sending This e-mail has been checked for viruses and none were detected.

commitment to work with you to set up a economic leadership group with funding will be

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### Kim McGrath

From:

Jean-Paul Gaston

Sent:

Monday, 9 November 2015 4:50 p.m.

To:

Mary-AnneMacleod (mary-anne.macleod@boprc.govt.nz)

Cc:

**Geoff Williams** 

Subject:

lake report

**Attachments:** 

Report - A Lake Rotorua Protection Trust (003) (3).docx

### Hi Mary-Anne

Please find attached the draft report Geoff tabled at the meeting today. It still has the hard to see picture in it but I've sent you the original in powerpoint separately.

Regards,

jp

Jean-Paul Gaston Group Manager, Strategy and Partnerships

P: 07 351 8302 | M: 0276554415

E: Jean-Paul.Gaston@rotorualc.nz | W: rotorualakescouncil.nz

A: 1061 Haupapa St, Private Bag 3029, Rotorua Mail Centre, Rotorua 3046, New Zealand

ROTORUA LAKES COUNCIL

File No: FileNumber

RDC-Number

### ROTORUA LAKES COUNCIL

DRAFT REPORT

ROTORUA TE ARAWA LAKES STEERING GROUP

# PROPOSAL FOR A LAKE ROTORUA PROTECTION TRUST TO SUPPORT LAKE RESTORATION, ECONOMIC GROWTH AND THE INTERESTS OF LAND OWNERS

Report prepared by: Jean-Paul Gaston, Group Manager Strategy and Partnerships

Report approved by: (leave blank - to be completed by Democracy/EAs on final approval of report)

### PURPOSE

Rotorua Lakes Council (RLC) is committed to restoring Lake Rotorua's water quality and supports the land-use rules approach being developed by Bay of Plenty Regional Council. However, RLC remains concerned that the current framework is overly complicated and somewhat bureaucratic. As it stands, it offers little opportunity for solutions-focused leadership to develop and limited support for affected land owners.

Rotorua Lakes Council's preference is for Rotorua Te Arawa Lakes Steering Group's wider objective that focuses on balancing the needs of the local economy, the local community and water quality:

'A proactive and systematic approach to restoring our lake, growing our economy and supporting our people - toi te mana, toi te whenua, toi tū te tangata.'

In support of this objective a new, simpler and easily understood mechanism is required to administer funding, coordinate initiatives and provide leadership around land-use change. It is this council's view that establishment of a lake protection trust - along the lines of that put in place for Lake Taupo - would provide a clear, better focused and more easily understood model.

### 2. RECOMMENDATIONS:

- 1. That the report 'Proposal for a Lake Rotorua protection trust to support lake restoration, economic growth and the interests of land owners' be received.
- 2. Agree in principle to the formation of a Rotorua Lakes Protection Trust to promote and oversee land use change in the catchment.

### 3. BACKGROUND

The current integrated framework relies heavily on the distribution of funds by groups with relatively narrow criteria or terms of reference, separate administration structures and limited levels of membership. The overall programme is underpinned by a complex and somewhat confusing mix of advisory and reference groups -including StAG (Stakeholders' Advisory Group), LTAG (Land Technical Advisory Group) and WTAG (Water Technical Advisory Group).

Earlier stakeholder discussions led the council to conclude that an economic leadership group was needed to coordinate efforts, to promote and facilitate economic growth, and to leverage off funding currently available. However we have moved from that position as it would add yet another group to what is already a confusing funding and advisory landscape.

Currently there are four, with a further two to three separate funding groups, boards/panels or advisory groups being contemplated. This is unnecessarily complex and inefficient as each structure requires its own administrative support, reporting and governance oversight.

This high level of complexity and lack of coherence impacts on land owners who are meant to be the beneficiaries of that support. Rotorua Lakes Council is concerned that a land owner seeking critical information to support future land-use decisions would face a series of narrowly-focused and disconnected bodies. We do not believe adequate levels of advice are currently available to assist land owners with:

- accessing external funding opportunities (ie afforestation grants)
- undertaking farm system comparisons across the approximately 50 modelling applications and land-uses
- making significant new investment and economic development decisions related to land-use change

Land-use rules that fail to factor in support for the local economy and land owners will not be well received by the local community and are likely to lead to protracted litigation. This has the potential to severely hinder the progress that needs to be made in restoring Lake Rotorua's water quality.

The changes proposed by Rotorua Lakes Council are intended to recognise the need to make real progress and the need for programme partners to work effectively together.

### 4. DISCUSSION AND OPTIONS

A new, simple, more easily understood mechanism to administer funds, coordinate initiatives and provide leadership on land-use change is essential. This could be achieved through establishment of a lake protection trust – similar to that put in place for Lake Taupo – providing a clear, focused and more easily understood model.

An independent trust may also provide the flexibility, focus and administrative efficiency needed to better support land owners and to coordinate information, modelling, funding and investment for effective solutions. A trust's independent nature may also offer greater flexibility for leveraging funding and other external (commercial) investment.

At its last meeting the Rotorua Te Arawa Lakes Steering Group received a presentation from the Te Arawa Lakes Trust chief executive, Roku Mihinui, on Te Tuapapa o Ngã Wai o Te Arawa - Te Arawa Cultural Values Framework. This framework could be utilised to underpin the focus of any independent lake protection trust that was established.

An independent trust could evolve out of the current incentives board, and have three key objectives:

- reduce nitrogen levels to the 100th target
- encourage economic value decisions at a farm level
- coordinate and facilitate farmer advice and support.

For comparison purposes, the Lake Taupo Protection Trust's role in protecting Lake Taupo is defined as:

- Reduce nitrogen discharge by a minimum amount of 20%
- Benchmark (with EW) nitrogen discharge allowances (NDAs)
- Purchase N (20 %)
- Provide advice on Trust activities
- Facilitate N reduction with land owners
- Support applied research to reduce N in the catchment
- Facilitate joint ventures or partnerships to achieve Trust objectives
- Source additional funding (Charitable Trust)
- Monitor and report on the Trust's performance.

Our view is that there is a significant opportunity to build on the Lake Taupo experience by establishment of a Lake Rotorua protection trust that provides:

- leadership for environmental and economic sustainability
- transparent and independent decision-making (based on Te Arawa Cultural Values Framework)
- land owner support and value leveraging.

Ultimately, the most significant issue land owners will face in making sound land-use decisions is the quality and availability of advice and support. The proposed trust would enable all advice and support – financial, technical and scientific - to be made available to land owners. Various funding sources could then be applied or leveraged off as part of a total solution approach.

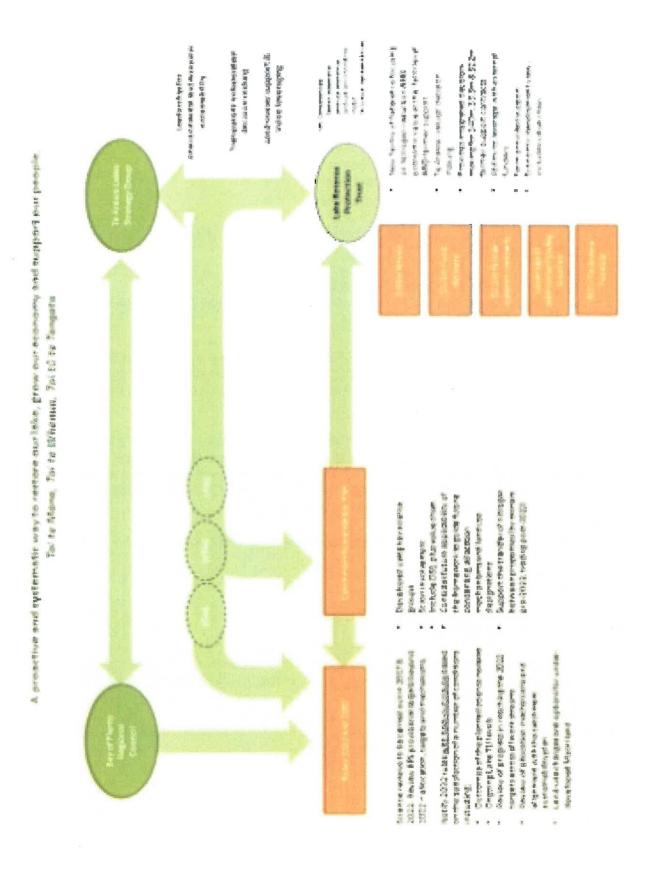
The trust would take a wider perspective, and provide substantial transparency and flexibility, to guide land owners through all available options and to help them understand the implications of each. There would be significant opportunity for the trust to also leverage available funding through banks and other investors. This is not possible within the more narrow scope and focus of existing panels and boards which are constrained by limited flexibility and tight controls imposed by parent organisations.

