

PROTECTING LAKE TAUPO



THE STRATEGY

And

THE LESSONS



Sue Yerex July 2009

Prepared for Kellogg Rural Leadership Programme 2008

Dedication

A 'special thanks' to Bob and Lesley Cottrell and the Taupo Lake Care Consulting and Management Teams for their commitment to the Protecting Lake Taupo process.

'Thank you' to the interviewees who gave so freely of their time.

Also to John Kneebone and Tony Zwart for their inspiration and guidance;
and to Marion Peck for superb administrative support.

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Foreword

While the Plan change instigated by EW to control and reduce the amount of manageable nitrogen generated by pastoral farming, leaching into the Lake Taupo Catchment, is a first for NZ. It is most likely to be replicated in a modified form in other locations, I have encouraged Sue who has participated in the long, and at times difficult process to chronicle her experience, and to encourage others, involved, to in retrospect contribute their thoughts, and recollections for the benefit of other Local Authorities and farming communities, where the wider community demands mitigation measures to protect water quality, and highly valued water bodies.

The wider community is generally made up of everyone, including non affected farmers, that will not be adversely affected, or subject to demeaning controls or perceive themselves being classified as “community polluters”. Farming families in NZ are very proud of their vocation and their role and contribution to society and the Economy. It goes even deeper than just those attributes we talk about such as leaving the land in better heart than when they took over responsibility, growing two blades of grass where but one grew before, and providing sustenance for a domestic, and international market.

There is that affinity with a piece of land that is more than just a residence. Few Pakeha follow the customs of their Maori neighbours, that re-enforces their belonging to their traditional lands. Pakeha land tenure systems don't lend themselves to those customs, but all Kiwi farmers empathise and are able to identify with that sense of “Turangawaewae, a place that gives one standing in a community, that sense of identity, and self respect. Another Maori term rarely understood, but directly related to community responsibility to protect water quality, is Mauri the life force of water, it is we know, but rarely acknowledge, that clean fresh water sustains living organisms, including mankind. Dead water sustains nothing, but something that will float. I was brought up to believe in the Mauri of the land we cultivate, to sustain healthy plants, and ourselves. We don't talk openly or lightly about these things, they are a bit too deep for most of us, but they give us a sense of pride, both in ourselves, and farming as a vocation. To be confronted with an imposed, possible obliteration of these values comes as a shock.

About 1960 I attended a meeting in Rotorua, called to address the serious erosion problems caused by the large scale Central Plateau land development scheme. Also at that meeting, scientists raised their concerns about the potential for intensive pastoral farming in the Lake Catchments to leach nitrogen and phosphates into the lake water bodies.

As an enthusiastic young dairy farmer, I was not only disbelieving that a few cattle beasts could in fact pollute such large lakes, I experienced a surge of anger at being accused of being a dirty polluter. So unhappy was I, following that Rotorua meeting, that I made it my business, for the next 40yrs, to follow closely the research and survey work that has focussed on water quality issues, and the impact that pastoral farming may have had on the problem.

At the dawn of this century, a collective community decision was made, based on over 30yrs of conscientious research to take regulatory action, to reduce the amount of Nitrogen leaching into Lake Taupo, from both human and animal waste. Once that decision had been taken, there was no turning back.

As a farmer, and having carefully followed the accumulated evidence that has implicated pastoral farming, I am immensely proud of how the rural community within the Taupo Catchment have dealt with the challenge that confronted them. A group of ordinary farming families chose from within their ranks neighbours with a reputation for having cool heads, and common sense, to represent them, in the run up to eventually the Environment Court, confirmation. The people did not run away from their community responsibilities. The science is complex, promulgating regulations is arduous. There is no painless or gentle way of facing the stark reality of having ones income capped and constrained, retirement funds shrink and diminish (property values reduce).

There will be affected families who will never accept the science, the NDA measurement system, or that like myself in 1960, shed the anger of having blame visited upon them or their type of farming. Having been a keen observer of the process, but never a participant, I commend Sue's report, and thank everyone who has contributed. It is easy in retrospect to suggest that the process could have been better, but I doubt that, was, possible. We humans have to follow the well trod path of anger, denial, even refusal to accept, and give ourselves time to traverse the multitude of emotions, while in the process testing resolve, boundaries of tolerance, and demanding verification of need. The process I suggest, fulfilled those criteria, and was the more robust for it.

John Kneebone

Chair Lake Taupo Protection Trust.

Introduction

What is this all about?

The 'Protecting lake Taupo' project is the largest environmental protection project of its type in New Zealand. The Waikato Regional council (Environment Waikato) charged with protecting the lake, sought to vary the regional plan to address and regulate land use activities affecting the quality and clarity of Lake Taupo. This research paper looks briefly at the history and development of the protection of the lake, but predominantly covers the emergence of the protection strategy - the past 8-9 years and what can be learned from that.

Environment Waikato was advised in November 2008 of the Environment Court decision recommending (with little final change) it's Regional Plan Variation (RPV5) to control land use around Lake Taupo (using new non point source discharge rules), the first proposed legislation of its type in New Zealand. Final E Court recommendations are due late 2009.

My choice of topic and decision to base this project on interviewing “key” people involved in the Lake protection strategy stemmed from my desire to get a wide ranging and representative picture of the events and to reflect people’s views on the “lessons learned”.

As more people start to quote the “Taupo” case study example around the country there is a need in my view to extract and reflect on the key issues and principles. My objective is a report that is a relevant and insightful overview of the history of the strategy to protect Lake Taupo, drawing conclusions about lessons learned that may assist other environmental protection projects, stakeholders and agencies.

This story- is primarily about people and relationships and those “key” people¹ I interviewed filled out the journey of the Strategy for me thus far.

I chose to interview those people I believed had a particularly important “hands on” role in the Strategy process. They were key policy makers, decision makers, stakeholder representatives and advisors. These key people represent only some of the many people involved in this strategy past and present who have “kept good faith” and continued to strive for a workable solution in hugely challenging circumstances over a number of years and for whom care of their environment (land and lake) for future generations is a key driver.

As the author, what was my involvement?

I have been associated with this project from 2000, when as a farmer I sat at one of the first public meetings- in Tokaanu, called by EW (Environment Waikato) to be told our farming practices were polluting Lake Taupo.

I was the founding secretary- come 2IC- of Taupo Lake Care (TLC), an Incorporated Society formed to represent the farmers of the Lake Taupo catchment. I was also a member of the TLC consultation team that worked with EW and other stakeholders and partners until I resigned in Sept 2004.

Fourteen months later, Nov 2005, I was appointed as one of six ‘trustees in waiting’ of the ‘yet to be formed’ Lake Taupo Protection Trust. The Trust wasn’t legally created until Feb 2007 and is now tasked with reducing manageable Nitrogen levels from entering the Lake by 20% over the next 13 years- being drip fed \$81.5m- (less GST on the Government’s portion- but for that story and a few others, you will have to read inside).

I have attempted to spell out the reality of our Taupo experiences- warts and all. Much has been achieved to date, not every idea has been adapted. Some ideas have worked, some have not- but for the benefit of others, this is my honest attempt to constructively record events surrounding and how a group of affected landowners dealt with a political bombshell lobbed into their midst in 2000.

¹ See Appendix A “List of interviewees and their roles’

Protecting Lake Taupo - How has the strategy emerged and developed?

-What can be learned for the future?

Methodology

The people interviewed represent a cross –section of those involved in the emergence and development of the Strategy. Their key roles were often in different time frames, but in getting their viewpoints and comment, the overview of the ‘how and why’ is answered and strong common themes become clear.

As the key principles and decisions around the Strategy were mainly founded in the early years of 2001-2004 there was a need in my view to concentrate on interviewing a number of people associated with the Strategy at this time.

There was never a grand prescriptive plan for Protecting the Lake. Rules, guidelines, strategies all evolved. This has never been done before; we were all starting from scratch on a journey that if successful will take years to show its full affects of success.

This is why the interview and questioning of those most closely involved were the chosen resource used in this report. The identification of key documents and meetings further assists and helps to highlight the stages of the evolution of the strategy.

The resource that highlights the development of the Variation to the regional plan is the RMA legal process of hearings and submissions and the Environment court evidence. I will refer to this evidence where relevant and it should be noted that 6 of my interviewees also gave evidence through the RMA process, 5 of them at the Environment Court.

Executive summary

This report backgrounds and outlines the evolution of the eventual strategy chosen for the Lake Taupo Protection project, the process and the suggested lessons to be learned. It looks at the principles that guided the emergence and development of the strategy and the involvement of the various stakeholders and partnerships that evolved during the eight years from 2000-2008.

The background and history sections of this report give the reader the necessary information to understand the reactions and reasons behind stakeholder decisions and positions taken during the development of the Lake Taupo Protection Strategy.

The beginnings of the strategy in 1998 stem from the ‘State of the Environment report’ from the then Parliamentary Commissioner for the Environment, stating the impact that Agriculture was having on the environment. This coupled with the 1999 statistically significant results of a decline in lake water quality in Lake Taupo and the major threat of dairy expansion in the Taupo catchment forced Environment Waikato to act.

The science connection between what was happening on the land and its influence on the lake was made, understanding the Lake was Nitrogen deficient and that the only manageable Nitrogen entering the lake was wastewater and 'non point source discharge' from Agriculture.

NZ's grass based animal farming systems in the porous pumice soils of the Taupo catchment, with its cold autumn and winters and high rainfall, results in Nitrogen leaching from animal urine. Leaching varies between animal sexes and types. This Nitrogen gradually (over as much as 50 plus years) finds its way into the Lake through groundwater and feeds the growth of algae, reducing the clarity and quality of its waters.

There were no precedents for Environment Waikato to look to in NZ, or internationally, for solutions including rules to regulate 'non point source' Nitrogen discharge. The problem was big and new and Environment Waikato had a legal obligation and responsibility under the RMA to protect Lake Taupo water quality. Identification of the issue was a bombshell for farming landowners and a conflict situation grew as members of the farming community saw themselves as being targeted with their livelihoods threatened.

This report sets out the four emerging phases of the strategy, starting with Conflict, moving to Analysis, Engagement and finally the Regulatory cycle process, using the Resource Management Act. It details these phases from the viewpoints of those involved, including public and private landowners, Iwi, local and regional councils and of course central government.

By interviewing a wide range of people involved in developing the strategy, valuable experience has been captured. The interviews give rise to some common themes and lessons, provide good advice and process for future environmental projects and highlight that the strategy, from its inception, has been about people and the importance of relationships.

An insight is also given, and the importance highlighted, to the type and nature of leadership required to achieve both wider public and stakeholder support needed for a successful environmental outcome.

Key messages discussed in this report include;

- Getting the right people in the room and encouraging open and honest debate within and then between sectors of stakeholders by building relationships.
- The detail of the policy is incredibly important.
- Continually gaining agreement on principles with ALL stakeholders and keeping to simple consistent messages helps keep the process moving forward.
- Brave, forward thinking, passionate leadership in all quarters is needed with as much role consistency as possible.

Protecting the health of Lake Taupo for current and future generations is the focal point and common goal of all the stakeholders and the reason why they continue to strive to make this strategy work.

1. Background

There are some key issues to understand when looking at the Strategy being pursued to protect the Lake. These issues are neither straight forward to grasp nor easy to measure or mitigate, hence the complexity of the process, proposed solution and time taken to date.

These background pages set the scene.

1.1 History

1.1.1 Afforestation

An extract from National Park Enquiry² Report which states:

By the early 1960's the land surrounding Lake Taupo had been identified by Crown and local officials as "the largest block of unproductive land left in the country". Taupo district local authorities had become concerned that the Lake was increasingly in danger of nutrient enrichment and corresponding rapid development of Lake Weed threatening the fishery and the lake.

The Tuwharetoa Maori Trust board joined the Taupo and Taumarunui District Councils forming a committee to investigate. Their report "Lake Taupo"³ proposed land adjacent to the lake be retained in its natural state to lessen run-off – identifying a series of reserves totaling 49,000 acres. These reserves were designed to protect recreational, wildlife, scientific, botanical, historical and soil and water values.

Officials from Taupo and crown agencies including lands and Survey and Forestry resolved in 1966 (after 2 years of investigations) to recommend 38,000 acres of lakeshore reserves, of which 22,000 acres were Maori owned. The report also commented that exotic tree planting (within certain parameters) would achieve many objectives sought for the Taupo basin, within and outside of the proposed lakeshore reserves.

Tuwharetoa met on 18/2/1967 to discuss proposals and implications for reserves. The meeting passed resolutions including;

- a) An insistence that Tuwharetoa have representation on any future co-coordinating body and that Tuwharetoa interest have the right to be heard on any matters affecting lake Taupo
- b) That if reserves are created, this occurs through negotiation rather than acquisition under public works or other legislation.

Crown officials met with Tuwharetoa representatives 18 July 1967 to further discuss reserves and crown proposal of a 70,000 acre afforestation leasing scheme with shared stumpage, in

² Walzl, Tony, National Park Enquiry WAI-1130, 2006

³ Appendix B Lake Taupo An Investment for the Nation, 1965

the south east of the Taupo basin. After much negotiation a combination of reserves and forestry was agreed to with the first trees of the East Taupo Forest (now called the Lake Taupo Forest) planted on 19 June 1969.

The establishment of the Lake Rotoaira Forest (now called the Rotoaira Forest Trust- RFT) in the early 70's was influenced by several other major developments at the time. These being;

1. The need recognised by Government in 50/60's of the possibility and need to grow exotic timber species to deal with an expected timber famine from the end of indigenous timber market, and possible export potential.
2. Building of the Tongariro Power Development Scheme (TPD), the need for protection of its structures
3. Desire to protect Lake Taupo from increasing risk of nutrient enrichment. Forestry was increasingly put forward as a solution for keeping the land productive also avoiding pollution of Lake Taupo.
4. The need for further forest to the south of Lake Taupo, providing the solution to conserve the resources of Lake Taupo. (The TPD drains this catchment and delivers it to Lake Taupo via the Tokaanu tail race).

Geoff Thorp (Forest and Land Manager LTFT & RFT) explains that those original forest leases were for 2 rotations. These were negotiated back to one rotation length, no review and with stumpage rates re- assessed in the early 2000's. As the LTFT was partly in its second rotation 3,000 ha forest was included in the hand back and the Trust became a forest owner. Both these Trusts are unusual in that they represent owners of many land blocks- LTFT 66, & RFT 72 blocks and they continue in production forestry today.

1.1.2 Lake Protection

Protection of the lake has its roots in the 1960's from the Taupo Lake Shore Reserves Scheme proposal. Acknowledgement was made then of farmland development and fertiliser run off, erosion and overall nutrient enrichment from rural and urban growth – affecting lake water quality and resulting in increased weed growth.

With the establishment of lakeshore reserves of both Maori and Crown owned land and the afforestation programme above in place a lot of the catchment was protecting Lake Taupo. This was followed by the Waikato Valley Authority's (WVA) Catchment Control Scheme, which assisted landowners in planting, fencing and retiring nearly all river and stream beds in the catchment from the 1980's onwards.

The “right” thing was being done to protect the Lake, by all landowners, or so it was thought at the time!

In the DSIR book “Lake Taupo”⁴ the scientists concluding perspective acknowledges “Intensified use of land, whether it be with farming, forestry, or urban development, will inevitably lead to increased losses of nutrients to the waters draining into Lake Taupo.

⁴ *Lake Taupo Ecology of a Lake*, DSIR info series 158, (1983)

We do not know how much such losses will add to the existing nutrient load to the lake. The contribution from increased agricultural activity seems likely to pose the greatest threat and it is here that future attention must be focused. Although the riparian strips of the WVA's catchment control scheme will undoubtedly benefit the lake from the point of erosion control, it is still too early to say how much of the additional nutrients they will retain."- How right they were!

1.2 The Lake Catchment

Reference: Young, J. (2008) Environment Court Statement of Evidence.

Lake Taupo catchment is 3,487 km² (including the lake). Being NZ's largest lake at 30 km wide, 40 km long and 160m at its deepest point. Today approximately half of the catchment remains undeveloped, much of it in public ownership managed by the Department of Conservation (roughly 100 km²).

Ngati Tuwharetoa is the Iwi with mana whenua in the Lake's catchment. Its rohe includes the catchment of the Lake and stretches further on all sides. Ngati Tuwharetoa are the acknowledged Tangata whenua for the catchment and kaitiaki for the Lake.

Ngati Tuwharetoa have an undisputed relationship with the Lake which forms an integral part of their ancestral lands, water, waahi tapu and taonga. The Iwi own the Lake bed and represents the largest private land owner in the catchment. Approximately 110,000 ha or 40 percent of land in the catchment is in Maori ownership.

Land ownership in the catchment is dominated by public land managed by the Department of Conservation, the Department of Corrections and the State Owned Enterprise Landcorp. Pastoral land and small areas of urban settlement make up the remainder.

1.2.1 Current landholding ownership breakdown- July 2005

Land type	Tuwharetoa Land (hectares)	Government ownership (hectares)	Private ownership (hectares)	Total
Undeveloped	505840	103660	0	154500
Planted forests	35500	4300	24700	64500
Sheep and beef	23800	14800	12100	50700
Dairy	778	0	1022	1800
Urban	0	0	3500	3500
Total	110918	122760	41322	275000

Land uses in the catchment are pastoral farming, planted production forestry and undeveloped land including indigenous forest. Pastoral farming comprises a majority of dry stock sheep and beef, some deer with some dairy grazing. There are only six dairy farms in the catchment; two of which are only partially within the catchment boundary.

See Appendix C for Pastoral land Use of Lake Taupo Catchment Map.

Of the pastoral land there are 92 farms greater than 100 ha (with all or some portion in the catchment) .This equates to approx 87% of catchment pastoral farm land. The balance is made up of approx 100 farms, 20-100 ha in size, a further 8% of pastoral land and smaller landholdings approximately 1206 properties less than 20 ha making up the final 5%.

1.2.2 Land development History

Historically the catchment of the Lake was mostly covered in native forest and tussock grassland. Low fertility of the volcanic soils and the nature of land tenure meant that prior to 1950 this part of the North Island was largely undeveloped. By 1955, about 160 km² of land at the southern end of the Lake had been developed for farming.

From 1970 onwards increasing areas of land – mainly in the north and west – were developed under major development schemes driven by Central Government agencies. By 1973, an area of 470 km² was in pasture. The development schemes included the balloting out of farms that had already been developed by the Department of Lands and Survey and the Department of Maori Affairs. A high-resolution satellite image of the catchment taken in January 202002 showed a total area of about 525 km² in pasture.

In summary, much of the pastoral development of land in the catchment has occurred within the past 35-50 years.

1.2.3 The threats to Lake water quality

Historically the Lake has had extremely low levels of nitrogen and other nutrients, which has limited the growth of nuisance plants and algae in its waters. Before land around the Lake was developed into pastoral farms and settlements, only low concentrations of nitrogen entered the Lake. Sources of nitrogen into the Lake were primarily from rain falling on the Lake and groundwater draining areas of indigenous vegetation. Land use change in the Lake's catchment has increased the amount of nitrogen entering the Lake as a result of pastoral development in the middle of last century and the increasing popularity of lakeside living.

Briefly, the main sources of nitrogen to the Lake are from pastoral farming, undeveloped land, rainfall, planted production forest, Tongariro Power Development Scheme (TPD) and sewage and urban runoff. Approximately two thirds of the nitrogen entering the Lake is from sources where the nitrogen component cannot be reduced further.

There are two manageable sources that together make up approximately 36 percent of the total load of nitrogen entering the Lake. The first is urban storm water runoff and sewage wastewater which comprises approximately 7 percent of the manageable load. The second is pastoral farm land which contributes the majority of the manageable load which comprises approximately 93 percent of the manageable load of nitrogen to the Lake.

Landowners planted forestry on the eastern and southern sides of the Lake and lakeshore reserves were created. As these actions stabilise soil and reduce the amount of sediment entering surface water, they can also be expected to assist in the management of phosphorus attached to soil particles entering the Lake.

However activities within the ambit of the Taupo catchment Control Scheme alone are not sufficient to mitigate effects of non-point source discharges of nitrogen entering the Lake.

Traditionally, land management has not focused on attempts to manage the amount of nitrogen leached from below the root zone of grazed pasture. Prior to 2000 neither WRC nor any other agency had produced guidelines or rules for the Lake Taupo catchment that addressed non-point source discharges of nitrogen from animals. The late realisation of the connection between lake water quality and nitrogen leaching under pastoral farms meant development of grazing land in the catchment went unchecked for many years. It is now known that nitrogen leaches from urine patches when high or prolonged rainfall causes water to drain through the soil. Critical management factors include stock density and autumn and winter grazing management.

1.2.4 Science Terminology/ Key facts

Reference: Vant, W. (2008) Environment Court Summary of Evidence.

The current (2008) water quality of Lake Taupo is excellent. Levels of the plant nutrients nitrogen and phosphorus in the water are low. As a result, so are the levels of the microscopic plants called “algae”, whose growth the nutrients support. Because of this, the water is clear and blue.

Higher levels of nutrients would support higher levels of algae, and the water would appear murkier and greener – as seen, for example, in the Waikato River hydro lakes and in some of the lakes in the Rotorua area.

The water quality of Lake Taupo and some of its inflows have been studied reasonably consistently since the early 1970s. While there have not been major changes in water quality at a site in the middle of the lake, and the water quality there is still high, there are clear signs of gradual deterioration over the past 30 years.

Furthermore, marked increases have been observed in the levels of nitrogen in several streams flowing into the lake that drain areas of pasture. And modelling studies have shown how the water quality of the lake could be adversely affected in the absence of any controls on land use practices in the catchment.

There are many different sources of nitrogen to Lake Taupo. Some are large, others are small; and while some sources are readily manageable, others are much less so. RPV5 estimates that losses of nitrogen from areas of pasture in the Taupo catchment represent more than one-third of the combined load of nitrogen to the lake from all sources, and as such represent about 93 percent of the manageable load to the lake. The loads from urban runoff and sewage are also manageable, but substantially smaller than those from areas of pasture.

Much of the rain falling on the Taupo catchment percolates through the soil and is stored underground as groundwater—in some cases for many years—before finally entering the streams, and then the lake. The Taupo groundwater thus contains some of the nitrogen that was leached from historic land use practices in the catchment, but which has not yet entered the streams or the lake.

Our best estimate at present is that the additional load of nitrogen that will eventually enter Lake Taupo as a result of land use activities in the past is equivalent to between 30 and 43 percent of the manageable load of nitrogen that is currently entering the lake. However, it is likely to be many years before the additional load finally reaches this level. In 220020, the additional load of nitrogen that is likely to enter Lake Taupo as a result of land use activities in the past is estimated to be equivalent to just 5-to-6 percent of the manageable load that is currently entering the lake.

Although the RPV5 proposal to remove 20 percent of the manageable nitrogen load by 220020 thus appears to be sufficient to achieve the lake water quality goals between now and then, it also appears that the nitrogen removal target will need to be increased to more than 20 percent in the longer term.

1.2.5 Key science issues

- For Lake Taupo N (Nitrogen) is the limiting factor, therefore the biggest threat.
- Fertiliser runoff is not the principle issue. Non point source discharge of N – animals (especially cows) urinating on the ground during high rainfall cold months leaching down through the soil profile is the critical issue. Best farm practice wasn't good enough!
- The only way –practically and economically -to measure farm non point source discharge is computer modeling, with the “Overseer” programme being the best tool available- albeit with issues around accuracy and skills needed to operate it effectively.
- The leaching time delay for N reaching the lake through the groundwater system means there is nitrogen “load to come” that has yet to affect the lake, even if we make changes now lake water quality will worsen.
- Different animal classes and farm systems leach different amounts of N, with dairying being the highest, followed by intensive cattle systems and the lowest being extensive sheep and deer farming.

