Lake Rotorua Catchment Stakeholder Advisory Group (StAG)

Meeting: 9am-12pm, Tuesday 17 December 2013

Venue: Rotorua District Council Committee Rooms

[NB: there is no StAG subcommittee meeting afterwards]

Agenda

1. Karakia and welcome
2. Apologies
3. Minutes of previous meeting (18 November 2013)
4. General Business items to add
5. Getting expert advice on land use, nutrient management and economics (Tanira Kingi)
6. NDA options paper (Sarah Omundsen)
7. Permitted activity rules paper (Lisa Power)
8. Characterising drystock farms using Rule 11 data (Alastair MacCormick)
9. Engagement plan on rules and incentives (Rachael McGarvie / Anna Grayling)
10. Incentives fund governance options (Anna Grayling) – NB: one hour required
11. General business
12. Actions for 2014

Tentative meeting schedule for 2014

- 21 January – StAG subcommittee only
- **11 February – full StAG meeting**
- A full StAG and subcommittee meeting schedule will be circulated early 2014.

Attachments circulated with this agenda:

- NDA options paper
- Permitted activity rules paper
- Consideration on Entity – Further development of the Incentives Framework

Further development of the rule framework: dairy support, NDA ranges and the starting point for allocation

Advice required

Regional Council staff are seeking advice from the Stakeholder Advisory Group (StAG) on three key issues related to the allocation of Nitrogen Discharge Allowances (NDAs):

1. Whether or not to include **dairy support** as a separate sector in the NDA framework
2. Whether or not to adjust each sector NDA and allocate them as **ranges**
3. The most appropriate **land use starting point** for allocating NDAs to sectors

It is noted that no decisions will be recommended to Regional Council until March 2014. The advice sought from StAG at this stage is to help refine the rules and incentives framework, and to allow rule development to progress.

More information will become available as we get closer to March. For example, work is currently underway to characterise the drystock sector. The outcomes of this work and other information may mean we revisit aspects of this advice paper, such as NDA ranges.

Issues

In the framework for rules and incentives that was approved by Regional Council on 17 September 2013, the following sector average NDAs were proposed:

- Dairy NDA = 35kg N/ha
- Drystock NDA = 13kg N/ha

It was noted however that these sector averages:

a) Were subject to confirmation by StAG and advice on whether or not “dairy support” should be included as a separate sector, and
b) May be adjusted as ranges to recognise geophysical or farm system characteristics, provided the aggregate for each sector is not exceeded.

This paper addresses both a) and b) above.

This paper also includes discussion on the “starting point” for allocation. It has become apparent through the development of the framework that this decision is urgently required in order for landowners to understand exactly what impacts the NDA allocation will have on them.

It is noted that there are no right or wrong approaches for dealing with each of these issues. The allocation of NDAs is going to be difficult and is going to impact on every landowner in the catchment in some way. No single approach will work for everyone – each approach will hurt some people less or more than others.

Ultimately, decisions are required on the most pragmatic approaches for allocating NDAs. There are choices to be made and they will be subjective. Regional Council is seeking advice from StAG on their preferences.

Dairy Support

Advice sought

Regional Council are seeking advice from StAG on their preference for -

> Either: retaining the sectors and NDAs agreed by BOPRC and RTALSG (Dairy@35kg N/ha and Drystock@13kg N/ha);
>
> Or: including "dairy support" as a separate sector in the rules framework, and amending the NDAs to: Dairy@35kg N/ha; Drystock@12kg N/ha; Dairy support@20kg N/ha.

Background

A decision paper has previously been prepared by Regional Council staff on options for dealing with dairy support in the NDA framework (Appendix 1). Three options were proposed in the decision paper:

OPTION 1: Retain the sectors and NDAs agreed by BOPRC and RTALSG (Dairy@35kg N/ha and Drystock@13kg N/ha)

OPTION 2: Include "dairy support" as a sector in the rules framework, and amend the NDAs as Dairy@35kg N/ha, Drystock@12kg N/ha and Dairy support@18kg N/ha

OPTION 3: Include a "dairy support" increment with the dairy sector that shifts with the stock, and amend the NDAs as Dairy@38kg N/ha and Drystock@12kg N/ha

Advantages and disadvantages of the three options are outlined in Appendix 1. Advice was also sought from an independent agricultural consultant on the viability of the options (Appendix 2). The consultant was undecided on whether or not to include a separate dairy support NDA in the framework, and noted "*The reality is that the final allocation framework is going to be considered inequitable by some or all landowners, irrespective of its final format*".

Key conclusions from the consultant's report were:

- A dairy support NDA may not significantly improve the perceived equity of the proposed allocation framework but it will help dairy support properties to meet nitrogen loss requirements (albeit at the expense of other drystock farmers)
- There will be issues around how to recognise dairy support properties that have not been benchmarked
- A dairy support sector average of 18kg N/ha/year will still require significant system change beyond business as usual
- An additional NDA for dairy support will introduce additional administrative costs and additional complexity through the allocation process, as well as ongoing monitoring and review requirements.
- Option 3 (the NDA shifts with the herd) carries considerable risks and will essentially result in the allocation of additional property rights to the dairy sector at the expense of the drystock farmers with little or no guarantee it will achieve the intent of a dairy support sector allocation.

The consultant also recommended that if a specific dairy support NDA is adopted, it should be adjusted to 20kg N with a drystock allocation of 11.6kgN/ha for drystock (but rounding to 12kg N/ha). This results in a relatively proportional reduction from current discharge averages for each sector, but does result in a slightly higher total nitrogen loss (216 TN rather than 210TN).

Comment

Staff agree that Option 3 (the NDA shifts with the herd) is likely to result in additional complexity, and the risks of the approach probably outweigh the benefits. Therefore, two options are considered viable:

OPTION 1: Retain the sectors and NDAs agreed by BOPRC and RTALSG (Dairy@35kg N/ha and Drystock@13kg N/ha)

OPTION 2: Include "dairy support" as a sector in the rules framework, and amend the NDAs as Dairy@35kg N/ha, Drystock@12kg N/ha and Dairy support@18kg N/ha

OPTION 1 simply retains the status quo. The main advantage of this option is that having two sectors is simple and straightforward. There are a variety of uncertainties associated with dairy support and incorporating the land use within the drystock sector reduces allocation complexities.

This approach is also seen as the fairest approach for drystock farmers that aren't providing dairy support. There are many other intensive land uses (such as intensive beef) and they will also have to make significant reductions. Making allowances only for those associated with the dairy industry isn't seen as equitable.

OPTION 2 makes a specific provision for a recognised land use, but at the direct expense of other drystock farmers. It provides a better opportunity for some landowners, and suits both dairy farmers operating runoff blocks, as well as drystock farmers providing dairy support.

Nitrogen Discharge Allowance ranges

Advice sought

Regional Council are seeking advice from StAG on their preference for -

Either: retaining a single NDA for each sector

Or: including an NDA range for each sector based on either:

a) Rainfall and soil-type; or
b) Existing benchmarks as a proxy for geophysical factors and farm system types

Background

The framework proposed by StAG included fixed sector averages. During the negotiating of the framework however, it was agreed that ranges around the average would be considered – that is, 35kg N/ha might actually be 30-40kg N/ha and 13kg N/ha might actually be 10-18kg N/ha. These ranges would be based on geophysical characteristics, or farm system types.

The intent of using ranges rather than a fixed NDA is to make allowances for those properties on "leakier" land where mitigation might be harder and the NDA more difficult to achieve. For those on "less leaky" land where achieving the NDA is expected to be easier, a slightly lower allocation would be provided.

Ranges based on farm system type also allow provision to be made for the multiple different farm systems that are categorised as "drystock".

Two separate approaches for generating viable NDA ranges have been analysed:

a) Specifically linking NDAs to rainfall ranges and soil types in the Rotorua catchment
b) Basing NDA ranges on Rule 11 benchmarks as a proxy for geophysical characteristics and farm system types.

NDAs based on rainfall ranges and soil types

Analysis

Rainfall in the Rotorua catchment ranges from 1300mm/yr up to 2500mm/yr. Rainfall bands have been mapped for the catchment, as have the different soil types that occur (Appendix 3).

The percentage of dairy farms (by % area) that occur in the different rainfall bands and soil types are:

Dairy – Soil distribution by rainfall													
	1350	1450	1550	1650	1750	1850	1950	2050	2150	2250	2350	2450	Total
Pumice			1%		3%	10%	8%	5%	1%	3%			31%
Allophanic			11%										11%
Recent	4%	2%											6%
Podzol								13%	13%	11%	12%	2%	52%
Total	4%	2%	12%	0%	3%	10%	8%	18%	15%	14%	12%	2%	100%

The percentage of drystock farms (by % area) that occur in the different rainfall bands and soil types are:

Drystock – Soil distribution by rainfall													
	1350	1450	1550	1650	1750	1850	1950	2050	2150	2250	2350	2450	Total
Pumice		4%	4%	4%	5%	4%	7%	4%	1%				33%
Allophanic			7%	7%	3%	2%							19%
Recent	1%	6%	3%	2%									12%
Podzol			1%	5%	5%	7%	6%	4%	2%	3%	3%		35%
Total	1%	10%	15%	17%	13%	13%	13%	8%	3%	3%	3%	0%	100%

Soil and rainfall have predictable impacts on nitrogen loss in the catchment (Appendix 4). Comparing the same farm system under different soil and rainfall conditions show[1]:

a) That discharges increase as rainfall increases; and
b) That discharges change according to soil type, with lowest discharges on podzol soils, then recent soils, then allophanic soils. Highest discharges occur on pumice soils.

Analysis of a hypothetical dairy or drystock farm across the different soil types and rainfalls allows a NDA range to be developed. Allocating discharges, according to this range, better accounts for the greater or lesser nitrogen leaching that occurs in different parts of the catchment. Analysing total nitrogen discharges across the different soil types and rainfall bands allows for NDA ranges to be developed for both the dairy and drystock sector. The outputs of this analysis are example "look-up" type tables that show how the range of NDAs that could work to achieve the sector reductions required.

For the dairy sector, the example NDAs range between 26 – 46kg N/ha:

Dairy – NDA allocations												
	1350	**1450**	**1550**	**1650**	**1750**	**1850**	**1950**	**2050**	**2150**	**2250**	**2350**	**2450**
Pumice	35	36	37	38	40	41	42	43	45	46		
Allophanic			32									
Recent	28	29		31								
Podzol			26				29	30	31	32	33	34

For the drystock sector, the example NDAs range between 9 – 16kg N/ha:

Drystock – NDA allocations												
	1350	**1450**	**1550**	**1650**	**1750**	**1850**	**1950**	**2050**	**2150**	**2250**	**2350**	**2450**
Pumice	12	12	13	13	14	14	15	15	16	16		
Allophanic	10	11	11	12	12	12	13					
Recent	9	10	10	11	11	12	12					
Podzol			9	9	10	10	11	11	11	12	12	13

These look-up tables show the relevant NDA allocation for dairy and drystock effective areas, depending on soil and rainfall. For example, the effective area of a drystock farm on allophanic soil in a rainfall band of 1600-1700mm would receive an NDA allocation of 12kg N/ha.

Advantages and disadvantages

The **advantages** of ranges based on soil and rainfall characteristics are:

- The look-up table approach is relatively simple to understand and administer
- The impact of soil and rainfall on nitrogen leaching are well understood and easy to explain

[1] Note that this comparison has been made using OVERSEER 5. Although rainfall and soil trends are likely to remain similar between OVERSEER versions, their absolute effects will change..

- This approach links known impacts directly with the allocation of nitrogen so that farms on leaky soils or in higher rainfall areas will receive higher allocations to account for the higher cost of mitigation
- Easy to apply to farms less than 40ha in size, even though they have not been benchmarked.

The **disadvantages** of ranges based on soil and rainfall characteristics are:

- Maybe difficult where a property has different soil and rainfall combinations
- They are based on Overseer outputs, and as Overseer versions change the relative influence of these factors may change. This means what could be considered a fair allocation now may not be fair under a different version
- The approach disadvantages landowners in areas that could be considered most suitable for farming and makes an allowance for those farming in less suitable areas
- Complex farm systems may act differently depending on the individual farm practices which will reduce the consistency of this approach.

NDA ranges based on Rule 11 benchmarks

Analysis

The benchmarks issued under Rule 11 are highly variable within sectors, ranging from 17 – 75 kgN/ha for dairy and 3 – 60kg N/ha for drystock. These large variations are likely due to a number of factors, including but not limited to:

- Geophysical factors such as rainfall range in the area and soil type on the farm
- Different farm systems operating at different levels of complexity and intensity
- Management practices and the extent of mitigation that is/has been undertaken

Although sector averaging was the allocation mechanism proposed in the framework, the merits of grandparenting were recognised in early deliberations. In particular, it was agreed that existing benchmarks inherently reflect the different systems being farmed and the different environmental factors affecting leaching rates (e.g. leakier soils = higher benchmarks).

Generating NDA ranges from benchmarks could therefore be used as a proxy for geophysical factors like rainfall, topography, soil type, farm systems.

A potential sector-based/grandparenting hybrid approach is to establish a minimum and maximum NDA for each sector, and within that minimum and maximum range allocate 75% of the Rule 11 benchmark. To achieve the reductions required, the range for the dairy sector would be 30-40kg N/ha and the range for the drystock sector would be 10-20kg N/ha.

For example, if the effective area on a dairy farm has been benchmarked at 28kg N/ha, it would be allocated an NDA of 30kg N/ha. If the effective area was benchmarked at 45kg N/ha, it would be allocated an NDA of 33.75kg N/ha (75% of the benchmark). If the effective area was benchmarked at 55kg N/ha, it would be allocated an NDA of 40kg N/ha.

The 10kgN/ha range for each sector is proposed to recognise between-farm variance in historical benchmark values, stocking policy, farm systems, soil type, rainfall and other geophysical characteristics.

Figures showing how this approach would work in practice given existing benchmarks for effective areas are provided at Appendix 5.

Advantages and disadvantages

The **advantages** of ranges based on Rule 11 benchmarks:

- This is a pragmatic and relatively simple surrogate for what is otherwise a quite complex analysis of geophysical characteristics
- It is based on actual farm data in the catchment
- It will better accommodate more intensive drystock land uses (eg. dairy support, intensive beef) which were in place in 2001-04 by providing a higher NDA to these activities
- It is a straightforward progression from Rule 11 and landowners understand the benchmarking system

The **disadvantages** of ranges based on Rule 11 benchmarks:

- Potentially provides lower NDAs to those properties that had undertaken mitigation prior to benchmarking and gives a preference to those leaching higher rates of nitrogen
- Although predicted to achieve the same nitrogen reductions as the original 35/13 proposal, it has been modelled using the Rule 11 benchmark database which doesn't capture all pastoral farming in the Lake Rotorua catchment.
- Most properties < 40ha have not been benchmarked. A decision will be needed on how to apply the approach to those properties, and may need to assume that land use has not changed substantively since 2001-04.
- Benchmark data has been generated using Overseer 5 and the appropriate ranges may change with changing Overseer versions, as will relative differences between properties.

Status quo – average NDA for each sector

Provisional sector average NDAs have already been agreed as part of the framework – 35kg N/ha for dairy and 13kg N/ha for drystock. The advantages and disadvantages of this approach were debated at length (see package of papers submitted to Regional Council at their Strategy, Policy and Planning Committee on 17 September 2013).

In short, compared to the two potential approaches above, the main advantages of the status quo is that it is straightforward, easy to understand and is more even-handed within the sector as expectations for all properties are the same. Importantly, having a single average NDA applied across a whole sector effectively recognises natural capital as it is 'harder' for those to achieve on lower class land (e.g. in high rainfall or in leaky soils) and 'easier' for those to achieve on higher class land.

The main disadvantage of the status quo is that it doesn't account for variability between soil, rainfall and other geophysical characteristics outside the control of landowners and which influence their nitrogen leaching rates.

Comment

For the sake of reduced complexity, ease of administration, and because it inherently recognises natural capital, retaining the status quo is likely to be the default option for Regional Council in drafting the rules.

However, the two alternative approaches presented in this paper have merit and are valid as the basis for allocating NDAs. It is difficult to make an assessment on which is most appropriate. Both introduce varying levels of complexity but will achieve the nitrogen reductions that are required. In reality, the preferences for either will come down to personal choice and will depend entirely on the most advantageous approach given an individuals' farm system.

Starting point for allocation

Advice sought

Regional Council are seeking advice from StAG that the starting point for allocating NDAs will be-

> Either: determined through the farm nutrient plan process, using the most favourable of either 2001-04 land use, or current land use at 2013[2]
>
> Or: based on either
>
> a) 2001-04 land use as benchmarked under Rule 11; or
> b) Current land use at 2013[2]

Background

Because the NDA framework is sector-based, the allocation of NDAs is critically dependant on understanding the relevant land use on each property. The point in time at which we choose to define land use is what we are referring to as the "starting point".

Where a limit is set on the use of a resource, and the right to use that resource is allocated amongst users, defining this starting point is always complicated. For example, when fisheries are introduced into New Zealand's Quota Management System, the allocation of quota to commercial fishers is based on the catch history in specified years. While this generally works for most fishers, there are inevitably those that are significantly disadvantaged by the particular choice of reference years (e.g. they were refitting vessels in those years so had very low/no catch history).

In order to draft the rules to support the NDA framework, a decision on the land use starting point is now required.

[2] providing the discharge of current land use does not exceed the benchmarked allowance

Comment

Rule 11 has already capped nitrogen discharges in the Rotorua catchment at 2001-04 levels, and placed constraints on land use activities. It is therefore appropriate to set a starting point that is consistent with this current regulatory framework.

The simplest approach is to confirm 2001-04 as the starting point for allocation. That is, the land use from which the Rule 11 benchmarks were derived will be the land use used to determine the allocation of NDAs.

Another approach would be to use current land use as a starting point. On the whole, substantive changes in land use since 2001-04 are unlikely to have occurred as no increase in intensity has been authorised. However, there may be situations where land use has changed within the constraints of the benchmark. For example, where landowners retired pasture into trees in order to intensify their effective area.

Where land use has changed since 2001-04, the starting point matters. Appendix 5 provides some graphical scenarios of how the NDA allocation process will work under the new rules. Example 3 shows a scenario where a farmer has retired some of their effective area and intensified the remaining area. The benchmark hasn't changed, but the land use has gone from 75% drystock to 50% drystock. Using 2001-04 land use as a starting point for NDA allocation would be more advantageous than current land use.

Alternatively, Example 4 shows a scenario where a farmer has increased their effective area by removing trees, and has lowered their intensity across the whole area. Again, the benchmark hasn't changed but the land use has gone from 75% drystock to 100% drystock. Using current land use would be more advantageous than 2001-04 land use under this scenario.

As with the other issues dealt with in this paper, there is no right or wrong approach and no single option will satisfy everyone. However, a reasonable way forward may be to determine the starting point through the farm nutrient plan process, using the most favourable of either 2001-04 or current (2013) land use.

This is unlikely to have an impact on our ability to meet our nitrogen reduction targets given the small scale of changes that have occurred under the Rule 11 constraints. However, it will make a significant difference for those landowners who have made changes to the way they manage their farms and may mean the difference between remaining viable or not.