The competencies of members of the proposed trust would need to include:

- sector leadership
- land-use economics
- land-use environmental impact
- Te Arawa representation

If the existing incentives board was used as a basis for establishment of a new trust, additional membership would be needed to ensure an appropriate mix of competencies was available (the Lake Taupo Protection Trust has a membership of eight).

The relationship of a new trust with Rotorua Lakes Council programmes could be as detailed in the diagram below. This includes engagement with the proposed Catchment Sustainability Plan and the rules framework.



### 5. ASSESSMENT OF SIGNIFICANCE

This report is not significant in terms of the RLC significance policy. The changes recommended by this report would involve comprehensive changes to the current programme framework. This will involve discussions with StAG and would need to be led by BOPRC.

### 6. COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

As noted above, communication on the reasons for the proposed changes needs to be clearly identified as this report moves the programme framework to a different position.

### 7. CONSIDERATIONS

### 7.1 Financial/budget considerations

It is expected that the proposed changes will have only a minor impact on proposed funding or the administration costs of the various programme elements.

### 7.2 Policy and planning implications

Criteria and membership of a proposed panel to distribute funding from the Low Nitrogen Land Use Fund were tabled at the last meeting of the Rotorua Te Arawa Lakes Steering Group. At the request of Rotorua Lakes Council this report was referred to an extraordinary meeting on 11 November.

Bay of Plenty Regional Council has proposed that more members be added to the panel to accommodate Rotorua Lakes Council's concerns over the need to include an economic perspective. The regional council's proposal is not supported by Rotorua Lakes Council, which believes a new trust should be established to distribute these funds, within a wider remit and against agreed criteria.

### 7.3 Risks

The proposed changes need to be properly explained or may result in concerns being raised from StAG as to their role and the BOPRC who have led the development of the current programme framework.

### 7.4 Authority

The governance of the programme is provided by the Rotorua Te Arawa Lakes Steering Group (RTLSG) and the management of the Crown funding is provided through BOPRC.

### 8. CONCLUSION

A new, simpler and easily understood mechanism is required to administer funding, coordinate initiatives and provide leadership around land-use change.

It is this council's view that establishment of a lake protection trust - along the lines of that put in place for Lake Taupo - would provide a clear, better focused and more easily understood model.

### 9. ATTACHMENTS

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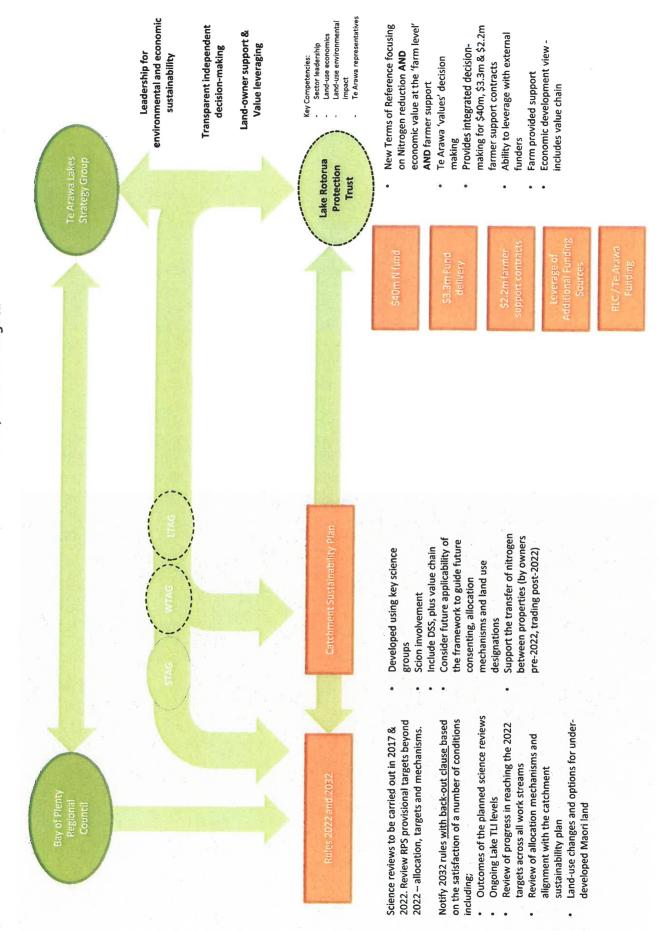
Attachment 2: Name of attachment.....

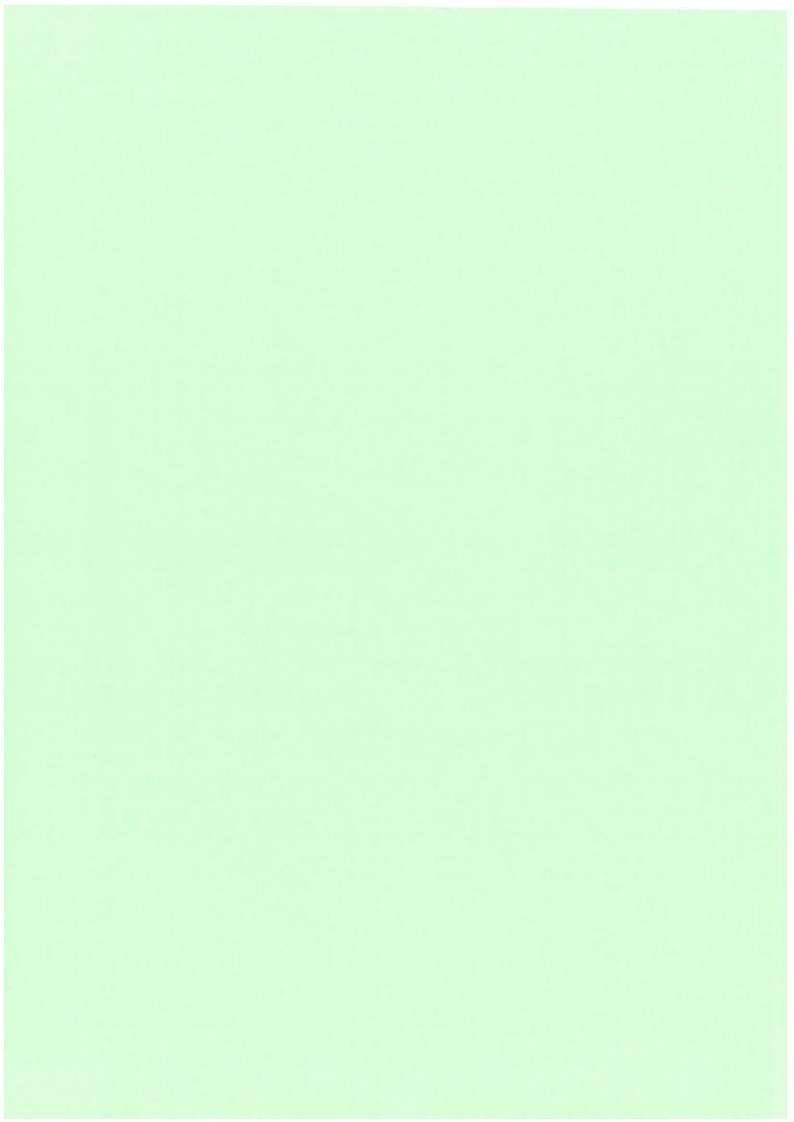
Attachment 3: etc

# Kim McGrath

From: Sent:	Mary-Anne Macleod <mary-anne.macleod@boprc.govt.nz></mary-anne.macleod@boprc.govt.nz>
To:	Monday, 9 November 2015 5:01 p.m. Jean-Paul Gaston
Cc:	Geoff Williams
Subject:	Re: revised land use.pptx
Judjeet.	ne. revised faild use.pptx
Thanks Heaps JP - look	ing forward to getting this all sorted.
Regards Mary-Anne	
Mary-Anne Macleod	
Chief Executive	Council Tabba
Bay of Plenty Regional	Council - Toi Moana
sent via iPad	
On 9/11/2015, at 4:58	pm, "Jean-Paul Gaston" < <u>Jean-Paul.Gaston@rotorualc.nz</u> > wrote:
Mary-Anne Please find atta I'll also send thi Regards,	sched the powerpoint of the diagram used in the report Geoff presented to you today. rough the report as a word document.
jp	
Jean-Paul Gasto P: 07 351 8302   M	n Group Manager, Strategy and Partnerships 1: 0276554415   E: Jean-Paul.Gaston@rotorualc.nz   W: rotorualakescouncil.nz
This e-mail mo	essage has been swept for viruses and none was found.
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you receive this message in eno	and any attachments are confidential. If you are not the intended recipient, do not copy, disclose or use the contents in any way. If ir, please let us know by return email and then destroy the message. Bay of Plenty Regional Council is not responsible for any and/or any attachments after sending.
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	4