2. Conflict phase - Stage one

‘Conflict, misinformation, poor communication and grandstanding’

And ... Action...It begins

2.1 Environment Waikato⁵

Tony Petch (Group Manager EW) states that “*the 1998 ‘State of the environment’ report stated the main impact that Agriculture was having on the environment. At the same time in 1999 the results of decline in Lake Taupo’s water quality became statistically significant.*”

⁵ Environment Waikato (EW) The Waikato Regional Council (WRC)

“We had recorded a trend we were able to defend”. (The coincidence of the first two issues combined with the third- here quoted from J Young’s E Court evidence) *“As well as concern about measured changes in Lake water quality, in 1999 EW staff were aware of the risk future land use intensification could pose for Lake water quality. At that time the particular concern was potential dairy farm conversions with subsequent increases in nitrogen leached from those pastoral properties⁶”*.

This issue was such a threat that two EW group managers visited NZ Dairy Group and got an agreement not to issue Dairy numbers for conversions in the Lake Taupo catchment (at that time there was no dairying in the catchment). Visiting the Kiwi Dairy co. the message they say was lost, and it was Kiwi that issued those new dairy numbers- subsequently to become part of Fonterra.

Tony Petch explained that the EW staff and councillors agreed they had to start saying no to continued environmental impacts from Agriculture and setting a case for consent for non point source discharge *“If we can’t do this in Taupo with the RMA (Sec 30), then we couldn’t do it anywhere else, and the Agriculture sector would be untouchable”*. *“We garnered support from EW politicians, MfE (Ministry for the Environment), TDC (Taupo District Council) and Central Government. Marian Hobbs (Environment Minister) understood this was a flagship environmental project- setting a precedent”*.

2.2 Ngati Tuwharetoa

⁷EW entered into a Memorandum of Understanding (MOU) with the Tuwharetoa Maori Trust Board (TMTB) in 1998.

The MOU sets out aims and principles for an interactive, positive and balanced relationship, in the form of the establishment of a body known as the Joint Working Group which is a conduit for exchange of information of mutual interest. Specific mention is made in the MOU of the development and maintenance of close and ongoing political contact on matters related to management of natural and physical resources. The Lake Taupo ‘nitrates issue’ as it was frequently referred to by Ngati Tuwharetoa representatives, was a topic on most MOU meeting agendas from 2000 onwards.

Also operational at this time was the ‘Taupo Nui a Tia 2020 action plan’ – involving representatives from Tuwharetoa, Department of Conservation, Department of Internal Affairs, EW, Taupo District Council (TDC) and Lakes and Waterways Action Group (LWAG - a public interest group). This was an Iwi- based initiative (non statutory), commercially driven to protect the lake, environs and economic community. The aim of the action plan was to clarify the roles and responsibilities of the different agencies and management groups involved in managing the Lake and to develop a process to identify the key values and “new actions” need to protect them.

⁶ Davidson, N (1999) *The Potential of the Lake Taupo Catchment* NZ Dairy Group

⁷ Young, J. (2008) *Environment Court Statement of Evidence* (pp 17-18)

EW's Tony Petch says " *The Protecting Lake Taupo Project is EW's part of the Taupo Nui-a-Tia action plan, relating to protecting the lake, where the macroeconomics were saying the lake was worth more clean than dirty. The Protecting lake Taupo project ticked all the boxes, economic, environmental, cultural and spiritual. It is the foundation of the project to protect the lake* "

2.3 First Farm Research meeting

Late in 1999 the first "technical discussion to join up the dots" as Ag Research senior scientist Bruce Thorrold puts it, was held in EW offices. Environment award winner Dairy farmer Ted Coates, Bruce, Stuart Ledgard (AgR), EW officials and NIWA's Bryce Cooper all looked at the monitoring data and had discussions around possible dairy conversions. What were the farming options- knowing that N leaching from urine patches was the real issue?

2.4 The bombshell – for Landowners

EW notified key stakeholders of threats to the water quality of the Lake and its intention to take action in late May 2000. A letter and a short briefing paper from EW's Chief Executive was sent to Government Ministers, local councillors, key interest groups including fed farmers, dairy companies etc.

The briefing paper outlined that further intensification of land would have an adverse effect on the Lake's water quality and it suggested possible mechanisms for addressing the issue in a pamphlet entitled 'Protecting Lake Taupo - A Plan by Environment Waikato'.

A survey of Taupo people's attitudes and perceptions about Lake Taupo was undertaken in 1999⁸. Clean, clear water was the most highly valued aspect about the Lake (96 percent of respondents), followed by public access to the Lake, its natural character and cultural values. The survey identified 87 percent of respondents ranking environmental protection over development.

In mid 2000 a series of meetings was called by EW for landowners, the first one at Tokaanu followed by a Taupo meeting the same day. EW staff Tony Petch, Justine Young and Bill Vant, along with Ag Research senior scientist Bruce Thorrold- fronted the meeting, telling a stunned group of local farmers that they were "responsible for polluting the lake". Tony Petch recalls this meeting as "*the saddest part of the process. A shock to good farming people- implicating them in polluting the lake, painting them as pariahs in their own community*".

Farmer Lesley Cottrell (as did all farmers who attended) recalls this meeting as a bombshell. "*How could we have attended all those AgResearch fieldays and monitor farm days and*

⁸ Stewart, C, Johnston, D, Rosen, M, Boyce, W, (2000) Public Involvement in Environmental Management of Lake Taupo; Preliminary Results of the 1999 Survey. Institute of Geological and Nuclear Sciences Limited, Science Report 2000/7

know nothing about this” she said. Farmer James Truebridge on hearing Justine Young say she was closing the meeting as they had to be in Taupo for the next meeting, stood and said “ *No you will not- this is our lives you are talking about, it (the meeting) will take as long as it takes*”!

2.5 Mid- late 2000

The farming community were outraged that the finger was so squarely being pointed at them. They rallied around and several farmers approached local Maori private farmer Bob Cottrell to lead a farmer group as their spokesperson. They saw Cottrell as the ideal person to bring together all the landowners in the catchment- Maori and Pakeha. Although not Ngati Tuwharetoa, Cottrell well understood the specific issues Maori faced and at the inaugural Taupo Lake Care (TLC) meeting later that year Cottrell was voted Chairman with a committee representing both Maori trustees and private farmers, the farming landowners had a voice!

Taupo lake Care becoming an Incorporated Society in 2001 and by 2003 membership comprised 90% of the catchment landowners. For TLC farmers the issues were highly emotive, meetings were difficult at times, issues wide ranging as was the level of understanding of the full implications along the way. As the TLC chair, Cottrell saw the key thing was to “*get everyone collectively thinking, get a common strategy and approach- and dealing as a group, not as individuals who would have got picked off*”.

EW’s policy update in July 2000 stated that they were in ‘Consultation development’ of the Taupo variation to the Regional plan, to propose it in Jan- June 2001 and hear submissions June- Dec 2001. Lex Rennes (EW Group manager at the time) initially saw this as “*as a six week variation*”.

In October 2000 as a lift-out section of the ‘Taupo Times’ a paper entitled “Issues and Options for Managing Water Quality In Lake Taupo” was published. This document sought feedback on four different options for Lake Water quality.

The options were:

Option 1:	Better water quality than now, with much less intensive land use in the Catchment
Option 2:	Maintain current water quality by reducing nitrogen output from existing land uses and preventing further land use intensification
Option 3:	Slightly lower water quality than now, with existing land use remaining the same but no further intensification.
Option 4:	Lower water quality. Do nothing to change land use in the Catchment

Based on feedback received at earlier public meetings, it was clear that neither Option 4 (doing nothing) nor Option 1 (trying to improve water quality substantially) was favoured by the community. For this reason, the Issues and Options paper focused on Options 2 and 3.

During 2001, in a Council resolution, EW decided to pursue Option 2 – maintain current water quality in Lake Taupo (at 2001 levels) by reducing nitrogen output from existing land uses and preventing further intensification. Bruce Thorrold and many others say this decision was “*pivotal*”, “*it set the direction of travel*”.

3. Analysis phase - Stage two

‘More conflict and Farmer organisation formed’

3.1 2001- Consultation – what’s that?

TLC’s Cottrell sought a meeting with EW’s Lex Rennes asking to be included in a formal discussion process. Rennes replied “we’ve tried talking with farmers before (over issues on the Coromandel) and it never worked”. Cottrell states “*At the Tokaanu meeting it struck me this is not the way forward- we need to be a part of this process*”.

Cottrell and other committee members then approached local EW councillors Black and Lane for a meeting to outline their concerns. Cottrell remembers saying “*Their attitude really blew me away, it really focused my thinking ...we need to really start talking here- not just you guys telling us what you are going to do, and then doing it. You won’t get us onside by forcing us to do anything- it just won’t work! It was obvious to me that here we have our first crack at non- point source pollution & these people thought they were going to do it and we were going to comply! We needed to convince them that we needed at least the next meeting*”!

Yerex – “*My recall of this meeting was the arrogance of one EW local councillor- who was a dairy farmer just outside of the catchment- telling us this was going to happen and having little interest in any of the implications- they weren’t personally affected!*”

From there TLC presented to a full EW council meeting. Cottrell recalls “*We did put ourselves out there as wanting to talk, discuss and hopefully go through this process to try and come to a negotiated outcome that was good for both parties. We put the implications of what was going to happen in a conciliatory way, they thought – here’s a group that might in fact be worthy of giving a chance to talk to. It led to the start of the consultation process*”.

EW was starting to see delays in their process already, some stakeholders were stating ‘*We don’t believe there’s an issue- prove it*’ and councillors were unsure as to how big, how political and difficult this issue was going to get! The call to slow the process down was heeded as EW proceeded with caution and collected more science information e.g. modelling of the catchment and hydrogeology reports of groundwater movement.

Key relationships and their importance abound in this case study. EW CEO Barry Harris was an old friend of TLC's Graham Law. Cottrell says *"It got us in the room for more than 5 minutes, Barry gave us a good hearing"*. Harris- a key figure in the early part of this process (he resigned and changed jobs in 2002) went on to organise a one day 'think tank' of wide ranging individuals - recommended by key stakeholders and EW. The result was that after hearing the summarised facts the group split into two to debate the issues and both returned with the consensus that this was a very complex problem and needed the people that it involved included in the solution process.

TLC forged ahead adopting its goals, and splitting duties of overall strategy, media, science information, water sampling from bores, streams and bush amongst its committee. Law states *"By doing our own water sampling we built up our own picture. We then moved onto a stock survey of all our members plus the Department of Corrections and Landcorp farms- on the quiet-! We got AgResearch to compare and verify our stock numbers from 1990 and 2000 with the result we could prove that overall N leaching had not increased over that period – due to land use change to more forestry and lifestyle blocks"*.

Cottrell says *"TLC's whole goal focus of ongoing viability, flexibility and protecting the lake, were quite clear from the beginning. The committee thought these three objectives were paramount in any solution. Apart from the initial emotion and people saying no we're not affecting the lake, we quickly moved to how can we protect the lake without it affecting our long term viability and the having the flexibility of land use- because things will change and evolve over time"*.

Thorrold summarises *"EW started out with a very 'lake centric' view of the world, their job being to protect this iconic lake from be spoilers- future more than present! Once TLC formed, EW then had to engage and then things changed very quickly because TLC were able to articulate a very simple compelling vision- maintain farm profit and flexibility and protect the lake, and no one could argue with that!*

A vision, which once EW actually sat down and met them on a regular basis- they realised they were dealing with real people- the penny dropped for them that working with these people might be a really effective way of getting the job done rather than bulldozing it themselves. So they became less "lake centric" and bought in themselves personally, a view that it was about the whole picture and that if they didn't get that right, then they wouldn't get the lake right!

That simply came down to TLC being proactive to getting to EW and their ability to articulate their clarity of vision- - those are core principles".

4. Engagement phase - Stage three

'Discussion, Debate, Framing up of Solutions'

4.1 Real Open Honest dialogue- Who was?... Who wasn't? ...

In early 2001 the TLC consulting team of 5 met with EW officials including Petch & Young, Tony Fenton (EW's communication specialist) and Bruce Thorrold and Greg Lambert (AgResearch farm systems experts), for the first of what became 35 half day- mostly monthly- meetings in Taupo over the next 3 years.

Law says "*It took 2-3 meetings to map out the ground rules*", and the MOU⁹ between TLC & EW was signed. TLC's consulting team comprised two Tuwharetoa Maori Economic Authority (MEA) trustee chairmen; Wiari Rauhina & Richard Fox, Graham Law (ballot farmer converted to dairy), Bob Cottrell and Sue Yerex.

Although the recall of those involved is mainly positive and focused on the outcome- the process itself in the early stages and at times through this phase was fraught with tensions, innuendo, distrust, , and anger around the very real prospect of massive financial loss and no compensation. The discussion was often highly emotive where communication and language were the key factors to both disruption and progress. Examples of this were – agreeing on media output with total disclosure to either party first and the careful use of language in the group...

Thorrold "*...words that people used like polluters - real penny dropping moments- EW used that in a technical clinical sense- but TLC heard that word and said ' that's not us- polluters are people breaking the law- we are just discharging without a consent- and we weren't even aware we were discharging until you pointed it out to us! '"*

The mutual respect that is discussed here took time to evolve- it wasn't earned until individuals and groups had proven that they could be trusted. Likewise the credibility that TLC built up as a group was hard earned and maintained- understood by the consulting team to be crucial to ongoing progress. However within TLC there were some dissenting members who just focused on questioning the science and were opposed to consulting with EW at all!

Cottrell and TLC continued to make EW aware that Forestry and undeveloped landowners also needed to be present "*equity and fairness would be compromised unless they became involved in the process*". We were engaged – albeit in a tense & at times difficult process– they were not!

EW's Young describes "*this was a major step in the right direction. The TLC /EW consulting team were a small consistent group with a consistent learning and problem solving approach. The third parties of AgResearch's Bruce Thorrold and Greg Lambert brought a different perspective, particularly their style of being able to listen and re-frame issues in a non personalised, not individual point of view. The 'lets move on' kept forward momentum*

⁹ Memorandum of Understanding between TLC and EW 2001, Appendix D

going. The thinking style of all the individuals was so important, their willingness to try some things and take the next step”.

Cottrell “Bruce and Greg helped take us through a steep learning period, we were fortunate to have them in the process. Being systems science people, they understood the practical implications of what was going to happen, looking from both sides ‘we could do it this way, making sure it doesn’t negatively impact what we are trying to achieve over here’”.

EW’s Petch says “A cornerstone was the 3 year consultation and learning process. TLC asking what about this, why / how does this happen? Little about policy, more about sharing information and understanding positions. This was the first time EW had paid anyone for information. This was a 3 year difficult conversation. EW had a trusting, self-evaluating team. We prepared and de-briefed travelling to Taupo. You have to deliver the bad news, not take it personally, slow down the exchange, re-iterate, participate, monitor and support.

TLC’s Law describes “The consultation process really worked. We discussed a huge amount of ideas at a high level, there was confidential information sharing by both parties, including neither party going to the media without sharing that first, and recognising at times we both had to make statements. Time and time again I now hear people talking about a ‘new idea’- we discussed it and many others in 2001-2002!”

Petch states “... the Cap and Trade policy concept came from the consultation process. The policy concept is still effectively the same- just polished”.

Thorold - “After a year or two of the consultation process I saw EW staff stand up and articulate the farmer’s position. Genuine empathy developed with the issues and council staff attitudes changed towards farmers. EW shifted a whole lot further than farmers ever did. What we did involved everybody as part of a team, there was a huge amount of trust built up over time, facilitated by frequent face to face communication and meetings”.

Cottrell- “ Being able to thump the desk, put your point of view across to the extent that people might not be happy at the end of the meeting- but coming back for the next meeting- not holding a grudge”.

Thorold - “When EW was in conflict with farmers, they thought in simple terms, but once engaged they had to widen their look at other things like impacts of weeds, lead, the TPD. It was showing EW up as being narrowly focused, was an attitude change on EW’s part. For instance it was easy to blame the increase in invasive and noxious weeds on Nitrogen. In fact the major problem was weeds being introduced from other waterways, establishing well and washing up on beaches in a good southerly blow”!
“Make sure you get 80% of all the issues covered here – not just the bits that regional councils can understand”!

Thorold - “We brought together farmers, researches and policy people at variant mixes at various times. After two years of doing that we had it figured out- but now we had to put it through the process! Now we had to have the wider engagement, propose the fund, involve all the partners and Central Government. “

4.2 Key Issues – What....Why.....and to whom?

4.2.1 Cap and Trade policy - RMA & non RMA components

Policy ideas from discussions with stakeholders settled into a 'cap and trade' RMA strategy option proposal. Land use would be 'capped' under consented activity rules, with some form of allocation of N in perpetuity (Grandparenting?). The N 'right' could then be traded to offer further flexibility for landowners. Consent activity rules were seen as the only option to give 'certainty' at that time, despite lengthy discussions around permitted activity rules.

The non RMA components were seeking to establish a 'fund' to purchase the 20% N reduction needed to maintain lake water quality, associated research and wastewater treatment upgrades being addressed by district council.

Petch's comment on the final policy proposal in 2003 *"Without a cap we can't assure under a monitoring regime that farmers are adhering to a benchmark. The policy needed all three components being; the cap, a robust regulatory regime to enforce the cap (a Central Government (CG) prerequisite for funding), and the public money to assist the precedent setting change. Why put in public money if there is any possibility of a porous cap? The good will of the public might be diminished if they see investment and not see the dividend –being a clean lake"*.

If the establishment of a fund was not successful- then any reduction would have to come predominantly from farming (as had been described as totalling 93% of total manageable sources). Hence economic analysis work undertaken included this reduction option.

4.2.2 Equity- Allocation of N and capping land use.

EW's Barry Harris is known for this quote *"There is no solution here that will not have inequities in it. So our goal is to minimise the inequities, there's no point in solving one inequity by creating another two!"*

"The creation of a new and scarce property right- how will it be allocated?" says Thorrold. *"There was considerable debate over allocation as a collective right following a mussel industry example, but we couldn't come up with a way to make it work, so N allocation came down to individual property level. Overseer was then proposed as the tool to measure and allocate with rules for big farms and small blocks. My recollection is this was a big hurdle for farmers, the final reality being even through the E Court process no-one could think of a better way. The sum of the catchment is the sum of the farms; we have to use models, one farm at a time"!*

Grandparenting- allocation of N on the basis of current & recent activity was proposed by farmers as a logical solution but results in inequity issues (between and within all landowner groups) when tied with a cap on land use! Forestry and undeveloped land have little allocated N, are trapped into current lowest N land use and are effectively being penalised for good behaviour! Their low N land use protects the lake, while allowing existing sources of nitrogen to continue in business. This was especially so for undeveloped land owners who

had barriers to developing their land into Forestry under the RMA, leaving the land totally unproductive.

John Hura- NZ Forest Managers states *“There needs to be greater recognition for the environmental services that Forests provide- not just wood value. Monetisation of those environmental services, looking at ways of extracting more dollar value for the services that forests and undeveloped land (native forests provide). What forest owners didn't want to happen was for their forests to be used to offset someone else's pollution. Foresters are victims of the RMA process- all our own pollution costs are internalised, we saw EW's proposal as a way of socialising other pollution costs- letting everyone else pay for someone else's pollution- this goes against the principle”!*

As soon as the reality of allocation became known, farmers were pitted against foresters and undeveloped landowners in a battle for allocation of N. TLC strongly advocated that allocation of N alone would not solve the equity issue and that Forestry and undeveloped landowners needed to be included in the consultation process- to no avail.

4.2.3 Flexibility of land use.

“TLC's Graham Law told EW 'we accept there is an issue, don't tell us how to farm, tell us what you want to achieve and we'll figure out how to farm to achieve it'- a pivotal statement, tapping into farmer innovation” says Thorrold.

“Farmer empowerment was not a strong concept of the council- they didn't understand that once farmers bought into a concept- they would be their best allies! People had to see each other differently- collectively – not individually”.

This flexibility concept drove policy formulation away from 'micro managing farms' by edict.

Petch says *“the simple answer was to limit farm to certain stock classes and units, but that left farmers with no ability to maximise their farming system under a cap”.*

This key issue was the same for all landowners in the catchment- not just pastoral. EW missed an important opportunity by not having this *“difficult conversation”* as Tony Petch puts it- with Forestry and undeveloped landowners early on.

4.2.4 Compensation- the economics. The cost? Who pays?

Petch stated *“The burden of the cost of change! We had to convince Wellington (especially Treasury) that the polluter shouldn't pay by themselves! There were other beneficiaries arising from a clean lake. There was Government land, government development of pastoral land, the farmers would be bankrupt and TMTB with grounds for a contemporary claim under the Treaty! We had to form a coalition, have allies, there was a responsibility to take care of the stakeholders and the underpinning planks for the fund were to assist change- not compensation. Barry Harris & Neil Clarke (EW Chair) were trying their hardest to convince people.*

TLC's Fox –*“Compensation was the key- into the future, in perpetuity. We talked about it but never used the barricades. It would have been difficult to get every MEA trustee and private farmer to do that – with ranges of views and personal agendas, but we never got the Taupo and national public onside with what was at stake for us. We needed a media specialist, and we should have pushed Fed Farmers at a National level until they understood the precedent being set here”*

4.2.5 Manageable N. 20% reduction of manageable sources needed

The 20% reduction figure (needed to deal with the N ‘load to come’ to restore the lake water quality to 2001 levels) was born initially, by a group of science people meeting at EW to agree on a number in 2001. Apparently views were wide ranging and the group finally settled on the 20%.

Tuwharetoa later pushed for reviews of this science, and in 2004 Ministry for the Environment commissioned David Hamilton (University of Waikato) to produce an independent review of science underpinning the 20% reduction target¹⁰. This report reviewed science and prioritised suggested actions. It identified phosphorus as a future nutrient threat as well as the current Nitrogen threat. It states *“The current balance that favours nitrogen limitation of phytoplankton may switch to phosphorus limitation at some time in the future under this regime of increasing nitrogen loads to the lake”*.

It recommended the 20% target be reviewed again in 5 years, which ties in with general 2008 Environment Court acceptance that EW's RPV5 only had a proposed 10 year life and so this target was accepted on that basis.

TLC's Law recalls *“We never agreed or accepted the 20%. We disagreed but kept the process moving. We should have fought it then and there-the 20% was a statement made so many times it became a fact”!*

4.2.6 Landcorp land – as part of the Solution

As a key landowner in the district, this land was seen as being a crucial part of any solution by all parties. An SOE owning approx 20% of catchment pastoral land, it represented the largest tract of land in single ownership able to be converted to lower N land use.

Once the 20% reduction target had been established, the practical implementation reflected approx 13,500 ha of land in the catchment needed to be converted from livestock farming to forestry or the lowest N land use. Landcorp alone would not be the total solution but as TLC promoted – without the Landcorp land there is not enough privately owned land- in its entirety- to purchase and convert 13,500ha to the lowest land use. Tuwharetoa Maori Economic Authority lands cannot be sold, but would be needed in some part to change land

¹⁰ Hamilton, D, Wilkins, K, (June 2004) *Review of science underpinning the 20% reduction target for Lake Taupo.*

use to achieve a 20% reduction target.

Landcorp 'the what if scenario' – please see section 10.