Under this approach it would be important to specify that no land use change outside of the Rule 11 constraints would be recognised. If land has been intensified without authority, only the authorised land use would be recognised. This will be particularly important on those properties <40 hectares that have not been benchmarked.

Pre-2001 land use

There has been some debate amongst landowners that having a starting point related to benchmarking potentially exacerbates inequities that may have been generated through the application of Rule 11. For example, where landowners retired parts of their land pre-2001, they feel

particularly disadvantaged as their benchmarks are lower than what they would have been if they didn't retire land so early. If they had retired land *after* Rule 11 was implemented, they may have had a greater level of choice in the way they used their land.

Linking the new NDAs to 2001-04 or current land use may further compound the problem for those landowners in the example above. For those who have not retired any land yet, there will be more flexibility for meeting the new NDAs.

It is unrealistic to look at starting point options that pre-date the current regulatory framework (as it stands, more than a decade has passed since 2001-04). However, Regional Council staff recognise that this is an issue, and have some analysis underway to understand the scale of the problem and the options available for resolution.

Appendix 1: Original decision paper on allocating an NDA to the dairy support sector

Consideration of dairy support in the allocation of NDAs

Decision required

Staff are seeking advice from the Stakeholder Advisory Group on their preference for either:

OPTION 1: Retain the sectors and NDAs agreed by BOPRC and RTALSG:

a. Dairy = 35kg N/ha
b. Drystock = 13kg N/ha

OR

OPTION 2: Include "dairy support" as a sector in the rules framework, and amend the NDAs as:

a. Dairy = 35kg N/ha
b. Drystock = 12kg N/ha
c. Dairy support = 18kg N/ha

OR

OPTION 3: Include a "dairy support" increment with the dairy sector that shifts with the stock, and amend the NDAs as:

a. Dairy = 38kg N/ha
b. Drystock = 12kg N/ha

Issue

In the framework for allocation and incentives that was approved by Regional Council on 17 September 2013, the following nitrogen discharge allowances (NDAs) were proposed:

- Dairy NDA = 35kg N/ha
- Drystock NDA = 13kg N/ha

It was noted however that these sector averages:

a) Were subject to confirmation by StAG, and
b) May be adjusted as ranges to recognise geophysical or farm system characteristics, provided the aggregate for each sector is not exceeded.

Part of the sector confirmation that is required ((a) above) is a decision on whether or not to include "dairy support" as a separate sector, with a specific NDA.

This paper addresses the consideration of a dairy support NDA.

Background

Dairy support is essentially heifer grazing or the wintering off of cows. Some dairy support occurs directly on dairy farms, and is generally referred to as "runoff". Most dairy support is provided by drystock farmers leasing parts of their land (or arranging access by contract) as a way to increase farm profits. The Farmers Solutions Project indicates this is becoming increasingly attractive to drystock farmers as sheep and beef prices are so low.

Throughout the development of the allocation and incentives framework, "dairy support" was aggregated within the generic "drystock" sector. Although dairy support has higher nitrogen discharges associated with it than the average drystock discharge, it was included as a part of the drystock sector because:

- ROTAN, the model we are using to support policy development, included dairy support as drystock when estimating nitrogen loss from land use in the catchment
- It is inherently hard to identify where dairy support occurs in the catchment as it is not a permanent land use
- There is likely to be a lot of dairy support on properties <40ha. These properties have not been specifically benchmarked so it might be difficult to determine who would be entitled to a dairy support allocation (particularly as the land use reference years are 2001-04)
- Dairy support is a common practice on drystock farms across the country and most analysis in other regions has dealt with them as a single sector.

It was acknowledged that drystock NDAs issued across properties would not be high enough to cover specific dairy support blocks. Farm changes would be required such as changing land use on some parts of the property (e.g to forest) in order to lower property-scale discharges. There may also need to be a change in the way leasing or contracting occurs, with the herd owner (dairy farmer) providing a nitrogen allowance to the land owner (drystock farmer) to cover the higher discharge rates over the grazing or wintering off period.

Advantages of including dairy support in the drystock sector

Ultimately, having two sectors is simple and straightforward. As discussed, there are a variety of uncertainties associated with dairy support and incorporating the land use with the drystock sector reduces allocation complexities.

The main rationale for the proposed sectors in the original framework was recognising existing capital investment, and retaining viable farming in the catchment. The two proposed sectors – dairy and drystock – best meet this rationale, particularly as infrastructure requirements for dairy support do not differ significantly from that available on most drystock properties.

This approach is seen as the fairest approach for drystock farmers that aren't providing dairy support. There are many intensive land uses that aren't dairy support (such as intensive beef) and are having to make significant reductions. Making allowances only for those associated with the dairy industry isn't seen as equitable.

Disadvantages of including dairy support in the drystock sector

Under the current framework, any runoff blocks on dairy farms would receive the drystock NDA of 13kg N/ha/yr. All dairy support on drystock farms would also come under the 13kg N/ha/yr.

Benchmarking information shows dairy support losses are, on average, 25 kgN/ha. This is almost double the NDA proposed to cover the land use and may require some landowners to make large scale farm system changes or cease dairy support.

There are approximately 58 blocks currently defined in the groundwater catchment as "dairy support" and these make up approximately 2750ha of the groundwater catchment. 19 of these blocks are >40ha.

Ten of the 58 blocks are runoff blocks on dairy farms, ranging in losses from 10 – 52kg N/ha. The average loss on these 10 blocks is 29kg N/ha. Most of these run off blocks are relatively small, but three are >40ha.

Given the scale of dairy support in the catchment, both in terms of total ha as well as large blocks, it is likely that an allocation of 13kg N/ha will be difficult to meet for both dairy and drystock farmers.

Options to more explicitly recognise dairy support

Option: provide a specific allocation for dairy support

An alternative to the current dairy and drystock NDA proposal could be to include an additional NDA for dairy support. The framework approved by Regional Council requires that the allocation of NDAs result in a 140t reduction in nitrogen loss in the catchment. This means that any allowance for dairy support will have to be made at the expense of other allowances.

The current losses for each sector, and expected losses following implementation of NDAs are:

Sector	ROTAN area (ha)	average N loss (kg/ha)	total N loss (t/yr)	proposed NDA (kg/ha)	expected N loss (t/yr)	% decrease in N loss
Dairy	5050	54.1	273.2	35	176.8	35.3
Drystock (including dairy support)	16125	15.7	253.2	13	209.6	17.2
TOTAL	**21175**		**526.4**		**386.4**	

Although the proposed NDAs represent a 17% decrease from the current average for the drystock sector, they are a 48% reduction from the current average for dairy support (25kg/ha).

In order to provide a specific dairy support NDA, dairy support would need to be separated out from the total drystock area. This is difficult to do because the information isn't included in the ROTAN model and we need to extrapolate information based on the most recent estimates from BOPRCs catchment data:

Sector	Estimated Area (ha)	Estimated average N loss (kg/ha)	Estimated total N loss (t/ha)
Dairy support	2750[3]	25.2[4]	69.3
Drystock (no dairy support)	13375[5]	13.7	183.9
TOTAL	**16125**		**253.2**

It is noted that the estimated average loss for drystock resulting from this breakdown is lower than the average loss derived from benchmarking data (14.5kg N/ha).

There are a number of different ways that NDAs could be distributed to the drystock and dairy support sectors. All are on the basis that the total combined loss does not exceed the 209.6 tN/yr originally agreed by Regional Council (see first table).

Potential NDAs are:

Sector	Ex 1	Ex 2	Ex 3	Ex 4
Drystock NDA (kg/ha)	11.4	12	13	12.5
Dairy support NDA (kg/ha)	21	17.7	13	15.4
% reduction ratio (drystock: dairy support)	17:17	12:30	5:48	9:39

It is proposed that a pragmatic solution would be to allocate 12kg N/ha to the drystock sector and 18kg N/ha to the dairy support sector. This would result in a total combined loss of 210 tN/yr.

Feasibility

NZIER have done some preliminary analysis on the ability of farmers to meet the 35 and 13 NDAs, as well as the feasibility of achieving the 100t reduction required from the incentives fund.

The preliminary analysis has shown that if dairy support farms adopt a series of mitigation options, they could reduce leaching from the current average down to 16.7kg N/ha.

It is noted that these mitigation options are expensive and involve capital investment. They are also based on generic information developed by AgResearch, rather than catchment specific information. It is not expected that all dairy support farms could be expected to operate at 16.7. However, the information suggests that NDAs of 18 for dairy support and 12 for drystock are not only feasible but are more likely to achieve the targets than an NDA of 13 for both.

Advantages and disadvantages

The *advantages* of allocating an NDA to the dairy support sector include:

- It makes a specific provision for a recognised land use

[3] Area based on BOPRCs catchment data
[4] Actual average for dairy support derived from benchmarking
[5] ROTAN drystock area minus dairy support area defined in BOPRCs catchment data

- Although the proposed NDA at 18kg N/ha is 30% lower than current average losses, it provides better opportunity for landowners
- Suits both dairy farmers operating runoff blocks, as well as drystock farmers providing dairy support

The *disadvantages* of allocating an NDA to the dairy support sector include:

- There is uncertainty in the amount of dairy support undertaken in the catchment, particularly on smaller properties – there is a risk that total N loss for this land use will be higher than expected if an NDA of 18kg N/ha is allocated.
- Given dairy support is not a fixed land use, it may be difficult to allocate to individual landowners and may result in disputes around what is/isn't eligible
- Could complicate the allocation process where properties have multiple land uses
- Sets precedent for other land uses, such as intensive beef, to have specific sector NDAs
- It may be difficult to deal with different dairy support systems (e.g. some properties may provide dairy support for only 1-2 months over winter; others might be 12 month contract graziers)
- Could be seen as drystock farms subsidising the dairy industry as a dairy support sector (proposed at 2,750ha) would be differentially treated from the 13,375ha of other drystock, despite similarities in basic infrastructure
- There is uncertainty in the viability of 12kg N/ha for drystock farms

Option: provide a higher allocation to the dairy sector to cover dairy support

Another alternative to the current dairy and drystock NDA proposal could be to provide a higher allocation for the dairy sector to cover associated runoff/support activities. This additional allowance would effectively "stay with the herd" so if a dairy farmer winters off cows, his dairy NDA would transfer to the landowner providing the support.

Following the basic land use area and discharge information provided in the tables above, the NDA allocation under this approach would be:

- 38kg N/ha for dairy (derived as 35kgN/ha for the main herd, plus 3kgN/ha as a young stock increment) ; and
- 12kg N/ha for drystock (derived as 13kgN/ha base, less 1kgN/ha deduction for the dairy support increment)

In practice this option would mean:

- NDAs would shift with the stock. So that within catchment graziers are not disadvantaged, additional provision could also be made that NDAs would shift with stock irrespective of whether grazier is inside or outside the catchment
- Where young stock is grazed other than on the 'milking platform' the milking platform would be restricted to 35kg N/ha
- Landowners would be able to accept stock from inside the catchment, but would be discouraged from grazing stock from outside the catchment

Feasibility

Allocating an additional 3kg N/ha to the total dairy area of 5050ha will result in a total dairy support allocation of 15,150kgN. This would provide for a total of 2,525ha dairy support at 18kg N/ha. This is close to the current estimate of dairy support land use in the catchment (2750ha) so the technical feasibility of this option is likely to be similar to the feasibility of the second option described above.

There will be additional issues to consider however, including the complexity of administering this approach. Exactly how a specified NDA could "stay with the herd" needs to be assessed and transaction costs need to be understood.

Advantages and disadvantages

The *advantages* of providing a higher NDA to dairy to cover dairy support include:

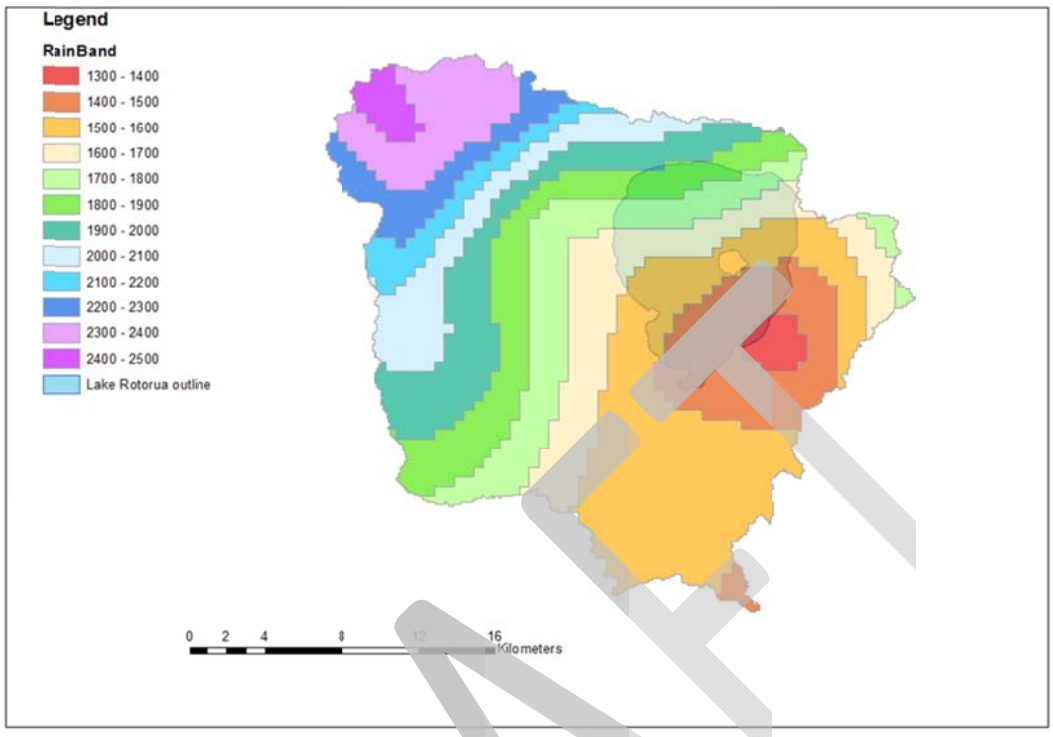
- With fewer sectors it is less complex
- Avoids difficulties with identification of dairy support properties
- Offers flexibility to deal with different dairy support systems, and enables NDAs to shift with cows and/or younger stock, and for variable time periods
- Avoids the inequity of a higher NDA allocation to 2,750 ha (18 NDA) relative to the 13,375ha remaining drystock (12 NDA)
- Discourages dairy support provided to cows from outside the catchment
- Side-steps the 'small holdings' issue. Properties ≤ 40ha could be allocated a 12 NDA (perhaps administered via 'look-up' tables rather than require Overseer modelling) but also be eligible to accept an additional NDA increment when grazing dairy support stock from within the catchment.

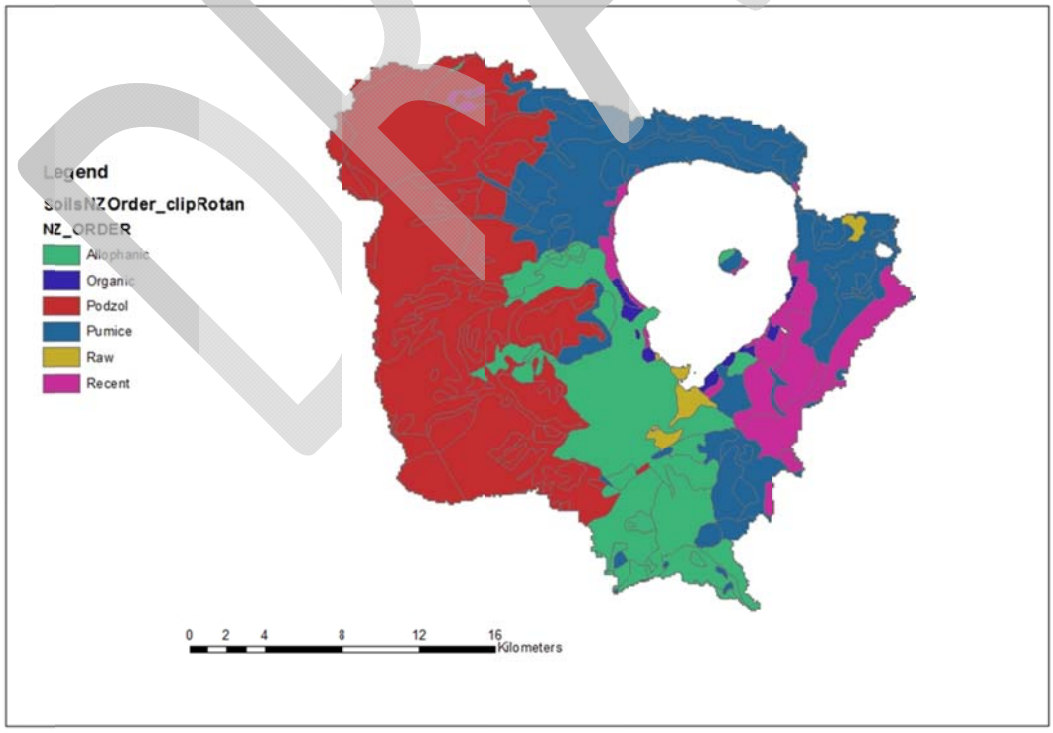
The *disadvantages* of providing a higher NDA to dairy to cover dairy support include:

- Uncertainties in how the approach can be administered – how do we make sure the NDAs balance according to land use? How do you track the "dairy support" component of the dairy NDA?
- Could be complicated for landowners to understand, particularly once trading is established
- Again, the option could be seen as drystock subsidising the dairy industry

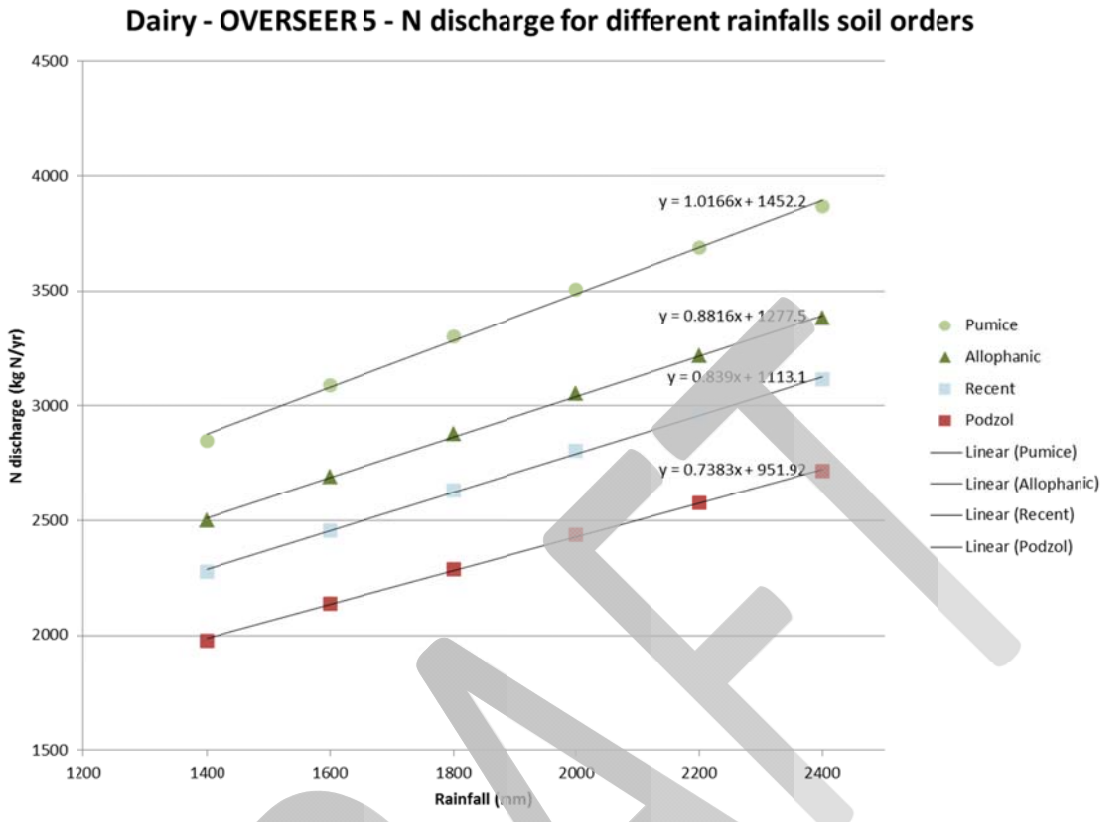
The ability to bring in cows from other catchments allows dairy support providers to negotiate prices and ensure they can make choices in the market. Restricting dairy support to in catchment cows may drive prices down