# A proactive and systematic way to restore our lake, grow our economy and support our people, Toi te Mana, Toi te Whenua, Toi tū te Tangata





# Kim McGrath

To: Geoff Williams Subject: Rotorua Lakes Protection Trust Attachments: Rotorua Lakes Protection Trust Rotorua Lakes Protection Trust Rotorua Lakes Protection Trust Rotorua Lakes Trust Paper - summany points.docx; PROPOSAL FOR A lake rotorua protection trust to support lake restoration.docx  HI Geoff — It was good to catch up with you on Friday to further progress our thinking on this trust. I have endeavour to put what we discussed into a paper. You will see it is a blend of your paper and the eigession we had on Friday. I probably not there yet from your perspective (capturing what you want from the trust accurately) or from mine (as there are gaps and I am not sure that I can get all that I have put in the paper across the line here). I have also attact a summary paper which has the main points that I worked from. Commenting on this would be useful as it is the guts the paper.  You will see that I am ring-fencing the incentives funding but as discussed within the Trusts wider mandate. I have not included the diagramme we used to work this up as it was beyond my skill in the weekend (I will try to get this done today) and I have not included the original diagramme in your paper as it would require a small amount of editing. You will note also that there are a number of new recommendations which I hope will provide more certain to our councils in respect of what they would be agreeing to.  I will provide a copy to my Chairman so that I can work with him re him being comfortable with the current content. I look forward to hearing from you as to how close this is from your perspective. It is likely we will need to meet again this week to progress.  Let me know how this lands  Kind regards  Mary-Anne Macleod   Chief Executive   Bay of Plenty Regional Council   New Zealand   Ph: 0800 884 881 x9332   Web: www.boprc.govt.nz  Please consider the environment before printing this email and then destroy the message. Bay of Plenty Regional Council is not responsible for any changes made to this message in error, please l	From: Sent:	Mary-Anne Macleod < Mary-Anne.Macleod@boprc_govt.nz>
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Mary-Anne Macleod   Chief Executive   Bay of Plenty Regional Council   , New Zealand   Ph: 0800 884 881 x9332   Web: <a href="https://www.boprc.govt.nz">www.boprc.govt.nz</a> Please consider the environment before printing this email  Email disclaimer: This email and any attachments are confidential. If you are not the intended recipient, do not copy, disclose or use the contents in any way. If you receive this message in error, please let us know by return email and then destroy the message. Bay of Plenty Regional Council is not responsible for any changes made to this message and/or any attachments after sending.	Let me know how this land	's -
Mary-Anne Macleod   Chief Executive   Bay of Plenty Regional Council   , New Zealand   Ph: 0800 884 881 x9332   Web: <a href="https://www.boprc.govt.nz">www.boprc.govt.nz</a> Please consider the environment before printing this email  Email disclaimer: This email and any attachments are confidential. If you are not the intended recipient, do not copy, disclose or use the contents in any way. If you receive this message in error, please let us know by return email and then destroy the message. Bay of Plenty Regional Council is not responsible for any changes made to this message and/or any attachments after sending.	Kind regards	
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### IN SUMMARY - The Lake Rotorua Protection Trust

Trust board - about 8 members - evolve from the incentives board (new members to compliment and expand on the current competencies due to the wider mandate )

Wider Purpose -to support lake restoration, economic growth and the interests of land owners.

The specific aim being to promote and oversee profitable low nutrient land use in the catchment.

### Administration and decision making on

- Incentives money 100 tons reduction ring-fenced within the trust and managed by a sub-committee to meet the existing objectives of the incentives board in line with cabinet direction.
- 3.3 mill simplify purpose but stay in cab paper direction focus on the priority needs of the landowners in the catchment to support their transition to low nutrient landuse and management options (note need to do more work on this definition)
- Facilitate farmer advice and support across all funding available (that identified to date and any new funding obtained)
- Encourage economic value decisions at a farm level

### Not in trust

- BOPRC keeps Rules, farmer assistance fund, science and our land advisors all with us.
- RLC keeps STW

### **Funding**

- More science might be needed and we could put in more money- outside the trust (not in the paper RC to look at this)
- More funding for economic development activities (point noted in the paper but no figure or allocation suggested)
- Development of sustainability plan (no funding allocated to this as yet)
- Trust costs

### Staffing and Governance

- Total 3-4 staff in trust (most likely seconded from both RC and RLC) to support the CEO and the board in their decision making.
- Skills a mix of technical and "brokering"

Sustainability plan – Land use capability and resource map to guide land use management and land use change decisions. (develop lead and actual scope still to be confirmed)

Public consultation needed to set up trust - (I am checking on this)

# PROPOSAL FOR A LAKE ROTORUA PROTECTION TRUST TO SUPPORT LAKE RESTORATION, ECONOMIC GROWTH AND THE INTERESTS OF LAND OWNERS

### 1. INTRODUCTION

The Rotorua Lakes Strategy Group has been working towards the restoration of Lake Rotorua's water quality and is a pivotal point in that journey. This group recognises the hard work of all partners and stakeholders that have contributed to the development of the integrated framework, the rules framework and the science underpinning this programme. The Strategy Group also acknowledges the work that has been done in-Lakes to improve water quality and the very important contribution that the reticulation of sewage carried out by Rotorua Lakes Council and those communities has played.

The Partnership also acknowledges the key role Central Government has played and continues to play in the success of this programme. This includes the funding and the ongoing advice and support by key Ministry for the Environment staff.

Rotorua Lakes Council supports the land-use rules approach being developed by Bay of Plenty Regional Council.

The Strategy Group notes that these rules are part of a larger integrated framework that includes the following:

- An Incentive Fund to buy nitrogen from the catchment (\$40 million)
- A Low Nitrogen Land Use Fund (\$3.3 million)
- A farmer support fund (\$2.2 million)
- Removal of Gorse

Concern has been raised that the current administrative framework is complicated and considers that there is more opportunity for solutions-focused leadership to develop and limited support for affected land owners.

This paper proposes a Trust be set up that focuses on the Rotorua Te Arawa Lakes Steering Group's wider objective on balancing the needs of the local economy, the local community and water quality:

'A proactive and systematic approach to restoring our lake, growing our economy and supporting our people - toi te mana, toi te whenua, toi tū te tangata.'

An independent trust could evolve out of the current incentives board, and have three key objectives:

- meet the 100 ton reduction of nitrogen in the catchment (the role of the incentives board)
- encourage economic value decisions at a farm level
- · coordinate and facilitate farmer advice and support.

This would be based on the setting up of an independent Trust- along the lines of that put in place for Lake Taupo – with responsibility to oversee aspects of the delivery framework.

While maximising the opportunities for economic growth, it is critical that there is a clear focus on cleaning up the lake. The proposed Terms of Reference, Scope and Governance Structures are yet to be finalised however the RTLSG is asked to consider some in-principle decisions to assist in the discussion and if agreed final development of the above.

### 2. RECOMMENDATIONS:

- 1. That the report 'Proposal for a Lake Rotorua protection trust to support lake restoration, economic growth and the interests of land owners' be received.
- 2. Agree in principle to the formation of a Rotorua Lakes Protection Trust to promote and oversee profitable low nutrient land use in the catchment.
- 3. Agree in principle to the purpose, scope and governance arrangements as proposed and note that staff from the partnership will develop these further to bring back a full Terms of Reference to the RTSLG in the new year.
- 4. Note that all recommendations will be checked against the purpose of funding provided in the cabinet paper (supporting farmers to reduce N loss and to achieve the 100t nitrogen reduction) and that any structures will be designed to be compliant with that funding.
- 5. Note that additional funding is likely to be required from the partnership and staff will bring back further advice on this in the new year.
- 6. Note that in the event that this is agreed, RLC and Regional Council will need to carry out a public consultation process to set up a Trust.