5.0 Parallel processes within the Engagement Phase

5.1 TLC progress

The TLC group had made some major decisions as it entered the consultation phase:

5.1.1 Not to try and fight the science

Cottrell *“Challenging the science was a no-brainer really, we could have wasted a lot of energy on a hiding to nothing, knowing there was always going to be one point of view with the dollars to drive it!”* But not all TLC members agreed with this at the time, continuing to promote challenging the science as an effective blocking tactic, never seriously moving to possible solutions and outcomes that we could all live with.

5.1.2 To be proactive

TLC -Law *“Not to follow the local Fed farmers suggestions of fighting it out in the media, the committee made the conscious decision to look after this ourselves. We had the most at stake”*. Firmly at stake in the public’s mind however -was lake water quality.

5.1.3 Timeframe

TLC needed to gain agreement with EW that more time was needed to look at the options and implications of any proposed policy.

5.1.4 Economic modelling

Cottrell *“We recognised we had to do some of that work, EW didn’t understand the major financial impacts. We had a meeting to self fund, where most TLC members saw this issue was big enough to put their hands in their pockets, to assist the costs of those key players in our organisation and to fund the work that was needed”*.

AgResearch did the initial economic analysis¹¹ work, carried out with assistance of TLC’s consulting team. This was the only Section 32 evaluation work commissioned by EW. It was peer reviewed in 2004 and concluded the following:

- A fundamental aim of the Lake Taupo variation is to control N inputs into the lake. The work shows that intensification of land use is a profitable option for farmers in the Lake Taupo catchment. This suggests that controls on land use will be required to prevent further intensification of pastoral farming with increases in N leaching. It appears these controls will place substantial costs onto farmers, suggesting that voluntary adoption of restrictions is unlikely without substantial financial support.

¹¹ Findlayson, J, Thorrold, B, (September 2001) *Estimating the costs of restrictions on N emissions in the Taupo catchment*

- By changing farm management practices it is possible to substantially reduce N leaching, although in all of the options we studied this reduced farm cash surplus. Further research is required to evaluate and field-test management options.

TLC still felt the full economic impacts of a cap or possible reduction were not being recognised. They commissioned Nimmo Bell & Co Ltd, a Wellington Agricultural Economics firm, who produced ‘Assessing the loss to farmers associated with Nitrogen Output Restrictions on the Lake Taupo catchment’¹².

The following table show losses in value from impacts of the various restriction scenarios when considered in context of a potential for a moderate or substantial shift in land use. In particular please note the value placed on the cap.

Land use change without restrictions		
Restriction	Moderate	Substantial
Cap N output	\$96M	\$159M
10% reduction	\$104M	\$167M
20% reduction	\$113M	\$175M

Nimmo Bell summary conclusions were:

- The loss incurred by landowners with any form of restriction will be substantial. We have estimated this at between \$112 and \$175 million assuming a restriction requiring a 20 percent reduction in N output is imposed.
- The actual loss to landowners is likely to be significantly greater than this. We have identified several areas where losses will be incurred however we are unable to quantify the extent of these losses. The losses are however very real and in time the market for land in the catchment would reflect these in addition to the quantified loss.
- The timing and method of implementation of restrictions will have a significant effect on the value lost and which individual landowners suffer this loss.

This report, although expensive, detailed and peer reviewed, was virtually ignored by EW.

¹² Nimmo Bell & Co Ltd, (October 2002), *Assessing the loss to farmers associated with Nitrogen Output Restrictions on the Lake Taupo catchment*.

Thorold *"This report was low impact, partly because it tried hard to find a 'definitive answer', driven by TLC, under the worst case dairy conversion scenario". "The time for the Nimmo Bell report had already gone, EW had accepted it was a big number, we were past this and onto the next stage." "So looking back - be in tune with where decision makers are up to and choose your ground- get good advice as to how the process works and what will run here. What are the links and opportunities for us to stick our oar in and get a good result"?*

Cottrell had a different view-*"Putting up our money to identify the true cost of environmental change was a major turning point. It focused us on what the costs were and the need to find some money here"*

TLC's Fox commented *"the Nimmo Bell report should have been produced earlier; we didn't make maximum use of an excellent report. It should have been thumped and thumped and thumped. EW's response was arrogant- putting it to one side"*

5.1.5 Delegations to Wellington

TLC met with Ag Minister Jim Sutton and members of the Green and National Parties. Jim Sutton accepted an invitation to come up to the catchment and was later flown around to meet farmers and get a general overview of the catchment and issues farmers faced.

Sutton said when interviewed *"I was there to protect the farming community, see them subscribe to the cause and as far as possible not be victimised by the means"!*

... *"There would be no compensation for lost opportunity, for not developing, shouldn't pay literally for a decision you didn't make"*.

... *"I don't think anyone has an unfettered right to damage the land or landscape, clearly there are limits around the package of rights that go with freehold title. Owners of land have some rights; they have a moral right to be listened to by the state- endeavour to reach a reasonable accommodation if being asked to do what they would otherwise not do"*.

... *"I saw good leadership in both TLC and Tuwharetoa. I have sympathy for Tuwharetoa's passion for developing land for economic use and for cleaning up the lake. There is an ongoing issue of development rights, a conflict of interest- the need to balance cause and interests"*.

5.1.6 Exploring the Catchment Management Group (CMG)

TLC had continually promoted the idea of the catchment being managed by a representative group of key stakeholders including local and regional councils.

This culminated in a 2004/2005 SFF funded Nimmo Bell project¹³ researching how a CMG could be established and operated. To date this initiative following the report has languished.

¹³ Nimmo Bell Report (2004) *Sustainable Farming Fund Project A sustainable environmental management system for Lake Taupo*

Cottrell *“That's how the futures going to evolve as we move further down the Waikato River. We need to go back to these collective bodies- that represent the wider group- to agree on a method to do it in a conciliatory way (rather than rules and regulation)- even though there might be people that don't comply. EW didn't have the will to seriously consider this, their underlying desire was to control and drive things and they distrust others to make it work”*.

5.2 Forestry unites

Local Forestry representatives had initial meetings with EW and scientists in 2000 and John Hura (Forest managers) states these were not followed up - despite letters requesting more meetings by Foresters. John Hura explains that the relationship history between Foresters and TDC & EW was fraught with court cases and fights over policy unfairly targeting forestry. Hura *“We did attend a meeting in 2002 with MfE, MAF, EW, Tuwharetoa Maori Trust Board (TMTB), TDC, trying to raise awareness of the equity issues, the discussion got very heated when it became obvious that the policy they were considering locked us in to forestry, there were big arguments and it went nowhere”*.

The equity issue message Foresters were trying to continually raise with officials was not gaining much support with politicians at any level as Geoff Thorpe- (Forest and Land manager-Lake Taupo Forest Trusts) found when he attended an EW council meeting to give a presentation to EW councillors along with TLC.

Thorp *“I felt very disappointed and let down by EW officials, as these points had been raised so many times. The councillors were surprised to hear that foresters had concerns. This was a major set-back in Forestry relations with EW, and this persisted right through until we took EW to the E Court”*.

I have seen councillor workshop presentations that note Foresters and undeveloped land owner concerns dated March 2001. Perhaps another reason why the Forestry position was not more strongly understood and recognised was the lack of any industry representation in the councillor makeup, especially in relation to the high number of farmer councillors at EW at that time. Certainly TLC raised the issue continually, and just as continually the Foresters were not included in any regular consultation.

Hura and Thorp both say EW only met with them a maximum of 6 times between 2001-2004. In 2002/2003 they informed EW that the other main catchment Forest owners needed to be contacted, being Carter Holt Harvey (approx 2,000 ha) and Fletchers (approx 10,000 ha). No contact was made so Thorp and Hura contacted (lawyer) Trish Fordyce to represent NZFM and LTFT. She went on to contact the other owners, and highlight this issue nationally for Foresters by bringing in NZ Forest Owners association CEO Rob McGlagan and representative Murray Parrish.

With a legal voice and unified purpose, Forestry landowners met to look at their options, focusing on the cap and trade policy under the RMA and market based instruments. They arranged meetings with EW with Te Puni Kokiri (TPK) also present, (TPK's Bill Sutton - involved to make sure the Crown and also Maori were not disadvantaged) promoting an “averaging” concept of N allocation across the catchment.

Around this time Fletchers sold land to Wairakei Pastoral Ltd (outside catchment), and Crown forest licenses (6-8,000 ha trees – Crown retained ownership of land) to Kaingaroa Timberlands. Fletchers then bought the 1-2,000 ha Wainui forestry block of land- trees had been harvested- in the catchment. The majority landowners of Forestry still remained the Crown, and Tuwharetoa (LTFT & LRFT).

5.3 EW's Partnership approach 2001 to 2005

Petch *“our approach was we invited Government and TDC, we didn't demand. The invitation was based on many years of cooperative work, strong relationships and trust”*.

EW's Young writes (E Court evidence 2008) 'In August 2001 EW resolved to liaise with Tuwharetoa, TDC and CG on implementing land use change, including investigating funding options with the other two government agencies to help share the costs of change'.

EW's Group Manager Robert Brodnax (E Court evidence 2008) summarises. 'In 2001 the Minister for the Environment agreed to enlist Central Governmental support for maintaining the water quality of the Lake with a view to developing a "whole of government" approach. This partnership was instrumental in the set up of a public fund and the Lake Taupo Protection Trust'.

EW decided that existing manageable discharges of nitrogen to the Lake had to be reduced by 20 percent if the water quality objective for the Lake was to be achieved. Various approaches were examined to achieve that nitrogen discharge reduction. These included a solely regulatory approach where the impact would fall directly on landowners and urban property owners to reduce nitrogen discharges by 20 percent. Other options were regulation supported by reduction of nitrogen emanating from government owned land (which would be achieved by converting the Landcorp pasture to forestry) and the use of publicly derived funds.

EW put the proposed target and options to Central Government and Taupo District Council as a suitable overarching policy framework. In July 2003 agreement was reached on the basis the partnership proposal would deal with the Lake water quality issue whilst minimising potentially adverse social, cultural, economic and environmental implications for the Lake Taupo community.

A consultative document entitled “Strategy to Protect Lake Taupo” was launched publicly in November 2003. This document formed the basis of further consultation and presented the framework and actions likely to be necessary to protect the Lake. It outlined the two pronged approach of a cap on nitrogen discharges from land in the catchment and a public fund to reduce by 20 percent the manageable discharges of nitrogen from pastoral land.

Thereafter EW developed the details of the policy framework. A consultative draft of RPV5 was released in September 2004. This was in response to requests from project partner representatives for more time to understand the implications of the new regulatory regime. There was regular interaction with the project partners and stakeholders over the period November 2004 to April 2005. During this period, WW initiated discussions with other stakeholders in relation to the combined package of land use policy, the initial allocation of

nitrogen discharge rights, tools such as nitrogen trading (incorporated at the suggestion of Ngati Tuwharetoa forestry interests) and the Public Fund.

Young gives us an insight into these processes. *“After the September 2001 issues and options paper and the council discussed in April 2001 – ‘we think there’s about a 20% reduction needed to deal with the N in transit’ - we needed to invest in how and who should pay. There was a huge amount of effort and time put into gaining early agreement from Central Govt & TDC to come on board. Defining how much and what that split would be- the horse trading- was done by the politicians in 2002/2003”.*

... “Each council had to go through a local government act process to confirm/ consult on rate contribution before outlining their annual government plans. These were not able to be confirmed until June 2004. The Strategy launch Nov 2003 was the announcement of the three way funding split coming from rates. This was delicate stuff with a Central Govt re-election in the middle also slowing things down”.

5.4 TDC- Taupo District Council’s engagement process

As previously stated, this process is all about people and relationships.

5.4.1 New Mayor

Taupo had a new mayor elect in 2001 to 2005 – lawyer Clayton Stent. Stent stepped straight into the start of two major Taupo issues being; addressing lake water quality deterioration and the SH1 bypass (ETA).

Stent *“from a community point of view what are we going to do about it? We are obliged to future generations and our existing community. We are a tourism destination so we couldn’t sit on our hands and do nothing to the economic detriment of the district!”.* *“So in 2002 as a willing participant, we started working groups within the council and jointly with EW councillors crystallising the science, possible solutions and focusing on the calculation of cost and the need for funding and its structure”.*

... “Our primary objective was to arrest the impact on the water environment. The impacts on certain sectors of the community were significant and because the costs were not clear this was a big call (and to a degree instinctive). The detail was missing to give comfort to ‘This is what we’re doing and this is what’s going to happen’.

Stent was concerned that although there was a water quality cost/benefit analysis, the economic impact studies from the water quality and ETA issues were missing. The council were also working hard on the district growth management strategy – designed to help manage the infrastructure spend going forward- and put out into the LTCCP the identified development areas council could afford to fund. This did not deliver the council assistance farmers were looking for in the district plan to assist them to subdivide or develop their properties as an alternate land use. Stent explained that this was a practical example of district planning where only part of the proposed district plan is operative and not all strands are tying up.

5.4.2 TDC Deputy CEO

Deputy CEO Anne McLeod had previously worked for EW as a strategic planner. EW's Petch comments "she had the knowledge and understanding that keeping the lake clean was their absolute strategic issue".

McLeod "*Council needed to be clear about what its position and involvement was in Lake protection. We had to come to terms with the extent of the problem and then the funding decision came from a sense of leadership (rather than leaving to EW), importance and control over the issue.*"

... "*We used the right process to get the outcome. Firstly getting council to support in principle the strategy options, secondly to put up our hands as a funder and set up the process of how we collect our share of the fund through our Long Term Council Community Plan (LTCCP). This was an important milestone we had over 1000 submissions (not all about the lake)*"

... "*Our partnership with EW & Central Govt was a first for NZ. Its common sense to join with those people who will be important to giving effect to an iconic problem*"

5.4.3 TDC & EW partner Central Government (CG)

Stent recalls going to Wellington with EW. He said "*Central Govt's involvement with the past development and ownership of pastoral land in the catchment (a big exacerbator of the Nitrogen problem) put officials in a difficult position. They didn't want to admit liability for past action; the extension is you admit liability- you might be liable to pay for the whole thing*"!

... "*We said to the Minister' this is not about your liability, but about partnering and actually delivering outcomes for NZ. We can't do anything about what's happened in the past, we need your help to manage this issue going forward as our ratepayers can't afford to fund it'. We said Central Govt had to acknowledge this as an iconic tourism area. We knew this was precedent setting for other areas*".

McLeod explained that a working group of two politicians from EW & TDC and relevant staff was successful governance from the beginning. "*We had joint workshops with each council; we shared the same information at the same time. We were very clear about what Taupo ratepayers were putting in as opposed to TDC's contribution to the management of wastewater and urban sources. The fund was directly related to pastoral land use change- not sewerage etc*".

McLeod also commented on "*the importance of key relationships and partnerships where integrated planning models were the tip of the iceberg- now we are getting 'joined up planning'. How you get a match where the real people are at and where the drivers are, its fascinating working with other departments*".

McLeod also pointed out that the total value of the protection strategy is \$144m, which includes TDC's wastewater contribution (the upgrading of sewage systems to remove 20%

manageable N) and the other Crown Research Institute & EW research work being carried out.

Another key principle to have emerged at this point is in Thorrold's words "*the concept that everyone is doing their share. That it's not just the total N load (clarity in middle), the slimes and weed around the lake edge are as important (even though small total N loading). So we need to broaden our Nutrient mgmt because if the mid lake is clear but the bays are slimed and weedy, the general public will see us as having failed. Reports were commissioned on the impact of older sewerage systems like Tokaanu, and a lot of money has already been spent on upgrading settlement sewerage issues*".

5.5 Central Governments engagement process

Ministry for the Environment's involvement at the start of the Taupo project was support/advisory and learning in a passive role. Marian Hobbs explained this as Central Govt's first involvement under the RMA since it devolved its role to Regional councils (a consequence of RMA legislation).

5.5.1 EW drive

Harris was well known by MfE and he visited MfE and Hobbs with EW & TMTB representatives (including paramount chief Tumu te Heu heu) in 2000/01. There is no doubt that the strategy was driven by EW and that Harris and EW chair Neil Clarke did a good job of not only alerting the Minister to the issues and science, but also to the threats. With the 20/20 Nui a Tia project (partially MfE funded) having identified the issues, the threat of large scale dairy conversion to the catchment and impact on the lake really triggered action.

5.5.2 Minister on board

Hobbs says EW's Barry Harris "*got me raw and learning furiously as Minister for the Environment*". *Harris and (MfE's) Brash explained all the factors that had led to the lake devaluing ecologically, and I flew over these bays and saw the evidence ... The marriage of local, regional and central government, Kyoto principles, setting an N limit and an envelope to trade within it - appealed as a way forward*".

... "*I was desperately coming to terms with- such a complex issue- really what I wanted to do, was to leave the lakes, land, and rivers in particular in a better state*".

... "*The first one up was Lake Omapere. I was beginning to understand the science and cause and effect. Second up comes Lake Taupo, here is a solution which is going to last, be sustainable and take people with it.*"

... "*If we manage to do it - it's an environmental story for the world. The problem was we needed to change what was happening on the land use and allow people to earn and improve income. All I did was set up the money and the trust to enable work to be done- I've no idea what the solutions might be*"

... "*The enormity of what I did didn't strike me till much later. I'm immensely proud of what we did*".

5.5.3 Cabinet Papers – In house discussions, agreements and principles

The pulling together of different Central Govt departments and writing of the first two cabinet papers was the role of MfE officials Simon Park and Wayne Bettjeman, starting in Jan 2003.

Park as an MfE representative had attended EW public and partner meetings since 2000 and also some EW/TLC consultation meetings as an observer. He describes his role as *“getting departmental agreement to the cabinet papers- especially Treasury. Deal with risks, be conservative, avoid precedents, but also be confident the partners could live with it”*. *“Bettjeman (Park says) was skilled at writing cabinet papers and getting interdepartmental agreements”*.

Prior work supported by MfE in 2002 included (a) NIWA water model, (b) AgR alternate land uses for Landcorp and Corrections land and (c) importantly work on the legality of regulations for diffuse discharge and the RMA basis for doing this. MfE got planning analysis by EMS Ltd and a supporting confidential legal opinion through law firm ‘Phillips Fox’, plus legal checks by the Crown law Office and legal managers at MfE.

Park explained that in early drafts of the first cabinet paper, although Kyoto had yet to be signed, there were references to climate change with an idea for a win win land use change option- to get political kudos for a combination of carbon sequestration and contribution to N removal target for the lake, based on arbitrary 6-7,000 ha of Corrections and Landcorp land. *“... but not enough policy argument was found to follow through on this dual benefit”*.

Other discussions in 2002 between MfE, EW, MAF & CCMAU (section within Treasury responsible for all SOE’s) centred around Landcorp and Corrections land. MfE interaction was not initially with Landcorp CEO -Chris Kelly. Discussion included the possible modification of Landcorp’s Statement of Corporate Intent, just for the Taupo properties, but this notion was apparently abandoned in favour of treating the SOE solely on a commercial basis with land at valuation. Certainly from all viewpoints this was a golden opportunity and there seemed willingness to co-operate if the ground rules were clear, (see Landcorp, sect 10)

Hobbs *“EW came to Central Govt on options to assist/ be involved in reducing inputs by 20%. EW staff and MfE officials suggested we could address the problem by afforesting Landcorp land- but I didn’t go for it- because you can’t expect Central Govt on its own to take the whole hit while other emitters keep developing. Government will do its bit but the solution for the lake needs to be a ‘whole community approach’ not just one member- Landcorp- doing everything, not one over-simple fix. We had to treat Landcorp just like any other farmer, we can’t command an SOE- just persuade”!*

The principles of ‘no compensation for landowners’ and that ‘all land should be treated equally’ were founded in 2002 in discussions between officials and politicians around Section 85 of the RMA. Once agreement that all land be treated equally was made, then Landcorp could come back into play as a commercial entity. Corrections was also proposing afforestation of the adjacent Landcorp farm Mangamawhitiwhiti and adding it to Rangipo

prison for prisoner training. Important work Park and other officials wanted to include in the cabinet papers (they said it was always going to be a two stage cabinet paper process) were rules and criteria around the independence of the entity handling the fund (later to be the LTPT).

Park *“we foresaw the arguments ahead and said ‘Lets wrap up the rules at the outset- be transparent, take a pragmatic approach, keep Treasury happy , make robust rules and criteria around spending and accountability!’ But there were already around 15 people involved in drafting the cabinet paper- it was already complicated with a lot of negotiation - this would make it more so”*.

They were right in foreseeing arguments ahead. Gaining agreement from the funders around the detail of the entity, rules and accountability stalled the establishment of the trust from the proposed date of July 2004 to Feb 2007.

Unfortunately over that time, the all important ‘fund to achieve land use change’ devalued in terms of ever increasing land values in the catchment.

The first cabinet paper was finally approved in July 2003 (see Appendix E). It outlined the rationale for CG intervention, confirmed the partnership funding proposal and recommended Ministers Hobbs and Sutton ‘negotiate a policy package based on partnership with local government and Tuwharetoa- subject to cabinet approval’.

Jim Sutton (Ag Minister) says *“There was no opposition in Cabinet; Marian had a good case- no great lobbying required, total support. If we had asked for \$2 million per farm to ban dairying on titles- then NO GO!”*

5.5.4 The money... How much?

The concept initiators of calculation of the fund for the cabinet papers were MAF’s Phil Journeaux and EW’s Petch.

Journeaux *“We were asked by MfE ‘what is this going to cost?’. It had to be sorted out in a few days; we could only see buying sheep and beef land and converting to forestry. Discussion around was it enough? ‘No idea- but our best estimate at the time – if we need more then go back in the future’- there was no reaction from the other partners. So the conversion calculation was 13,500 ha times the difference in value between sheep and beef land and forestry land value- and then we added on some additional admin and research figures- totalling \$54m for the first cabinet paper- split 1/3- 3 ways”*.

Journeaux comments *“Taupo was the test case- a national icon, was the 20% enough? Central Govt came under scrutiny around the money with environmental groups saying take 20% off farmers. EW said up front they were not going to take 20% off the farmers and both Ministers and Central Govt agencies respected and supported that. The rationale for Central Govt support was the Lands & Survey (Major Crown and Maori land developer) development of that land”*.

5.6 Wairakei meeting- key for all parties

Following the first cabinet paper in July 2003, a meeting was held at Wairakei in September 2003, where Ministers Hobbs and Sutton together with officials from MfE, TPK & MAF along with EW & TDC councillors heard individual briefings direct from stakeholders- being TLC, Foresters, and the TMTB . Direct negotiations and discussions were also held between the 'partner group' being EW, TDC, TMTB and Central Government.

During this visit the four partners, hosted by Tuwharetoa paramount chief Tumu te Heu heu, went out on the lake to visit first hand lake water quality deterioration, to see Maori undeveloped land and its potential, and to convey the messages of the need to save the lake but also the requirement for flexibility to manage Maori land, both in spiritual and economic terms.

Hobbs caught her first trout and there is no doubt that seeing the lake for themselves and meeting people face to face, had a profound effect on both Ministers.

For Foresters and Farmers this was the first hand opportunity they had wanted to put their case to the Ministers and council politicians. It was a key meeting for all parties.

TLC's Cottrell "... we didn't go in all guns blazing; I think Hobbs & Sutton liked our solutions focused approach".