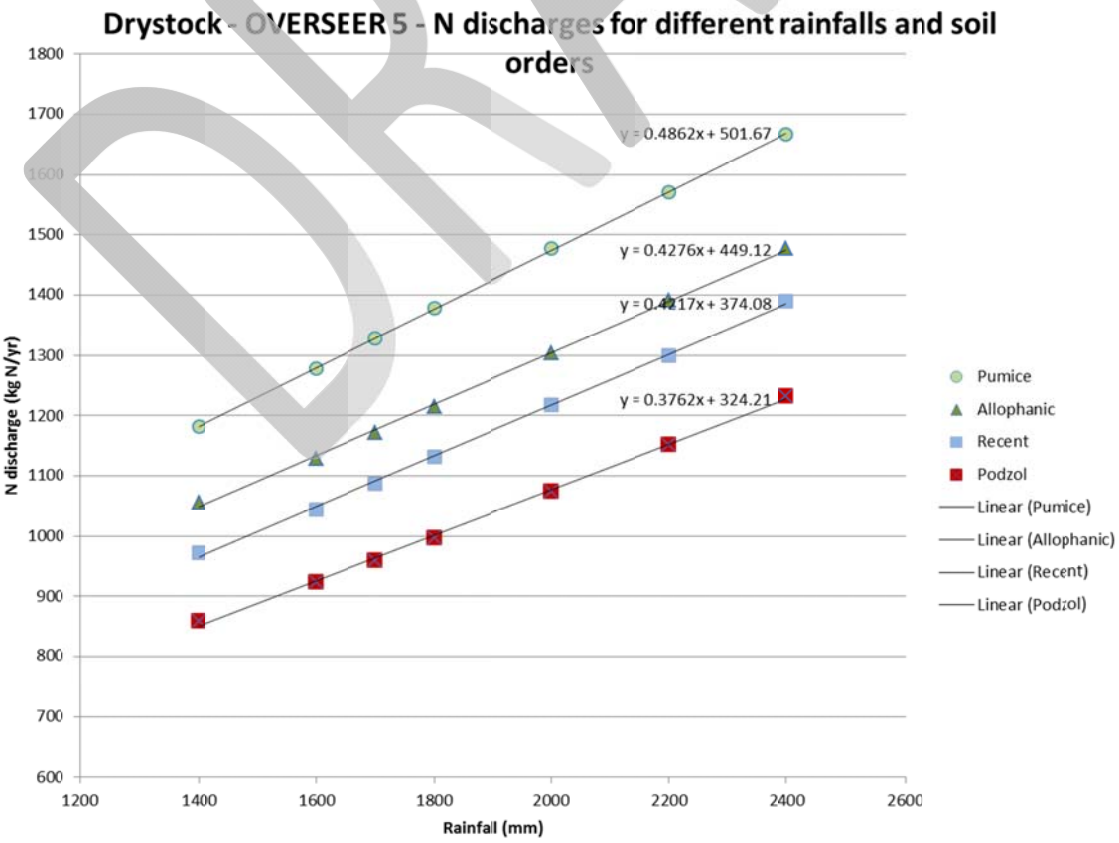
Appendix 2: Rainfall ranges and soil types in the Rotorua catchment.



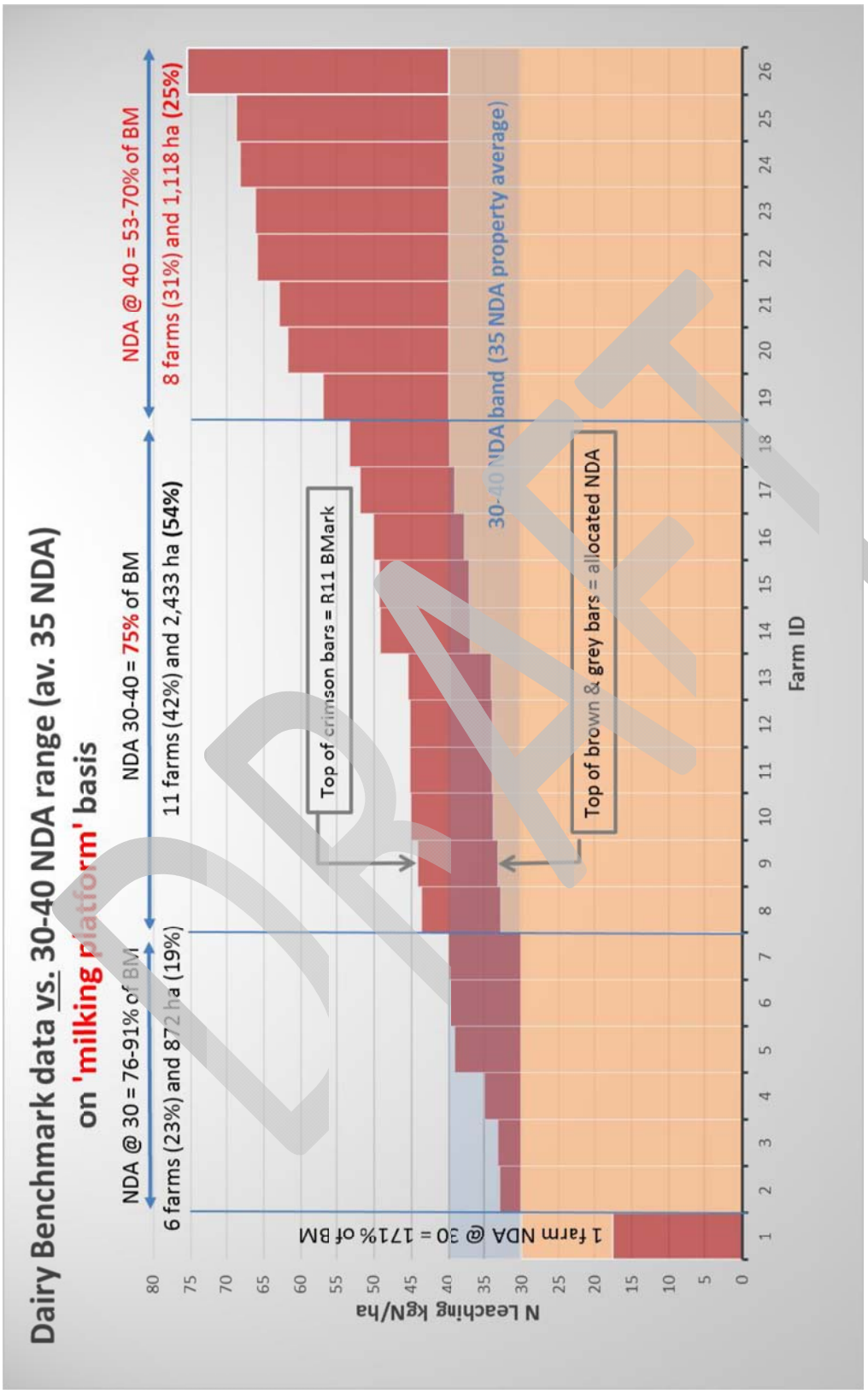


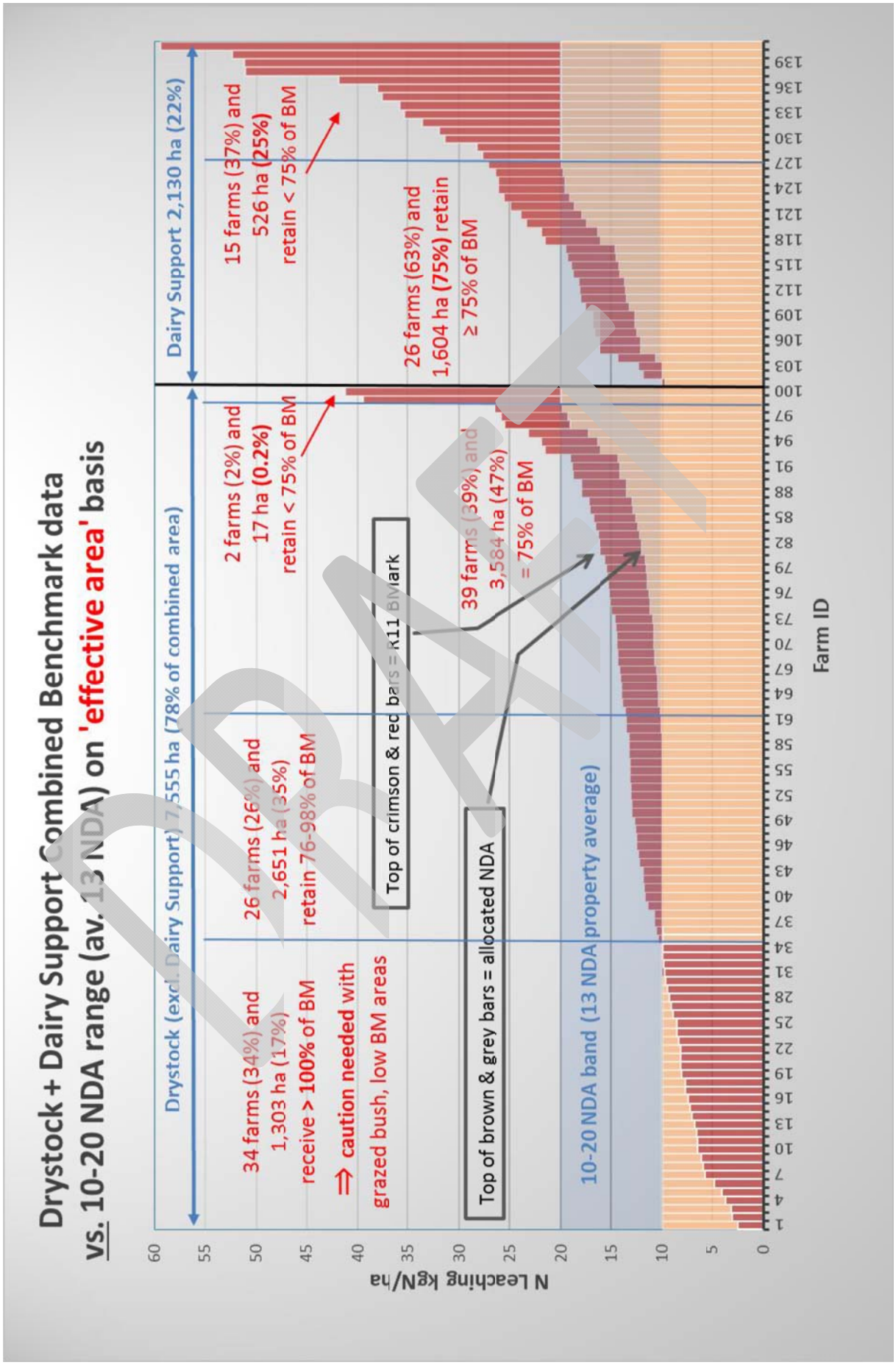
Appendix 3: Modelled impacts of rainfall and soil type on nitrogen discharges, using a single farm system example





Appendix 4: Figures showing NDA ranges based on Rule 11 benchmarks




Drystock + Dairy Support Combined Benchmark data
vs. 10-20 NDA range (av. 13 NDA) on 'effective area' basis
Drystock (excl. Dairy Support) 7,555 ha (78% of combined area)
Dairy Support 2,130 ha (22%)
34 farms (34%) and 1,303 ha (17%) receive > 100% of BM
⇒ caution needed with grazed bush, low BM areas
26 farms (26%) and 2,651 ha (35%) retain 76-98% of BM
2 farms (2%) and 17 ha (0.2%) retain < 75% of BM
39 farms (39%) and 3,584 ha (47%) = 75% of BM
26 farms (63%) and 1,604 ha (75%) retain ≥ 75% of BM
15 farms (37%) and 526 ha (25%) retain < 75% of BM
Top of crimson & red bars = R11 BM mark
Top of brown & grey bars = allocated NDA
10-20 NDA band (13 NDA property average)
N Leaching kgN/ha
Farm ID
0
5
10
15
20
25
30
35
40
45
50
55
60
1
4
7
10
13
16
19
22
25
28
31
34
37
40
43
46
49
52
55
58
61
64
67
70
73
76
79
82
85
88
91
94
97
100
103
106
109
112
115
118
121
124
127
130
133
136
139

Appendix 5: Square farm scenarios explaining the allocation of NDAs

100 ha **SQUARE FARM** scenarios

ROTORUA TE ARAWA LAKES PROGRAMME

Rules for the Lake Rotorua catchment: Proposed NDAs

Key: Trees | Dairy - effluent | Dairy - platform | Dairy - support | Drystock

Example 1: Dairy

Rule 11

-3 kg/ha	-24 kg/ha
-58 kg/ha	-51 kg/ha

25ha	@ 3	= 75kg
25ha	@ 24	= 600kg
25ha	@ 58	= 1450kg
25ha	@ 51	= 1275kg
100ha		= 3400kg

Benchmark = 34 kg/ha

New rules

-3 kg/ha	-13 kg/ha
-35 kg/ha	-35 kg/ha

25ha	@ 3	= 75kg
25ha	@ 13	= 325kg
50ha	@ 35	= 1750kg
100ha		= 2150kg

NDA = 21.5 kg/ha

Example 2: Drystock

Rule 11

3 kg/ha	14 kg/ha
22 kg/ha	26 kg/ha

25ha	@ 3	= 75kg
25ha	@ 14	= 350kg
25ha	@ 22	= 550kg
25ha	@ 26	= 650kg
100ha		= 1625kg

Benchmark = 16.25 kg/ha

New rules

3 kg/ha	13 kg/ha
13 kg/ha	13 kg/ha

25ha	@ 3	= 75kg
75ha	@ 13	= 975kg
100ha		= 1050kg

NDA = 10.5 kg/ha

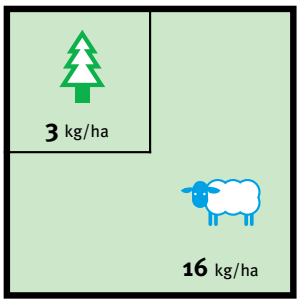
Proud Partners

Destination Rotorua Rotorua District Council | Bay of Plenty Regional Council | Te Arawa Lakes Trust

Example 3: Change to higher intensity

Rule 11

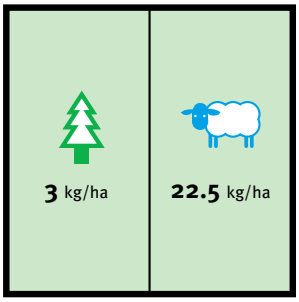
01-04:



25ha	@ 3	= 75kg
75ha	@ 16	= 1200kg
100ha		= 1275kg

Benchmark = 12.75 kg/ha

Current:

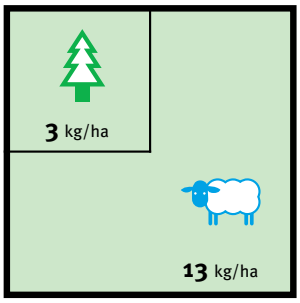


50ha	@ 3	= 150kg
50ha	@ 22.5	= 1125kg
100ha		= 1275kg

NDA = 12.75 kg/ha

New rules

If start point: 01/04

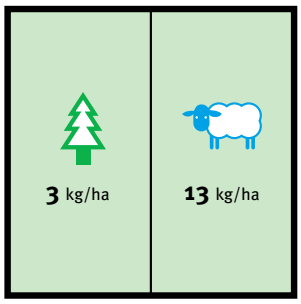


25ha	@ 3	= 75kg
75ha	@ 13	= 975kg
100ha		= 1050kg

NDA = 10.5 kg/ha

OR

If start point: Now



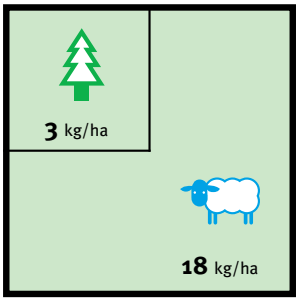
50ha	@ 3	= 150kg
50ha	@ 13	= 650kg
100ha		= 800kg

NDA = 8 kg/ha

Example 4: Increase to effective area

Rule 11

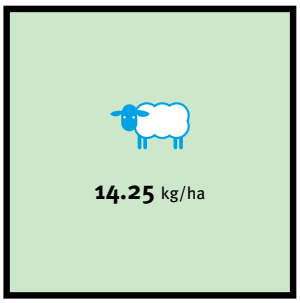
01-04:



25ha	@ 3	= 75kg
75ha	@ 18	= 1350kg
100ha		= 1425kg

Benchmark = 14.25 kg/ha

Current:

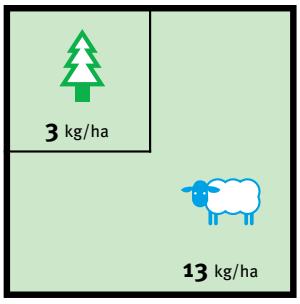


100ha	@ 14.25
= 1425kg	

Benchmark = 14.25 kg/ha

New rules

If start point: 01/04



25ha	@ 3	= 75kg
75ha	@ 13	= 975kg
100ha		= 1050kg

NDA = 10.5 kg/ha

OR

If start point: Now

100ha	@ 13
= 1300kg	

NDA = 13 kg/ha

Draft Discussion Paper for StAG, 17 December 2013

Draft Discussion Paper: Rotorua Catchment NDA Permitted Activity Rules Structure

Feedback required on:

- Principles for structuring our rules
- Proposed permitted rules structure using a combination of nitrogen loss per hectare and property size

How do we structure our rule framework to meet our nitrogen target?

The RMA allows Councils to classify activities in a rules hierarchy, as follows: permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited. This provides a cascade approach that allocates an activity class according to the severity of effects. In our case, the effects arise from the rate of nitrogen loss per hectare and the total loss of nitrogen per property.

There are 2431 properties[1] above 0.4 ha in this catchment. It would be resource intensive if consents were required for all of these properties. We need to consider ways to permit some land uses with relatively low N loss.