### 4. TRUST PURPOSE

This paper proposes a lake protection trust – similar to that put in place for Lake Taupō. The Lake Rotorua Protection Trust would be formed to support lake restoration, economic growth and the interests of land owners.

The specific aim being to promote and oversee landuse change in the catchment.

At its last meeting the Rotorua Te Arawa Lakes Steering Group received a presentation from the Te Arawa Lakes Trust chief executive, Roku Mihinui, on Te Tuapapa o Ngā Wai o Te Arawa - Te Arawa Cultural Values Framework.

This framework could be utilised to underpin the focus of any independent lake protection trust that was established.

It would have responsibility to:

- Meet the 100 ton reduction of nitrogen loss to the lake (the role of the incentives board)
- Distribute the Low Nitrogen Land Use Fund (\$3.3 million)
- Encourage economic value decisions at a farm level
- Facilitate farmer advice and support across all funding available (that identified to date and any new funding obtained)

Rotorua Lakes Council while supporting the programme, have expressed concerns that there was insufficient economic leadership built into the programme and previously had considered that a group was needed to coordinate efforts, to promote and facilitate economic growth, and to leverage off funding currently available. However they have moved from that position as it would add yet another group to what is already a confusing funding and advisory landscape. This would instead become an additional function of the Trust.

An independent trust could provide the flexibility, focus and administrative efficiency needed to better support land owners and to coordinate information, modelling, funding and investment for effective solutions. A trust's independent nature may also offer greater flexibility for leveraging funding and other external (commercial) investment.

For comparison purposes, the Lake Taupo Protection Trust's role in protecting Lake Taupo is defined as:

- Reduce nitrogen discharge by a minimum amount of 20%
- Benchmark (with EW) nitrogen discharge allowances (NDAs)
- Purchase N (20 %)
- Provide advice on Trust activities
- Facilitate N reduction with land owners
- Support applied research to reduce N in the catchment
- Facilitate joint ventures or partnerships to achieve Trust objectives
- Source additional funding (Charitable Trust)
- Monitor and report on the Trust's performance.

The relationship of a new trust with Rotorua Lakes Council programmes could be as detailed in the diagram below (needs some work). This includes engagement with the proposed Catchment Sustainability Plan and the rules framework.

### ACCOUNTABILITY AND TRANSPARENCY

The funding source for the Trust currently comprise Crown Funding and matching Bay of Plenty Regional Council funds. The purpose of this funding is limited to activities that maintain/improve lake water quality (as set out in the deed and cab decisions). Spend of these funds has to be reported to both the Bay of Plenty Regional Council (as the administrator on behalf of the Crown) and the Crown on an annual basis.

This trust would have a wider purpose and it will therefore be necessary to ring-fence funding so that the limitations of the current funding spend do not pertain to all aspects of the trusts activities.

It is recommended that this be achieved by delegating the decision-making role in respect of the Incentives Board to a sub-committee of Trustees – these decisions being governed by the current cabinet paper mandate. The Low Nitrogen Land Use Fund would operate in a similar way with the decision making framework taking account of the cabinet decision purpose. In both cases the final decision would then be endorsed by the full board.

This would ensure that the requirements set out in the cabinet paper would not pertain to all aspects of the Trust activities. However that joined up thinking would be achieved across the crown and non-crown funded aspects of the programme.

### STRUCTURAL AND GOVERNANCE ARRANGEMENTS

If existing incentives board was used as a basis for establishment of a new trust, additional membership would be needed to ensure an appropriate mix of competencies was available (the incentives board has a allowed membership of ??? of which ??? places have been filled). The selection of the incentives board was undertaken by the RTLSG partner organisations with support from the Institute of Directors. Given that the proposed trust would have a wider mandate, additional competencies for consideration may include:

- sector leadership
- land-use economics
- land-use environmental impact

It is proposed that the Trust would employ a Chief Executive and a small team (3-4) seconded from both the Regional Council and the Rotorua Lakes Council. These staff would require a mix of technical, brokering and relationship skills

### OTHER MATTERS

For clarity of understanding - all matters with respect to the development and implementation of the rules framework would remain with the Bay of Plenty Regional Council, as would the administration of the Farmer Assistance Fund which has a specific purpose of assisting farmers to meet the rules. The ongoing work with respect to Science and the in-lake initiatives would remain with the Regional Council. The work by the Rotorua Lakes Council with respect to Sewerage Reticulation would similarly remain with the District Council.

The development of a catchment sustainability comprising a land use capability and resource map to guide land use management and land use change decisions plan is also proposed. The scope, funding and responsibility for this have not been addressed in this paper.

### ASSESSMENT OF SIGNIFICANCE

Needs to be written – is significant as would need public consultation. In the event that RLC were to put funding in then it might be significant on that grounds as well.

### COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

As noted above, communication on the reasons for the proposed changes needs to be clearly identified as this report moves the programme framework to a different position.

A full public consultation process will be required if a Trust is to be established.

### 7. CONSIDERATIONS

### 7.1 Financial/budget considerations

It is expected that the proposed changes will have an impact on proposed funding or the administration costs of the various programme elements.

This paper also highlights the fact that the current funding is not sufficient to meet the aspirations of the programme with respect to economic development advice and additional funding for this service will also be necessary if the Trust is to be successful.

A full costing of the Trust model and any additional funding for other services will be provided to the next meeting.

### 7.2 Policy and planning implications

Criteria and membership of a proposed panel to distribute funding from the Low Nitrogen Land Use Fund were tabled at the last meeting of the Rotorua Te Arawa Lakes Steering Group. At the request of Rotorua Lakes Council this report was referred to an extraordinary meeting on 11 November, this meeting was subsequently cancelled.

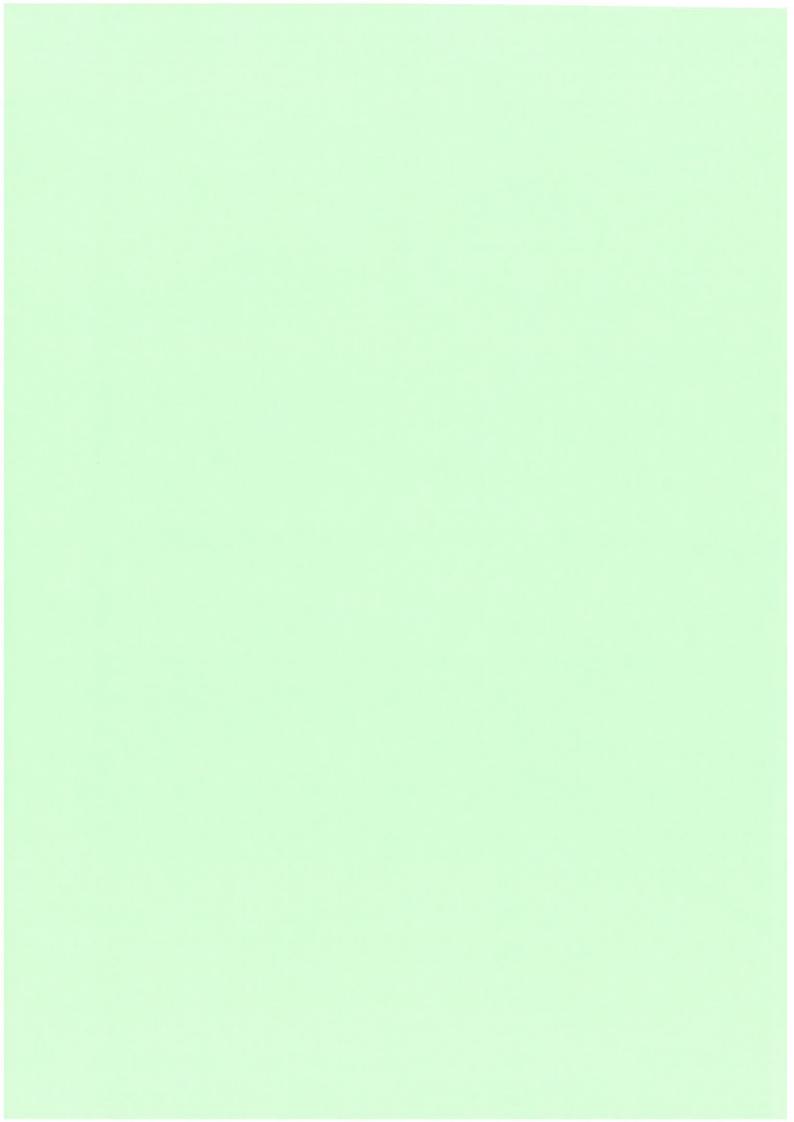
### 7.3 Risks

The proposed changes need to be properly explained or may result in concerns being raised from StAG as to their role and the BOPRC who have led the development of the current programme framework.