Forestry on the other hand... Hura recalls "Murray Parrish gave the presentation on the equity issues, highlighting using the numbers. The meeting accused us of ambushing them- 'Hobbs made comment she was unaware that there were any issues for Forestry people up this way and how dare we turn up at the 11th hour and ambush them!' I said we'd been talking to your people for the last 3 yrs and if you weren't aware of our issues then - you should be asking your officials why! Meeting ended, it didn't go down too well!"

Tim Bennetts (environment advisor to Hobbs- ex MfE) also recalls "Murray Parish made a \$200m demand for lost opportunity- big surprise- not in briefing advice to Minister. Marian, Jim, Phil J, and I had all assumed foresters were the "good guys"- not after all. Marian said the bottom is falling out of the Forestry markets – economics of dairying are up- don't ask for lost opportunity. She said don't confuse the argument- this is lake position- you are in a downturn, don't blame that on what we are doing with the lake".

Journeaux "All stakeholders had opportunities to meet and give structured presentations with officials and politicians. Forestry rubbed Jim (particularly) and Marian up the wrong way 'we are the good guys... these nasty farmers...' got everyone's back up. They lost sympathy in one foul swoop. N allocation and issues regarding implementation were discussed –we knew there would be hard calls".

In retrospect Forestry had been forced down the path of bringing in the big guns of Parrish and Fordyce because they hadn't been heard! They had been discussing these all important equity issues from 2001 with EW and MfE officials to no avail and the fact that the Ministers had not been briefed was certainly not their fault! However the difficulty they faced at this meeting was their spokespeople were representing the interests of the industry and future

precedents. As it later transpired, coming back to their own Tuwharetoa Forestry group progressed their case a lot further.

EW's Young was also present at the meeting. She comments "*EW staff took quite entrenched positions regarding N allocation for grandparenting from that meeting*".

On reflection at interview she states "*The council hearings process confirmed grandparenting later- but really the debate didn't open up again about allocation until the appeals to the Environment Court. It was hard to think about what could be done, what they would be happy with- what could be offered. The overall pervasive and unacknowledged assumption was that any owner / manager of trees has a business and can stick with it. The forestry personalities involved were strong and relationships were just not there. We also knew the reality of averaging regarding disruption of the catchment*".

Mayor Stent viewed the Wairakei meeting with the wider group there as the catalyst to form the partner working group as the decision making committee.

5.7 Taupo District Council (TDC) Hosts Minister

Hobbs also visited with TDC that day and heard their case that their ratepayers could not afford the proposed one third funding split. At that one hour meeting Hobbs committed her support for the Central Govt split to increase to 45% and TDCs to lower to 22%.

EW's Petch remembers Hobbs saying "*This is the purest form of politics. In making this decision to commit government funding to this project, I know I will not see the benefit of that commitment in my lifetime*". Petch said "*She knew it was the right thing to do!*"

Hobbs "*The key that won Cabinet over from 1/3 split was that Turangi is a poor community and for those living around the lake this was a bloody unfair burden. Tourism & holidaymakers from Waikato, Auckland & South wanting a pristine lake, yet not prepared to pay the cost of it. I saw it and argued it on 'social justice' issue argument- not environmental*".

The second cabinet paper (see Appendix F) was approved in Dec 2003 with changes to the funding split and an increase in total funding requirement from \$54m to \$81.5m on the basis that pastoral land had increased in value. The calculation; 13,500 ha of land at \$5000/ha for land use change to Forestry= \$67.5m + admin and research, total \$81.5m -split 45:22:33, CG, TDC, EW, and drip fed over 15 years.

5.8 MEA & TMTB's engagement

Maori Economic Authorities are independent land owning Trusts, self governed by an owner elected group of trustees then duly electing a chairperson. In the main the farming MEA's in the Taupo catchment also have large tracts of undeveloped land and forestry. Other MEA's are principally undeveloped and/or established forestry- as are those who combined make up the LTFT and LRFT. Some trustees and whanau are often owners in more than one block.

The viewpoints of individual trustees on Lake Taupo issues cover the full range from those only wanting to protect the lake to those adamant to protect their right to farm.

As kaitiaki (guardians) of the lake, this issue was close to every trustee's heart, as is the expectation that they have an obligation to provide a dividend to the increasing numbers of owners.

MEA's do not have a history of working closely together commercially. The Tuwharetoa Maori Trust Board speaks on behalf of Iwi on Maori Cultural and political matters but not generally on behalf of MEA's business interests.

TLC was formed as there was a need to represent all farming landowners as a collective group, both private and MEA. The TLC committee and consulting team had good representation from both. However not all MEA's or private farmers joined TLC as some had an aversion and reluctance to come together with TLC. To get the approx 90% membership of farming landowners to join TLC (not lifestyle farmers) took a lot of hard effort over a couple of years by MEA chair people like Richard Fox and Wiari Rauhina.

The MEA's always had an option to join forces as an Iwi for a combined solution of their own and also follow the contemporary Treaty rights claim through TMTB. So some MEA's thought they should be treading their own path, others thought they could live in both camps. TLC were out there engaging and trying to get good outcomes for all landowners in the catchment and understood the MEA position.

The deputy chair of the TMTB was Marlon Nepia, a strong leader and one with a vision to lead a unified Iwi to a good outcome. He called Hui's of MEA's from 2003 to discuss the issues from an Iwi perspective. A unified Tuwharetoa position was proposed- coming from Thorp and LTFT (the TMTB are a 50% owner of the LTFT).

Thorp (Manager LTFT) *"The broad concept was if Tuwharetoa as a whole could have the same average emissions as the catchment (averaging N concept), then we would have emissions to spare- because we were overall lower emitters with our large Forestry and undeveloped land area. Then our Forestry and undeveloped landowners could have some flexibility as well as our MEA's- we could share that unused portion. The proposal was initially accepted but was complicated and often not fully understood. In the end we dropped the concept as we had concerns about eventual reductions having to be greater than 20%, which would result in Tuwharetoa having no surplus and even leading to internal disputes on allocation"*.

Cottrell *"Marlon Nepia wanted to unite all Tuwharetoa interests and saw TLC as impeding that process. He could never see that we were working towards the same goal. It was further complicated as some MEA's would openly say the TMTB did not speak for them on economic matters- they were farmers and needed to join forces with other landowners"*.

Hura describes Nepia's leadership skills *"he tried to find a unified Tuwharetoa position; he understood all the issues and was good at getting people into the room and getting things natted out. He was talking directly with MfE and EW, had the relationships and understood where various parties were coming from"*.

The TMTB, Nepia and the LTFT all pushed for separate Tuwharetoa consultation with both MfE and EW. MAF and TPK were also involved as Tuwharetoa (including the MEA's) wanted the science independently reviewed. David Hamilton¹⁴ was commissioned to peer review the EW science.

EW's Young *"Marlon wanted to avoid arguing in court, he wanted to settle and negotiate with the regional authority- the best position for Tuwharetoa as a whole, Ag & Forestry"*.

5.9 The partnership meetings

In 2003 EW, TMTB, Central Govt and TDC decided to put forward representatives to meet regularly in a consultative forum on Lake Taupo issues. These became known as the 'Partners and Stakeholders' meetings and continued until the RPV5 was notified in July 2005.

EW's Young states the essence of these meetings was the focus of allocation of N rights between landowners and funding the N reduction target.

Taupo Mayor Stent says *"Complex funding models were developed and agreed in conjunction with Treasury regarding rate collection for both TDC and EW, including principles of an inflation component and collection of rate over the 15 yrs. We knew how to rate and it was well reviewed so we had a degree of comfort about that- but it was at that point unbudgeted"*.

5.10 And just a little matter of ...GST plus an Inflationary component?

Stent - *"After the Ministers approval, the documentation about the funding revealed that the Central Govt 45 % portion was **GST INCLUSIVE** and had NO INFLATIONARY COMPONENT. This was a pretty fundamental positional difference between Local and Central Government"*!

MfE's Tim Bennetts explains *"It was never picked up (that councils didn't account in the same way) - that was how the Public Finance Act reflected costs- it has since been changed"*.

A meeting followed some time later, with EW chair Jenny Vernon, Mayor Stent and the Ministers. The MFE person responsible had left the Ministry- there were no records, the schedule of Central Govt payments had been voted and couldn't be re-done so they had no choice but to agree to proceed and address this at the first review in 5 years time. However TDC and EW were to collect rates on that original funding model proposal (in line with their LTCCP's), which then altered the funding ratios and still left a definite shortfall on the \$81.5m fund. Note -TDC & EW still collect on their original rates but currently hold the GST and inflationary component portion aside in an investment account and do not currently provide this to the Lake Taupo Protection Trust (LTPT).

¹⁴ Hamilton, D, Wilkins, K, (June 2004) *Review of science underpinning the 20% reduction target for Lake Taupo*.

I asked Phil Journeaux about his original calculations, where he replied they always excluded GST- but he acknowledged he'd been tripped up before with Central Govt including GST.

This was a major blow to the partner group- made more difficult by the fact that the Central Govt representatives were regularly changing! TDC talk of issues around communication with MfE at this point and of theirs and EW's frustration that they weren't given access to Ministers at all over quite a long period- despite frequent requests.

5.11 Death of a key figure

Tragically in 2005 Marlon Nepia died suddenly and left a very large leadership gap for Tuwharetoa.

EW's Young *"Marlon was used to negotiating with the Crown and didn't want TLC working on behalf of their Tuwharetoa members. He was trying to balance between the two interests- trying to reconcile between farming and forestry, recognizing the danger in talking with two voices-Foresters going one way and farmers another. How to reconcile that? Marlon used to use the phrase "all hair oil and no socks" and I took that to mean if you haven't got your basic stuff sorted - you don't want to be showing that in public! "*

These were very challenging times for all involved and for the MEA's it was a very confusing time following Nepia's death. Their MEA meetings stopped, the positions of TLC, Forestry, and TMTB appeared to be conflicting regarding allocation and representation. MEA chair Fox describes the position *"there were just too many arrows in the air"*.

Hura *"Marlon didn't push any approach -just wanted to protect the lake and a unified position. When he died things went into recess. LTFT picked it up and tried to facilitate things and get MEA's into a unified position. They had some meetings but didn't really work-looking at resolving the N issue internally. It was and still is a great disappointment that this fell over and people retrenched to the grandparenting position. One block said we are farmers 1st and Tuwharetoa 2nd - others, to that comment, said 'get out' (of the meeting)"!*

Many issues were impacting on Ngati Tuwharetoa over this protracted period included overworked leadership, secondly the Nui a Tia 20/20 project was taking a lot of time and people resources as was thirdly, the return of the Lake Bed and building of the new Pukawa Marae.

All the interviewees commented on 'the continuity factor' and its importance in this process. All agreed that it was a major blow losing Marlon from TMTB team and also a pivotal change point in the process where a slowing and stagnation period occurred for Tuwharetoa and forward moving discussion between the partners.

The continuity factor was most noticeable in the key lead Central Govt agency- Ministry for the Environment – some described as "rotating people like spinning tops"!

6.0 The RMA process and implementation begins – Stage four – **To your positions please...**

RPV5 notified. Stagnation/frustration for many- working through the detail!

6.1 Partner meetings under Draft RPV5

The partners and stakeholders meetings continued during the Draft variation proposals and after July 2005 when the variation was notified, but there were continuing difficulties and frustrations.

TDC's Stent *"This was hugely new ground; people came to the table well intentioned. Things went really well when the discussion was around the principle-as soon as we got to the detail, local government was there and CG was here, and we got caught up with CG bureaucracy. It became very difficult because (everyone acknowledged) the detail wasn't there- a huge leap of faith- some accepted science- but wasn't foolproof or 100% -but what we are saying collectively, is we've got to do something and this is at least the first step-evolution action and reaction"*.

"This is a better than reasonable costing bucket, and we can go out with some certainty that what the model suggests has some benefit and some gain- it may not be all we require - but will take us a fair way down the track! But we got caught with bureaucracy. Questions like 'we've got to know, you've got to be exact, where is the money going, what is it going to deliver'? and from different Ministry officials".

Journeaux *"RMA machinations- once all talking was done then EW had to fall back on formal draft/ submission process. My observation was that there was goodwill round the table even though we didn't necessarily agree. Once talk finished and it got down to formal RMA positions then it got down to crunch point and the goodwill evaporated"*.

"Some partnership meetings were more useful than others (partnership meetings had as many as 30 people! Wairakei - 60-70 people- some dancing around too polite etc not saying what they thought- some very sensitive issues and people got offside. It was a good move to have an experienced RMA solicitor as a facilitator- started to bore in on the main issues and made people front up and say what they thought".

Bennetts *"There were stand-offs, people wouldn't talk- the meetings became dire, it wasn't we're all in this together & how can we make it work! Once the draft variation came out everyone started taking their positions e.g. Tuwharetoa -farm/forest rules not fair, Farmers - rules will ruin us, TDC re-election-what will this mean- quite a few components all going on and the possible vehicle for the funding entity. EW tried to get the draft variation out before local body elections took place"*.

Bennetts asked Minister Hobbs to again visit the catchment to break the lack of engagement he saw between Tuwharetoa and the EW following Nepia's death.

Hobbs says she got stuck into EW! *“You’ve got to walk in the shoes of these people- if you don’t allow Hapu to develop and if you go down too hard on farmers then you’ll get a rural reaction the other way. Understand the issue- not always from a litigation path”*. Hobbs says the process stalled because EW were being too hard-nosed- wanting to put up rules before they got everything signed on paper. *“The cabinet paper was through, the Trust nearly formed and EW are charging through with rule changes. I could have told them appeals through the court are coming”*.

6.2 The detail - Partners

At this point the detail needed to be worked through- well summarised by Mayor Stent *“There was a desire to address this problem but nobody had the detail or solutions to it. We just wanted to get structure in place, so that those discussions could take place in the right forum. We were pressured to widen a joint working committee which then had to be pulled back again to the smaller group as it was too unwieldy”*

Under pressure from stakeholders and others the partner group did extend some meetings in 2005 to include TLC, Forestry, and other interest groups. Meetings were facilitated By Doug Arcus, but were large and at times stalled with groups retreating to corners ‘taking positions’ and continually frustrating for all involved.

EW chair Jenny Vernon and Mayor Stent resolved to continue discussion with the wider group but pull the decision making back to the partner group.

Stent *“The wider partner meetings were too accommodating. The more people you have in the room, the more perspectives, the more issues evolve. You’ve got to stay tight and focused on the key issue (de-Nitrification) without bringing the effects of the principle into the room at the same time. We had to primarily focus on funding and structure, so that the funding entity could be set up while the Variation was coming in”*.

Stent points out there was a lot going on! *“We had all these issues crossing over each other and had to keep running. The Lake, ETA, Contact Energy geothermal plans, our growth management strategy and clip on structure plans- all in a reactionary environment as our existing district plan was so fundamentally flawed”!*

6.3 TMTB, Forestry and MEA’s -to Hearings and Submissions Nov 2006

6.3.1 Forestry

The combined forest group were meeting six weekly -now looking at the influence of Carbon in the mix along with N allocation. They met with EW/ TDC/ TMTB & farming interests once the draft RPV5 was put out and Hura recalls *“They were trying to find solutions and we all said ‘just get on with it! We all support what’s being done- it’s all about protecting the lake.”*

Thorp – *“We submitted on the initial draft, then proposed plan, then the hearings and submissions for 1 week. We divided amongst the TMTB and forest trusts, TMTB took the environment issue of water - concern that our Taonga be protected. LTFT’s took role of looking out for benefits of owners of Forestry and undeveloped land (LTFT & LRFT*

combined 50,000 ha of which 20,000 is undeveloped) and other undeveloped land owners who had no structure and no voice”.

Hura *“We knew we had to propose a range of solutions and everything then, to be able to raise later at the appeals stage”.*

Thorp *“ After dropping the joint Tuwharetoa adjusted formula the initial approach was lets push for an averaging formula but this wasn't accepted by Tuwharetoa farmers. So leading up to the hearings we got legal advice on the whole issue from Auckland lawyers Ellis Gould-led by Douglas Allen. We got strong advice he didn't believe any hearings/ court would ever accept an averaging formula”.*

Thorp *“With that advice we couldn't proceed with averaging- we could accept there were problems for farmers. We accepted divergence from the forestry groups we'd been talking to- their positions would continue as we would to talk- but no longer team forestry. Carter Holt Harvey (CHH) were selling all interests in forestry in the catchment (post Hearings & Submissions -pre E Court) and our concern was the CHH position wanted to delay the whole thing (their concerns were implications elsewhere). For Tuwharetoa the key issue was - whatever you do don't delay, we accept the longer you delay the longer it will be to fix it”.*

Hura *“Forest managers put a delayed averaging concept up at the hearings -farmers have to reduce on an annual basis to try and improve N emissions. EW hadn't been pushing for reductions -so any new science could allow farmers to intensify farming operations under a cap. The right signals needed to be sent to farmers that they had to improve N emissions. Delayed averaging was strategic grandparenting working down to averaging – about 6 kgs Nitrogen Discharge Allocation (NDA) per ha, per yr”.*

6.3.2 A Flexibility concept is born...

Ministry for the Environment's Tim Bennetts had also recognised that the N allocation issues had to be further addressed for forestry and undeveloped land owners *“otherwise the whole thing might just fall over”* he said. He arranged in 2005 to visit Hura and Thorp with independent consultant/planner Mark St Clair.

Hura *“What came out of that discussion was that the real issue for us was flexibility of land use and how that could be achieved”.*

Thorp *“Looking at flexibility in 2005 – agreement amongst the Forest Trusts that we weren't looking to become farmers and change all of our land to farms. But recognition that we didn't know what we wanted to do- but knew land had been in Maori ownership for centuries and things happen very slowly and we were loathe to accept we couldn't change our land use”.*

Thorp *“How much emission do you need to get a meaningful amount of flexibility. We had a close look at our own lands and East Taupo Lands Trust is land (3,000 ha undeveloped land in catchment towards the Kaimanawas) - what could we envisage we might do- looking ahead 25 yrs? Mainly real estate, subdivisions, hotel developments (especially eastern side Taupo and Lake Rotoaira) but the area suitable for such use is just little bit here and there-*

what does that do for whole block? Some small development potential for some- none for others”.

Thorp “So we said if we had overall an extra 2 kgs N per hectare, that gave flexibility for some areas of land to go to 10 or 20 kgs NDA and the extra emissions into the lake are very small. We recommended this -called it the flexibility formula (St Clair drafted the rule and I included it in my submissions), asked that it be made available to all undeveloped and forestry land in catchment -not just Tuwharetoa. Our suggestion was if you want the lake to stay in balance, predict the amount forestry & undeveloped might use- then pro rata off other manageable N to farmers. It didn't get traction at Hearings or from EW's final report”. (See Appendix G for Flexibility map)

“We had other concerns as well; Scientist Warwick Silvester & Paul White's (GNS) own calculations said the 20% reduction was not enough. They thought a 30-60% reduction was needed and more work was required. So we decided appeals to the E Court was the next phase for us and extremely important”.

6.3.3 MEA's

Fred Phillips (Ag Consultant) was hired by a combined group of Maori Economic Authorities (called the Ngati Tuwharetoa Agricultural group- NTAG) to represent their position going into the hearings / submissions process.

Hura (also an MEA trustee) “Phillips convinced the Farming MEA's they would get more N under grandparenting and so the MEA's steered away from a combined Tuwharetoa concept. His proposals and submissions were a major cost for the MEA's No one questioned his numbers! Most trustees were not familiar with the RMA process”.

Hura comments further “Then the Ag Group joined with TLC for the Environment Court appeals. They could never make up their minds. The whole cost of this Nitrates thing was ridiculous-it never gained a result. It was poorly planned and executed; people were out to feather their own nests. The MEA's had no leadership within; people didn't really understand the process. I think it would have been a different outcome if Tuwharetoa had stuck together! Tuwharetoa needed strong leadership & getting people to understand the issue, the process & be willing to work together for the common good. I would have thought the older Trustees would have placed greater value on the lake and working together as a tribe! It was really the younger trustees who were the ones pushing that”.

6.4 TLC- heading to Hearings and Submissions Nov 2006

6.4.1 Leadership

At the end of 2004 TLC leadership changed with Cottrell, Yerex, and Fox all stepping down from the consultation team and Law talking on the chair role, soon to be assisted by new farmer Mike Barton who was elected TLC chair in 2005. The timing coincided with the end of the consultation phase. EW had notified the variation and parties had 'retreated to their corners' to commence the legal process of preparing for the Hearings and Submissions.

Bob & wife Lesley Cottrell saw firsthand *“It affected people’s health, we were all under so much stress, and this process wore people out!”*

6.4.2 More meetings

Cottrell, Law and Barton continued to attend meetings and press their case, though all acknowledged that the end of the consultation process was a major change point or ‘disconnect’ for TLC. TLC was busy with the Sustainable Farming Fund Catchment Management group project and EW was running the first of their implementation discussion meetings fronted by EW’s Rob Dragten.

Thorold *“You can’t run a regime where people don’t know they’ve broken the rules until someone comes down and sits around the desk does the sums and tells them. Like having cars without speedos and having speed cameras”!*

“The process was helped along by Rob and his views supporting the farmers practical view of the world, that management can’t measure N leaching precisely, so we will manage what you have said you’ll agree to do, not something you’ve been told to do!”

TLC’s Fox remembers this meeting clearly from a different viewpoint *“The EW enforcement meeting was well attended; they were laying down the law saying ‘you’re wasting your time and money because we will win and you will lose”.*

Ministry for the Environment’s Tim Bennetts was taken around the catchment to meet and talk with farmers first hand. Bennetts was proposing Landcorp as part of the 20% reduction solution using the fund to either purchase land or use Landcorp as a farming sustainability experiment. Neither came to fruition- see Landcorp section 10.

6.4.3 Hearings and Submissions- some relevant comments

TLC employed its own Barrister Phil Lang from Hamilton in 2006 for the hearings process and who, (very competently in TLC’s view), represented both them and the NTAG through the E Court process.

TLC’s secretary Jocelyn Reeve makes the following points;

“Firstly, the choice of our barrister was constrained by 1] our available finances, 2] the firms who already had ties to other parties, 3] barrister commitments for other work and 4] a reluctance by barristers to work for a community collective, presumably because of the financial risk involved.

Secondly, the difficulties encountered sourcing support from the wider industry and funding agencies. The wider industry seemed to think that the issue was political and not their business. They argued that their client base included other opinions, or that it would only apply to this one catchment, presuming that the loss of farming in the catchment would not affect the profitability of their business, (Fonterra’s initial submission clearly made this point) even though the consequences were made clear to them. The issue has only just become topical for FF as it has spread to other areas.

Funding agencies either didn't cater for Environment Court appeals or considered farmers wealthy enough to fund their own appeal. I don't think they are aware just how low the sheep and beef farming income is this year. Another issue was that the variation was not about improving sustainability - riparian margins or other visible environmental initiatives - but about maintaining current sustainability - continuing to farm at the present rate and ignoring the 20% reduction because that is outside the RMA process".

TLC's Law "TPK & Ministry for the Environment supporting delayed averaging at the hearings came from left field- it wasn't expected! We had the opportunity to speak and for the committee to seek clarification of points- our opinions mattered. We were surprised to have the benchmarking years increased from 3 to 4 (after presentation on drought yrs) EW supported our recommendation and listened".

TLC's Barton had done work around modeling the impact of the Cap on farming as part of his MBA completed in 2005. He chose six farms representing a range of farming systems in the catchment and modeled the impact of the cap, presenting as economic evidence at the hearings. He also completed his own work on valuing and trading Nitrogen.