Staff have developed criteria that reflects this hierarchy and can be used to structure our rules i.e. the less significant the amount of nitrogen loss, the more permissive the rule can be. The criteria used in this paper reflect issues considered important by stakeholders and will complement the RMA's Section 32 assessment required for new rules and policies. The criteria are:

Clear and certain
- easy to understand what is required by land users - does not use subjective terms
Low transaction costs for setting up this rule
- does not require significant amounts of further information and modelling to set up this rule - administrative costs are low
Ease of monitoring
- easy for council and land users to monitor - costs are not burdensome to council or land users
Level of simplicity
- simple both for land users and councils to administer - supporting information is easily accessed and understood
Capable of consistent interpretation and implementation by land users
- rule requirements and use of supporting models (e.g. Overseer) can be consistently interpreted by land users
Strength of link to nitrogen issue
- directly links to the reduction required to meet our nitrogen targets
Manages cumulative effects
- recognises the sum of nitrogen loss from individual properties has an effect greater than individual losses.
Equitable

[1] "Property" is used here interchangeably with "legal parcel of land", although a property may comprise multiple parcels.

- equitable in that N loss rates/amounts correspond to rule/activity category e.g. permitted activity equates to low N loss

STAG also requested that any rule drafting be considerate of other planning and consenting requirements by both BOPRC and RDC.

Permitted Activities

Permitted activities should be used in a plan to manage low impact 'minor' effects that are:

- consistent and predictable i.e. able to be anticipated
- low risk
- easily managed by landowners by meeting simple conditions specified within the plan itself.

Activities specified as permitted activities within the rules of a regional plan can occur 'as of right' without the need to obtain a resource consent, provided they comply with the conditions stated in the rule.

Section 70 RMA requires that before a regional council includes in a regional plan a rule that allows as a permitted activity a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water, the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

- the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
- any conspicuous change in the colour or visual clarity:
- any emission of objectionable odour:
- the rendering of fresh water unsuitable for consumption by farm animals:
- any significant adverse effects on aquatic life.

Advantages of a permitted activity rule:

1. Provides authorization where low impact 'minor' effects are consistent, able to be anticipated, low risk and can be easily remedied or mitigated by landowners without further formal process.
2. Can be effective provided conditions are clear and easy to comply with.
3. Is simple and cost effective for council to administer.
4. Provides a 'hands off' management format, letting people take responsibility.
5. Can be designed to cover a specific area or the whole region.

6. Works best if the community knows that council will be monitoring compliance (spot checking and environmental monitoring).

7. Can be used to promote community contact and involvement; establish proactive mentoring for users and communities on permitted activity rule requirements, including community training and awareness seminars.

8. Can be designed to coordinate with district and city council requirements.

Disadvantages of a permitted activity rule:

1. May not be complied with if the cost of compliance is high.

2. May not be complied with if the conditional requirements are too complicated or onerous or unclear.

3. Relies on users remembering to comply with the conditions of their permitted activity over a long period; the term of a regional plan which may be 10 years.

4. With no register of users relying on the authorisation, council may not know who is relying on a permitted activity authorisation (arguably a conditional requirement may be used to require users to register).

5. No formal (s36) mechanism for council to recover any costs of compliance or monitoring.

The general consensus amongst staff and STAG is that permitted activities will not get us to the target and that resource consents will be required for pastoral land use activities. Main reasons for this include:

Environment Court Decisions

In the case of Taupo, the judge found a permitted activity did not achieve certainty, comprehensibility or reduce the need for expert judgement to satisfactory and adequate levels. There will be a significant amount of technical information required for this rule regime and it is unlikely a permitted status is appropriate.

Providing certainty and flexibility to pastoral land users

It is possible to prescribe standards and terms that a permitted activity must comply with. However, these standards must be able to be carried out as of right, without reference to the Council and must be able to be consistently interpreted by lay people.

To avoid difficulties of referring to complex information and decisions outside the scope of a permitted activity rule, council may then need to be very specific about how farming should be carried out. A rule of this nature may provide certainty, but would not provide flexibility and that is of particular importance to farmers.

Anecdotal evidence from the Waikato experience, farmers are finding that through consent applications, there is a higher level of interaction, information flow and support with Council staff and farm advisors. This provides more certainty.

Tracking progress against our target

A clear water quality target has been set. Crucial to the success in meeting this target is monitoring nitrogen loss across the catchment. Council may not know who is relying on a permitted activity authorization and therefore tracking progress against the catchment target would be difficult.

Even if a permitted rule prescribes standards and conditions that do not entail the exercise of a discretion by the Council, the rule should not have onerous and complex reporting requirements. It may not be appropriate for a rule to make pastoral farming a permitted activity but require that annual reports of the amount of nitrogen discharged are provided to the Council.

From a technical point of view, ensuring consistency of the interpretation and use of models (e.g. Overseer) to track nitrogen loss, under a permitted activity, may be difficult. Consistent use of nitrogen loss models is important to achieve a consistent outcome.

Lake Rotorua NDA Permitted Activity Rule Structure

A logical starting point for developing the rules is determining which land uses could be managed as permitted activities. Council needs to be confident that compliance with any permitted activity conditions will ensure we can still meet our catchment target, or at least the proportion associated with activities being given permitted status.

Staff have considered the following approaches to structure our permitted activity rules:

a) Nitrogen loss rate - This would specify a rate of nitrogen loss per hectare per year (kgN/ha/yr). Anything above the specified nitrogen loss rate would require consent.

b) Property size - Under this approach, properties over a specified size would require consent.

Options Analysis

Using the criteria developed by staff to guide decision making around new rules, an assessment of each approach for permitted activities is discussed below.

	Nitrogen Loss Rate	Property Size
Clear and certain (easy to understand what is required)	✓✓	✓✓
Low transaction costs for setting up this rule	✓	✓✓✓
Ease of monitoring	✓	✓✓✓
Level of simplicity	✓	✓✓✓
Capable of consistent interpretation and implementation by land users	✓	✓✓✓

Strength of link to nitrogen issue	✓✓✓	✓
Manages cumulative effects	✓✓✓	✓
Equitable	✓✓✓	✓
Key: Level to which option meets criteria ✓ Low ✓✓ Fair ✓✓✓ High		

Discussion

Nitrogen loss rate

Focusing on nitrogen loss rate is an effects based approach which aligns with the intent of the RMA. It also reflects StAG concerns that:

- smaller land holdings can have large nitrogen loss rate that need to be managed, and;
- all farm systems should be managed equally e.g. the same limits should apply to a dairy support unit whether it is 10ha or 100 ha.

We currently have a nitrogen discharge rate threshold in Rule 11A of the Regional Water and Land Plan (excluding effluent) of 10kg/ha/yr. Determining the appropriate rate of nitrogen loss to be managed will require further modelling and this adds to the costs of setting up the rule. One issue that will need to be addressed is the current ranges being proposed for each sector. If 13 kgN/ha/yr becomes 9-17 for a drystock NDA, then the permitted threshold will have to be lower than the lowest point in the range. Another issue is the chosen threshold may not lock in current low nitrogen loss land use activities. For example, forestry discharges 3-4 kgN/ha/yr and if a threshold of 10kgN/ha/yr is chosen, forestry land could change to a higher nitrogen loss activity (up to 10kgN/ha/yr) unless constrained by another permitted activity condition or another rule in the plan.

Resourcing and complexity are critical issues with structuring rules around nitrogen loss. From an administrative view, many small properties may require resource consent, which will have associated application and monitoring costs. A large amount of support and technical information may be needed by land users to determine if they need consent e.g. if properties close to a permitted activity threshold require individual Overseer assessments.

A property sized approach

Allowing smaller land holdings to be permitted activities could mean a lot less resource consents would be required. This would be far less resource intensive compared with assessing nitrogen loss rates against a permitted activity threshold.

Choosing a property size threshold is difficult. The current WLMP permits small-scale, low nutrient land use activities from properties smaller than 0.4ha. Under Rule 11, every property over 0.4 ha must be 'benchmarked' with nitrogen and phosphorus losses assessed. In practice, few properties

under 40 ha have been benchmarked due to resourcing constraints. As shown in the table below, if we were to require consent from properties over 0.4 hectares, up to 2431 resource consents would be required[2]. Onsite effluent treatment consent is required for non reticulated properties smaller than 2ha and within 200m of the lakeside. Using 2 ha as a threshold for permitted activities, 1113 consents would be required.[3]

Properties Size (ha)	# Properties
0.4 - 2.0	1318
2.0 - 4.0	293
4.0 - 10	385
10 - 20	185
20 - 40	122
40+	128
TOTAL	**2431**

By choosing property size as the threshold for permitted activities, it will be harder to manage and monitor the cumulative effects of nitrogen loss. Therefore the biggest risk with using this approach is ensuring we meet the catchment target.

This approach is not as strongly linked to the nitrogen issue. For example, some intensive land uses have high nitrogen loss rates regardless of the property size. This approach does not necessarily support good land management practice on small land holdings.

Having considered the approaches above, staff have considered a third approach to structuring permitted activity rules which draws upon the strengths of the above approaches and attempts to addresses limitations identified. This third approach combines nitrogen loss and property size as thresholds to determine whether an activity is permitted. It attempts to balance the time and money costs associated with consent applications and the level of effects (nitrogen loss) from the land use.

Proposed Permitted Activities

NB: note property size and nitrogen loss thresholds are indicative and may change:

The proposed permitted activity structure has two tiers, based on property size, as follows:

Category 1: Properties up to 2 ha

Conditions:

a. No cropping or dairy land use (other identified intensive land uses could be added).

[2] Depending on whether rules apply to each legal parcel or each property (which may be multiple parcels)
[3] These estimated numbers may overstate the number of consents required. E.g. some of the small holdings count may be part of a larger block that we would get a NDA as a property over 40 ha. Also may include some reticulated properties (e.g. Hamurana).

Explanation: This very simple permitted activity category will cover 1318 properties. The small size threshold means there is a low risk of moderately intensive grazing use such as dairy support, at least on a commercial scale. However, non-reticulated properties less than 2ha and within 200m of lake edge will need OSET consent.

Category 2: Properties between 2ha to 40 ha

Conditions:

a. Nitrogen loss less than 10kgN/ha/yr AND
b. Not part of a larger farm management enterprise that would not comply with a and b.
c. Pastoral land users must maintain records of: land use; stock type, age and class); stock sales, purchases and movements on/off property; fertiliser and supplement use
d. Make records available to Council upon request
e. Comply with the Fertiliser Association of New Zealand's Code of Practice for Nutrient Management (2007)

Explanation: Any cropping, dairy support or dairy land use on titles within this property size range need to be considered in conjunction with wider farm consent.

While this permitted activity category will have more effects (i.e. more N loss) than the category for properties below 2 ha, it is likely to exclude typical commercial pastoral land uses (with higher N loss) and enable a manageable consent burden for the community and staff. Conditions d & e allow a basic level of compliance checking by Council officers.

An additional permitted activity would be to allow forestry land uses.

Category 3: Forestry

Conditions:

a. No current increase in N loss (include provision for harvesting if area is to be replanted or permanently retired)

Explanation: All forestry blocks would need to be benchmarked to comply with this rule. This would lock in forestry at current loss (3-4kgN/ha/yr) as a permitted activity.

[Insert simple flow/decision diagram like Diagram 8, p 218 RWLP]

Costs and implications with this approach:

- Developing permitted activity rules requires a careful balance between the time and money costs associated with consent applications and the level of effects from an activity. Staff are currently analysing land use information to try and ascertain how many properties would be affected by this proposed permitted activity approach.

- Further analysis is required to identify the number and aggregate area of properties likely to meet the proposed nitrogen loss threshold of 10kg/ha/yr.

- It is not easy for land users to know whether their land use will meet the nitrogen loss threshold. Ways to address this include:

- drafting rules that specifically identify (and manage separately) manage high nitrogen loss land uses
- consider using a stock intensity table. Rule 11A and Waikato's Taupo Plan Variation 5 use stock intensities for permitted activities. It may be worth modifying this table so it includes combinations of animals to better reflect nature of lifestyle blocks.
- Land users can still opt to go through consent process for more certainty

- Landowner awareness - land users may not be aware that they will need to comply with any chosen conditions of permitted activities. Until now, properties have been capped at their current nitrogen loss rate. Under a new permitted activity regime, these current nitrogen loss rates will need to be reduced. This is challenging for large commercial farmers, many of whom have Overseer nutrient benchmarks already provided by fertiliser reps and consultants, let alone small block owners with little or no current expert support. An extensive education campaign will be required to ensure land owners know what is required of them.

- Very few properties between 2 and 40 ha have been benchmarked and most are unlikely to have retained relevant 2001-04 documentation for Overseer analysis (e.g. fertiliser use, stock sales/purchases etc, as listed in Table 40, Rule 11C). Note that the IRD requirement to maintain such records for seven years expired in 2011. While nutrient loss from all properties is theoretically constrained to 2001-04 levels, the lack of data and benchmark/Overseer assessments is problematic.

- The 10kgN/ha/yr threshold, like all numeric N loss thresholds, is affected by the Overseer version used e.g. Overseer version 6 N loss rates are typically at least 20% higher than version 5.x.x rates for the same input data.

- There are numerous benchmarked properties (generally >40ha) with N loss rates of 4-10 kgN/ha/yr – these typically include large proportions of bush or forestry that is intermittently grazed. This mixed land use is likely to apply to many of the approximately 1000 properties in the 2-40 ha size bracket. As with pasture-dominant properties, the Category 2 permitted activity needs to have a robust way of setting N loss limits that prevent "creep" towards the 10 kgN/ha/yr threshold.

Consideration of Entity

Further Development of the Incentives Framework: Operating Entity

Anna Grayling
12/10/2013

Decisions Required

Regional Council staff is seeking advice from the Stakeholder Advisory Group (StAG) on the entity to manage the Incentives Fund. We would like StAG's feedback on:

1. What governance and management characteristics are most important to StAG?
2. What could encourage farmer engagement with funding and why?
3. What would influence your preferred option for delivery?

Background

Bay of Plenty Regional Council (BOPRC) and the Rotorua Te Arawa Lakes Strategy Group (RTALSG) have not made a formal decision on who will deliver the Incentives Fund.

In 2010, a report was tabled at the Rotorua Te Arawa Lakes Strategy Group (RTALSG) meeting which looked at different vehicles to deliver land use change. It considered entities at arm's length from Council and also existing internal delivery. This report was prepared in the context of a $9.5 million budget for Rotorua's land use change Programme and no proposed regulatory framework. No decisions were made at this time.

At a Regional Council workshop held last year, Regional Councillors expressed a preference to deliver the Incentives Scheme internally by BOPRC staff. This Councillor workshop was held prior to the establishment of the StAG group and was prior to approval of the integrated Framework.

To date, land use change agreements in Ōkāreka, Rotoehu and Rotorua have been managed internally by existing land management staff of the Regional Council and governance decisions have been made by Council Committees.

APR Consultants Ltd has undertaken an options analysis on the options for managing the Incentive Fund.

Comment

Now that a Framework has been agreed with known targets and budget, it is the right time to ask the question "who is best placed to deliver this project?"

The preferred approach for the delivery entity for the Incentives Scheme will influence the next steps and work plan for 2014-2015. StAG's input is a critical step in the decision making process.

There are three (3) approaches that could be used to manage the Incentive Fund:

1. Internal

   This would involve BOPRC policy, finance and operational staff establishing a Programme Working Group to make recommendations to the Regional Council and / or delegated to a Committee.

2. External

   This would involve setting up an independent body to manage the Incentive Fund. This could be a Council Controlled Organisation (CCO) or an incorporated Trust.

3. Hybrid

   A mix of the above options such as contracting to a third party which could include analysis, assessment and recommendations but the overall governance would be through BOPRC.

Within each of these approaches there are various options that could be used.

To help inform this discussion, the APR report considered the pros and cons of various delivery entities. Attached (Appendix 1) is the report prepared by APR for your consideration. This report does not present the preferred approach of Council and is simply an input into the decision making process. The report assessed various options based on:

- Impartiality
- Expertise
- Efficiency
- Accountability.

As farmers are the key customers for the Incentives Scheme, we need to also consider which option would increase farmer's buy-in and their likelihood to use the scheme. We need StAG's view on the various options and what particular characteristics are most important to farmers.

Further inputs into this paper are the outcomes of the Incentives Scheme Workshop which was held in early November on the Incentives Scheme development. Attendees at the workshop comprised of expert economists, stakeholders, fund managers and industry representatives. At this workshop, attendees received presentations on existing entities which managed funds, including a presentation from the Chief Executive of the Lake Taupō Protection Trust and the CE of Quayside Holdings on the Regional Infrastructure Fund.

General Comments and outcomes from this workshop were captured and have been included in a workshop briefing report attached in Appendix 2. At the workshop, attendees were asked to express a preference for delivery of the Incentives Fund and the majority of the attendees favoured an entity outside the Regional Council.

Discussion

Discussion on entities has been on-going informally for some time. Some of the key themes discussed in 2010 are still being discussed. The most common and often raised points include:

1. Separation of Incentives funding from regulatory functions of Council will avoid political conflicts.

Some stakeholders and experts have raised concern about having the same agency operate an Incentives Fund as well as fulfilling the role of regulator and enforcer. Some risk may arise if the customers of the Incentives Scheme appeal rules and enter a litigious process, or if enforcement action is taken by BOPRC against Incentives customers.

There are various ways separation can be achieved. One option maybe a separate team of BOPRC located in a different office with another option being a fully independent entity.

What are StAG's views on the importance of separation of function?

2. Market approaches and innovative solutions are best delivered outside of Council.
3. Flexibility to make agreements is hugely important
4. People would be more willing to engage with an entity which is not regulator

What are StAG's views on whom they would be most willing to engage with? What characteristics will that person or management / governance structure possess?

5. Credibility of the people and process is hugely important
6. Streamlined simple process is needed with clear decision making ability

Taupō Model

People often draw parallels to the Lake Taupō Protection Trust when discussing the Rotorua Incentives Scheme. For that reason, Graeme Fleming the Chief Executive Officer for the Trust will be present at StAG to answer any questions you may have.

The Lake Taupō Protection Trust is a "purpose built" entity which is a Charitable Trust set up as a Council Controlled Organisation (CCO) of Environment Waikato (EW).

The Trust was established in 2007 and their key objective was to reduce manageable nitrogen loads to the lake by 20%. They have successfully reached their target ahead of schedule and within agreed budget.

The Trust works in conjunction with the Waikato Regional Council to ensure that nitrogen reductions contracted are monitored and reported on.

The Trust is governed by a board of technical people appointed by Joint Committee. As well as implementing the strategy to reduce nitrogen they:

- Contract EW to administer and provide required skills
- Monitor progress against targets
- Approve expenditure
- Report to the Joint Committee (similar to our RTALSG)

The Board employs a management team which consists of a Chief Executive and administrative assistance.

If you would like to find out more about this type of model, you can visit the Lake Taupō Protection Trust website www.laketaupoprotectiontrust.org.nz prior to meeting.