### 7.4 Authority

The governance of the programme is provided by the Rotorua Te Arawa Lakes Steering Group (RTLSG) and the management of the Crown funding is provided through BOPRC.

### 8. CONCLUSION



### Kim McGrath

From:

Geoff Williams

Sent:

Monday, 23 November 2015 3:34 p.m.

To:

Mary-AnneMacleod

Subject:

RE: RTLSG paper on Lake Rotorua Protections Trust Proposal

### Hi Mary-Anne

I didn't have any changes to the draft of the paper you developed. The only addition was some wording around alignment of the Incentives Board TOR with the Trusts purpose. This could be simple and along the lines of "the economic viability of land use change will be considered when assessing applications."

Why don't you get a draft done and get it to us.

Many thanks

Geoff

----Original Message----

From: Mary-Anne Macleod [mailto:Mary-Anne.Macleod@boprc.govt.nz]

Sent: Monday, 23 November 2015 11:16 a.m.

To: Geoff Williams

Cc: Warwick Murray; Fiona McTavish

Subject: RTLSG paper on Lake Rotorua Protections Trust Proposal

Hi Geoff - following your email last week i have asked staff to turn the rough draft I wrote into a formal paper. The meeting is now scheduled for 7 December so we will need to finalise this week. In order to do that can you get someone to send through the changes RLC seek as soon as possible in case we need to meet to sort anything out. I am out of the office from Thursday so dont have much time.

I need to also take my councillors through the final paper to ensure that Doug and Neil have a mandate to agree to the changed structure. There was some support from council last time round but it was not universally supported.

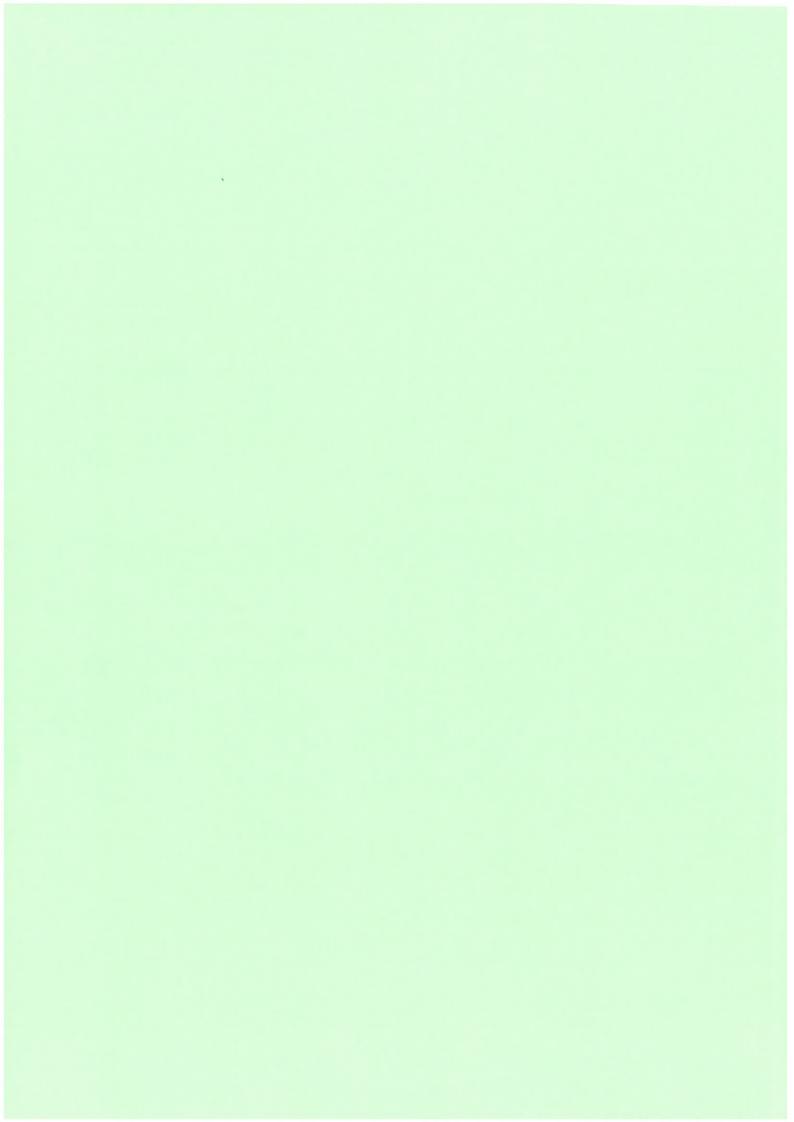
As you are aware Tanira is working on a concept for a Te Arawa Group and this might need to be factored in or we could have more confusion and a meeting with Te Arawa might also need to be squeezed in.

look forward to hearing from you

Regards Mary-Anne

Mary-Anne Macleod Chief Executive Bay of Plenty Regional Council - Toi Moana

sent via iPad



### Kim McGrath

From:

Geoff Williams

Sent:

Thursday, 26 November 2015 5:04 p.m.

To:

Mary-AnneMacleod

Cc: Subject: Jean-Paul Gaston 2015-11-24 Proposal for a Lake Rotorua Protection Trust to support Lake

Restoration.docx

**Attachments:** 

2015-11-24 Proposal for a Lake Rotorua Protection Trust to support Lake

Restoration.docx

Hi Mary-Anne,

Please find attached an amended version of the report for next week. I think it still needs some finessing but looks substantially ok.

Geoff

# PROPOSAL FOR A LAKE ROTORUA PROTECTION TRUST TO SUPPORT LAKE RESTORATION, ECONOMIC GROWTH AND THE INTERESTS OF LAND OWNERS

### 1. INTRODUCTION

The Rotorua Lakes Strategy Group has been working towards the restoration of Lake Rotorua's water quality and is at a pivotal point in that journey. This group recognises the hard work of all partners and stakeholders who have contributed to the development of the integrated framework, the rules framework and the science underpinning this project. The group also recognises the importance of ongoing buy-in and commitment from each of the partners moving forward. In particular, the group recognises:

- The key role Central Government has played and continues to play in the success of this project. This includes the funding and the ongoing advice and support by key Ministry for the Environment staff.
- The work that has been done in-Lakes to improve water quality.
- The significant contribution that the reticulation of sewage carried out by Rotorua Lakes Council and those communities has played.
- The on-going support from respective partners of the land-use rules approach being developed by Bay of Plenty Regional Council

The Strategy Group notes that the land-use rules are part of a larger integrated framework that also includes:

- An Incentive Fund to buy nitrogen from the catchment (\$40 million)
- A Low Nitrogen Land Use Fund (\$3.3 million)
- A farmer support fund (\$2.2 million)
- Removal of Gorse
- Engineering interventions (?)
- Land-use rules for nitrogen reduction

The Lake Rotorua Incentives Board has been established as a committee of Bay of Plenty Regional Council with delegated authority to administer the Incentives fund, and buy nitrogen from the catchment, while other project structures are being established to implement the remaining aspects of the integrated framework.

The Rotorua Lakes Council has raised concerns that the current project structures are somewhat fragmented, which may potentially negatively impact on the broad joined-up understanding of the whole-of-catchment consequences of individual funding decisions and reduce the overall effectiveness of the program. In particular, the Rotorua Lakes Council is concerned that the Incentives Board is prevented by its current terms of reference from considering the wider economic implications of landuse change when making its funding decisions.

Alt has been suggested that the formation of a new -more integrated evolving the Incentives Board into a Tapproach is proposed. A new Trust, rust, set up as a Council Controlled Organisation, of which the Incentives Board would become part, would with a have broader responsibility and slightly amended terms of reference mayto implement provide a means of achieving a more proactive and holistic systematic approach to achieving the catchment objectives.

This paper seeks that the Strategy Group recommend to partners to further develop the option of setting up a trust that focuses on the following Rotorua Te Arawa Lakes Steering Group's wider objective of balancing the needs of the local economy, the local community and water quality:

'A proactive and systematic approach to restoring our lake, growing our economy and supporting our people - toi te mana, toi te whenua, toi tū te tangata.'