Barton " Skelton and the Hearings Committee did a good job with what they were given- but again missed the boat with real economic modeling- the closest they got to acknowledgement of that is RPV5 saying things like the value of farmland will drop and some farmers may not be able to continue farming. How you reconcile that with other sections of the RMA beggars belief for me. The RPV5 legislation is as contradictory as it says elsewhere 'there will be no long term effects on any communities within the catchment'. Its patently bad law as it contradicts itself within its own document-the very last sentence in the variation".

Barton "EW were scared to acknowledge the true economic cost –they wouldn't have been able to get legislation through. They created a climate –adversarial based rather than solutions focused- from mid 202005 onwards".

Barton –“ The appeals version of RPV5 – that went to the court, changed things enormously , it contained stuff that had never been negotiated or talked about i.e. if more than 20% was needed in the future –it should come from discharges- a fundamental change – the idea was people could carry on doing what they were doing any & further reduction came from public buyout of N – but in order to appease EDS (environmental groups) & others- the 10 yr review talked about farmers predominantly- fund philosophical shift! This just appeared in appeals version- if we hadn't read the document thoroughly and picked things up... this should not be the way this process should proceed".

There were 136 submissions and 36 further submissions heard by Professor Skelton (a previous Environment Court Judge) and three EW councilors from May to November 202006. EW released its decision¹⁵ in March 2007.

¹⁵ Waikato Regional Plan Variation 5 Lake Taupo Catchment (Hearings Committee Recommendations Version) Evaluation of alternatives, benefits and costs under section 32 of the RMA), March 2007

7.0 Science work

There needs to be mention of the ongoing science work in relation to its importance to the process of the strategy to protect the lake. These are just snippets of information -but relevant to impress the importance of ongoing relevant science.

Thorrold- *"In 1985 if we had had the right people in room- we(Stu Ledgard and myself agree) would have known this was going to happen. The key connection had been made re Urine patches and Bill Vant and Clive Howard Williams had done enough work on the lake to know that Nitrogen was the issue- where fertiliser run off was dealt with by the control scheme. "All the tree planting in the world was not having any affect as the N was going straight down through the soil".*

7.1 Early science meetings

Ag Research's science team (Thorrold, Greg Lambert, Ian Tarbottom and John Findlayson) held two rounds of public meetings at the end of 2000, and then went back to Hamilton to look at research projects and apply for funding.

Thorrold remembers the first meeting at Marotiri *"We were not far from being lynched (Graham Law said tarred and feathered!) and we were there trying to help! It was a real challenge for researchers all the way through (like sitting on the proverbial razor blade) - how do you maintain and gain peoples trust, when you know you're not there for them- you're there for the process to get a decent outcome."*

... "Graham Law bailed me up to ask which side are you on? I said the side of a fair result!! We were trusted enough to be able to operate in that space, so farmers had to trust and see people in different relationships than previously (make more money, grow more grass), and this time that knowledge could be used against them! Step back from science and look at the whole thing- can you come to another conclusion"?

Thorrold went on to say that within the Science team there was also a range of opinion- from 'polluter pays' to 'you can't do this to farmers'- so they were as polarized as others! AgResearch agreed to run a study¹⁶ modeling farm systems but wouldn't publish until they came back to the farmers. TLC committee supported this as they could see it provided valuable information to put into the process and they could reality check it- which they did, finding some fundamental budget errors in the process!

7.2 Taupo lake Care/ AgResearch project

Thorrold *"It was good to have Taupo Lake Care's input as it changed from AgResearch's thoughts to use EFS (economic farm surplus,) to Taupo Lake Care's use of disposable*

¹⁶ Findlayson, J, Thorrold, B, (September 2001) *Estimating the costs of restrictions on N emissions in the Taupo catchment*

income (business profit), providing a much more raw measure and realistic look at impact on existing farmers. The Valuer employed (David Smyth) was also sent back to find an analogy which he did in the commercial building sector - make same profit but building different prospects- then what's the difference in cap rate -25%. The basis is this is our best guess and it's defensible!

This was confidence building in the Science team that they were impartial- we stuck to facts – listened to people – made adjustments where shown -where got it wrong -but told everyone the same story! All results shown to all parties, all the same! Not trying to build a case in anyone's favour. This was a cornerstone document”.

Thorold “We also learnt from that project the physical way in which you engage with people is very important. We changed from seats and scientist at front- to round tables and a scientist at each table- you can yell at someone when you're sitting down the back of the hall but not if you are round the table/ having a cup of tea- so you have to sit down and connect with people!”

EW's Petch –“Research on farm must be in catchment- to be believable. EW knew some answers but had to re-prove it to the community. Therefore the role of science was community driven research, very important and I would do it again. Science uncertainties were agreed early on- “we don't know”. Trends, what's happening between here and there? Through time we were starting to prove the point. We captured both the public's imagination and politicians in Wellington”.

MAF's Journeaux “There was no research around what farmers could do, so we pushed hard for Sustainable Farming Fund and other research funding. In hindsight I would have pushed harder for more research so that farmers could get some idea of what they were up against”!

7.3 Puketapu Sustainable Farming Fund project

The Puketapu SFF project¹⁷ was a catchment based research project looking at new farm management options over three years starting in 2002. It was based on Maori Economic Authority land, Waituhi Kuratau Station, and had involvement from a range of farmers within the catchment.

Thorold -“This was important as it started to move people from problem to solution. It was ahead of its time in the strategy cycle. People focused on problem early on- MEA managers and general community interest meant good turn outs to fieldays. Then time goes on and it comes back to all about the legal part of the process again. We lose sight of the management stuff when focused on process – gains made in getting people thinking about management got lost as people came back to process and got overwhelmed again- so we had to open door and re-visit”.

¹⁷ Betteridge, K, Thorold, B, (June 2007) New profitable farming systems for the Lake Taupo Catchment – Puketapu Group

...”The valuable stuff that came out of the science was about principles e.g. the Grazing trial removed any last bit of doubt that grazing cattle through winter was contributing to the problem and cropping work challenges the science- it gave people things to debate -so look at the results and help bed the principles in. People who came along to the fieldays have a much better grip on the principles now through seeing real things happen in their environment – even though it didn’t give them the management answers. No silver bullets, but some tools in the toolbox, which may not suit all management systems for individual farms. “

7.4 2008 science ‘Pasture to Pines’

The E Court process did bring up new science- including CHH presenting new research around the high N leaching of developed pasture when converted to pine trees, which reflects gradual soil fertility loss over time.

Thorold comments on the relevance of this to the overall strategy:

“Our early strategy and policy have faced new challenges- like the issue of pasture to pines. But the framework was there and it was flexible enough to cope with new information- because the framework never said the answer was to plant trees (that was just the calculation for the fund!). The framework said -use land in a way that reduces N leaching and use Trust money to expedite that process without paying people compensation”.

..”Science should have made some of those links, that the N cycle would, re-set and therefore a lot would leach out because there was no sink for it anymore. So new information affects detail but not principles! It’s a big tick for how well thought through the principles are... if we had done what EW wanted- less stock, and had a rule about buying land and putting into pines- then only one solution. But this is about the best use of land (flexibility, profit) maximising the economic value of whatever N the lake can bear- so develop a frame work which allows this to happen. So for the policy- re do some numbers and factor that in a different way- rather than- that would have been policy gone! “

7.5 Nitrification Inhibitors- DCD’s

Lincoln University Professors Keith Cameron and Hong Di released this new product in conjunction with Ravensdown in 2004. It was seen as a possible tool in the management “toolbox” for farmers farming under a nutrient cap. However the lysimeter research done at Landcorp’s Waihora block does indicate that under pumice soils nitrification inhibitors are not as beneficial as in other soil types and under current costs and returns this “tool” is really only economic for dairy units. More research is currently being carried out on winter crop use of DCD’s under concentrated cattle grazing, where results may prove more economic than blanket applications.

7.6 Current new research

On TLC’s Mike & Sharon Barton’s catchment farm a three year research programme is underway looking at the use of ‘high sugar grasses’, an increased salt- diuretic- intake, and DCD internal application on their cattle unit- in relation to altering N leaching. Leaching is measured by ceramic cups in the ground- where water surrounding the cup is withdrawn following 100 mm of rainfall. This is a highly intensive trial where results are important and

like previous trial work are likely to be management tools to assist sustainable farming- but not represent a 'silver bullet'!

8.0 Evolution of the Lake Taupo Protection Trust

Recall earlier mention of the writing of the cabinet paper and possible inclusion of rules around the funding entity?

8.1 The money but not the structure

MfE's Bennetts comments "*I think the problem was they (TDC & EW) knew they had the money- agreed in 2003 & 2004- then the detail was needed around the funding entity. If we had to design a programme to deliver the money and gain agreement it could have been slightly different- use the influence of the money to get what CG wanted*".

TDC's McLeod "*We had different philosophical positions as to what form the funding vehicle would be. TDC was very clear we wanted the group to administer the money and be independent. Looking at different models the Council Controlled Organisation (CCO) had been given independence under a new Act. MfE had issues with it (and changing key staff several times didn't help either). They had concerns about losing control and clawing back funds*".

McLeod explains that... "*The Crown entity concept is the equiv in government terms- A Statement of Intent, Letter of Expectation, you deliver on that! Accountability though the Local Government Act is stronger than the likes of the 'Pipi Foundation'. The control mechanisms are the settlers of Trust*".

... "*MfE's reluctance was a huge source of frustration for TDC, never sure CG would agree to the final concept as MfE would not take through to cabinet till they finally had the concept and Trust deed or close to- then next step was the funding agreement and MfE were still not happy. Meanwhile we began collecting rates, and as everything was not in place, we phased in the rate over a two year period*".

Two years after Hobbs had agreed to the funding there was still protracted and acrimonious arguing over the detail of the type of funding entity and its operational rules.

TDC's Stent "*The Trust became a real issue (especially as a lawyer). What we kept say to CG in LTCCP period of time is 'we are going to rate people'. CG funding wasn't confirmed - they wanted benchmarks- certainty. Government basically wanted an exit clause - where they could withdraw from the commitment. TDC kept saying you can't do that- we're either all in the boat or we're not. We were told this is 'very standard for government'. The commitment only came through in late 2005 early 2006 -after Trustees had been chosen*".

Stent "*The Trust had to be independent because of the funding lines, a single conduit accountable to all three funding partners. The Joint Committee (JC) continues as the employer, the Trust is the employee. The JC was structural- not solutions focused- that was the Trusts job*".

Stent further explains the thinking... *“What the Trust recommended may trigger further consultations back through each of plans EW & TDC, with impacts on community such that we would have to go back to ratepayers to get signoff- so we couldn't have EW or TDC being the driver. We knew where we had to go (back in 2002/2003) but it was how we got there! Little bit of a chicken and egg- couldn't get CG officials signoff until structure in place and we kept coming back and saying we've got to get the money first, know that we can actually do this- we will not spend large amounts of money on structures, if we find we've got no funding!”*

8.2 Third Cabinet Paper – and then the Funding Deed ...

In October 2006 the third cabinet paper relating to the Lake Taupo Project was approved (see Appendix I) - nearly a year after the new Trustees had been interviewed and selected (Nov 2005)! It still took until Feb 2007 for the final documentation to be agreed, the Trust deeds signed, Trustees appointed and finally for the LTPT to be formally established.

Stent *“The Trust cabinet paper was approved then the funding deed came afterwards- DETAIL was again always the problem! We kept saying we want to get on and CG kept saying we've got to tick these boxes, with CG's 'get out' clause the main one. TDC saying we can't live with that because we can't get out and if you do then we have a big problem! We have to know that funding is there right through, if it's going to be drip fed- then if we or the Trust have to borrow funds, no one will lend unless there's surety of money. Our funding line is in the LTCCP, CG has to be there too. The Funding Deed was the critical issue”.*

Stent went on to explain that TDC wanted the structure in place so that the Trust could be set up while RPV5 was coming in. TDC was working on getting the Trust up and running, EW was working on getting RPV5 up and running. The paths of the RMA process and non RMA process cross emerged and overtook each other, compounded by the newness of the non RMA process and the constant delays.

MfE Bennetts describes this period as a *“hell of a struggle”* with the Trustees *“in waiting from Nov 2005 till Feb 2007- when Environment Minister Benson-Pope came up to Taupo for the signing”*.

Bennetts *“Its taxpayer money –we wanted check and balances, we wanted the councils to be responsible and accountable. We wanted the funds well spent on achieving targets and councils not to be able to duck out of it- and blame the Trust if targets were not met, - so we wanted accountability to be with councils. Initially when MfE sought its own legal advice from Phillips Fox on the structure, they came back recommending a funding deed. We had to work through the process and gain agreement from all the partners.”*

For full details of the LTPT in operation please refer to its website¹⁸.

¹⁸ www.laketaupo.protectiontrust.org.nz

9.0 E Court process

This section is intended to only include some important comments from those stakeholders that were a part of this process, revealing common themes. Full documentation is covered through the E Court process itself- in farming terms – by the barrow load!

The Court in Nov 2008 released its deliberation with the main issues being to back EW's Controlled activity ruling (versus the Permitted activity status rules that TLC/ NTAG and Fed Farmers were promoting), agree to consent terms being 25 years, and releasing decisions around the controversial science of developed pasture to pines and high gorse and broom leaching and allocating low N leaching values to them all.

EW carried out an extensive negotiation and agreement phase, prior to the actual court hearings, and during the Court process there were a lot of court directed caucusing of groups on certain issues including science and controlled vs. permitted activity rules.

Carter Holt Harvey (CHH) was an active participant- challenging major issues like the 20% and particularly N allocation- pressing for averaging. They no longer own land in the catchment and so presumably were there to fight possible precedent setting decisions. After weeks of challenging court procedure, CHH suddenly withdrew their appeal.

EW's Justine Young- *"Simon Berry (Counsel for EW) says the legal court process is really powerful in that 'the essence is people are forced to sit down and say what can we live with...'. Young "However not everyone can afford to be a part of that process, and some really need to be there...."*

Young explained to me that CHH- right through the evidence exchange- didn't want to sit down and nut things out. *"We could only assume they pulled out because they couldn't win".*

TLC's Barton *"The process of negotiation that occurred during the court hearing- if that could have occurred prior to the court hearing there would have been no need to go to court! The level of honest debate and real disclosure the E Court process forced on all of us, led to some good outcomes. If we could have that same level of openness and integrity earlier on in the process- EW and TLC wouldn't have spent large amounts of money – and people would have felt a lot more empowered to own the outcome..."*

Barton *"The new science information on pasture to pines, the amount of N in the atmosphere and the high N leaching of gorse- for that to appear in the last few weeks of the process is quite sad. CHH dug up research scientist-Bill Dyck -his view that it takes 300 yrs for pines to remove the N from pasture! The upper catchment of the Lake is getting upwards of 10-12 kgs N just from atmosphere- close to lakeshore 8 kgs, because N oxide from dairy farms in upper Waikato catchment is close by and from automobiles etc. I personally don't believe that farming contributes 93% of the manageable load. It may well be less than we think- as quite a lot of that contributed to farming comes from the atmosphere or elsewhere- and say just 5% catchment is significantly affected by gorse and broom that increases the N into the lake from non farming sources by 50% (at Gorse and broom leaching proposed at*

24 kgs /ha N) . Really to me this highlights “the more we know, the more we realize we don’t know!”

LFTF’s Thorp “As soon as we appealed to the E Court-for the first time in the 6 yrs we’d been involved- EW actually wanted to talk with us! We felt that we were being listened to and we felt they were in a position to actually negotiate and to my mind everything up until then was positioning and seeing if we would go away! I was extremely disappointed by it- I don’t believe it’s the only way things can happen and it certainly cost us a fortune in time and money”.

To use this as an example Geoff Thorp gives a little more detail.

Thorp “EW were saying Flexibility- that’s a great idea-. I said ‘but we’ve been telling you that for the last 5 yrs- & that the 20% isn’t enough’! EW asked that if their plan was only 10 yrs , would we accept that 20% is enough for this plan –if they beefed up the review clauses to make sure that if ongoing science said 20% was not enough then they would amend the 20% target -not amend the goal for this plan. The Forest Trusts & TMTB agreed. The Flexibility Formula, EW said they would only offer to Tuwharetoa landowners, they had no problem dealing differently with Tangatawhenua status and being seen to be treating Tuwharetoa differently.

....EW kept trying to pin us down to land use options- what do you want to use the land for? We continued to state it over and over again- we don’t know what we want to use it for and you shouldn’t care either- you should only care how much N is coming out- so don’t preclude small amounts of farming or horticulture happening, as long as fits within the flexibility cap.

10.0 Landcorp- The 'what if' scenario

As mentioned throughout this report, Landcorp -because of its SOE status and landholding in the catchment (around 20% pastoral area) -was always going to be seen as an obvious part of any probable solution to lake protection.

Landcorp activities during this period included their subsidiary (Landcorp Estates) being a joint venture partner in two residential developments of its lakeside land close to Taupo township, being the Vauclause subdivision (completed earlier this decade-off Poihipi Rd) and Wharewaka point (currently being sold).

10.1 Early proposals

TLC consultation with EW and CG with the Ministers and officials was always to propose Landcorp land as assisting the process. Suggestions were made around assisting the 20% reduction required, being used as land swaps with land more suited to afforestation, helping to address the inequities for forestry and undeveloped land- by being offered to them as perhaps part of a Treaty settlement process? (As it was previously Tuwharetoa land, there was a strong sense that here was an opportunity to address more than one issue.)

TLC also proposed the Crown owned forestry land in the catchment as having similar opportunities. Subsequently with the CNI treaty settlement deal finalised this year, Tuwharetoa were in a position (having capital from land and trees returned) that had they wanted to, they could have looked to purchase back their lands- but by then it was too late, the lands had already been sold.

EW and later TDC also strongly argued for Landcorp to be part of the solution. EW's Petch comments that in those first proposals Landcorp was a part of the strategy in the cabinet papers, until Treasury's involvement. He is disappointed in the Landcorp outcome "*The Trust (LTPT) will have to work a lot harder*".

TDC's Anne McLeod "*The Government had a part solution in their hands with Landcorp. They told us Landcorp was independent so we could only use that land if the community paid for it- essentially. Our lake community was saying – hang on, we've already paid for it- it's already ours, why would we pay for it twice!*"

10.2 Landcorp response

Landcorp CEO Chris Kelly responds when asked about the key issues "*The 20% reduction is based on N levels leaching into Taupo from 40-50 years ago. We have lysimeters (leaching measuring soil cylinders) at Waihora (a Landcorp farm partially in the Catchment), I know it's going to get a lot worse and I can just see land values plummeting. I said to my board 'We've got to get out of here, have an exit strategy and do it sooner rather than later'*".

So Kelly (CEO of Landcorp from March 2001) was concerned from a strategic perspective and needing to act quickly, arranged a meeting with MfE CEO and deputy CEO and remembers saying;

"Here's the deal, we own 20% of the land around Taupo, we'll get it valued, get your Trust to fund it and your problems are solved- from a simple perspective".

10.3 Landcorp—MfE- Memorandum Of Understanding

A Memorandum Of Understanding¹⁹ was signed in December 2004 for a 12 month period- initiated by Kelly- but MfE's then deputy CEO (Lindsay Gow) describes it as more a request from Kelly for something formal to put to the Landcorp board.

Kelly comments that Gow tried very hard during a frustrating time for them both, but (as Kelly states) "*there were too many partners and too many vested interests!*"

This is the Proposal section of that document:

The Ministry for the Environment would like to discuss and explore with Landcorp the range of options available to the company to reduce its nitrogen emissions from pastoral farming activities in the Lake Taupo catchment. These options include, but are not limited to, afforestation and Landcorp Farming Ltd selling whole or part of its

¹⁹ Memorandum of Understanding (2004) between MfE and Landcorp, see Appendix H

landholdings in the catchment so that the land area can be used in the nitrate emission reducing process.

Kelly details...

“ At the time although the trust was not formed, there was great excitement from the then CEO of EW, who had an expectation that they could draw down on funds quite quickly- or even debt fund for while(we wanted deposits) and even then I was prepared to pay us out over a period of time. Lindsay & I sat on that over 9 months- with the issue becoming more public- I became concerned about the value loss to our farms and at the end of the day I said enough is enough – this isn't going to work, we're going to set our own strategy!”

... “During 2005/2006, I continued to try and meet with the mythical trust, not formed, so I was unable to do anything. Subsequent to that I got Board approval to sell all the farms. The decision making process was quite simple- I gave them figures about de-stocking, retiring land, afforestation, all of them (in our view) were going to create a significant value loss for Landcorp. The other methodology was sale on the open market (it was a unanimous decision, the figures pretty compelling)”.

...“We are an SOE – we have to act as though we are not government owned. I even said in the dying days of the MOU- we will put this land into forest, you just pay us the difference between the forest land and ... but I couldn't get any decision out of the crown at all”.

Kelly viewed the position as *“The Crown became paralysed and weren't prepared to take the initiative on their own, because the partners were (arguing amongst themselves) not in agreement over the funding vehicle etc; it just became too hard for them. So I came up with another option, for you to compensate us for the difference bet value of the land estimate around \$7,000/ha and forestry conversion land value \$1500/ha- (a huge gap)- well fine -give us the difference and we'll do it, but that couldn't happen either. So the only agreement we made with MfE was that any land sold prior to EW rules taking effect, would have conditions to help them, unable to increase N output.”*

10.3 Minister's response

Questioning the ex Ministers (Hobbs and Sutton) and officials of the time, they all stick to the principles.

Hobbs *“the rule of thumb -just because they are government owned, they are no different to other farms- so Landcorp shouldn't bear the brunt for everyone- it needed to be shared across all”.*

Principle - All land had to be treated equally, the “whole of government approach”.

Sutton *“It needed to be the most suitable land for afforestation, not on the basis of public ownership. The argument never got off the ground. The SOE Act requires instruction to be given formally- Parliament advised and the board of the SOE to seek monetary compensation. Its inviting controversy to direct- SOE board members are very resistant to*

that, the Minister would rather that SOE's would read their minds and take decisions without being told."

... " I left as Minister of Ag in 2005- there was no support sought for purchase of Landcorp land raised with me. When I became chair of the Landcorp board in 2006, they had long made the decision to exit the catchment, had in fact made the decision to sell properties when constraints around N emissions were raised. They saw our continued presence not aligned with their purpose of running profitable productive farms- don't see us as running farm parks- see us as pioneering systems for large scale profitable farming."

... "When we were looking to sell catchment Landcorp properties,-looking to re balance the portfolio- we had reached the conclusion we didn't want to take land out of production. We then asked the Office of Treaty Settlements if they wanted the land back for treaty settlement- the answer: no claims and no prospects for claims. So we found a buyer, had a deal and found activists occupied it! A frustrating journey- could have sold to Maori interests quickly- but the Hikuai group have got Landcorp to farm and hold till Hikuai make their mind up about what they want to do with it. It's exciting stuff to buy other farms to enhance our business- staff motivated going forward – not cutting costs and preparing for sale mode!"

10.4 Landcorp SOE direction

Kelly "I was prepared to do anything, within reason if it came up - provided it protected Landcorps commercial bottom line, afforest all of the land that we owned -provided we were recompensed"

... "We were very unlikely to get Ministerial direction- not sure any Minister has directed an SOE? If they issue a direction it has to be tabled and argued in parliament, can be politically damaging. (e.g. TVNZ, Minister tried to instruct and TVNZ told them to take a hike, so Government de-SOE'd it to a Crown Entity- they have much more control , so that is the preferred method of control. SOE Minister was Mark Burton (Note also Taupo MP!) and he hardly got involved- I approached him – this is an ideal solution for the government and he didn't help me at all! The lesson I learned was – try to get as few people as possible involved in these big difficult issues!