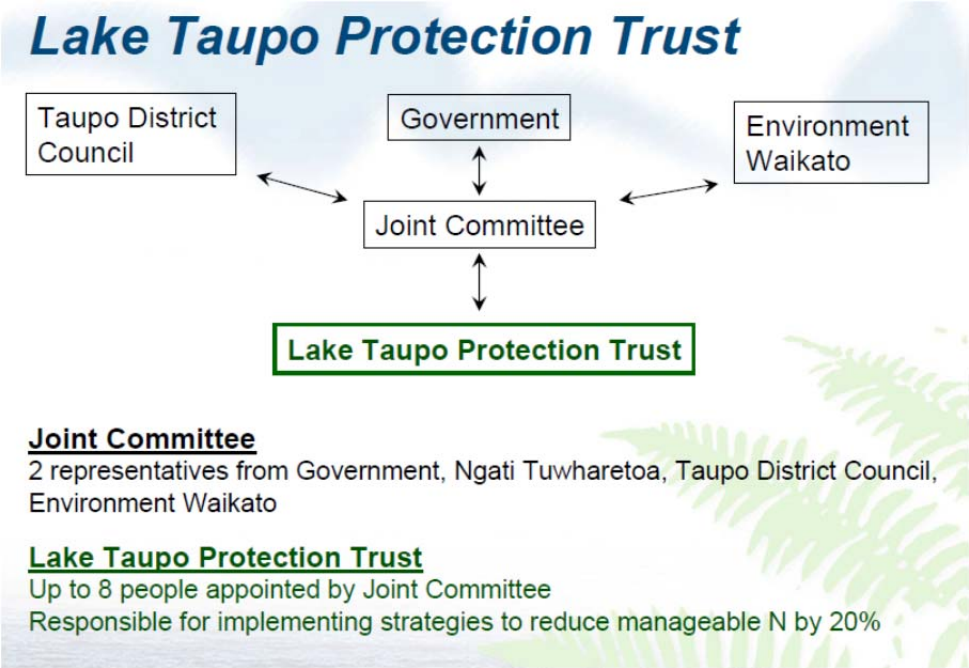


Figure 1: Lake Taupō Protection Trust

Bay of Plenty Regional Council

When considering what entity is capable of delivering the fund, it is important to remember that District and Regional Councils also have significant experience in running contestable funds. Two examples from BOPRC are the Regional Infrastructure Fund to promote sustainable regional economic development in the Bay of Plenty region which successfully allocated $40 million of funding. In addition the Regional Council runs the Environmental Enhancement Fund.

Conclusion

There is no right or wrong entity to deliver the funding.

What we wish to know from StAG, who represent the customers of the fund, is:

- What is important?
- What do you prefer?
- And why?

ADMINISTERING THE LAKE ROTORUA WATER QUALITY INCENTIVES PROGRAMME

Governance mechanisms – Options analysis

Draft for Review

PREPARED FOR

BAY OF PLENTY REGIONAL COUNCIL

BY

APR CONSULTANTS LTD

10 DECEMBER 2013

DISCLAIMER

Care has been taken in the production of this report to ensure its contents are as accurate as possible. However, APR Consultants takes no responsibility for any incorrect information or decisions by any persons based on the information herein.

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EXECUTIVE SUMMARY

Context

Bay of Plenty Regional Council (BoPRC) has worked with stakeholders to develop a framework for achieving a 270 tonne annual nitrogen discharge reduction in Lake Rotorua. This level of reduction can only be achieved from pastoral land use change. The agreed framework splits the required discharge reduction into three areas of responsibility:

- Rules Programme.
- Incentives Programme.
- Gorse Programme (to be funded and administered separately by BoPRC).

While BoPRC is considering both the Rules and Incentives the focus of this report is only on the governance and administration of the Incentives. There will likely be a common framework to concurrently meet a nitrogen discharge allowance allocated to each farm and also to encourage additional changes in land use and management to achieve further reductions. A total of $45.5 million of combined taxpayers and ratepayer sourced funding is available to support land use/management change. There is $5.5m is to assist land owners and managers such as farmers attain to their NDAs (as required by the rules) and the $40m is to secure N below the NDA line.

High level policy has been developed on how the incentives will be administered, including high-level criteria and conditions of funding. The detailed design for incentive delivery is currently underway, including a workshop held on 13 November 2013.

Governance options analysis

This report presents an analysis and assessment of governance options for the Incentives Programme including advantages, disadvantages and risks of each mechanism. Each option was assessed on the basis of selection criteria including:

- Impartiality.
- Expertise.
- Efficiency.
- Accountability.

The options considered, in descending order according to their criteria rating were:

1= Council-controlled organisation (CCO).
1= Incorporated trust
1= Internal team of Regional Council staff.
1= Sub-contract an Independent contractor (contracted by BoPRC).
5 Sub-contract Lake Taupō Protection Trust (subject to agreement by LTPT owners).
6 Stakeholders Advisory Group (StAG).

Note that while the first four scored an equivalent rating against the criteria the order above is based on less limiting factors eg,:

- 1=Council-controlled organisation (CCO) – clearer structure around accountability of funding and programme.
- 1=Incorporated trust - greater independence, but potentially less aligned to existing policy settings.
- 1=Internal team of Regional Council staff – less independence.
- 1=Sub-contract an Independent contractor (contracted by BoPRC) – less ability to embed innovation into the programme.

Recommendations

Before proceeding with the recommendations below the Regional Council should consider whether a hybrid option of any of the options presented provides more favourable advantages. This could be considered where the requisite administration and management expertise is enhanced and is possibly separated from the proposed governance structure.

The downsides also need to be carefully evaluated as it is considered that some of these options may not be able to be implemented because of the limitations outlined in the Discussion Section of the report.

Governance capability would be required to be robust and the programme would need to be delivered in a cost effective and efficient manner.

In the event that it is considered that none of the hybrid options are any better than the options as presented earlier, then on the basis of the analyses above, the consultants recommend that:

1. The BoPRC consult with Te Arawa Lakes Strategy partners to determine if any of the proposed criteria should be added to or weighted or whether any of these present significant limitations to move the programme forward.

2. Subject to no change in Recommendation 1, that on balance an independent entity provides the most credible, independent and transparent method of implementing the programme.

3. That an existing entity such as Lake Taupō Protection Trust or Grow Rotorua not be used as the entity because the existing established governance and operational framework of these organisations would be difficult to fully align with the purpose of the incentives programme.

4. That if an independent entity is the preferred option then that BoPRC follow the requirements of the legislation around the set-up and operation of such an entity.

5. That if a CCO or independent trust operation is pursued that BoPRC provide sufficient initial administrative and co-ordination resources to support the setup activities of this entity.

6. That the BoPRC provide an accountability framework for the Incentives Programme and that the programme governors report to an appropriate Council Committee; have parallel accountability to the Rotorua Lakes Strategy Group; and provide regular information updates to the Lake Rotorua Stakeholders Advisory Group and other stakeholder groups through a formal communication plan.

7. The administrative and staffing cost of the Incentives Programme Team be calculated and reported on an annual basis in relation to total funds dispersed.

CONTENTS

1.0 INTRODUCTION

This options analysis report was prepared on the basis of a brief provided by Bay of Plenty Regional Council (BoPRC). Its purpose is to independently assess a range of governance options to deliver the Lake Rotorua Incentives Programme, to provide a basis for discussion and decision-making.

1.1 Credentials

APR Consultants Ltd is a Rotorua-based company with no affiliation to any key stakeholders with regard to lakes water quality measures but with extensive and long-standing local networks and governance experience. APR's Director, Deryck Shaw, was the principal of DJ Shaw Associates from 1983 until formation of, and merger with, the APR consultancy in 1990. Deryck's experience includes land use studies, economic impact assessments, resource management plans, environmental assessments, statutory planning (including planning applications, local authority planning services, expert evidence and district plan work), tourism research, survey design and implementation and applied research. Deryck holds professional memberships with the New Zealand Institute of Management, the Royal Society of New Zealand, the New Zealand Planning Institute, the Market Research Society of New Zealand and the New Zealand Association of Economists.

1.2 Process

APR reviewed existing BoPRC documents including the brief and previous research on the Rotorua Lakes. APR also had access to information on the work of Stakeholders Advisory Group (StAG), BoPRC staff and Lake Taupō Protection Trust. Much of this information was available on the BoPRC website. APR also attended and presented at the Rotorua Te Arawa Lakes Programme one day workshop, held in Rotorua on Wednesday 13 November.

1.3 Overview

BoPRC has worked with the Lake Rotorua Stakeholders Advisory Group to develop a framework for achieving the 270 tonne annual nitrogen discharge reduction that is required to improve water quality in Lake Rotorua. This can only be achieved from a reduction in nitrogen loss from pastoral land use (refer Appendix One for land use holdings overview as at 2010).

The agreed framework splits the required discharge reduction into three areas of responsibility:

- Rules Programme.
- Incentives Programme.
- Gorse Programme (to be funded and administered separately by BoPRC).

The Incentives Programmes are to be administered under a common framework, to concurrently meet a nitrogen discharge allowance (NDA) allocated to each farm and also encourage additional changes in land use and management to achieve further reductions. The use of a common framework (henceforth referred to as the Incentives Programme in this report) is to ensure that all funding is administered consistently and fairly and in line with the programme's principles, that is:

- An open and transparent process.
- Fair access to funding.
- Well governed.
- Based on efficient administration.

- Responsive to opportunities.
- Market based.

A total of $45.5 million of combined taxpayers and ratepayer sourced funding is available to support land use/management change. There is $5.5m is to assist land owners and managers such as farmers attain to their NDAs (as required by the rules) and the $40m is to secure N below the NDA line.

High level policy has been developed on how the incentives will be administered, including high-level criteria and conditions of funding. The detailed design for incentive delivery is currently underway, including a workshop held on 13 November 2013.

2.0 ENITY OBJECTIVES

Any organisation that might be implementing an incentives programme that has its major outcome of getting long term reductions in nutrient discharges will be required to:

- Ensure a common focus for undertaking and fulfilling of the project, having regard to the interest and requirements of the Te Arawa Lakes Strategy.

- A transparent and efficient mechanism for the expenditure of funds allocated to the project.

- Independence of decision making and action but with all stakeholders being consulted on the strategic direction and on decisions of sufficient importance.

- Compatibility with existing strategies.

- Accountability to the funding bodies and the wider community, including the ability for the funding bodies to exercise appropriate control.

- A structure which takes a long term perspective and which ensures that money invested is used, sometimes years later, for the purpose for which it was intended.

- Administratively efficient so that the maximum percentage of the funds is spent addressing the problem.

Note - modified from Waikato Regional Council – paper to WRC Councillors, 25 September, 2004.

3.0 GOVERNANCE OPTIONS ANALYSIS

BoPRC requested an assessment of governance mechanisms for assessing funding applications and determining recipients. This includes both $5.5 million allocated to assist 'above the line' reductions through rules and $40 million for 'below the line' reductions through incentives. Identified governance options include:

- Internal team of Regional Council staff.
- Incorporated trust.
- Council-controlled organisation (CCO).
- Contractor.
- Sub-contracting of experienced party (eg, Lake Taupō Protection Trust).
- Stakeholders Advisory Group (StAG).

We note there are also options within each of these, such as the nature of governance and management/administration and the extent of any delegations to management and/or third party interests.

The assessment that follows provides a description of the options and then considers the advantages, disadvantages and risks of each mechanism, including identifying where risks and conflicts of interest may occur.

The consultants have taken the approach that the options above are not necessarily mutually exclusive, for example there may be merit in a governance structure that comprises two or more of the options listed above in a layered fashion (depending on the costs and benefits of such layering).

This report relates solely to the governance of systems for funding application assessments and funding allocation recommendations.

3.1 Description of administration and governance options

The table below summarises each of the identified governance options. Further summary information is contained in Appendix Two. For the purpose of this analysis, Lake Taupō Protection Trust is treated as a specific option.

Table 1: Description of governance options

Option	Description
A. Regional Council staff	This would involve BoPRC policy, finance and operational staff establishing a programme working group to make recommendations to the Regional Council or delegated to a committee (with possible certain delegations within specified criteria for decision making within the working group). It is noted that there would need to be very clear operational policy settings and job descriptions to ensure that the staff stayed in the remit of the programme. As an option the group could co-opt independent people for specific expertise. Overall governance would be with BoPRC.
B. Incorporated trust	This would entail setting up an independent incorporated trust to administer the scheme. Trustees/officers would need to be appointed and there would need to be a mechanism to ensure that the required expertise was able to be appointed to the trust. There are a number of options around this process including setting up an appointments panel and addressing the extent to which this establishment process and the activities of the Trust would be independent of Council. Alternatively, it would be considered a Council-controlled entity and not necessarily meet independence tests. The trust would need to agree a separate management structure although this could be contracted out to a separate party such as BoPRC or a reputable professional services organisation. Overall governance would be through the Trust Board, with reporting and statements of intent to BoPRC and other agreed stakeholders.
C. Council-controlled organisation (CCO)	The formulation of a CCO would be required to adhere to the requirements of the local government legislation in its establishment, performance and accountability requirements. A CCO would have a board of directors which would be accountable to Council in its performance. Management of the scheme would be contracted out or managed internally. Overall governance would be through the CCO Board, with reporting and statements of intent to BoPRC being mandatory.
D. Contractor	An independent contractor such as a professional services business could administer the scheme on behalf of a designated organisation or group of people. While management would be contracted out which would include analysis, assessment and recommendations, the overall governance would be through BoPRC. There would need to be a very clear process around appointment of a contractor to ensure all requirements were met, including issues around commercial conflicts of interest, minimum tendering/contestability requirements and contractual remedies.
E. Lake Taupō Protection Trust	The Lake Taupō Protection Trust (LTPT) is a CCO set up for the removal of nutrient discharges into the Lake Taupō catchment. It has been identified separately in this document given its previous track record, capability and established processes operating in the Lake Taupō catchment. Utilising the services of the LTPT would remove the need to set up a separate incorporated trust or CCO to administer the scheme. However, given its location-specific purpose, LTPT would need to amend its operating model and other elements in order to operate in the

Option	Description
	Rotorua catchment. Also, current governance of the scheme is separate from the Bay of Plenty and Rotorua environments and this would likely need to be reviewed along with any enabling legislation. There would need to be mechanisms to ensure that its work in the Rotorua catchment was independent of its other activities, and that adequate accountability was provided to Rotorua key stakeholders. Also there would be legal issues around the Trust deed and settlors for review and determination.
F. Stakeholders Advisory Group	This would entail changing the purposes of the Stakeholders Advisory Group (StAG) to those of a decision making group around administration of the scheme. Given the fundamental shift in purpose and likely blurred areas of accountability this would create a number of issues requiring careful consideration. Another option could be to setup a specific expert group with decision making ability. This group would be constructed on the basis of the expertise, track record and independence of the members. Either group would operate within the auspices of BoPRC for policy advice and administration of the programme. This would require BoPRC to have a specific framework for the operation of the group including clear terms of reference, council delegations, processes and accountability documents. While programme or scheme governance would be through this group, annual monitoring would be undertaken by BoPRC. Care would need to be taken to ensure adequate accountability and remedies, given the relatively informal nature of this option.

3.2 Governance and Management/Administration requirements

This section is to outline the respective roles of governance and management of the programme. Essentially administration/management provides recommendations to a decision making entity such as a Council or separate entity with potential for some provision for delegated authority where there is a clear operating framework.

Within the earlier outlined structures there are a range of options that could potentially provide the requisite capability for recommendations and decisions including:

Governance Decisions	Administration and Recommendations
Regional Council Staff (ie, delegated from Council)	Regional Council Staff (with co-opted expertise as required)
Regional Council	Regional Council Staff (with co-opted expertise as required)
Incorporated Trust	Trust Staff (with co-opted expertise as required)
Regional Council and/or Contractor with specific delegations	Contractor (with co-opted expertise as required)
CCO Board	CCO Staff (with co-opted expertise as required)
Lake Taupō Protection Trust Board	LTP Trust Staff
StAG	Regional Council Staff (with co-opted expertise as required)

<u>Administration/management</u>
A review of the options requires some profiling of the various skill sets required both in terms of the management and administration of the programme to provide soundly based recommendations for governance to consider.

From a management perspective there will be expertise required in understanding the science of nutrient impacts and the rules framework. This is multi-dimensional as it needs to include business skills to maximise the on farm economic benefits of nutrient reductions and the ability to assess applications and their ability to meet the science and rule requirements of nutrient reduction targets. Depending on the flexibility of the strategy being followed innovation could also be a key tenant of the programme and staff having the ability to develop innovative approaches to meeting nutrient reduction targets

Other expertise required will include the legal elements related to agreements, valuation skills particularly trying to assess the value of nitrogen for purchase options. Overall the programme will need to be successfully marketed to be attractive to landowners looking to change land use to limit their nitrogen discharges.

It is highly likely that no one organisation will have the expertise and skill sets to deliver all of these elements. Therefore the ability to potentially work collaboratively and contract in expertise as required will be crucial for the programme.

Governance

The quality of governance of the programme is fundamental to its success. Decision makers will be required to constitute appropriate skills in governance alongside specialist skills in understanding how a programme can be developed and implemented that will deliver the required reduction in nutrient discharges to meet the targets. It would be desirable that there were Board members who have the specialist governance skills in areas such as project management, risk management and mitigation, legal, accounting, farm management, environmental science and strong strategic thinking. Board members will also need to ensure that they are not conflicted through their roles in existing landownership or governance in the area.

3.3 Evaluation criteria

For the purpose of conducting this assessment, discrete evaluations of each of the following criteria have been undertaken:

(a) Impartiality – Ideally the assessment governance group will take a long-term view focused on lakes water quality, and be 'blind' with regard to preferences regarding any individual application. This includes the avoidance of potential conflicts of interest. The ability to both be impartial and take a view outside of regulatory, other policy settings and election processes will ensure organisational independence

(b) Expertise – The assessment governance group will need to be able to assess and weigh available evidence as presented by applicants and informed stakeholders. This involves a level of inherent subjectivity which can only be mitigated through specialist knowledge and experience in relevant fields that will contribute towards nitrogen discharge reduction.

(c) Efficiency – The Incentives Programme needs to be governed in such a way that public funds are distributed fairly and efficiently. With regard to the cost of administering the funding assessment and allocation process, this requires a balanced approach that gives due note to all relevant evidence for individual applications but weighs such time and resources against the scale and merits of each individual application. In this regard, the governing body will need an accountability mechanism with regard to its annual efficiency (e.g. BoPRC to monitor the ratio of annual assessment and administration cost to total funds dispersed per annum, and ensuring this does not exceed an agreed level).

(d) Accountability – The role of the governing body for assessing and allocating public funding requires a strong line of accountability, including clear lines of delegation and responsibility, transparency through regular reporting and clearly defined remedies for any identified breaches of accountability.

Each option assessment that follows includes a rating score against each of these criteria. These are rated 'low', 'medium' or 'high' based on the consultants' judgement. Different views on these scores may be noted and agreed by BoPRC and other stakeholders. To provide a degree of differentiation between the options, the scores have been provided in relative terms. Hence, a score of 'low' does not necessarily mean that an option is low in absolute terms, only that it is low relative to the other options under consideration. In cases where no discernible differentiation can be made, options are given the same score.

Following the quantitative assessment described above, each option is also assessed descriptively with regard to its strengths, limitations and risks. These additional comments help describe why a score was given using the identified criteria above and also provide information about other criteria that may be specific for each option (eg, with regard to resourcing risks or possible continuity issues).