This approach would see the setting up of an independent Trust\_- along the lines of that put in place for Lake Taupō – with responsibility to oversee several aspects of the integrated framework.

While maximising the opportunities for economic growth, it is critical that there is a clear focus on cleaning up the lake.

The in-principal support of the concept is sought prior to The proposed developing detailed Terms of Reference, Scope and Governance Structures for the proposed Trust are yet to be finalised however the RTLSG is asked to consider some in principle decisions to assist in the discussion and if agreed, the final development of the above.

### 2. RECOMMENDATIONS:

- 1. That the report 'Proposal for a Lake Rotorua Protection Trust- to support lake restoration, economic growth and the interests of land owners' be received.
- 2. That the partners support in-principle Recommend to BOPRC and RLC, with the input from the TALT, to further investigate the formation of a Rotorua Lakes Protection Trust. to promote and oversee profitable low nutrient land use in the catchment.
- 3. Note further work will be undertaken on theRefer the outlined purpose, scope, structures and governance arrangements as proposed and note that staff from the partnership will work to develop these prior to further for partners final approval being sought approval.
- 4. Note that all recommendations will be checked against the purpose of funding provided in the cabinet paper (supporting farmers to reduce N loss and to achieve the 100t nitrogen reduction) and that any structures will be designed to be compliant with the conditions of that funding.
- 5. Note that additional funding is likely to be required from BOPRC and RLC and staff will bring back further advice on this in the New Year.
- 6. Note that in the event that this is agreed, the RLC and the Regional CouncilBOPRC will need to carry out a public consultation—will be required process to set up a Trust.

### 3. TRUST PURPOSE

This paper proposes setting up a lake protection trust, similar to that put in place for Lake Taupō. The Lake Rotorua Protection Trust (working name only) would be formed to support lake restoration, economic growth and the interests of land owners.

The specific aim of the Trust would be to promote and oversee landuse change for the purposes of reducing nitrogen inputs to the Lake Rotorua catchment.

At its last meeting the Rotorua Te Arawa Lakes Steering Group received a presentation from the Te Arawa Lakes Trust chief executive, Roku Mihinui, on Te Tuapapa o Ngā Wai o Te Arawa - Te Arawa Cultural Values Framework.

This framework could be utilised to underpin the focus of the proposed trust any independent lake pretection trust that was established.

### The Trust would have responsibility to:

- Meet the 100 tonne reduction of nitrogen loss to the lake (the role of the incentives board).
- Distribute the Low Nitrogen Land Use Fund (\$3.3 million).
- Encourage economic value decisions at a farm level.
- Facilitate farmer advice and support across all funding available (that identified to date, and any new funding obtained).

The Rotorua Lakes Council, while supporting the integrated frameworks programmes, have expressed concerns that there was insufficient economic leadership provided through the discrete elements and a confusing range of funds and processes for land owners to navigate, built into these programmes. Initially, the Rotorua Lakes Council had considered that a separate group was needed to coordinate efforts to promote and facilitate economic growth, and to leverage off funding currently available. However, the Rotorua Lakes Council have since moved from that position, recognising it would add yet another group to what is already a complicated funding and advisory landscape.

It is proposed that this economic leadership instead would become an additional function of the Trust. The existing Incentives Board would be transition into become part of this Trust, and there would be a minor variation to the current incentives board's terms of reference to allow the Trust to consider the future viability of land use change from an economic perspective, as a secondary factor to achieving its primary purpose of reducing nitrogen losses to the lake.

An independent trust could provide the flexibility, focus and administrative efficiency needed to better support land owners and to coordinate information, modelling, funding and investment for effective solutions. A trust's independent nature may also offer greater flexibility for leveraging funding and other external (commercial) investment.

# The existing Incentives Board would become part of this Trust.

For comparison purposes, the Lake Taupō Protection Trust's role in protecting Lake Taupō is defined as:

- Reduce nitrogen discharge by a minimum amount of 20%
- Benchmark (with EW) nitrogen discharge allowances (NDAs)
- Purchase N (20 %)
- Provide advice on Trust activities
- Facilitate N reduction with land owners
- Support applied research to reduce N in the catchment
- Facilitate joint ventures or partnerships to achieve Trust objectives
- Source additional funding (Charitable Trust)
- Monitor and report on the Trust's performance.

The relationship of a new trust with Rotorua Lakes Council programmes could be as detailed in the diagram below. This includes engagement with a proposed new Catchment Sustainability Plan and the rules framework.

### Diagramme still to be finalised

### 4. ACCOUNTABILITY AND TRANSPARENCY

The funding source for the Incentives Board currently comprises Crown Funding (\$22.75 million) and matching Bay of Plenty Regional Council funds (\$22.75 million). The purpose of this funding is restricted to activities that maintain/improve lake water quality within the context of incentives under the Integrated Framework (as referenced in the funding deed, the cabinet paper decisions, and the Lake Rotorua Incentives Scheme Policy). Expenditure of these

funds has to be reported to both the Bay of Plenty Regional Council (as the administrator on behalf of the Crown) and to the Crown on an annual basis.

The Lake Rotorua Protection Trust as proposed would have a wider purpose than the Incentives Board and it would therefore be necessary to ring-fence funding to ensure the restrictions on the current funding are met. Additional funding would need to be sought for the other aspects of the trusts activities.

It is suggested that this ring fencing could be achieved by transitioning the Incentives Board to become this Trust, whose decisions would be governed by the current cabinet paper mandate with the additional that "consideration be given to economic viability of land use change when assessing applications."

The Low Nitrogen Land Use Fund would operate in a similar way with the decision making framework taking account of the cabinet decision purpose.

In both cases the final decision would then be endorsed by the full board.

Adopting this approach, the desired joined up thinking would be achieved at the trust board level, across the crown and non-crown funded aspects of the programme.

### 5. STRUCTURAL AND GOVERNANCE ARRANGEMENTS

If the formation of a new Trust, set up as a Council Controlled Organisation, of which the Incentives Board would become part, with a broader responsibility to provide a more holistic and integrate -approach to achieving the catchment objectives.

If the existing incentives board was used as a basis for establishment of a A new trust will likely require wider, additional membership than the current incentives board. It may be helpful to carry some members to the new trust for continuity and the skills they provide. Further recruitment of trustees would then be required. would be needed to ensure an appropriate mix of competencies was available (the incentives board has a maximum allowed membership of 7, of which 5 places have currently been filled). The selection of the incentives board was undertaken by the RTLSG partner organisations with support from the Institute of

Directors. Given that the proposed trust would have a wider mandate, additional competencies for consideration may include:

- sector leadership
- land-use economics
- land-use environmental impact,

It is expected that the Trust would employ a Chief Executive and a small team (3-4) seconded from both the Regional Council and the Rotorua Lakes Council. These staff would require a mix of technical, brokering and relationship skills

### 6. OTHER MATTERS

For clarity of understanding, all matters with respect to the development and implementation of the rules framework would remain with the Bay of Plenty Regional Council, as would the administration of the Farmer Assistance Fund which has a specific purpose of assisting farmers to meet the rules. The ongoing work with respect to Science and the in-lake initiatives would also remain with the Regional Council. The work by the Rotorua Lakes Council with respect to sewage reticulation would similarly remain with the District Council.

The development of a catchment sustainability plan comprising a land use capability and resource map to guide land use management and land use change decisions plan is also proposed. The scope, funding and responsibility for this have not been addressed in this paper but will be addressed in the subsequent paper.

### 7. ASSESSMENT OF SIGNIFICANCE

If formed, the trust would constitute a Council Controlled Organisation under the Local Government Act 2002. The decision to form the trust would therefore require that the Councils involved go through an appropriate consultation process with their communities. This consultation could occur through a special consultative procedure, or as part of the development of a long term plan.

### 8. COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

As noted above, communication on the reasons for the proposed changes needs to be clearly identified as this report moves the programme framework to a different position.

A full public consultation process will be required if a Trust is to be established.

### 9. CONSIDERATIONS

### 9.1 Financial/budget considerations

It is clear that the current funding is not sufficient to meet the aspirations of the programme with respect to economic development advice and additional funding for this will be necessary if the Trust is to be successful.

It is <u>also</u> expected that the <u>formation and operation of the Trust will proposed changes will</u> have an impact on <u>the proposed funding and or the administration costs of the various programme elements.</u>

The current sub-committee model for the incentives board, and administration of the Low Nitrogen Land Use Fund was considered to be the most cost effective method of reaching the desired outcomes. The operating costs for the Taupö Trust for the early years were \$1.2m per annum.