10.5 Landcorp moves to sell land

Kelly "...we split our land into two parts; Land valuable for higher than farming use and not. We invited tenders from Bayleys, John Anderson and other property developers (6 or more), only party that fronted up were Tony Seagers group who bought the Mangamawhitiwhiti property (southern end of Lake Taupo). We marketed that way because we do a lot of selling of property and we reckon we know all the players pretty well, (John Bayley went round with me and said he would market the farms internationally, they did and didn't get the bidders)".

... "Then Richard Prebble came in and said he would buy all the catchment land. We said we will have the land valued by two valuers and it would be the higher of two – we thought that was fair market value, Richard tried to do a deal but couldn't get the Northern and

Southern Iwi to work together (it would have been good that Tuwharetoa had owned it- but hard to get Hapu to work together) ”.

... “Meantime Prebble did manage to purchase Mangamawhitiwhiti off the developer with a local Hapu group on the basis that the developer would never get the Maori land access it required for development (which is still the case)”.

... “Other parties were involved looking at a total deal from the Northern Iwi group Opepe (MEA) Chair Jim Maniapoto, and enter Donna Hall (Feb 2007), who said she’d take over the deal. The two key principles I wasn’t prepared to relent on at all...were price and ...it had to be an all or nothing deal , no cherry picking. I said to Donna, you treat this as a package, there is some good land and some not so good land- if you want to protect those bits of land you want to (for Iwi), buy the others off us and on-sell them, you’ll probably come out all right, you might even come out with a free bit of land. Over the course past 3 yrs it’s been tortuous but has actually happened”.

What did happen was the Hikuai Hapu Lands Trust did sign the deal to purchase all the Taupo properties from Landcorp- with settlement dates ranging over a three year period to June 2009.

10.6 Outcome of Landcorp catchment farm sales at Oct 2008.

1. **Otutira:** Front 220 ha to a developer looking at a joint venture residential development with Tainui. Approx 250 ha sold to dairy farmer Colin Armer, balance to forestry/carbon plantings.
2. **Motere & Otaipuhi:** To the King Country ‘Oliver family’- sheep and beef farmers.
3. **Waihora:** to dairy farmer and Fonterra director Colin Armer (1/2 property outside the catchment)
4. **Waireki:** Some sold to Contact (for geothermal development), some to Hikuai to retain, some still unsold.
5. **Tauhara North:** Sold to Hikuai
6. **Tauhara South:** Unsold
7. **Rakanui Rd:** Sold to Contact.
8. **Mangamawhitiwhiti:** Sold to newly created ‘Te Whenua Trust’, may yet be on-sold- due to ongoing access issues needed for potential development.

10.6.1 Comments:

- a) How many of these farms ended up under Maori ownership as a result of this sale process? Possibly only two properties and smaller ones at that.
- b) Landcorp could have taken a leading role in the promotion and trialing of sustainable farming under a nutrient cap- by retaining land in the catchment. This fitted with their corporate intent to assist farming in NZ, and with Central Govt’s environmental protection policy.
- c) There is now a substantial amount of ex Landcorp land in the hands of the largest private dairy farmer in the country, who could also be a competitor for the

purchase of N to allow conversion of his dry stock land to dairying, especially as he is a substantial adjoining land owner.

- d) The LTPT – without the ability to look at purchasing land or N from this large tract of land has a far harder job to fulfill its 20% target reduction of manageable N. If some arrangement could have been agreed to- even if it was aligning the fund with some Landcorp land at the time- or a future agreement to purchase some of that land, using the fund- then the value of the fund would have been preserved- keeping pace with increasing land prices.
- e) Only a matter of months after the Hikuai deal was signed with Landcorp, Government agreed to place a moratorium on Landcorp land sales where properties were of significant cultural or heritage value. At least two, perhaps three of the Taupo Landcorp properties would have been classified as such and retained under Government ownership.

MAF's Phil Journeaux gives his perspective:

"There were a lot of Landcorp land discussions and it was on the cards, but being a separate entity there would have to be a Government pay Government amount for compensation. At the end of the day the Government could have done anything it liked! However even if you took all the Landcorp land out of animal production- you still wouldn't get your 20%! The officials view was one shared by others- Landcorp land or the money, take out Landcorp- equals almost 15% - makes the Trust job easier".

... "In 2005/2006 A valuation of land was done for Landcorp, MfE talked to LandCorp with a price tag of around \$70 million, MfE said 'thanks but no thanks'. There was the possibility of a Treaty claim by Tuwharetoa- Government could have paid out Landcorp and then had to pay Tuwharetoa- could have been a double whammy"!

TLC's Cottrell comments:

"Central Govt have taken an irresponsible approach to the whole thing. Central Govt are the only Landcorp shareholders, the owners are the people of New Zealand"!

TLC's Barton comments:

"The Government talk about being environmentally aware- a golden opportunity is gone with the sale of catchment Landcorp land".

Final comments go to Landcorp's CEO Kelly:

"Be careful when you're dealing with the Government".

... "The Government should let pragmatism rule over good form and arguing. We could have solved this problem five years ago and none of this would have happened by completing the MOU in some manner or form. We could have on farmed it, de-stocked, or afforested land. All I wanted was the commercial recompense difference between the lower N land use and current use- we had the figures, we showed them what they were and what they would have been. Overall though -the board would have preferred sale, because it appeared to be a lot simpler."

11.0 Other influencing factors and their importance

11.1 Relationships

Relationships were and still are the key to the success of protecting Lake Taupo.

11.1.1 Tuwharetoa and the Crown

Firstly the strong relationship and respect between the Crown and Tuwharetoa, through the TMTB and the paramount chief- Tumu te Heu heu. I believe that this relationship brought about the involvement of CG in the project, and was a strong reason why the Crown agreed to assist (despite setting precedent).

11.1.2 Other important relationships

Neil Clarke (Chair EW) and EW CEO- Barry Harris had strong credibility and the respect of Marian Hobbs and Wellington officials, which was essential to forming the foundations of the strategy.

Anne McLeod (Deputy CEO TDC) – previously worked for EW as a strategic planner. Relationships were already founded between EW & TDC. Anne knew the EW staff and recognized the importance of the issue and process early on.

Ag Minister -Jim Sutton respected TLC's Bob Cottrell- when TLC took a delegation to Wellington to further their case. Following this Cottrell was asked to be a member of the 'Land access reference group'- looking at legislation regarding the issues around land access.

Bruce Thorrold- was a well known AgResearch scientist (from science work, fieldays, monitor farms etc). Although he was employed by EW, he still had to prove he could "sit on a razor blade with a ... each side" (according to TLC's Fox) but overall respect and trust developed in his opinion and ideas.

EW's project consulting team were close knit including Tony Fenton a strong and effective communicator who assisted the relationship building between EW & TLC. EW and TLC's relationship stood both in good stead right through to the E Court stage when EW promoted TLC & NTAG's negotiation around using the "best year" approach for benchmarking N allocation.

11.2 Consistency of people in the process- Continuity

Another very important issue- highlighted by how changes in key staff/ stakeholder representatives and politicians affected the process at all stages.

Not only did key people leaving the process affect it – but the election cycle impacted on timelines- always delaying decision making with both local body and CG elections. There seemed to be constant 'education' of new people to the process. If it wasn't new councilors, officials, Ministers, then it was MfE staff or other CG departments coming and going from

the process. Often TLC felt someone had only just got to grips with the issues and hello they would go and we'd have another newcomer! Officials from both councils were heavily involved- post elections, in the education of new councilors to bring them up to speed with the process so any decision making was done on an informed basis. In reading thus far- I think you now have an idea that this wasn't a quick or easy job!

EW's CEO changed in 2002 and Marian Hobbs describes losing Barry Harris "*Politics is about people. Barry Harris was a 'wheeler/dealer'. The new CEO changed the tone- believed in rules and Black and White. This process needed a wheeler/dealer*".

We have already highlighted the tragic death of TMTB's Marlon Nepia and what effect that had on the process.

EW's Justine Young was moved to another EW area around the hearings/ submission stages and her knowledge of the process was sorely missed by other stakeholders. She was brought back into the process prior to the E Court hearings and again relationships built previously with stakeholders and overall knowledge became very important over those EW negotiations and for EW's case.

EW Chair Jenny Vernon – who had been a councilor and deputy chair through this process, made a smooth transition to the EW chair in 2004. When, with boundary changes, she was challenged for her EW seat by Ian Balme in 2007 and lost, no one in the strategy to protect the lake was happy about her leaving. Yet again the process had lost another strong leader, one who knew the background, was trusted and had built up the relationships needed to keep pushing ahead.

11.3 Leadership

A correlation between strong leadership leading to trusting relationship building and good robust decision making, showed itself early on from the interviews undertaken.

A common theme that emerged from the leaders in this process was they all shared a passion for keeping Lake Taupo as clean as possible and focused on working towards a solution that shared the burden of the cost of change.

Words I had described to me of the leaders included brave, strong, focused, passionate, decisive, even 'dogged pursuit"! In my opinion we were lucky to have some great determined leaders that also gave continuity to the process with examples in the Forestry and Farmer stakeholder groups, EW and TDC.

Interestingly both Ministers at that time -Hobbs and Sutton, suggested in hindsight, they should have played a more "hands on role" in the negotiation stage of the process and "driven it a bit harder".

Ongoing good leadership is just as important now as this project continues down the implementation path. With more key roles changing in late 2007- the Mayor of Taupo, EW Chair and half of the EW councilors, and in 2008 the EW CEO -all new to this project- again time is being invested by officials to bring people up to speed.

12.0 Lessons learned

Comments from different group perspectives that are relevant and portray key themes.

This is the real crux of this study and no matter which group you relate to; all these comments apply and with the benefit of hindsight there are important lessons here for us all when tackling complex and difficult environmental issues.

TDC's Clayton Stent plainly states and I agree. *"There is now precedent for Central Govt funding for National good environmental issues, but every issue is going to have to stand on its own merits- you can't hold Lake Taupo up and say the solution for Lake Taupo applies everywhere else- it doesn't"!*

12.1 An overview from Bruce Thorrold

12.1.1 The science

Thorrold ... *"Barry Harris had enough science to get the ball rolling in the right direction, we could have sat around for another 10 yrs and not known a whole lot more, and we would have wasted 10 yrs and started from further behind the 8 ball."*

... "With the benefit of hindsight EW should have engaged with farmers privately before publicly releasing information. So the graph in the Taupo times that EW supplied (and media lopped off right hand edge showing highest N emitter was market gardeners), shouldn't have been run before they had 2-3 private meetings to warn and engage and listen a bit".

12.1.2 The right people, the right skills, the right attitude

Thorrold *"Getting this right is so important- get the right people in the room! Depends on leadership in all communities- technical/ research, farmers, regional and district councils. In this case there was strong leadership in each group and sufficient succession that leadership was not ultimately dependant on single individuals"*.

..."Leadership at the integrating level- communication, people skills. (Central Govt had the weakest continuity) Build succession, build redundancy in so not reliant on individuals. Build relationships and trust and ability not to spit the dummy, be willing to accept that things will go wrong. A bit of realism and a view that it's putting things right and learning and apologising".

..."Having people willing to say they are sorry- very important- "I got that wrong, I take your point, I haven't seen it from that perspective, I'll take that on board and I'll do better next time". Impress on everyone- farmers don't expect us to be perfect but expect to be told the truth. Tell them -if it doesn't end up that way, when you get it wrong, when it's not perfect- you have to tell them".."

..."Mutual respect- you have to build it, not being friendly- respect for their knowledge for what they are doing and for taking on new ideas etc. This could have been a group of 'non listening toxic shambles' - but it wasn't and why did they keep Fed farmers out? Because Feds never had enough at stake, their own agenda. Ours was to sort out for the benefit of

farmers in the catchment not to grandstand for the benefit of farmers throughout the country. So before you go in with the attitude that you will die in a ditch, make sure there isn't anyone in there with a spade just waiting to dig it for you! Or even more important, make sure you don't dig it yourself and then fall in it!"

12.1.3 Language and interpretation

Thorold ... *"You have to be so careful about the words that you choose! Words that one group of people will use in one sense- will be interpreted by another group of people in a way that is totally antagonistic and if you're not aware of that risk- listening and watching for it- you'll just bulldoze through it and wonder why you never get anywhere".*

"Understand other peoples' paradigms-what they mean when they say things".

.. "so that's what I did in those meetings- interpretation. Someone would say something and someone else would pick it up and run with it and often I could go – hang on you've misinterpreted what you've just heard- because I understand your side to know where you're going with this, and I know what they meant- so let's just bring this back and check this to make sure it's understood before you run off with it. That's what I did for the first six months- made sure people understood what they were discussing".

Bruce is previously quoted on 'being in tune with where decision makers are up to and choosing your ground'. His quote is repeated again here:

"Get good advice as to how process works- what will run here and what are the links and opportunities for your group to stick your oar in and get a good result. If you've missed an opportunity you don't actually gain anything by hanging around there, you've got to get out, let that one go and get ahead of the game again! "

12.1.4 Engagement

Thorold *"The key science lesson and first priority for EW was establishing the connection between things people value- The LAKE -and things that people were doing. That provided motivation for people to become engaged, because they could see (and they became convinced early on) that what they would be asked to do was actually important".*

"We are not seeing this in Karapiro and northwards –they haven't made the link between things people value and what they are doing! Make that link and then think about what you do about it! What everyone does about it- not just farmers- how do we design a policy that works, that protects the other values that society holds, that is as equitable as can be and gives farmers confidence that everyone is pulling their weight- that means enforcement!! "

12.1.5 'Social norming' and science

Thorold *"This surprised council early on- once farmers attitudes flipped from cant be us- to go OK, then that means you've got to get the bad buggers, everyone's got to pull their weight- we want enforcement in worst 5-10% , otherwise the next 20% start to cheat , and before you know it! We expect regional councils to clean up the bad buggers, otherwise we've all wasted our effort. 'Social norming'- law abiding people -if we believe everyone is following the rules then we will- if 2-3% population are not following- then it doesn't stop us- but when 20% start to go ...hang on...the social fabric un-ravels".*

Thorrold "So move from denial to engagement, attitudes change, (like reformed smokers).

"Science is providing proof that triggers/ shifts social norming. When people don't believe the science -then more N is likely to be produced, more cows run, cut trees down,because there is no link between what I do here and my ability to ski, row on Lake etc- its disconnected".

"Every farm's an island, I'm not contributing any impacts etc versus the other view of the world- that now I believe that the way I manage my farm, in conjunction with the way everyone else manages their farms, is important to me being able to go rowing, or to go skiing without weed round my prop and bugs in the water".

"So make that link, then you are able to do something about it! I'm willing to change, but also understand its we- not us- so everyone needs to change. Suddenly pretty big farmers are bad buggers- seriously disrupting my ability to farm and enjoying going waterskiing- then EW what are you doing about these people!- Its driven by social- hearts and minds-supported by science".

12.1.6 Thorrold summary

"It's taken twice as long as it should have; worn people down, but people have made mental shifts. After two years we had 90% sorted out. The rest was bureaucratic grind and deconstructive, people lose touch with the outside world and eight years of uncertainty is NOT OK!"

12.2 Regional Council- EW

12.2.1 RPV5 Implementation

I think EW's Justine Young summarises important issues here:

"Until you start somewhere to implement policy, you are just talking theory! I reckon we did well (all the TLC meetings) due to third parties like Bruce Thorrold who had the attitude of 'let's just get on and start somewhere, not get too complicated with the theory'. With anything new- Regional Councils seem to have the view they have to figure everything out to the 'nth' detail before they go anywhere, because they have to not make mistakes! And if they go out roughly without figuring out all angles they could get caned legally! "

..."This 'we can't until we are certain' resolve means we're not making progress! When policy and complex problem solving is this new & novel you don't know what the answer is. Its complex and you can't anticipate and solve it in a linear fashion- because people are involved and science and emerging information, it equals a tangled web of uncertainty and unknowns.

..."So starting to implement and get some real data has been hugely helpful- has made us feel more confident about defining permitted activity and the ability to use your best year for benchmarking-(versus the earlier proposed average of 3 years , which became 4 after the hearings and submissions process) was real data collection from farms. Bruce Thorrold said 'at last common sense prevails- that's what the farmers said'."

Young again *“I don’t think EW would have figured out how to implement a cap on Nitrogen unless we’d had all that consultation. The controlled activity rule in the plan – in essence was what was ‘nuttet out’ in those consultation meetings- put into planning & legal speak. Use overseer -looking forward using management plans- not backwards.*

... “the key thing is that it is the farmer that is the person best placed to know in the context of their farm, what is going to work and not work as far as staying within a cap. You’ve got to write the rule like that- that’s the KEY LEARNING on rules and N, and I see other regional councils thinking that they can define management practices for a farming system, and think that that’s an OK way to go!”

12.2.2 Consultation

EW’s Tony Petch – *“Stakeholders need to see the group leader, you can’t be remote, get your hands dirty they need to see the person who is behind this! Stakeholders need good access to politicians, where smaller meetings are more effective”.*

... “Enter with an open mind and be straight up with information sharing. Choosing the ‘low media profile’ bought a ‘rightness to project’. No surprises in the media but knowing we had to talk to our audiences, statements made were not always that supportive, but Ok as we knew they were coming. The types of people involved were very important, knowledge of area, history, open and clear thinkers in the face of huge challenges”.

EW re-iterated the ongoing importance of continuing to share and develop processes together; using the example of work needed re the Nutrient management plans proposed for all farmers to prove they were farming under their N cap.

12.2.3 Negotiation

Young *“The E Court process forces parties to re- examine their positions. I think it’s entirely possible to negotiate- (even before you notify the variation), with other parties if people are willing to negotiate and parties are open in terms of ‘position’.*

So we need to run a process which gets people to sit down and nut out what they are prepared to live with- without going through the court... EW Counsel Simon Berry says no you need Lawyers who are good negotiators. How do we get this to happen??”

12.3 Central Government

12.3.1 Timelines and detail

All the Central Govt officials agreed that everyone needs to be cautious around time lines- with multiple players and a cumbersome RMA process. They explained that Central Govt has limited capacity to engage in regional issues, they have analytical clout, but the more players involved, the more complex the engagement!

They also agreed that covering off the detail around the funding entity earlier would have been advantageous. Also noted was Central Govt (due to the electoral cycle) moves at different paces and speeds which affects other parties ability to capitalise on opportunities

They also agreed that covering off the detail around the funding entity earlier would have been advantageous.

Also noted was Central Govt (due to the electoral cycle) moves at different paces and speeds which affects other parties ability to capitalise on opportunities that may arise and “*sometimes because of timing you can't always drive to a solution*” says Tim Bennett’s.

12.3.2 Federated farmers

Bennetts noted that “*TLC and Fed farmers were generally a universe apart, as Feds were more concerned about precedent setting and what could happen elsewhere than what was really happening in Taupo*”

12.3.3 Taupo’s influence on Central Govt

Marian Hobbs explained “*MfE has scientists but most of all has negotiators because it is not an operational ministry- its operational arm is local government and to get anything to happen -has to happen thru RMA. Maybe a board of inquiry- like we did at Waitaki (re water flow) – bring down a land plan- all levels including Central Govt have a say. The board brings down a land plan. Would have consulted with all stakeholders- that could have been the way to go*”?

Hobbs told me Taupo had been a major influence on Central Govt environmental protection policy, with now establishing water teams and water quality programmes. Furthermore she re-iterated that a major factor in the Taupo project was that “*all the people working with Taupo were solutions focused. They didn't take stands! Most importantly- had known they had a problem- and needed to find a solution*”.

12.3.4 General comments

MAF’s Phil Journeaux astounded me when he explained that the Central Govt group never sat down and said this is where we are going and this is how we are going to get there. It was okay Central Govt’s involved, put up some cash and find our way forward.

Tim Bennetts words summed up those of many “*Partnership is a word that is easy to say – but in actual fact is bloody hard to do. The most important thing to do was to start, it doesn't mean we have to get it perfect first time, or do it all tomorrow*”!

On a wider note Jim Sutton states:

“*A lot of people in the labour party became much more aware of the issues- through Taupo and by extension of the impact of the rural Industry on water quality more widely. These struggles need to be joined over the decades by all mainstream political parties-the way in which Taupo was done (where we made sure National was onto it as well).*”

12.4 District Council

TDC’s Clayton Stent “*There are fundamental differences bet local & Central Govt- different demands, different agendas and outcomes and the two don't mix together naturally- you've got to bring those marriages together. So try and get Central Govt engaged as far as possible before going forward. Try to get as many ducks in a row as you can. Involve the Minister and*

try and rein in bureaucratic input- if you know where you are going try and get there without someone taking a piece of the rail out”!

... “This was a groundbreaking story-the issues presented and the ability for different layers of Government to work together on solutions- but also as a result of that novel process the throwing up of the issues that you’ve got to address when you try and partner off at different layers”.

This comment was shared by several interviewees as very good advice.

Stent ...“One assumes government talks and it doesn’t! It’s totally disconnected, every department is a silo, at all levels you presume departments will talk to each other on relevant matters, they just do not- in fact at times they work against each other! Make sure you understand at CG level all the relevant departments are briefed and understand their relationship with what you are trying to do! Don’t make the assumption that they know! “

Stent – “don’t deviate from the course that you’re following because of pressure- we lost ground and suffered delay from expanding out the partner group- it confused the issue. Once you get sign off from your peers- i.e. TDC, EW - and general terms from CG, just hammer it - don’t accept delay, because the sooner you can get structure in place and start moving the better . Be a bulldozer”.

Anne McLeod-“I would plump for the models chosen again and the decision for an independent CCO (Council controlled organisation) - the separation from EW is all the better for both the Trust and stakeholders. I learnt that MfE officials didn’t have a personal understanding of what it was to live here and have this problem hanging over you. In future I would ask more questions around continuity of information and decision making processes.”

12.5 Stakeholders – Farmer group

12.5.1 Representation

TLC’s Cottrell– “What is essential about getting a group together is getting the right people in that first committee mix. People that are going to be representative of the group, who have respect from the wider group, and are strong enough to be able to put a point of view across but can also work with other groups. In other words be forceful but also stop and take a breath as people around you contribute different points of view. Then look for other groups that want to work through the process and governance groups that are willing to try something new”.

An important lesson learnt for TLC was the need to take care when you have MEA’s in your organisation, that you are very careful how you refer to representing those MEA’s – this can cause major resentment within the Iwi as a whole.

12.5.2 What needs to be done

For the TLC management team we all thought (in the first three years in particular) we could have been better resourced to manage the media and public relations. The time and energy

required for key TLC people, represented a huge cost for a few individuals and at that time we were (as Richard Fox put it) *“all flat out and missed the ball a bit!”*

Cottrell- *“Groups need to recognise- they have to do some of the hard yards -look at historical data of where hard yards have been done in the past, to bring that to the table and be open and honest about it. EW were trying to say, this is not going to have the impacts these people are thinking it's going to have.”*

Graham Law – *“You can't stand back and let things happen!”*

...” Even though we disagreed we kept the process moving- but watch out you don't predetermine the outcome. Best policy is not necessarily easiest policy! We've had so many meetings, met so many people! We had a strong group of people prepared to front up and go places, e.g. Wellington. Keep up conversations, be professional, credible, logical thinking, reasonable- get others to take your ideas as their own.”