Following consideration of each option individually, possible hybrid options are considered in the Discussion section.

3.4 Option A: Regional Council staff

Impartiality:	Medium-Low – There are two strands to the BoPRC around impartiality. One is that BoPRC staff should be able to be relatively impartial in seeking to assess the most beneficial mechanisms for achieving nutrient reductions within resource allocations. However, the other is that staff members may be influenced by broader Council or political positions on issues that may not necessarily align with science and environmental considerations. Given likely changes in the regulatory framework, preliminary feedback through the "One day Workshop" indicates that it would be difficult from a public perception to demonstrate independence of other Council activities. Therefore while Council staff have a relatively high level of professionalism to support regional governance and regulatory roles it would be difficult to demonstrate the perception from a public perspective,
Expertise:	High – Council staff have been involved in understanding the science and policies around the formulation of the Incentives Programmes.
Efficiency:	High – Given the scale of work involved, the activities would not be easy to programme within existing workloads and therefore additional resources would be required. However, there should be a high level of efficiency as the costs and activities represent marginal costs to ongoing ratepayer funded activities.
Accountability:	High – Council is a public entity and therefore has established protocols and processes around audit and accountability. There should also be separate independent reporting to scheme stakeholders.
Comments:	This option has relatively low start up and operational requirements as established governance and management systems are in place. There may be additional checks and balances required in the programme, to ensure it is able to meet the highest tests of independence and accountability. There should also be resourcing and protocols to utilise independent expertise as required at a management and governance level.

3.5 Option B: Incorporated trust

Impartiality:	High – This would to be largely independent of Council and stakeholder decision making and therefore have high levels of impartiality and a high degree of focus.
Expertise:	Medium – While a trust could draw in expertise as required, there would be a learning curve around this process and it would be reliant on Council making staff available for this process, possibly on an ongoing basis.
Efficiency:	Medium - This would necessitate additional governance and management infrastructure which would require additional overheads. Given that BoPRC would still remain key stakeholders in the scheme, this would increase duplication of administrative burden and likely transaction costs, but likely not more than that of a CCO because of local government compliance requirements.
Accountability:	High –The trust would be set up to ensure a high level of public accountability through its Deed. In order to have a potentially high accountability rating it would need to ensure it adopted accepted standards around audit and reporting accountability. Part of this would be the establishment of an independent reporting system to scheme stakeholders.
Comments:	This option has relatively high start-up and operational requirements as there are no established governance and management systems in place. It would likely only be administratively efficient if it was to have an ongoing role and significant scale. It would need to have effective relationships around policy, science and environmental expertise and stakeholder interests.

3.6 Option C: Council-controlled organisation

Impartiality:	Medium-High – This would be established to provide some independence of Council processes, but would ultimately be accountable to BoPRC through its statement of intent (SOI), annual business plan and annual performance report.
Expertise:	Medium – While the CCO can draw in expertise as required, there would be a learning curve around this process. Given the ownership of the CCO, there would be a close relationship with BoPRC and therefore an ability to more easily engage with existing BoPRC staff on an ongoing basis.
Efficiency:	Medium-High – The CCO would necessitate governance infrastructure which would require additional administrative overheads, however it likely use the administrative back office services of BoPRC to reduce costs. Overtime it could work in a seamless way using back office services.
Accountability:	High – The CCO would be set up to focus on its role and ensure a higher level of independence from the Council but would still be required to report via BoPRC processes and therefore have a high accountability rating through accepted standards around audit and accountability. As with other options, part of this would be independent reporting to scheme stakeholders.
Comments:	There are a number of models that BoPRC can draw on in the establishment of the CCO through its own operations and those of other councils. A key element would be to model the managerial, administrative and governance overhead of the CCO against the investment programme resources. This option would require start-up and operational requirements because of the need to put additional governance and reporting systems in place. As with any organisation outside of BoPRC it would need to have effective relationships around policy, science and environmental expertise and stakeholder interests.

3.7 Option D: Contractor

Impartiality:	Medium-High – This would potentially be slightly more impartial than a single Council process, based on the fact that it would be contracted out and the contracting agency would be required to meet additional reporting requirements.
Expertise:	Medium – While Council staff in association with stakeholders has designed the scheme there is the potential to contract in specific expertise to operate the programme. This would be reliant on a close working relationship between the contractor and BoPRC.
Efficiency:	High – There would be a relatively high level of efficiency as there would be a market process to ensure the contractor not only had the required expertise and track record but also represented value for money.
Accountability:	Medium-High – As the scheme is not entirely administered through a public entity, it would not have the equivalent level of accountability as a fully public entity. However, governance processes around the scheme would still be public and require established protocols and processes around audit and accountability. There should also be independent reporting to scheme stakeholders.
Comments:	This option would retain overall governance oversight with BoPRC and utilise external management activity for the programme. There would likely be significant transparency around the contracting process to ensure it represents value for services and money although it may not be as administratively efficient as contemplated, due to the time involved by existing BoPRC staff overseeing the work and associated contract. There would likely be a lot of independent scrutiny of the activities of the contractor particularly in the early stages as processes are being developed and accountability requirements agreed. As with other options, there may be a lot of time activity around the start-up element of the scheme because of its complex nature.

3.8 Option E: Lake Taupō Protection Trust

Impartiality:	Medium-High – This organisation already exists. It would need to change its governance composition to ensure that the skills required aligned with those required to deliver the outcomes required. However its establishment was largely independent of Council decision making and stakeholder interests and therefore could have high levels of

	impartiality. It is only considered medium high because it has been constituted around the requirements of Lake Taupo which may not necessarily fully align with Rotorua Lakes considerations.
Expertise:	Medium-High – While the trust has a high level of internal expertise it can also draw in additional expertise as required. Therefore there would only be a small learning curve around this process. However like other options it could still call on Council staff as required.
Efficiency:	Medium-High – This would not necessitate significant additional governance and management infrastructure which would mean lower overall overheads. This potentially could mean lower administrative burden and potential transaction costs.
Accountability:	Medium-High – The trust would have a high level of public accountability through established track record and its deed or incorporation documents. In order to have a potentially high accountability rating it would also need to ensure it adopted accepted standards around audit and reporting accountability. Part of this would be independent reporting to scheme stakeholders.
Comments:	This option has relatively low start-up and operational requirements as there are already established governance and management systems in place. It would likely be more administratively efficient because of the formulation of accepted mitigation systems. It would need to ensure that it had effective relationships around policy, science and environmental expertise and stakeholder interests and looked at customised outcomes for the Rotorua catchment and not just apply a Taupō lens to matters. In addition there would need to acknowledge the mana whenua of Te Arawa around the lakes and incorporate this into the governance structure and stakeholder relationships. A hybrid option could be the setting up of a separate governance arrangement around the trust to contract to the trust. A threshold issue for this option is whether or not there is a desire by the existing CCO stakeholders to alter LTPT's focus and objectives.

3.9 Option F: Stakeholders Advisory Group

Impartiality:	Medium-Low – While this organisation already exists it would need to change its structure to provide the appropriate accountability and reporting mechanisms specifically around its likely amended terms of reference. It would also need to change its governance composition to ensure that the skills required aligned with those required to deliver the outcomes required. It would have a low level of impartiality because it is not independent of stakeholder interests.
Expertise:	Medium – While the advisory group has a medium level of internal expertise it can also draw in additional expertise as required. Therefore there would only be a small learning curve around this process. Like other options, it could call on Council staff as required.
Efficiency:	Medium – This would necessitate additional governance and management infrastructure which would mean higher overall overheads. If BoPRC services the administrative needs of the advisory group then this potentially could mean lower administrative burden and potential transaction costs.
Accountability:	Medium-High – The advisory group would need to ensure it adopted accepted standards around audit and reporting accountability.
Comments:	It has been assumed for administrative purposes that BoPRC would support the group. This would likely be more administratively efficient because of the adoption of current systems. There would likely be internal tension within the group because of the various interests at the meetings and it is precisely because of these interests as to why people would there. A hybrid option could be the setting up of a separate governance arrangement or a panel of experts around the advisory group to contract to the advisory group.

3.10 Summary evaluation (criterion scores)

The table below applies a simple rating score for each criterion. Note that these scores are subjective and open to revision based on new information.

- High 5
- Medium-High 4

- Medium 3
- Medium-Low 2
- Low 1

Table 2: Summary of management and governance options ratings – criterion scores

Criteria	BoPRC	Trust	CCO	Contractor	LTPT*	StAG
Impartiality	2	5	4	4	4	2
Expertise	5	3	3	3	4	3
Efficiency	4	3	4	5	4	3
Accountability	5	5	5	4	3	4
Total	**16**	**16**	**16**	**16**	**15**	**12**

* A threshold issue for this option is whether or not there is a desire by the existing CCO stakeholders to alter LTPT's focus and objectives.

Overall, based on this quantitative assessment, it would appear that the first four options are equally favoured while the LTPT and StAG options receive a lower weighting.

4.0 DISCUSSION AND RECOMMENDATIONS

4.1 Discussion

Key attributes of a successful governance structure include:

- Impartiality including the ability to operate with high ethical standards, maintain commercial confidentiality and avoid, mitigate and manage any conflicts of interest.
- Expertise and capability to deliver the outcomes required (ie, requisite skill sets and experience).
- Robust systems and processes, including efficient and effective coordination and administration.
- Clear accountabilities and lines of reporting.
- An ability to be networked into the community and work in a business-like manner around rules and incentives to reduce nitrogen discharges into the catchment.

Key issues for each of the governance options include:

- BoPRC staff would need to ensure, to the extent possible, that their processes are focussed on the science and policy requirements around nutrient reduction elements and not any other Council considerations.
- An incorporated trust would likely be administratively inefficient in terms of start up and operational costs. This would also apply to the CCO option but to a lesser extent.
- A CCO could utilise the administrative and back office services of the Council.
- The contractor is perhaps the most flexible option in that it provides an ability to only contract services for which BoPRC does not have the expertise or administrative resources. For example, Council might contract our application assessments and recommendations but retain the role of allocation decision making based on the reports of the contractor.
- LTPT has an established track record, but its potential activities in the Rotorua catchment would require changes to its trust deed, governance programme and its operating model. Certainly the Tuwharetoa involvement would need to be reviewed to incorporate Te Arawa.
- The potential structural conflicts of interest around StAG are likely to render it inherently difficult to make consensus based decisions and avoid conflicts of interest.

As is outlined none of the options provides a perfect solution. However some have greater downsides than others. While the Regional Council is possibly more efficient than setting up a separate structure, there are limitations around the requisite expertise required for

recommendations and there are limitations around Regional Council decision-making. As an example both Regional Council and StAG options have a potential downside around impartiality (eg, being open to other policy and political influences).

It may be that a hybrid option may provide a better option which maximises system capability and draws in expertise as may be required. For example the Regional Council could be the decision–maker but it could use a committee structure that introduces independent people onto the committee. This would require specific delegations of authority from Council to a committee and for Council to make special appointments. It is understood that this could occur from a Local Government Act perspective and a way of increasing impartiality (noting potential conflicts of interest). As an option the committee could use Lake Taupō Protection Trust members or recognised science and governance experts as independent members on an "incentives committee".

Key downsides which would potentially limit each of the options being considered further could be:

- A lack of independence of both Regional Council and StAG involvement, both from potential inherent conflicts of interest of members (StAG) to a perceived inability to separate the Regional Council regulatory framework from an incentives programme (ie, effective separation of the regulatory arm from the commercial focus around nutrient reduction).

- The potential for a lack of innovation from a separate contractor because of scale and expertise issues. The ability to embed ongoing innovative practices could be crucial around the successful operation of the entity.

- Council processes may also potentially limit the ability to "do deals on the ground:" Any organisation delivering the services has to have a delegated authority from governance to management around potential agreements that could be negotiated in the field and not have to wait for a meeting cycle.

- Any organisation delivering the service has to have credibility. This may be an issue for existing organisations that have reputations outside of the framework of the work programme envisaged around this programme.

- The existing roles of established CCO's and trusts such as LTPT and Grow Rotorua as defined through their statements of intent, deeds, governance and accountability arrangements could potentially limit their involvement in the incentives programme.

4.2 Recommendations

This report presents an analysis and assessment of governance options for the Incentives Programme including advantages, disadvantages and risks of each mechanism. Each option was assessed on the basis of selection criteria including:

- Impartiality.
- Expertise.
- Efficiency.
- Accountability.

The options considered, in descending order according to their criteria rating were:

1= Council-controlled organisation (CCO).
1= Incorporated trust
1= Internal team of Regional Council staff.
1= Sub-contract an Independent contractor (contracted by BoPRC).
5 Sub-contract Lake Taupō Protection Trust (subject to agreement by LTPT owners).
6 Stakeholders Advisory Group (StAG).

Note that while the first four scored an equivalent rating against the criteria the order above is based on less limiting factors eg:

- 1=Council-controlled organisation (CCO) – clearer structure around accountability of funding and programme.
- 1=Incorporated trust - greater independence, but potentially less aligned to existing policy settings
- 1=Internal team of Regional Council staff – less independence.
- 1=Sub-contract an Independent contractor (contracted by BoPRC) – less ability to embed innovation into the programme.

Recommendations

Before proceeding with the recommendations below the Regional Council should consider whether a hybrid option of any of the options presented provides more favourable advantages. This could be considered where the requisite administration and management expertise is enhanced and is possibly separated from the proposed governance structure.

The downsides also need to be carefully evaluated as it is considered that some of these options may not be able to be implemented because of the limitations outlined in the Discussion Section of the report.

Governance capability would be required to be robust and the programme would need to be delivered in a cost effective and efficient manner.

In the event that it is considered that none of the hybrid options are any better than the options as presented earlier, then on the basis of the analyses above, the consultants recommend that:

1. The BoPRC consult with Te Arawa Lakes Strategy partners to determine if any of the proposed criteria should be added to or weighted or whether any of these present significant limitations to move the programme forward.

2. Subject to no change in Recommendation 1, that on balance an independent entity provides the most credible, independent and transparent method of implementing the programme.

3. That an existing entity such as Lake Taupō Protection Trust or Grow Rotorua not be used as the entity because the existing established governance and operational framework of these organisations would be difficult to fully align with the purpose of the incentives programme.

4. That if an independent entity is the preferred option then that BoPRC follow the requirements of the legislation around the set-up and operation of such an entity.

5. That if a CCO or independent trust operation is pursued that BoPRC provide sufficient initial administrative and co-ordination resources to support the setup activities of this entity.

6. That the BoPRC provide an accountability framework for the Incentives Programme and that the programme governors report to an appropriate Council Committee; have parallel accountability to the Rotorua Lakes Strategy Group; and provide regular information updates to the Lake Rotorua Stakeholders Advisory Group and other stakeholder groups through a formal communication plan.

7. The administrative and staffing cost of the Incentives Programme Team be calculated and reported on an annual basis in relation to total funds dispersed.

APPENDIX ONE: LAND USE HOLDINGS OVERVIEW

The following information was compiled by APR Consultants in May 2010 as part of a draft report prepared for BoPRC. As part of this project, EBOP's Nutrient Benchmarking Officers were contacted for available relevant information such as land use types and nutrient losses from various land uses. The information compiled shows that:

- Dry stock, bush and forestry are the most prevalent land use types in the Lake Rotorua catchment, comprising 62% of the total catchment area (including water area).

- Dairy comprises approximately 11% of the catchment area.

- Approximately 56% of land area in the Lake Rotorua catchment is classified as Land Use Capability (LUC) class I to IV (ie, high to medium productive land).

- Approximately 34% of land area in the catchment is classified as LUC class VI. This class is defined as hill country and rolling land with an erosion risk or other limitation too great to allow safe cropping, usually well suited to grazing or forestry.

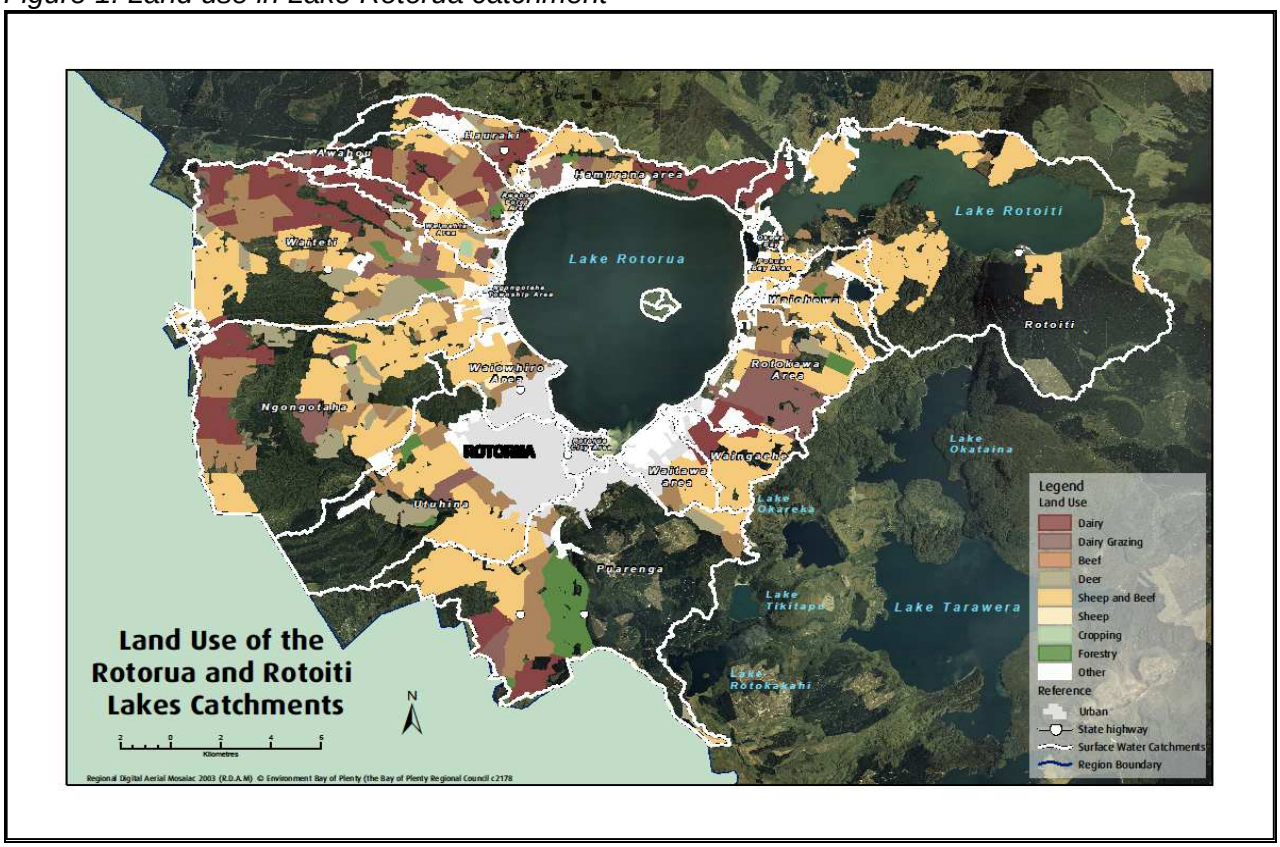
- Approximately 9% of land area in the catchment is classified as LUC class VII. This is defined as unsuitable for arable use and with severe limitations/hazards under perennial vegetation. Limitations are similar to Class VI but more intensified. A further 2% of land area is LUC class VIII, which is considered unsuitable for most productive uses.