This paper also highlights the fact that the current funding is not sufficient to meet the aspirations of the programme with respect to economic development advice and additional funding for this service will also be necessary if the Trust is to be successful.

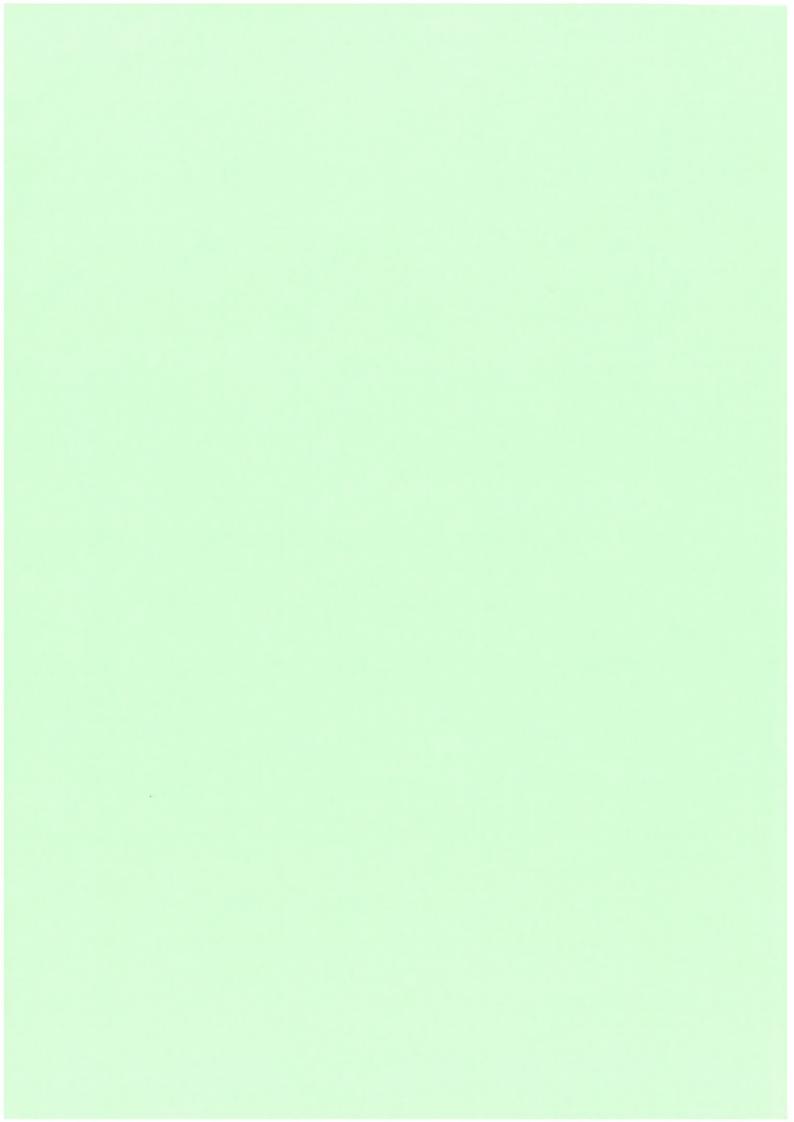
A full costing of the Trust model and any additional funding for other services will be provided to the next meeting.

### 9.2 Risks

The proposed changes need to be properly explained to ensure key stakeholders understand the transitional arrangements but continue to Use existing mechanisms to access funding for land use change.

### 10. CONCLUSION

The evolution of the current incentives board into aestablishment of a new Trust with a broader mandate may offer a viable approach to achieving the Incentive Fund objectives, while achieving the Steering Group's wider objective of balancing the needs of the local economy, the local community and water quality. If the Strategy Group wishes to pursue this option, a more detailed proposal with terms of reference, scope, governance structures, budgets and funding options would need to be developed for approval by partner organisations that would be required to commit additional funding for this change.



### Kim McGrath

From:

Geoff Williams

Sent:

Tuesday, 1 December 2015 2:44 p.m.

To:

Mary-AnneMacleod; \*Chairman Leeder

Cc:

Steve Chadwick; Jean-Paul Gaston; Dave Donaldson; Karen Hunt

Subject:

Version 2 2015-12-01 Proposal for a Lake Rotorua Protection Trust to support Lake

Restoration.docx

**Attachments:** 

Land Use Rules Dia.xps; Version 2 2015-12-01 Proposal for a Lake Rotorua Protection

Trust to support Lake Restoration.docx

Hi Doug and Mary-Anne,

Following a briefing from Steve this morning, I understand we are aiming to achieve an 'in-principle' decision on the creation of a Rotorua Protection Trust at the our meeting next week.

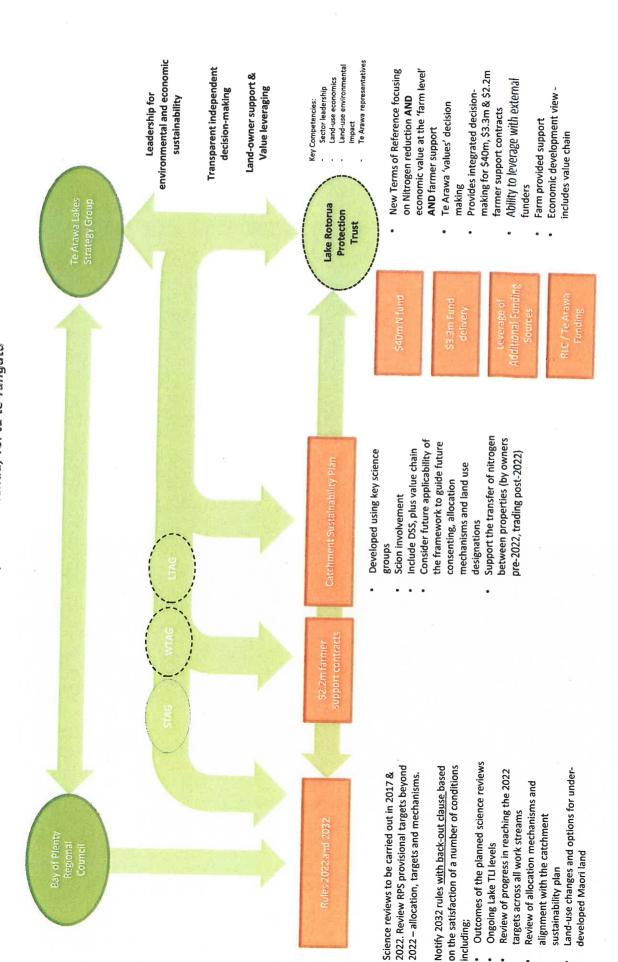
In light of the feedback received from Mary-Anne yesterday we have amended the paper (see attached) which we have been jointly working on to address the issues raised.

I understand we are meeting tomorrow at 8.00am at your offices in Tauranga at which time I would like to suggest we review and hopefully agree the joint paper.

Best wishes

Geoff

# A proactive and systematic way to restore our lake, grow our economy and support our people, Toi te Mana, Toi te Whenua, Toi tū te Tangata



including;

# PROPOSAL FOR A LAKE ROTORUA PROTECTION TRUST TO SUPPORT LAKE RESTORATION, ECONOMIC GROWTH AND THE INTERESTS OF LAND OWNERS

### 1. INTRODUCTION

The Rotorua Lakes Strategy Group has been working towards the restoration of Lake Rotorua's water quality and is at a pivotal point in this journey. This group acknowledges the hard work of all partners and stakeholders who have contributed to the development of the integrated framework, the rules framework and the science underpinning this project. The group also recognizes the importance of ongoing buy-in and commitment from each of the partners. In particular, the group recognizes:

- The key role Central Government has played and continues to play in the success
  of this project. This includes the funding and the ongoing advice and support by
  key Ministry for the Environment staff.
- The work that has been done in-Lakes to improve water quality.
- The significant contribution that the reticulation of sewage carried out by Rotorua Lakes Council and those communities has played.
- The on-going support from respective partners of the land-use rules approach being developed by Bay of Plenty Regional Council.

The Strategy Group notes the land-use rules are part of a larger integrated framework that also includes:

- An Incentive Fund to buy nitrogen from the catchment (\$40 million)
- A Low Nitrogen Land Use Fund (\$3.3 million)
- A farmer support fund (\$2.2 million)
- Removal of Gorse
- Engineering interventions
- Land-use rules for nitrogen reduction

The Lake Rotorua Incentives Board has been established as a committee of Bay of Plenty Regional Council with delegated authority to administer the Incentives Fund, and buy nitrogen

from the catchment, while other project structures are being established to implement the remaining aspects of the integrated framework.