Richard Fox *“Always be prepared to man the barricades as a last resort. There's a time to get angry and thump the table- but don't do it all the time- pick your moment!”*

Cottrell –*“We knew there were issues we were not going to be able to resolve- without going to the E Court. Connecting all the landowner groups together under one roof was fortunate and needed to happen. We evolved well-succession occurred with the right people for the time- enough trust built up that people could see the whole perspective.”*

12.5.3 Communicate & Record decisions

Mike Barton – *“Recording in a more robust manner –the decision to work more constructively with EW- would have helped now as we have farmers who have only just realised what this means, suddenly want to lock the gates & feel TLC has let them down. Articulate clearly what going to the E Court really means for those that don't listen till the end”.*

...” “Increasing the frequency and content of our newsletters was a good thing. We learnt if want people to hang together we have to keep talking to them!” Keeping the group together involved key people and talking about joint submissions. We built on the thinking- had honest conversations- and worked together on joint submissions. We couldn't give up on combining forces of 90 % of farmers in catchment- too important it gives credence!”

12.5.4 Economic impacts

Barton *“It's an unrealistic expectation for private individuals affected by legislation for the greater good, to hold out for compensation. The modeling impact here is approximately \$1 million per farmer. Currently 7000 other farmers are about to be impacted by capping legislation over the country- therefore large amounts of money won't get past the politicians or urban voters”.*

...”“The process for me is about having real conversations- really honestly and openly outlining the impact of any legislation- means truly modeling the economics. In my view the Regulatory Authority has to be responsible for producing an economic impact analysis, peer

reviewed and accepted by all parties involved (like process caucusing scientists to try and get acceptance/ agreement at E Court) before we start”.

... “At least then we have REAL conversations with legislators and people affected and in the end people can make value choices. If we’re going to bang on caps region by region-to the point where the whole of NZ is affected- urban voters might say they want that – but when they realise that a litre of milk costs double what it does now- or farming becomes uncompetitive relative to other parts of the world-and shuts down -so meat wool and dairy produce gets imported, they may change their views. There may not be the same urban based pressures on regulatory authorities to bring about the change that they say they are being forced to do now”.

12.5.5 The next 10 years

Barton “We had to get what we can live with for the next 10 years and then use the following 10 years to really interrogate and firm up on the science-. My personal view is TLC’s role from here on in is to agitate for good science – once EW start the review in 10 yrs time a lot of the stuff that the whole process got away with –won’t be allowed next time- that gives me hope!”

Barton – “We are the first to be capped in the country, as near as science can tell us we are now farming in a sustainable way. We should aggregate all our production together and offer that to processors as a unique product. We should be working with all the Taupo hotels, restaurants, food people and only Taupo produce should be sold and marketed- as ‘Sustainably produced to Protect the Lake’ I’ve put that to the new economic forum in Taupo. If we can increase income from our produce, rather than accept slow strangulation!”

12.6 Stakeholders – Foresters and undeveloped landowners

12.6.1 The positives

LTFT’s Geoff Thorp - “Bridging the gap between Forestry and Farming Tuwharetoa Trusts- hadn’t really been done before. It was very useful for the tribe- some walls came down on both sides and opened things up for any future issues we have a mutual interest in”. Our flexibility map really set a precedent.

NZFM’s John Hura - “There is now more resolve within EW to get alongside Forestry. Some councillors personally were very anti-forestry. Now we have processes in place where we can engage. What’s changed is greater awareness of the issues and recognition of the environmental services that Forestry provides. It’s more the de-forestation issues that have assisted this - than being highlighted by the Taupo Nitrates case”.

12.6.2 Decision making processes

Hura – “Within Tuwharetoa we wanted to resolve issues internally. Some MEA’s funding TLC was a difficult point. The issue for most trustees and owners was on one hand I’m an owner in a farm – polluting and the other I am a forest owner. If you took into account undeveloped and forestry land owned by Tuwharetoa it would have come out below average emissions, so Tuwharetoa as a whole are subsidising everyone else”.

... "Tumu te Heu heu speaks on behalf of Tuwharetoa, but with MEA's land issues there isn't the ability to talk on behalf of... So MEA trustees get an understanding of what the issues are- so representing their individual trusts, and get information back to their shareholders by calling a Hui. Don't expect a Tuwharetoa person to make a decision, you must give information and allow time to go back to the Trust and if possible assist in information delivery".

Thorp "It is difficult for Tuwharetoa to participate until they are fully ready. Under law as Tangitawhenua they have special status. But that means different things in different situations - often when it's needed to explore that difference it is done in conjunction with other people".

... "Speaking for the people is very difficult –such a diverse group of landowners and Trusts and MEA's that we have to have a lot of meetings ourselves to come up with a voice. A lot of work goes into that. Tuwharetoa farmers accepted the Forestry and undeveloped position and we accepted their issues over N allocation/ overseer etc".

... So it's difficult for Tuwharetoa as to who is in a position to speak on behalf- it's a process of involvement to get to a consensus, very difficult, especially when levels understanding were quite wide. An important difference is the Forest Trusts are more focused, have regular meetings/ structure/ employ people etc. If similar things came up now then we would have round table meetings but it's difficult for Tuwharetoa with diverse impacts on different groups. So allow time to work it out amongst themselves - two processes going on same time".

12.6.3 Time and Money

Thorp –"In hindsight I wouldn't play along with EW – just take them to the E Court- you get no attention till then!"

... "But the cost was very high. Ours is a big organisation but our distribution costs represent around \$250/yr average per owner- so to spend their money in that way is not ideal. Perhaps we should have been more aggressive in seeking additional funds to get through".

Hura – "TIME – do it quicker- look at what was achieved in the E Court over a couple of months, deals were done! Once people had time to understand the issues of the various affected parties!"

... "EW want to socialise the benefits of Forestry but internalize the costs to the forest owner- that's the major inequity. It's all about environmental cost vs. economic return".

... "maybe we should have got media involved- gone public to force engagement, highlighted the issues"!

landowners, Farmers ,Policy makers, EW, TDC, TMTB, Ministry for the Environment and perhaps urban interest representation”.

... “ The Crown is a multi-headed beast- where the heads don't talk to each other!”

12.7 Stakeholders – Landcorp

Chris Kelly... “Try to get as few parties as possible (in these big difficult issues), responsible for driving the issue. If it had been Central Govt on its own-the deal would have been done! Maybe if it had been EW the deal may have been done as well-I'm not sure- but when you have four parties and TDC and EW scrapping like cat and dog... (I even had private meetings with them to say 'get together – sort it out because time is ticking by and we can't wait'.)”

... “There were too many players involved , too many vested interests, and too much time taken, because I knew that the longer we waited the more public it would get and the less valuable our land would become and frankly there wasn't enough bold, sensible, decision making”

13.0 Summary Conclusions- what can be learned for the future?

Having covered the lessons learned, from the stakeholder's perspectives - these are my conclusions, followed by what I consider are pertinent stakeholder summaries.

- Brave, forward thinking, passionate leadership is needed from stakeholders and affected communities. Having sound integrity, playing with 'open hands', recognising the wider implications and staying solutions focused are all essential qualities. Understand the issues and be able to articulate a clear vision, look for common ground and build trust and credibility.
- Building strategies for complex problem solving - using a consultative and collaborative common sense approach takes a lot of time and energy. Allow that time.
- Get the 'right' people in the room representing stakeholder and community groups. Strong communication and listening skills are needed on all sides.
- Build relationships and trust through regular well run and recorded meetings.
- Language is very important. Emotive language causes conflict.
- Bring in appropriate outside people to the team to assist, broker, interpret communication and to help propose new ideas and possible solutions.
- Keep meeting groups small, ideally under ten people and promote as much role consistency as possible, keeping staff and official changes to an absolute minimum.

- Encourage/ Foster/ Promote open and honest debate firstly within and later between sectors of stakeholders and affected parties. This is crucial to indentify the important key issues and to build relationships to progress any strategy.
- We know that the detail of the policy is incredibly important, but that seeking and continually gaining agreement on principles with ALL stakeholders and keeping to simple consistent messages helps keep the process moving forward.
- New policy development requires input from all sides and good collaborative common sense work done here saves time and dollars spent in the Environment Court.
- Good peer reviewed science is needed to back up claims. Science is crucial but not constant and new and ongoing research should be promoted. All groups should be involved in trying to look ahead at the need for relevant research answers.
- All groups of stakeholders and affected parties must be heard and the proposed intervention impacts recognised.
- Every stakeholder's position should be understood and able to be articulated by others. Put yourself in their shoes. Don't presume to guess another stakeholders position or strategy, build trust and ask and work towards seeking possible solutions together.
- Understand the need for time and process when dealing with Maori landowners and representatives.
- No matter what stage in the strategy or RMA process, keep talking/ meeting regularly with all parties. Continue to forge stakeholder and community relationships and go back to these groups for ideas and agreements right through each phase including implementation. It is the process, not the intervention that is important to gaining agreement from all stakeholders to a solution strategy.

Without strong leadership and commitment (shown by the majority of parties in this case and a large number of individuals) to building relationships and trust, there would be even more disaffected parties here in the Lake Taupo catchment and potentially an already dirtier lake.

13.1 People

TLC's Bob Cottrell - *"The whole success or outcome of this is about people- about getting people to buy in to the outcomes you are trying to achieve. The people who live here (rural and urban) are the ones who need to design the outcomes for what we are trying to achieve."*

..." People need to be involved in making environmental solutions work- rather than rules and regulation- until we get to that stage as a Nation- we as farmers have got to protect the environment with what we do, and we've got to see other people's points of view and work constructively to make it work. If we are bound to rules and regulation then they will always be bent/ broken, and people will not be totally behind the true objective of what we are trying to achieve".

13.2 What's needed?

Jim Sutton- *"You can't walk away from the evidence that slowly but surely we're destroying the clarity of the lake water, and there is unanimous approval to do something about it. Not a view you could put dollars and numbers on- trying to achieve a community consensus around the lake to constrain polluting activities to a point where harm is mitigated, or at least stopped from getting worse, and hopefully start to recapture what we've lost already"*.

Sutton's reaction to stakeholder's issues and difficulties.

"Keep talking through the policy development stage. Try to engage effectively together- look at the science- strike a reasonable compromise that allows us to attain the objectives of protecting the lake."

I asked him-*"did that happen?"*

Sutton- *"We're not quite there yet- still a lot of money to be spent there- is it going to be enough? Not by a long shot! We committed \$80m -enough to take it seriously, and when people want more seen - more doesn't seem so bad at all-they've got used to the pain! In the bigger scheme of things it's got to be better spent- than pollution remediation"*.

13.3 Public vs. Private good

Sutton *"There will always be an abrasive engagement between land user and other commercial interests and the wider public interest in keeping particular environments relatively pristine . There will continue to be friction on that front-its non avoidable"*.

"So the nearer there can be to a consensus within the community, and between the community and the mainstream political parties, about where the balance of property rights lies- that's important. So continual engagement is needed. That's as much why I was alongside the Environment Minister- as well as a farmer and Cabinet Minister. I can dwell in parallel universes reasonably comfortably- in the end those worlds collide ,as they will from time to time".

13.4 Policy recipe

Thorold *"If you want to manage collective issues, make the link between what they value and what they are doing and get people engaged to construct policies which provide/ allow for multi-factorial things, cultural, social, spiritual, economic, infrastructure, water quality, landscape values. It's not just about water and qualities of water"*.

"We need to develop policy, have flexibility built in and implement it in a way which actually empowers and motivates individual people to do their bit. To contribute to the greater outcome"!

13.5 Goodwill and then there's the detail...

Tim Bennetts *"This wasn't a dairy issue- peoples impressions are often that it is a dairy issue. It's a very sensitive lake combined with porous soils so that even modest scale and intensity farming can have a pretty potentially serious effects. If we can ever hope to manage*

any sensitive and at risk catchment, if we can't try in Taupo with the desire and level of goodwill there- then we'll never do anything anywhere!"

The challenges haven't receded as we head into the implementation phase of the strategy to protect the Lake, but as we look back on the last 8 years in particular- there are important points and achievements to recognise for this strategy and others to follow.

Former Taupo District Mayor Clayton Stent sums up well when he talks about the strategy.

"The fundamentals are still the same and everyone bought into that- which was the major thing. The community, the farmers, foresters all said 'We know there's a problem with the lake- let's do something about it'! The devil was always going to be in the detail and still is".

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Appendix A

List of Interviewees:

1. **Barber**, Faith., EW benchmark analyst from early 2007 to current.
2. **Barton**, Mike., Farmer, TLC member from 2003. Chair TLC from 2005 to current.
3. **Bennetts**, Tim., Environment Advisor to Marian Hobbs July 2001 –Dec 2004, and then Ministry for the Environment Senior operator. Involved in CG negotiations with others partners and stakeholders.
4. **Cottrell**, Bob., Farmer and farm supervisor. Founding TLC Chairman from 2000 to end of 2004. Chair of TLC consulting team throughout consulting phase.
5. **Fox**, Richard., Ex farmer, Chair of the Puketapu group of Maori Economic Authorities. Consulting team member TLC till end of 2004.
6. **Gow**, Lindsay., Deputy CEO Ministry for the Environment. Joint Committee and Partner Group member from 2004 to 2006
6. **Hobbs**, Marian., Minister of the Environment from 1999 to 2005. Crucial involvement with project at early stages.
7. **Hura**, John., Planning Manager NZ Forest Managers. Chair Nui a Tia Management Board. Chair of a Moerangi/Oraukura (Maori Economic Authority). John along with Geoff Thorp represented the forestry interests of Tuwharetoa at partnership and stakeholder meetings and discussions from process start to present day. Founding and current Lake Taupo Protection Trust trustee.
8. **Journeaux**, Phil., MAF Senior Policy Advisor. Involved as part of CG team assisting in advice to Ministers and writing of cabinet papers from December 2003. Current Joint Committee member for CG.
9. **Kelly**, Chris., CEO Landcorp Farming Ltd from 2001. Stakeholder with approx 20% of the pastoral landholding in catchment.
10. **Law**, Graham., Dairy farmer, founding TLC member and consulting team member. Chair TLC end 2004 to 2005. TLC committee member through E Court process.
11. **McLeod**, Anne., Deputy CEO Taupo District Council. Started with project for TDC in January 2003 with background from prior work at EW. Represented TDC at all partner meetings and discussions to present day.
12. **Park**, Simon., Ministry for the Environment Official. Represented Ministry for the Environment for some of the consulting phase TLC/ EW. Primary author/co-coordinator 1st and 2nd cabinet papers re CG funding. Left Ministry for the Environment end of 2003.
13. **Petch**, Tony, Dr., Group Manager Resource Information, Environment Waikato. Tony was involved from the inception of this project and led the consulting team for EW with stakeholders, and the partnership discussions with TDC, CG and TMTB.
14. **Reeve**, Jocelyn., TLC Secretary from October 2004 to current, TLC member and part of TLC management team that took case through to E Court.
15. **Ryan**, Derek., EW founding benchmark analyst using Overseer to benchmark farm NDA's from October 2006 to current. Coal face of EW policy implementation.

16. **Stent**, Clayton, LLB. Mayor Taupo District Council 2002-2007. Represented TDC at all stakeholder and partnership meetings.
17. **Sutton**, Jim., Minister of Agricultural during majority of projects early stages to 2005.
18. **Thorp**, Geoff., Forest and Land Manager LRFT. Represented forestry interests of Tuwharetoa Trusts in negotiations from start to present day.
19. **Thorrold**, Bruce, Dr., Former senior Scientist AgResearch then Dexcel. Bruce supported the EW/ TLC consulting process as an independent advisor on practical farm and science matters in development of policy, including being a witness in E Court for TLC.
20. **Young**, Justine., EW Policy Planner, consulting team member EW with all major stakeholders. Active role throughout and including E Court phase.

Appendix B Lake Taupo- an Investment for the Nation

LAKE TAUPO



HANDLE WITH CARE

"It is hereby declared that the provisions of this Act shall have effect for the purpose of preserving in perpetuity . . . for the benefit and enjoyment of the public, areas of New Zealand containing scenery of such distinctive quality or natural features so beautiful or unique that their preservation is in the national interests."

—N.Z. Statutes, Vol. 10, p. 737.

LAKE TAUPO

(Taupo-nui-a-Tia)



AN INVESTMENT FOR THE NATION

Proposals by the Taupo County Council for the preservation of Lake Taupo as a national reservation following a report by the council's investigating committee and a description of the areas.



The peace and tranquillity of the Western Bays of Lake Taupo where native bush and scrub make an impressive back-drop to the jewel-like setting of the lake.

A matter of increasing concern in the central lakes district of the North Island, and particularly in the Rotorua area, is the contamination of streams and lakes as a result of urban and rural settlement.

In some cases, the point of no return has been reached and there is now no possibility of achieving a return to satisfactory standards of clarity.

At present one of Lake Taupo's most priceless assets is its crystal-clear water. In view of what has happened almost imperceptibly over the years in Rotorua, every branch of Government and local government, every private landowner and citizen has a responsibility to protect Lake Taupo and maintain its unique quality.

It is not too late to adopt a firm policy on this question and the object should be preservation of absolute purity.

There can be no compromise if this is to be achieved.

BOLD CONCEPT

The present reserves on the 120 mile shoreline of Lake Taupo total only 2000 acres.

This proposal envisages the establishment of a national Lake Taupo Reservation with areas of reserve, including stream edges, totalling 50,000 acres—a bold concept designed to preserve for all time the lake and shores in the public interest.

Large as this figure seems, it is minimal when compared with the staggeringly large areas planned to come into farm production—more than a quarter million acres

within a decade by the most conservative estimates.

It was because such a special wilderness area existed alongside Lake Taupo that the Taupo County, recognising the need for preservation, set up a committee of investigation. It was aware that a part of the lake shore lies within the Taumarunui County and Taupo Borough boundaries and sought a co-ordinated policy with those bodies. Each local authority has expressed itself as being in agreement in principle with the plan.



This is a comparison to scale between the area of the present reserves around Lake Taupo and that of the proposed Lake Taupo Reservation.

AN INVESTMENT

It has been said that the proposals for the preservation of Lake Taupo are similar to a prospectus for an issue of shares in an investment company.

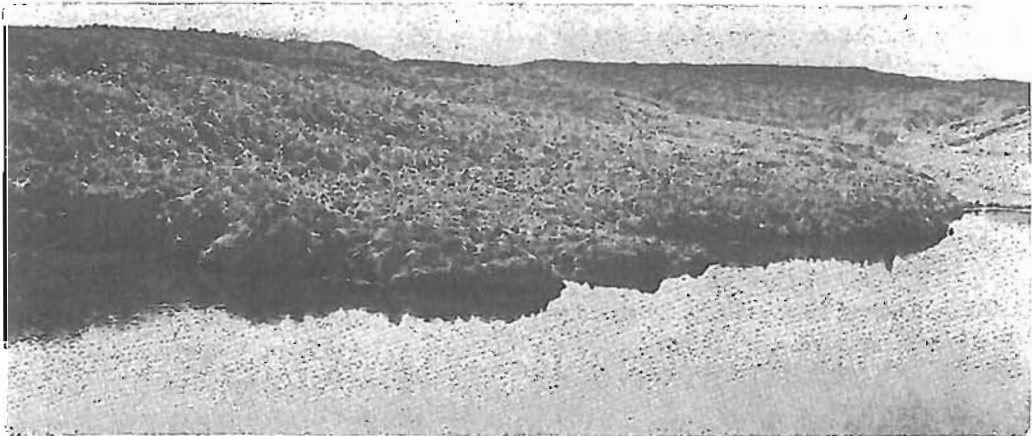
If so, the analogy is a good one. Because every New Zealander will share in the benefits from an investment of this nature.

Dividends will be paid in enjoyment of the clear, sparkling waters of the lake, in the guarantee that future generations will not blame the present one for lack of fore-

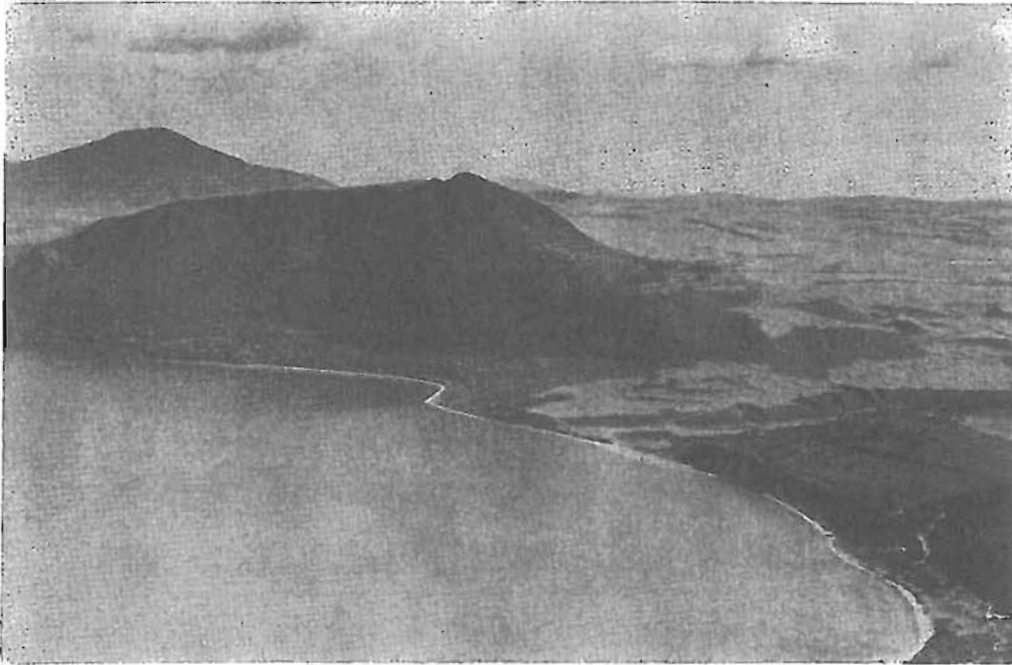
sight in the same manner as we criticise the pioneers for burning off hundreds of thousands of acres of native bush.

In cold hard cash, there will be dividends in the increased production from land which does not flood and erode; dividends from the growing tourist trade; dividends from the increased value of land throughout the Taupo catchment. Healthy, active people with a place in the sun will benefit from better access to the lake and New Zealanders as a whole will come to regard Taupo as their own special playground.

Steeped in the clear, sparkling waters of Lake Taupo, this glorious bush-land should remain as an asset to the whole of New Zealand.



THE PROBLEM



With stream-beds and lakeshore denuded of their natural cover, run-off into the lake automatically follows, as this aerial photograph of part of the Western Bays graphically shows.

New Zealand's largest body of inland water—Lake Taupo—is the centre of a magnificent recreation and playground area, catering to sportsmen and beauty-lovers alike.

Ski-ing, climbing, boating, shooting, fishing, swimming and water ski-ing enthusiasts in their thousands use its facilities every year. More photographs are taken, more pictures painted and greater lengths of movie film shot of the Taupo-Tongariro area than of any other tourist centre in New Zealand.

Yet these attractions are doomed to slow and insidious destruction unless active measures are taken to preserve them.

Development of farmland round the shores of the lake, together with urban and industrial building, is accelerating the natural enrichment, encouraging weed growth and pollution of the water to the stage where most of the attractions could soon be lost.

Already shorelines and streambeds have begun to deteriorate. Huge areas of natural cover have been stripped from the lake's catchment.

Some reserves set aside for the benefit and enjoyment of the public have been converted to grassland.

Tons of fertiliser, weedkiller and poisons are spread along the lake's shores each year, bringing about unnatural changes in the cycle of underwater growth.