- Details of the area (ha) of LUC classifications currently under various land uses shows that, amongst other things:
  - Almost 50% of the area of land currently used for dairy farming in the Lake Rotorua catchment is classified as LUC VI.
  - A further 4% of land currently used for dairying is classified as LUC VII and VIII.

- Summary data on the number and area (ha) of properties and their tenure shows that:
  - Approximately 70% of land area in the catchment is comprised of 99 properties that are 70 ha or larger. Of these large properties, 56 are private or company-owned and 29 are Māori-owned.
  - A further 206 private or company-owned properties are in the range 10-70 ha and a further 46 Māori-owned properties are in the range 10-70 ha.

- Māori land comprises an estimated 24%-33% of total land area in the Lake Rotorua catchment, depending on which figures are used for the calculation. Approximately 10% of all Māori land and 12% of non-Māori land is currently used for dairying.

Figure 1: Land use in Lake Rotorua catchment



Source: BoPRC, 2010.

Table 2: Summary of land use for Lake Rotorua catchment

Land use	Area (Ha)	Proportion of total area (%)
Bush	10,078.68	20.8%
Cropping	377.32	0.8%
Dairy	5,302.87	10.9%
Dry stock	12,900.82	26.6%
Forestry	7,029.66	14.5%
Other	4,789.04	9.9%
Water	8,078.05	16.6%
Total catchment	**48,556.44**	**100.0%**

Source: BoPRC 2010 – Land use by catchment (Lake Rotorua).

Table 3: Summary of Land Use Capability classes for Lake Rotorua Catchment

LUC Class	Area (Ha)	Proportion of total area (%)
1	11,356.564	23.4%
2	664.148	1.4%
3	5,219.307	10.7%
4	10,120.118	20.8%
5	0	0.0%
6	16,251.338	33.5%
7	4,182.764	8.6%
8	761.248	1.6%
Total catchment	**48,555.486**	**100.0%**

Source: BoPRC 2010 – Land use by LUC (Lake Rotorua).

Table 4: Land Use Capability class by land use for Lake Rotorua Catchment (ha)

Land use	LUC I	LUC II	LUC III	LUC IV	LUC V	LUC VI	LUC VII	LUC VIII	Total
Beef	5.2	80.7	395.5	414.2	0.0	516.4	35.1	25.1	1,472.2
Bush	244.6	30.7	694.2	2,382.0	0.0	3,953.0	1,908.5	555.6	9,768.7
Dairy	0.2	0.0	701.1	1,444.5	0.0	2,188.8	156.3	8.2	4,499.2
Deer	0.0	0.0	215.4	620.7	0.0	715.4	102.5	16.9	1,671.0
Other	2,889.0	321.2	842.5	748.4	0.0	439.9	76.9	1.1	5,319.0
Pines	113.9	15.6	662.5	1,377.9	0.0	3,608.5	1,064.6	101.1	6,944.0
Sheep	0.0	3.6	8.3	28.4	0.0	64.4	13.8	0.0	118.6
Sheep/beef	77.5	206.5	1,684.8	3,089.9	0.0	4,753.8	820.0	53.3	10,685.8
Water	8,026.0	5.8	15.0	14.1	0.0	11.0	5.0	0.0	8,077.0
Total	**11,356.6**	**664.1**	**5,219.3**	**10,120.1**	**0.0**	**16,251.3**	**4,182.8**	**761.2**	**48,555.5**

Source: BoPRC 2010 – Land use by LUC (Lake Rotorua).

Table 5: Land Use Capability class by land use for Lake Rotorua Catchment (%)

Land use	LUC I	LUC II	LUC III	LUC IV	LUC V	LUC VI	LUC VII	LUC VIII	Total
Beef	0.4%	5.5%	26.9%	28.1%	0.0%	35.1%	2.4%	1.7%	100.0%
Bush	2.5%	0.3%	7.1%	24.4%	0.0%	40.5%	19.5%	5.7%	100.0%
Dairy	0.0%	0.0%	15.6%	32.1%	0.0%	48.6%	3.5%	0.2%	100.0%
Deer	0.0%	0.0%	12.9%	37.1%	0.0%	42.8%	6.1%	1.0%	100.0%
Other	54.3%	6.0%	15.8%	14.1%	0.0%	8.3%	1.4%	0.0%	100.0%
Pines	1.6%	0.2%	9.5%	19.8%	0.0%	52.0%	15.3%	1.5%	100.0%
Sheep	0.0%	3.1%	7.0%	23.9%	0.0%	54.3%	11.6%	0.0%	100.0%
Sheep/beef	0.7%	1.9%	15.8%	28.9%	0.0%	44.5%	7.7%	0.5%	100.0%
Water	99.4%	0.1%	0.2%	0.2%	0.0%	0.1%	0.1%	0.0%	100.0%
Total	**23.4%**	**1.4%**	**10.7%**	**20.8%**	**0.0%**	**33.5%**	**8.6%**	**1.6%**	**100.0%**

Source: BoPRC 2010 – Land use by LUC (Lake Rotorua).

Table 6: Summary of properties (number) and tenure for Lake Rotorua Catchment

Area class	Crown owned	DOC	EBOP	Maori	Private/ Company	RDC	Total
0 - 0.4 ha	605	10	2	219	16,492	185	**17,513**
0.4 - 5 ha	63	9	0	114	1,229	109	**1,524**
5 - 10 ha	7	3	0	21	147	20	**198**
10 - 15 ha	3	3	0	8	66	5	**85**
15 - 30 ha	2	2	0	19	92	6	**121**
30 - 70 ha	2	2	0	19	48	3	**74**
70+ ha	7	6	0	29	56	1	**99**
Total	**689**	**35**	**2**	**429**	**18,130**	**329**	**19,614**

Source: BoPRC 2010 – Rotorua property size table including tenure and land use (Lake Rotorua).

Table 7: Summary of properties by area (ha) and tenure for Lake Rotorua Catchment

Area class	Crown owned	DOC	EBOP	Maori	Private/ Company	RDC	Total
0 - 0.4 ha	54.1	1.5	0.1	26.0	1,632.0	22.0	1,735.7
0.4 - 5 ha	122.6	13.3	0.0	189.8	1,816.3	162.4	2,304.4
5 - 10 ha	46.6	19.2	0.0	154.9	1,003.1	134.1	1,358.0
10 - 15 ha	36.7	42.0	0.0	97.3	829.7	60.6	1,066.2
15 - 30 ha	46.7	45.9	0.0	403.7	1,941.8	129.9	2,568.0
30 - 70 ha	89.6	63.4	0.0	872.7	2,293.2	121.8	3,440.6
70+ ha	4,406.1	1,847.9	0.0	8,193.8	14,768.4	95.9	29,312.1
Total	**4,802.4**	**2,033.2**	**0.1**	**9,938.1**	**24,284.4**	**726.7**	**41,785.0**

Source: BoPRC 2010 – Rotorua property size table including tenure and land use (Lake Rotorua).

Table 8: Land use in the Rotorua catchment for Māori and non-Māori land (excl water bodies)

Land use	Māori Land		Non Māori Land		All Land	
	% of Māori Land	Ha	% of non Māori land	Ha	% of all land	Ha
Bush	33	4,409	20	5,349	24	9,758
Cropping	1	119	1	256	1	375
Dairy	10	1,392	12	3,099	11	4,491
Drystock	37	4,964	34	9,174	35	14,138
Plantation	16	2,189	18	4,753	17	6,942
Other	3	467	16	4,311	12	4,778
Total	**100**	**13,541**	**100**	**26,941**	**100**	**40,482**

Source: BoPRC 2010 – Māori and non-Māori land use table (Lake Rotorua).
Note: 'Māori land' refers to best estimates of Māori land as defined by LINZ.

APPENDIX TWO: SUMMARY OF GOVERNANCE OPTIONS

Te Arawa Lakes Strategy Group

Overall governance of the Lakes Strategy is provided by the Rotorua Te Arawa Lakes Strategy Group, a Joint Committee under Clause 30 of Schedule 7 of the Local Government Act 2002. The Committee includes representatives from Te Arawa Lakes Trust, Rotorua District Council and Bay of Plenty Regional Council. The purpose of the Lakes Strategy 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.

The Lakes Strategy Group is not considered a viable option for direct governance of the Incentives Programme because it operates at a higher strategic level with multiple purposes and does not directly deliver or implement work streams. It is noted that the respective interests of each of the Lakes Strategy Group members could potentially be involved in programme delivery.

Internal team of Regional Council staff

Regional Council staff members are currently involved in various work streams to promote nutrient reduction in the Rotorua lakes. This option would involve forming a programme working group comprising key staff members from the operations, policy and finance areas. This group would work with external specialists as required and would have clear terms of reference and delegations around their work streams (as would all the other options).

Incorporated trust

This would constitute the formation of a specific trust which would have its Trust Deed entirely focussed on nutrient reductions in the Rotorua lakes through the Incentives Programme. Appropriately skilled and experienced trustees would need to be appointed and staff either employed or contracted in. The trust would also require back office administration and financial resources to ensure it was well run and had appropriate management capability and accountability deliverables.

Council-controlled organisation

This would be similar in concept to the formation of a Trust in that it would be a specifically constituted entity set up to focus on nutrient reductions on the Rotorua Lakes. This would require its set-up to meet local government legislative requirements and involve the appointment of directors for governance. Management could either be delivered internally or sub contracted to another party. Likewise it would also require back office administration and financial resources to ensure it was well run and had appropriate management capability and accountability deliverables.

Contractor

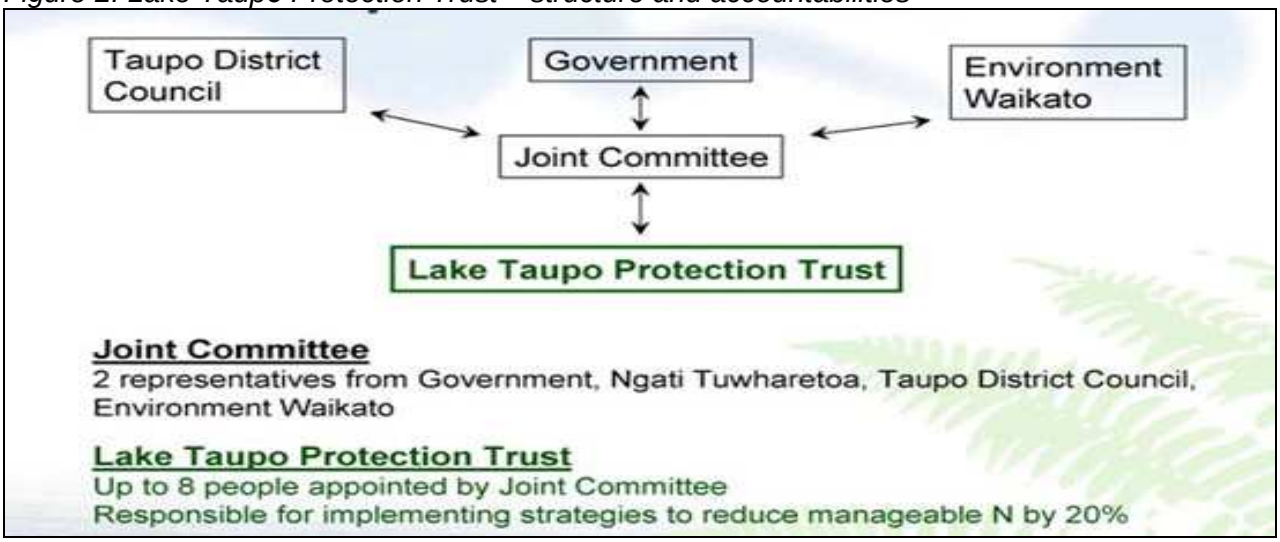
This option would involve an independent contractor administering the scheme on behalf of a designated organisation or group of people. While management would be contracted out, the overall governance would be through BoPRC.

Lake Taupō Protection Trust

In terms of structures for the purchase or lease of land to promote land-use change in the Lake Rotorua catchment, activities in the Lake Taupō area are seen as an exemplar. Lake Taupō's water quality faces similar long-term challenges to that of the lakes water quality in the Rotorua District (ie, development and intensification of rural and urban land has increased the amount of nitrogen entering Lake Taupō through groundwater and rivers, promoting the growth of algae and phytoplankton).

The Lake Taupō Protection Trust was set up in early 2007 as a CCO to administer an $81.5 public fund over a 15 year period aimed at encouraging and assisting land use change, purchasing land or nitrogen in the Lake Taupō catchment and funding research and other initiatives to assist landowners to reduce the nitrogen impact of their activities on Lake Taupō. The Trust funding comes from the Ministry for the Environment (45%), Environment Waikato (33%) and Taupō District Council (22%). Funding is provided on an annual basis at a rate of approximately $6 million per year. The funding arrangement is scheduled to be reviewed after five years.

Figure 2: Lake Taupō Protection Trust – structure and accountabilities



Source: www.laketaupoprotectiontrust.org.nz.

The Trust has been charged with developing a programme of work that will reduce the amount of manageable nitrogen leaching into the lake by 20% or approximately 153 tonnes annually. The organisation reports to the Government (MfE), Ngati Tuwharetoa, Taupō District Council and Waikato Regional Council. Current activities are guided by a 2008-2011 Strategic Plan. The Trust has flexibility in its operations and how it achieves its goals, subject to guidance from the funding agencies. The Strategic Plan is formulated around four key roles of the Trust:

- Purchaser of nitrogen/land.
- Facilitator of joint ventures.
- Enabler of others to act.
- Communicator and advocate.

Over recent years the Trust has been very active in achieving its goals assisted by the accumulation of funds available. The Trust's Strategic Plan highlights that the key goal is a permanent transfer of pastoral land to lower nitrogen uses. This is being achieved by the direct purchasing of farms and by the purchase of nitrogen reductions from existing owners. Examples include:

- Acquisition of six farms in the catchment area, with the potential to retire approximately 1,600 ha of pastoral land to low nitrogen use. Four farms have been on-sold. The

proposal by the new owner is to introduce an 'Eco Farm' concept that involves planting native and exotic trees, a 'cut and carry' project for Lucerne, and establishment of an eco tourism venture. The proposal will not only reduce approximately 12 tonnes of nitrogen but will support the local community infrastructure of the area by introducing new workers and neighbourhoods.

- Direct purchase of nitrogen through a contract with a landowner has also been completed. This contract will ensure that the existing ownership will continue, with approximately 950 ha of pastoral land to be changed to forestry in perpetuity with a reduction of 7.5 tons of nitrogen. The planting is to be complete before December 2010.

Note that the Trust is meeting the cost of the initial benchmark consent process (nitrogen discharge allowances or NDAs) which would otherwise be a direct cost to the farmer. The Trust uses this information to assess how much nitrogen needs to be removed from the catchment and to assess different opportunities that may present themselves for facilitating land use change.

Completion of the agreements above and associated covenants required the Trust to develop considerable legal documentation. The requirement to achieve land use change in perpetuity has raised significant debate amongst landowners, future buyers and their financiers. In purchasing farms, the Trust uses independent professional valuations. Where purchases have been made, the Trust has offered leases to a number of owners as they run down their nitrogen through different farming practices.

Lake Rotorua Catchment Stakeholder Advisory Group (StAG)

The Lake Rotorua Catchment Stakeholder Advisory Group (StAG) was established following a public forum in August 2012 and subsequent consideration by Lakes Strategy Group and BoPRC. The StAG Terms of Reference were endorsed by Lakes Strategy Group in December 2012, with a primary purpose to 'provide oversight, advice and recommendations on "rules and incentives" options that will achieve the nutrient reduction targets needed from rural land in order to meet Lake Rotorua's water quality target. This shall include advice on implementation options and District and Regional statutory plan changes'.

The full StAG meets monthly and is supported by a smaller group (Chair, Deputy, BoPRC/RDC/TALT staff, LWQS rep, secretariat) which convenes between the main meetings to progress draft advice.

Report to StAG on Incentives Workshop held 13 Nov. 2013

Foreword

The Rotorua Te Arawa Lakes Programme hosted a one-day workshop to elicit feedback and suggestions on developing a framework for a successful incentives scheme, which incentivises land use change and land management change to reduce nitrogen discharge to the lake. Attendees were invited based on their diverse expertise, from farmers and resource managers to policy analysts, science advisers and economists. They were encouraged to think broadly, offer innovative ideas and suggestions, trouble-shoot potential challenges in the proposed programme, and participate in constructive debate around how to achieve a 100T nitrogen reduction target with maximum benefit to the community and minimal negative consequences.

Presentations received

Overview of the proposed Incentives Programme framework

Presented by Anna Grayling, Rotorua Lakes Business Manager, BoPRC

Anna set the scene by presenting an overview of the proposed Incentives Programme framework document, which was circulated to all attendees before the meeting. She re-capped the policy context for the programme and the approach to be taken.

There were a range of questions including why did we have $5.5 million above the line funding.

Key lessons learned from the Regional Infrastructure Fund

Presented by Scott Hamilton, CEO, Quayside Holdings Ltd.

Scott shared his reflections on the process of developing the RIF as the CEO of Quayside, a Council Controlled Organisation (CCO) managing Regional Council investments, specifically the majority ownership of Port of Tauranga. Quayside is the treasury arm that raised the funds distributed through the RIF. The RIF was a Council run process to stimulate economic growth in the Bay of Plenty region. The key lessons learned in the establishment of the RIF were:

- Must have clear defined objectives and a robust process
- Draw on the collective wisdom of community
- You don't want your objectives to change but your process must be able to "keep with the times"
- Can't beat a good process – "all roads must lead to Rome" (the process should be robust)
- Decision making needs to be well understood
- Have one chief

Key lessons learned from the Lake Taupō Project

Presented by Graeme Fleming, Chief Executive, Lake Taupō Protection Trust

Graeme shared his experience as the CEO of LTPT, the CCO that administers the funds to reduce nutrients to Lake Taupō. He provided an overview of the similarities and differences between the Taupō and Rotorua contexts and offered these key lessons learnt.

- The key message is you are buying Nitrogen (and its associated productive capacity) in perpetuity
- Must be founded on good science basis – the science needs to be "bomb proof". Decisions in the Taupō project were based on 30 years of solid science.
- Must have a clear target –We had to reduce 20% of the manageable nitrogen in the catchment (170 tonnes). We had no other criteria.