The Rotorua Lakes Council has formed the view that objectives of the program may not be achieved in absence of a more systematic 'joined up' approach.

A new Trust, set up as a Council Controlled Organisation, of which the Incentives Board would become part, is proposed. This Trust would have responsibility to implement a more proactive and systematic approach to achieving the catchment objectives.

This paper seeks that the Strategy Group recommend to partners to further develop the option of setting up a Trust that focuses on the Rotorua Te Arawa Lakes Steering Group's wider objective of balancing the needs of the local economy, the local community and water quality:

'A proactive and systematic approach to restoring our lake, growing our economy and supporting our people - toi te mana, toi te whenua, toi tū te tangata.'

This approach would see the setting up of an independent Trust, along the lines of that put in place for Lake Taupō, with responsibility to oversee several aspects of the integrated framework.

The **primary** focus of this Trust would be to ensure the long term sustainability of Lake Rotorua. Secondary to this, but nevertheless important, a focus on pursuing the objective of maximizing opportunities for economic growth.

The in-principal support of the concept is sought prior to developing detailed Terms of Reference, Scope, Governance Structures and Funding Requirements for the proposed Trust.

### 2. RECOMMENDATIONS:

- 1. That the report 'Proposal for a Lake Rotorua Protection Trust to support lake restoration, economic growth and the interests of land owners' be received.
- 2. That the partners support in-principle the formation of a Rotorua Lakes Protection Trust (working title only).

- 3. Note detailed Terms of Reference, Scope, Governance Structures, Funding Implications and Consultation Requirements for the Trust will be the subject of a further report in the New Year.
- 4. Note that all recommendations will be checked against the purpose of funding provided in the cabinet paper (supporting farmers to reduce N loss and to achieve the 100t nitrogen reduction) and that any structures will be designed to be compliant with the conditions of that funding.

### 3. TRUST PURPOSE

This paper proposes setting up a lake protection trust, similar to that put in place for Lake Taupō. The Lake Rotorua Protection Trust (working title only) would be formed to support lake restoration, economic growth and the interests of land owners.

At its last meeting the Rotorua Te Arawa Lakes Steering Group received a presentation from the Te Arawa Lakes Trust chief executive, Roku Mihinui, on Te Tuapapa o Ngā Wai o Te Arawa - Te Arawa Cultural Values Framework.

It is proposed that this framework underpin the focus of the proposed trust.

The Trust would have responsibility to:

- Oversee land use change for the purposes of reducing nitrogen inputs to the Lake Rotorua catchment
- Meet the 100 tonne reduction of nitrogen loss to the lake (the role of the incentives board).
- Encourage economic value decisions at a farm level.
- Distribute the Low Nitrogen Land Use Fund (\$3.3 million).
- Facilitate farmer advice and support across all funding available (that identified to date, and any new funding obtained).

An independent trust could provide the flexibility, focus and administrative efficiency needed to better support land owners and to coordinate information, modelling, funding and investment

for effective solutions. A trust's independent nature may also offer greater flexibility to leverage funding and other external (commercial) investment.

For comparison purposes, the Lake Taupō Protection Trust's role in protecting Lake Taupō is defined as:

- Reduce nitrogen discharge by a minimum amount of 20%
- Benchmark (with EW) nitrogen discharge allowances (NDAs)
- Purchase N (20 %)
- Provide advice on Trust activities
- Facilitate N reduction with land owners
- Support applied research to reduce N in the catchment
- Facilitate joint ventures or partnerships to achieve Trust objectives
- Source additional funding (Charitable Trust)
- Monitor and report on the Trust's performance.

The relationship of a new trust with Rotorua Lakes programmes could be as detailed in **Appendix 1** 

### 4. ACCOUNTABILITY AND TRANSPARENCY

The existing Incentives Board would become part of this Trust. The funding source for the Incentives Board currently comprises Crown Funding (\$22.75 million) and matching Bay of Plenty Regional Council funds (\$22.75 million). The purpose of this funding is restricted to activities that maintain/improve lake water quality within the context of incentives under the Integrated Framework (as referenced in the funding deed, the cabinet paper decisions, and the Lake Rotorua Incentives Scheme Policy). Expenditure of these funds has to be reported to both the Bay of Plenty Regional Council (as the administrator on behalf of the Crown) and to the Crown on an annual basis.

The Lake Rotorua Protection Trust as proposed would have a wider purpose than the Incentives Board and it would therefore be necessary to ring-fence funding to ensure the restrictions on the current funding are met.

Additional funding would need to be sought for the other aspects of the trust's activities.

The Low Nitrogen Land Use Fund would operate in a similar way with the decision making framework taking account of the cabinet decision purpose.

Adopting this approach, the desired joined up thinking would be achieved at the trust board level, across the crown and non-crown funded aspects of the programme.

# 5. STRUCTURAL AND GOVERNANCE ARRANGEMENTS

The Trust would be set up as a Council Controlled Organisation with responsibility to provide a more holistic and integrated approach to achieving the catchment objectives.

The existing Incentives Board would become part of this Trust. It is proposed that the Incentives Board's Terms of Reference, Board Membership, systems and approach would essentially be 'ring fenced' and placed within the new Trust, potentially as an operational subcommittee.

It is envisaged that the Incentives Board members will comprise the majority of the new Trust Board. However, given the wider mandate of the new Trust, some additional skills may be required at Board, level thus potentially necessitating some additional membership. This will be explored further in the future report. Additional competencies for consideration may include:

- sector leadership
- land-use economics
- land-use environmental impact.

It is expected that the Trust would employ a Chief Executive and a small team (3-4) seconded from both the Regional Council and the Rotorua Lakes Council. These staff would require a mix of technical, brokering and relationship skills

### 6. OTHER MATTERS

For clarity of understanding, all matters with respect to the development and implementation of the rules framework would remain with Bay of Plenty Regional Council, as would the administration of the Farmer Assistance Fund which has a specific purpose of assisting farmers to meet the rules. The ongoing work with respect to Science and the in-lake initiatives would also remain with Regional Council. The work by Rotorua Lakes Council with respect to sewage reticulation would similarly remain with Lakes Council.

The development of a catchment sustainability plan comprising a land use capability and resource map to guide land use management and land use change decisions plan is also proposed. The scope, funding and responsibility for this have not been addressed in this paper but will be addressed in the subsequent paper.

### 7. ASSESSMENT OF SIGNIFICANCE

If formed, the trust would constitute a Council Controlled Organisation under the Local Government Act 2002. The decision to form the trust would therefore require that the councils involved go through an appropriate consultation process with their communities. This consultation could occur through a special consultative procedure, or as part of the development of a long term plan.

### 8. COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY

As noted above, communication on the reasons for the proposed changes needs to be clearly identified as this report moves the programme framework to a different position.

A full public consultation process will be required if a Trust is to be established.

### 9. CONSIDERATIONS

### 9.1 Financial/budget Considerations

It is clear that the current funding is not sufficient to meet the aspirations of the programme with respect to, amongst other things; economic development advice, farm systems change, and the preparation of the catchment sustainability plan. Additional funding for these aspects will be necessary if the Trust is to be successful. It is envisaged that the Trust will actively

lever existing funding sources and explore new options. It may also be necessary to explore the possibility of acquiring additional support from the strategy partners.

It is also expected the formation and operation of the Trust will have an impact on the funding and administration costs of the overall programme. This cannot be accurately quantified at the time of writing and will be explored as part of the future report. Having said this, it could be expected that the operational costs would likely to be between \$450k per annum and \$1.2m per annum. This range is based on the operational costs of Grow Rotorua and the Protect Lake Taupo Trust.

### 9.2 Risks

The proposed changes need to be properly explained to ensure key stakeholders understand the transitional arrangements but continue to use existing mechanisms to access funding for land use change.

### 10. CONCLUSION

The establishment of a new Trust with a broader mandate offers a viable approach to achieving the Incentive Fund objectives, while achieving the Steering Group's wider objective of balancing the needs of the local economy, the local community and water quality.

If the Strategy Group wishes to pursue this option, a more detailed proposal with terms of reference, scope, governance structures, budgets and funding options would need to be developed for approval by partner organizations.