- Drip-fed funding provides significant challenges for negotiations. The more cash you can get up front the easier it is to negotiate.
- Split the regulatory arm from the commercial focus - Taupō built an independent Trust (CCO) instead of going through Council.
- Credibility is key for the incentive fund – When you are dealing with landowners, the public doesn't consider the money, they consider the credibility of the administering organisation.
- Legal position must be unassailable (or won't have uptake).
- Realise effect on capital value.
- Significant potential with Iwi land: There is a significant advantage around capital value on Māori land because their concern with capital value is very low.
- Address issue with Overseer – continual change in versions and the 40% margin of error will be problematic legally and affects your creditability.
- Personal relationships are important to get the fund to work for the community.
- Seek external investors and/or business partners because the fund's money isn't enough to bridge the gap in a potential loss in capital value and operating income.
- Try to achieve tension in the market: We're buying Nitrogen, if you don't get in on this, you might miss out. To build on this, we offered all Tūwharetoa entities the opportunity for us to fund an independent review of their farm looking at any change that could be done while the funding was still available. It cost them nothing but gave them options we could discuss with them. A very market-driven approach.
- Be wary of other market factors: changing price of land, dairy payouts, beef and lamb prices, NZ dollar, carbon prices, timber prices. How to predict and drive changes in public sentiment about environmental issues and/or water quality?
- Be flexible and avoid the bureaucracy of Council processes and political distractions. The slow pace of Council processes limits innovation sometimes. Will also affect credibility.
- Making money drives behaviour: create a system (an incentives fund) that will help people make money.

Key lessons from experience to date in the Rotorua Te Arawa Lakes Programme

Presented by Anna Grayling, Rotorua Lakes Business Manager, BoPRC

Given the particular context of the Rotorua Te Arawa Lakes programme, Anna shared what the BoPRC has done in the past in other lake catchments (Ōkāreka and Rotoehu) and explained that one-on-one nutrient reduction agreements had been secured in the same way as Lake Taupo.

The Regional Council had been successful in using a less structured approach in small lakes catchments where there were only a couple of land owners to approach.

- The market seriously influences where people are at and whether people are willing to negotiate.
- People/landowners need certainty, that goes for both councillors and land owners. When we didn't know what the rules framework looked like in Rotorua it was hard to get buy-in. Councillors wanted to ensure we were not paying for something which land owners should be doing anyway.
- Competency influences outcomes – "If the only tool you know is a hammer, every problem looks like a nail". This applies to landowners and RC staff.
- You need good engagement and relationships with people who you are negotiating agreements with. Face-to-face is best.
- You need a clear plan that includes a regulatory framework and also marketing to support. Need other options for land use not everyone wants pines. Hence innovation challenge is important.

Suggestions for how to make Incentives scheme successful

Implementation

- Have sweeteners to get early action e.g. free technical advice, pay for contract legal fees, lower values, etc.
- Turn challenge into opportunity and articulate this.
- Limit objectives to reducing nitrogen and 'do no harm'
- 'Innovation" difficult for a bureaucracy. It needs to be driven externally.
- Target māori land for incentives as better bang for buck because capital land values are less important
- People negotiating deals need to be empowered to "make" the agreement without the uncertainty of having to wait for Council decisions.
- Right people leading it (business and science minded).
- External partners
  - Fonterra – Tatua – whoever = supply
  - Fonterra brand
  - Price differential on something attractive in supply contract
- Funding needs to support implementation that may extend past 2022.

Questions

- Why treat $5.5 m "above line" separately rather than set NDAs a little higher for all
- Compliance – can those exceeding NDA pay $ to the fund?

Comments

- Use $5.5m to provide risk-free modest rate loans for specific investments – rolling fund
- Use $5.5m for explicit demonstration/testing of new (or existing) practice with an obligation to be visible.

Suggestions Ways to improve

- We won't gain any 'asset' from spending the money. It will be operating expenditure only. Is there an asset to buy (e.g. land) rather than just spend the $45m
- Try to access and leverage other funds.
- Use collectives/joint ventures with multi-land owner could provide avenues for "catchment" level solution that are bigger than one farm e.g. wetlands
- A 'targeted rate' (rates = tax) for the land use, that can then be remitted if that property reduces their nitrogen (concern is that it is a penalty)

Critical success factors for incentives fund to go forward

Workshop participants were asked to think about the critical success factors required for this Incentives Programme. Focusing specifically on the incentives aspect of the programme, and given their special expertise, they offered their individual assessments about what factors are most important to get *this* scheme right. (Where two or more participants made the same comment, we omitted the duplicate to avoid redundancy).

Creating an enabling environment

- Creating the "right" environment for uptake
- Science must be bomb-proof
- Sufficient resources to manage the logistics
- Arm's length from Council
- Progress needs to be measured and communicated
- Ensure that there are enough farmers willing to change to get the 100t
- Benefits have to be clear
- Fair
- Articulate methods more clearly
- Have a really clear objective and keep that up front
- Measure the N target vs. associated GDP impact. What is acceptable offset, if any?
- Define our use of Overseer
- Generate short term wins this will create tension and improve motivation
- Trading platform through Council with resource consent tie in
- External forces don't fluctuate too much e.g.: NZ $, land prices, beef prices etc
- Requires stable political support from:
  - Central Government
  - Regional
  - Local
- Ensure that concepts are broadly understood by community
- Get "buy in" from pastoral landowners – they need to participate

Establishing credibility and trust

- Keep collaborative process and trust going
- Landowners must be able to "trust" the Council and process
- What happens in 10 years when different staff are at the helm, will contracts be locked in?
- Ensure that expertise is in place to ensure that programme can work – from management to governance

Comments on the structure required to achieve fund objective (clear objectives and appropriate governance structure)

- Remove the scheme from bureaucracy - just get Council to agree the Strategy and Policy then let the team deliver
- Will Council require too much red tape to allow progress?
- Controls and accountability are very important!
- Get independent management (can still be in Council)
- Having clear process, objectives and principles agreed at start
- It achieves what it sets out to do!! Tracks progress and adapts where necessary.
- Clear governance and accountability
- Recognise land management change as well as land use change

Relationships and personnel skills to deliver

- Really good dealmakers who are accepted and respected by farmers because relationships are everything

- We need the right skills which include a negotiator / resource co-ordinator with business acumen to lead the implementation
- Provide expert 1:1 advice for landowners on business case
- Need appropriate delegation to make agreements and flexibility

Managing funds

- Avoid drip-feeding of funds and get front loading of $
- Adequate funds / fund management
- Knowing how future funding is going to be sustained
- Keep transaction costs low as possible

Flexibility in approach and process

- Can't get overly fixed on process, just make the process clear from the outset and adapt when needed
- Ability to leverage funds and use in multiple ways
- Ability to take reasonable risks within agreed process
- Framework should be as simple as possible but not simple
- Fund Managers need the ability to take any opportunity to reduce N in perpetuity
- Flexibility to allow for future innovation – don't take away opportunities
- Not being scared of thinking outside the square and taking brave, strong steps forward
- Re-allocation must be possible, through trading, transfer, and re-negotiation
- Allow more flexibility:
  - Not all agreements need to be permanent
  - "Banking"
  - Early trading
- Incentives fund needs to have enough flexibility in it to cater to the many varying needs of the individual farming businesses in the catchment
- People need to think outside their current paradigms
- Flexibility – adaptability to new science / circumstances
- Behaviour change must be achieved
- Innovation needs to be incentivised
- Flexibility for farmers needs to be maintained
- Viable options need to be available for landowners
- We need to be innovative in future land use options
- There needs to be a process to search and develop "big" game changing land uses that make money

Monitoring and compliance measures

- Agreements need to be enforceable
- Fast, certain penalties for non-compliance
- Certainty of rules required but this does not have to be absolute
- Reduction must be measureable and verifiable

Overview on governance mechanisms and options analysis for administering the Incentives Programme

Presented by Deryck Shaw, APR Consultants Ltd

Deryck shared the analysis of governance options, based on a draft paper prepared for the Regional Council. It covered the possible structural and delivery options.

Structural options presented

- Internal team of Regional Council staff
- Incorporated trust
- Council-controlled organisation (CCO)
- Contractor
- Sub-contracting of experienced party (e.g., Lake Taupō Protection Trust)
- Stakeholders Advisory Group (StAG)
- Other (e.g., hybrid of options above)

Feedback on governance options

Workshop participants were asked to give their specific feedback on governance options. By a hands up vote, 15 of 22 participants said they would support a CCO for this Incentives Programme.

Reduced bureaucratic "red-tape" / simplicity of process

- Less regulation and "process" to go through
- Easier to manage if kept separate from Council - "business as usual"
- Quicker to move things through than go through council process / Speedy CCO decision making
- CCO costs are explicit – where internal costs are often hidden or under estimated
- Can reduce transaction costs – fewer committees
- Ability to take commercial risks

Separating regulatory and implementation rules

- Prefer a CCO – keep the implementation separate to the regulatory role (keep rule-makers separate from implementers)
- CCO – divorce from regulatory function
- Policy set (Council)
  - Regulation (Council)
  - Implementation (CCO)
  - Objectives through SOI (Council)
- CCO – Independent Option
  - Gives autonomy on day-to-day decisions
  - Doesn't have to go back to Council every time
  - Separates regulation from incentives payment (public perception)
- Fewer distractions
- If rules are litigated it could taint incentives delivery
- Commercial focus
- Needs to be market driven
- Pay for outcome - Make it a KPI

Avoiding political conflicts

- Perceived independence from Council
- Very targeted – removes political interference and conflict of interest (or public perception of conflicts of interest)
- Single clear objective without conflicting demands that occur in Council
- Less risk for politicians - Less pressure to influence use of money
- Support CCO or other separate group for focus and transparency and continuity
- Separate from "political" body
- CCO offers the key Stakeholders i.e.: farmers, a complete "new face" to deal with / can come to the negotiating table with no past baggage from either side
- More likely to get farmers' trust
- Delegation to deliver
- Consistency regarding implementation

Remaining questions

- RTALSG role?
- Government role?
- Te Arawa role?

General feedback / comments

- Ability to source key skills
- Drive innovation while still accountable
- Find an outstanding trusted committed person to lead (Graeme Fleming II)
- Clarity of purpose
- 2 paths:
  - Negotiated LTPT type long-term deals
  - Simple leasing tenders / auctions or fixed prices
- Set price each year for 5 year reductions
  - Available to anyone on standard terms
  - No discretion

Specific feedback on how to move forward with the proposed programme

Workshop participants were asked for their feedback on specific key questions.

Do we have enough information to set-up a successful scheme? What gaps in information would limit getting started?

- Above / below line?
- NDAs on individual farms are not determined
- Good practice is variable and will be hard for the $5.5m above line funding
- There are still questions on the use of Overseer
- Need to know who's is paying for compliance. Treasury or RC?
- Yes – enough information

If you could vote for one critical factor of success, which would it be?

- Get the policy nailed first
- Credibility
- Māori land is the key to success because it have different drivers
- Clarity of process from here is critical – process with stakeholders is crucial
- Money may not be the key driver for all farmers, strong ties to land and lifestyle
- Knowing what individual NDAs are
- Ability to do deals staff / deal negotiators need to be empowered! (not having to go back to get approvals)
- Sorting out issues with Overseer
- Keeping a single focus
- Compliance – can those exceeding NDA pay $ to the fund?
- Landowners need to be prepared changed
- One critical factor: measurability

What steps should we take first? Where should we start? What to do between now and June 2014?

Establish CCO – define type of CCO

Steps:

1. Define objectives – done "Buy back 100 tonnes of nitrogen below NDA"
2. Initiate CCO
3. Define our use of Overseer
4. Create environment to promote uptake

- First step: Analyse impacts of options; Provide information to farmers

- Agree on approach:
  - Commercial
  - Market driven
- Define scope for interim funding criteria before 2017 NDA consents
- Communication and marketing programme
- Define funding criteria (and get it approved)

Closing remarks and specific feedback from workshop participants

In closing, individual workshop participants gave specific recommendations on the proposed framework, in light of their specific expertise and everything they'd heard so far.

From economists

Suzie Greenhalge (Landcare Research)

- Make sure we have a stream-lined process – one of the biggest hurdles is that it takes too long to do. Might take you while to get it going, but once you do, get it done as quickly as possible.
- Provide sweeteners for early adopters – you need people in the door to get the word out. What can you offer? Is it something like rates rebates or technical assistance for the first ten through the door? Ask the StAG about that.
- Have flexibility with what farmers can do and it will stimulate innovations as well
- Find some champions – you've got a StAG who buys in, get them out there and part of the network.
- Don't forget to rank performance looking at three things:
  1. Indicators for what you would like to see happen to say the fund is successful?
  2. Have you screwed up implementation? It might not be doing well because you did something wrong?
  3. What is the institutional capacity of organisation that's doing it? Is it missing something so it's not as effective as it was before?

Suzie Kerr (MŌTŪ Research)

- Keep it simple – when there's a temptation to add a rule, think, "do we really need this"? They seem attractive but can become nightmares.
- Having a single purpose – you're about trying to achieve nutrient reductions here. Don't do harm by mistake and don't miss a great opportunity but don't try to solve the world's problems or it will become unmanageable.
- Compliance, quick penalties – for that small tale of people who won't behave well you must have fast, certain, quick penalties or other farmers will get upset and it all won't work.
- Flexibility – the world changes fast and you want to be able to respond without having to change the whole system. Some reductions may need to be in perpetuity but another pool that is for a shorter time commitment like 5-10 years, so you can have a more agile market.
- Early reducers – allow people to do big reductions really quickly at first, slow later on
- Overseer – try to avoid meddling too much, don't be too prescriptive

Bill Kaye-Blake (NZIER)

- Flexibility
- Remove the scariness
- Keep in mind the $ value of N
- Measureable, measure and manage (KPI's)
- Governance people required

Levi Timar (Mōtū Research)

- (Supports the other economists' statements)

Final word from presenters

- Scott: Can't do implementation until policy is finalised. Economic benefit or not?
- Graeme: Policy, evaluation, credibility is major, Māori best client, do the deals
- Deryck: Clarity and shaping of process is crucial

Final work from farmers

Joanna Carr

- Issue around term "good practice", so many variables.
- Farmers are there because they love the land and animals not because of the money.

Wendy Roe

- Concerns around working out the NDAs
- Only land they have, caretakers for the next generation

Appendix 1 – Feedback on the agreed framework

How effective is the framework and the incentives approach developed so far?

Workshop participants were asked to think about how effective the wider framework and the incentive approach. Based on their general first impression, participants rated the framework on a scale of one to ten. All participants rated it a five or above, most between five and seven. They then offered individual assessments about the positive features of the framework and incentives and concerns about the proposal and their top suggestion to improve the proposal.

Why didn't you rate the proposal a zero? Positive features of the proposed framework:

"They've got community acceptance (buy-in) and were responsive to the StAG"

- Consultation has been thought out and not been ignored
- Various stakeholders included
- Discussions held with stakeholders to get agreement on measures
- Farmers have some ownership in the framework development
- Community acceptance of framework – StAG
- Was responsive to the StAG and got their 'buy in'
- Has gone through a collaborative process
- Has been approved by council and strategy group governance
- Collaborative process in itself is worth 5/10
- Good interaction with stakeholders
- Developed in collaboration / represents a collaborative agreement
- Achieving rules agreement significant
- Agreed target
- Iwi support
  - Politician
  - Farm owners
- More or less agreed cost sharing
- Provides landowners with some level of comfort

"It allows time for people to build confidence – slow implementation "

- Gradual implementation
  - Build confidence
  - Allow learning
  - Lower adjustment costs
- Compliances timeframes have been well thought out

"Built on massive foundation base"

- Massive foundations
- Science sound
- Good science research underpinning
- Geophysical characteristics of terms considered
- A lot of learnings
- Link to carbon

"Overall framework is feasible – can achieve reductions"

- Politically do-able
- Has been reflective of what has/hasn't been successful so far
- Because we dare to make some progress
- Less ugly than other N & $ allocation

"Achieves multiple objectives"

- Combined obligation & aspiration objectives
- Aims to benefit community as well as achieve environmental goals
- Not blinkered by a single objective

"Provides opportunity & flexibility"

- Trying to think outside the box
- Recognize the importance of innovation
- Trying to establish idea – principles for how the programme should run
- Mostly voluntary or at least non-prescriptive
- Provides rationale for 'best of the worst'

"Not incentivising bad behaviour"

"Shares risk between crown and community"

Why didn't you rate the proposal a 10? Concerns or issues with the proposed framework:

Still a long way to go

- Small blocks not BMId, not understood, not engaged
- A lot of risks/big decisions still to be made and addressed
- Over this length of time, there should be more solid frameworks in place – even if it is:
  - Option 1: i.e. be brave
  - Option 2: move forward
- Engagement with Māori stakeholder still requires more work and feedback
- Still work in progress
- Decision makers not fully informed of the issues
- Fund governance yet to be sorted
- Funding yet to be secured
- Not confident that all options have been considered
- Don't 're-invent the wheel': where possible use expertise/lessons learnt from others (e.g. Taupō)

On clarity and feasibility of objectives

- Ongoing issues with sector allocations
- Concerned about allocations & definitions
- Dairy support?
- Have one objective – N reduction
- To achieve 270t N target will rely on rural community engaging in significant change
- May not be the best business model that gets the most N for less money
- Are we buying N or selling an incentive scheme? Or both?
- A difficult ask, market tension within a complex environment
- Timeframe/staging (2015/2017/2022/2032)
- Be ethical and meet RMA for other issues (and seize opportunities)

Issues relating to dry stock

- Tough on dry stock
- Info on dry stock sector lacks detail
- Still issues with the workings of the framework & specific sector challenges i.e. dry stock to meet targets (don't have a lot of "slippage" in their systems)

Lack of NDA flexibility

- NDA range needed
- Forever locking sectors into their current NDA allocation

Issues around practical implementation and compliance

- Trading needs to start earlier
- Could provide more flex in timing of reductions (allows earlier action)
- Lack of visibility – How this will work in practice
- Compliance is critical – is it solved, certain, fast?
- Details missing – how to do it? Key will be implementation
- Lack of certainty in the rules at this stage – impacts of success
- Risk of not being able to achieve target
- Don't limit actions to permanent

What's above the line?

- Unclear how 5.5m will be used
  - Should not be compensation or buy back
  - Facilitation/learning/enabling
- 5.5m going to create a challenge on how to allocate
  - Many complicate the process
  - What is best/good practice?
- Complexity – $5.5m vs. $0m treated separately

Problems with "best" practice definition

- The term 'good practice' is really subjective ad arbitrary
- Don't try to specify 'best practice' or 'not profitable' as this can't be defined

Problems with models & science

- Overseer challenges
- Create system to update overseer with minimal risk to farmers (see Motu work)
- Dependant on Overseer and RoTAN – but numbers not that certain
- Gorse uncertainty in science

Key change to the framework to bring about improvement

- Simple NDA range for dry stock & dairy based on Rule 11 B.M. e.g. 10-20 dairy; 30-40 dairy
- Make reductions from NDA fungible with below the line reductions
- No NDA ranges – just keep it simple
- Agree to an agile/business model around making deals regardless of the governance model. Try to remove decision/approval from Council (i.e. get more autonomy with decisions) = very important for implementation.
- Raise the line and manage the $5.5m as part of the other $40m
- No above the line/below the line complexity - just by 100 tonnes!
- Liberalise Nitrogen trading from 2015
- Use a simple approach that is market based – 'We'll take the first 100T through the door'
- Measure N target vs. GDP impact – What is an acceptable offset, if any?
- Apply a fixed rate incentive and pay maximum possible (e.g.) $400/KgN
- More time and analysis of approaches
- Clarify breakdown of farm types that are not 'dairy'
- Incentive fund goal to clarify only targeted to N reduction
- Achieve total crown support
- Remove the Gorse programme
- Clarity, confidence, and agreement around execution of programme