THE SOLUTION

Progress cannot be stopped. Nor can damage be undone. But measures can be taken to prevent further inroads being made on the natural cover of the catchment.

Needless waste of beauty, unnecessary destruction of fish and bird life can be brought to an end.

It is the considered opinion of the Taupo County Council and of its investigating committee that the only way to preserve both the waters of the lake and the scenic beauty is to throw a ring of reserves around its shores.

These reserves will help to filter out the nutrients and poisons, provided they are continued up the banks of the rivers and streams. At the same time, they will add immeasurably to the beauty and usefulness of the area.

If New Zealanders (and overseas visitors) are to continue to enjoy the use of the lake, the proposals of the council must be carried to their logical conclusion.

Instead of farming the land in the lake catchment, making use of its every commercial prospect, there must be a careful, controlled plan of development with a leavening of appreciation of the value of the beauties of nature.

The land must be used. But it must be

The ugly scars of erosion have begun to deface the once beautiful valleys covered with nature's greens and golds.

Already the Waikato Valley Authority has had to plan the rehabilitation of some of the worst-hit areas within the lake catchment, repairing the damage done by man.

used wisely. Instead of bare grass, there must be areas which will protect the lake while they produce. In a word, this means timber. Forestry experts say the land will, over a given period, produce greater returns from trees than from grass—or at the very least the equivalent.

Reserves, forests, woodlots and bush areas are the answer to this problem. Trees will give back the lovely colours of foliage while producing timber for the nation.

This, then, could be the mainstay of the reservation scheme: small areas of forest alternating with open farmland would cut the cost of protecting the land and the lake to almost nothing.

Controlled growth, with subsequent cropping and replanting of timber, would be an asset in perpetuity. It would provide an income and occupation for many people, at the same time enhancing the scenic value of the area, while protecting the waters and life of the lake.

With reserves up the banks of the streams and with the whole shoreline of the lake set aside for the enjoyment of the public, we would never face the depressing prospect of Lake Taupo deteriorating in the same rapid fashion as have other New Zealand lakes.

STEEPED IN HISTORY

The surrounds of Lake Taupo are steeped in Maori history and lore.

After ousting the Ngati Hotu from the western side of Lake Taupo, the Kurapoto tribe set up a pa at Wai-pahihi. From there, a section of the tribe pushed on further south, capturing Te Taraotemarama and Otuteto at Roto Ngaio.

Later they went on to Hatepe, wiping out the Okehu pa and two at Motutere, Te Poporo and Poutu. They subjected Horotanuka at Tauranga-Taupo and sent the people to live in another pa, inland from Korohe settlement.

Several generations later, Tuwharetoa's sons came and took further land from the Ngati Hotu, settling themselves at Tokaanu, Waihi and Ponui.

There have been ten pas between Taupo and Rangitira Point since the Maoris came to Lake Taupo. Between Waipahihi and Motuoapa, there were 27 along the lake shore and 14 others inland, all occupied at different stages by the peoples of three tribes.

There were six pas along the lake between Motuoapa and Waihi and five inland. Beyond Waihi to the north were another six pas, the most important being Pukawa, Te Heu Heu's residential pa, where the Rev. T. S. Grace established a mission station. Te Heu Heu also had two fighting pas in the delta area of the Tongariro River.

It was at Pukawa that the Maori King movement was organised, but Te Heu Heu showed no interest. In 1859, the Maoris chose to set up Potatu Te Whero-where, a Waikato warrior, as king.

There were also large pas at Kuratau and Whareroa and three smaller ones toward Karangahape Heads. There appears to be no record of other pas inland around this side of the lake, but there were another fifteen between Karangahape and Rangatira Point.

In all, there were between 60 and 70 pas around Lake Taupo known to Europeans.

The site of the oldest known Maori occupation is at Whakamoenga, where the navigation light is near Rangatira Point. This is known to have been occupied by the Moa Hunters.

The land is now privately owned and a house has been built there within the past year. At this spot there is a cave of historical interest.

Perhaps the place of greatest historical interest around the lake is Motutaiko Island. Once another fortified pa of Te Heu Heu, it later became a tribal burial ground.

Its archaeological importance is due to the occurrence of rock-faced platforms, presumably built for living space, which is a link with the islands of Polynesia.

Next in importance would be another site in Whakaipo Bay where rock walls are to be found.

At Totara (or Orona), Halletts Bay, is the site where Tia likened the cliffs behind the bay to the border of his cloak, Taupo. The name Taupo-nui-a-Tia means the great cloak of Tia.

Halletts Bay is also the site of the first mission church. It was built of raupo by the Rev. Thomas Chapman, the first European discoverer of Lake Taupo, who walked over the Maori trails from Rotorua in 1839.

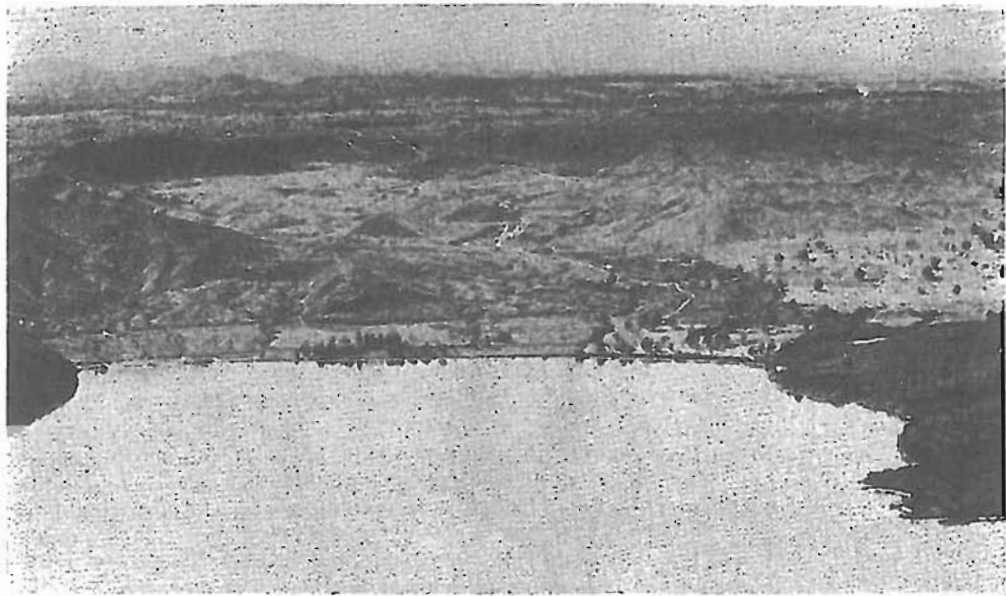
At Roto Ngaio, there is a spring beside which the rebel leader Te Kooti's son was born. This son is believed to have been the first Maori killed in World War I.

A series of ochre designs at Te Kauwae Point at the head of Kawa Kawa Bay probably mark burial places. There are others at Whakaipo Bay, near Mason's Rock, and Te Papa, near the Waikino Falls in the Western Bays.

The Dogs of Tamatea at the Karangahape Cliffs are also historically important. Because of their sacred nature they are tapu. Maoris do not like looking at them for fear of misfortune.



Urban and industrial development and bare grassland right to the lake's edge are putting an impossible pressure on the ability of the lake to absorb the polluting wastes from these sources.



THE INESCAPABLE FACTS

The pressure of people on the recreational facilities of the Lake Taupo area can be gleaned from some of the reports of Government departments, sports bodies and other groups.

• Last year, over 500,000 people visited the Tongariro National Park for one reason or another.

• The State is currently spending £91 million on hydro, geothermal and land development projects within the Taupo area. This influx of public money brings with it people, people who want to—and do—use the facilities of the lake.

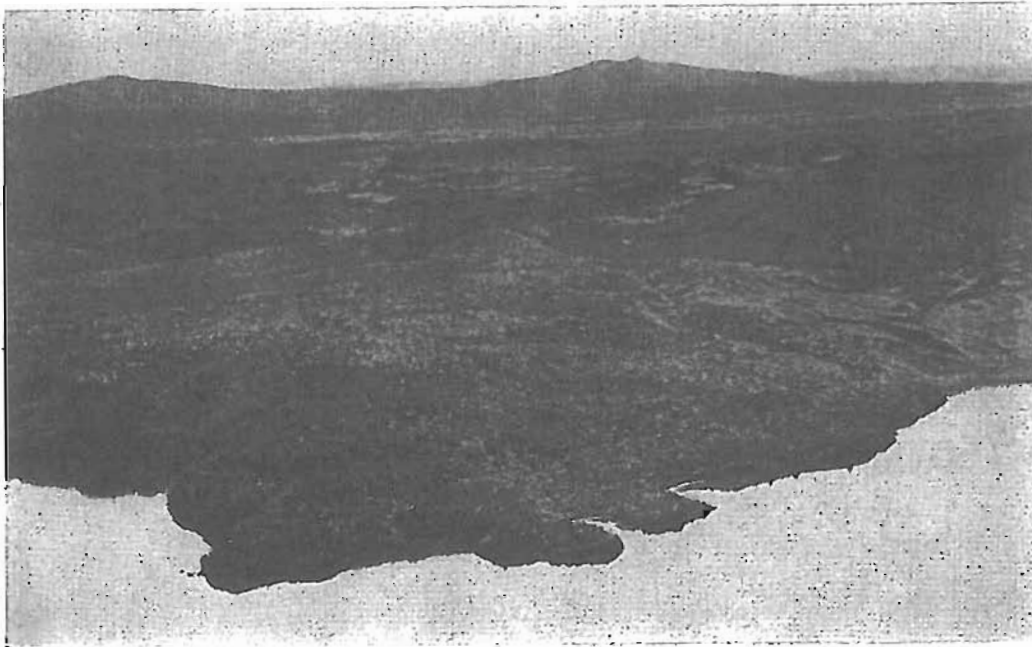
• Taupo district population has risen dramatically in the area of the lake's watershed over the past five years.

Ministry of Works estimates a population in Turangi alone of over 12,000 people by 1968. Ancillary services will boost this total to more than 14,000 men, women and children.

Every Christmas—and indeed during every holiday period—the population around the lake increases sharply. At Christmas this figure reaches more than 40,000 by the most conservative estimates.

Over a quarter million acres of land are scheduled for development around the shores of the lake, a development which will result in 1400 farms being settled.

And so the pressure on Lake Taupo goes on, a pressure which would result in disaster if development is allowed to continue unplanned.



The quiet beauty of Boat Harbour contrasts strongly with the photograph on the opposite page.

PRESERVATION AND THE TOURIST

Perhaps some New Zealand holiday-makers visiting the lake would not be upset at the possibility of man-made landscape replacing the natural cover. But the overseas tourist is generally much more sensitive to these matters.

He will appreciate unspoiled wilderness areas, but will react quickly against scenery despoilation through crude farm development methods. To develop tourism, we

must conserve that which can be found nowhere else in the world.

If the preservation of scenery were the only factor in retaining the native cover in the Western Bays of Lake Taupo, a comparatively narrow strip would suffice in some places where high cliffs rise out of the water.

But there are many more reasons than just tourism.

TROUT AND THE FISHERMAN

Taupo is famous, not only in New Zealand, but throughout the world, as a resort for trout fishermen. It is estimated that 1,250,000 lbs. of fish are taken out of the lake and streams each year.

In the face of depletion on a scale such as this, Taupo must rely on the natural spawning grounds for restocking. It would not be possible to replenish the stock artificially and, indeed, Lake Taupo is the breeding ground for many other trout fishing areas in New Zealand and overseas.

The streams are of vital importance.

If the natural spawning grounds became silted up—and this is happening—washed

out, or denuded of vegetation and exposed to the direct rays of the sun, the output of fish from the lake would decline rapidly.

For this reason, the preservation of the headwaters of certain streams is essential. Already much has been lost through ignorance and neglect where streams have passed through developed farmland.

The number of streams which will allow fish access to headwaters for spawning is limited, particularly on the Western side of Lake Taupo. Nothing less than a complete reservation is satisfactory in these areas.

WILDLIFE

With progressive draining and reclamation of swamps throughout the country, many thousands of acres of habitat for wildfowl have been lost with corresponding loss in the number of birds. It is important, therefore, that suitable swamp

areas be selected at intervals for reservation and permanent retention.

If left in private hands, they could be drained over a period and certain species already scarce could disappear entirely.

SUBDIVISIONS

Access to the eastern lakeshore from the State highway has been relatively easy, so that the easy nature of the ground has led to the establishment of a number of holiday settlements. Provision is made for settlements at Poukura, Kuratau and Omori under the Taumarunui County's district planning scheme.

Access to the Western Bay area has, however, been limited to an approach by water, and, owing to the precipitous nature of the ground, is likely to remain restricted in spite of the new Western Access highway.

There is a strong case, therefore, for retaining this area in its natural state with

very limited road access and residential subdivision, planned to harmonise with the natural fall of the land. Access to the various beaches and fishing rivers could be by boat only as at present and visitors could be accommodated in camps, cabins and lodgings.

Substantial areas of residential zoning have been provided under the restricted district scheme at Whangamata in the Taupo County and at Poukura, Kuratau and Omori in the Taumarunui County.

It is expected that these areas will absorb the demand for holiday sections on this side of the lake for a long time to come.

OWNERSHIP

The reserve areas suggested are at present mainly in Crown and Maori ownership.

Detailed valuations of the land concerned are being sought by a committee of Cabinet investigating these proposals.

It is clear the cost will be considerable and will increase as time goes by and the pressure on land for urban development builds up.

In many instances, full residential values for land in remote bays would only come about with improved access. However, the owners will expect—and be entitled to receive—a fair price at rather more than rural values.

There would be a clear advantage from the national point of view in the early purchase of the proposed reservation areas.

However much land was acquired for this purpose the residual blocks, held largely by Maori owners, would increase tremendously in valuation.

But it should be made clear that there is no intention to deprive the owners of their rightful heritage. Many are in accord with the scheme and appreciate the need to preserve the waters and shores of the lake, yet maintaining a source of productivity from the land.

Their interests will be aroused by the plan to establish forest farms, which will return as much per acre over a given period as the equivalent area in grass. However, this scheme can only be successful with the co-operation and goodwill of the Maori owners.

SOIL EROSION

The disastrous result of denuding the land by farming and development practices are only too well known in this country. In some areas, indiscriminate burning-off and destruction of the natural cover over the years have increased the run-off to such an extent that the resultant soil-erosion and flooding are being brought under control only at the cost of considerable time and labour.

In special cases, where spawning streams are important, it is necessary to place a reservation over the entire headwaters of the streams and rivers entering the lake.

It is most desirable in the case of the untouched streams in the Western Bays to protect them from any sort of development activity.

Mistakes through burning and bulldozing so often occur.

An instance of silting-up in the lake itself has already occurred under the Waikino Falls as a result of road building activities

further inland. A sandbank now occupies water which was originally 15 feet deep.

Adequate reservations must be maintained on both sides of the streams to act as a buffer zone from farm areas and delay run-off so that the spawning areas are protected.

A buffer zone is also necessary at the top of the steep slopes covered with native bush, since the root structure of most native trees is not sufficiently fibrous to prevent serious slipping and erosion where run-off from adjacent farmland is excessive.

While planting and other water-controlling practices could correct mistakes from ill-considered development, the effects of even temporary removal of natural cover should not be risked in the Western Bay area.

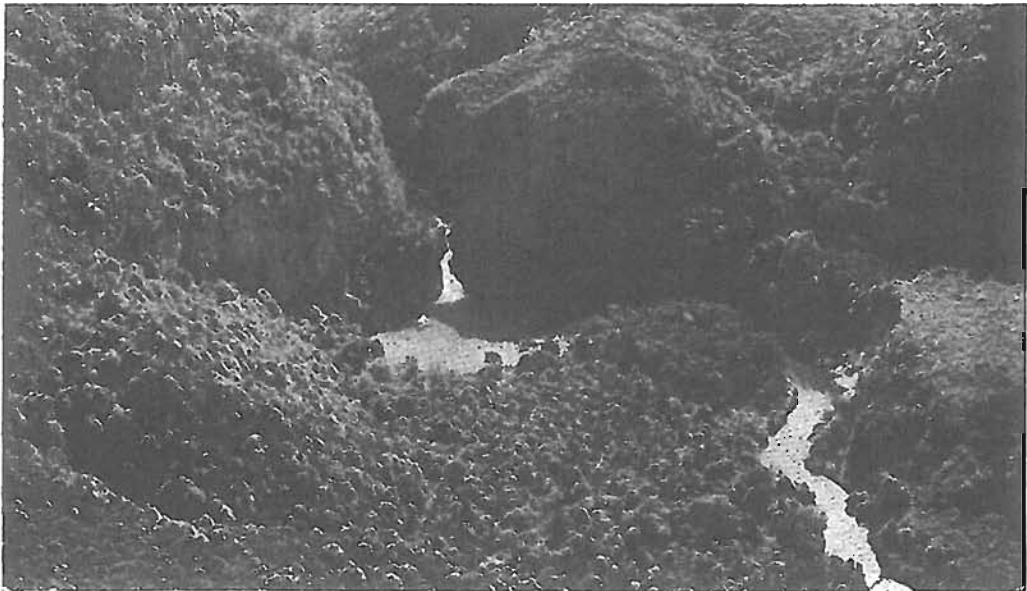
There is no substitute for native bush and scrub from the point of view of conserving water resources alone. In some instances, reservation is justified for hydrological reasons alone.



Good production now — but disastrous for the future.



*Slow regeneration of native cover where man-made fire has passed.
Below: The adjoining area still in its natural state.*



This booklet is dedicated to both European and Maori people and is published by the Taupo County Council for the purpose of preserving an irreplaceable natural asset—Lake Taupo and its surrounding streams. Very widespread support of the principle has been received from many institutions and a large section of the public throughout New Zealand and also from adjoining local bodies, Taupo Borough Council and Taumarunui County Council. Gratifying also is the foresight and co-operation evidenced by the Tuwharetoa Trust Board and other Maori leaders, who also agree in principle and, quite rightly, will seek just compensation for all affected. Appreciation of the initial work of the investigating committee and those who contributed to its report is acknowledged. A special "Thank you" to the Press and NZBC television crews for their New Zealand-wide publicity. Their continued support will, I am certain, see the proposals to a satisfactory outcome.

Last, and by no means least, tribute is due to the council and its executives, who have spent long hours on this project. Their unanimity augers well for the successful outcome of what may be termed a National Crusade.

September, 1965.

H. M. BESLEY,
County Chairman.

Buy my English posies!
Here's your choice unsold!
Buy a blood-red myrtle bloom,
Buy the Kowhai's gold
Flung for gift on Taupo's face,
Sign that spring is come—
Buy my clinging myrtle
And I'll give you back your home!

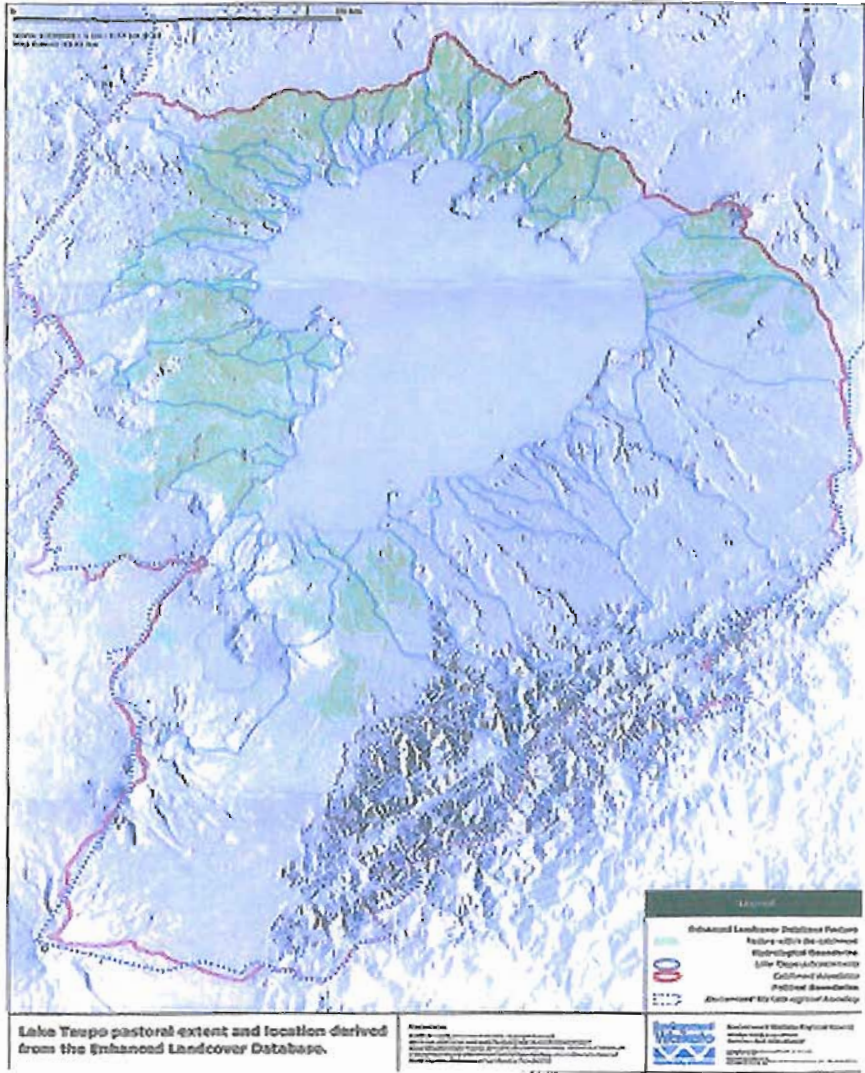
Broom behind the windy town; pollen o' the pine—
Bellbird in the leafy deep where the ratas twine—
Fern above the saddle-bow, flax upon the plain—
Take the flower and turn the hour, and kiss your love again!

—*The Flowers*

RUDYARD KIPLING

Appendix C - Pastoral Land Use of Lake Taupo catchment

PASTORAL LAND-USE OF LAKE TAUPO CATCHMENT 1997



Memorandum of Understanding for Taupo Lake Care and Environment Waikato Consultative relationship

Background

On 26 April 2001, Environment Waikato confirmed that it would maintain water quality in Lake Taupo and notify a Variation to the Proposed Regional Plan by mid 2002. Environment Waikato also confirmed that it wishes to work constructively with affected parties, and support approaches to Central Government for assistance. Staff were directed to discuss and agree on a process with Taupo Lake Care (TLC). Meetings were held on 26 April and 18 May 2001 where the following principles were agreed.

Purpose

Environment Waikato will work with TLC to get the best policy outcome, so that policy to maintain Water Quality in Lake Taupo is workable and equitable for all affected parties. The group will meet to discuss and formulate a draft policy and implementation framework that best meets TLC's and Environment Waikato's positions and aims. Agreement is a key aim for both parties.

Acknowledgement of respective positions and aims

TLC members wish to maintain:

- a) Water quality in the lake; and
- b) Long term viability; and
- c) Flexibility for their farming businesses.

Environment Waikato wishes to:

- a) Maintain water quality in the lake through sustainable catchment management for future generations; and
- b) Achieve acceptable and workable policy for all stakeholders by Mid 2002

Membership of group

TLC Bob Cottrell, (Chairman), Sue Yerex, (Secretary), Wiari Rauhina, Graham Law, Richard Fox, (with the right of substitution from within TLC to replace a member if needed). TLC represent private farmers, Maori land owned by trusts and incorporations in the catchment and Corrlands: (approximately 80% of the farmers and covering more than 80% of the land area impacted). Notable exceptions are lifestyle block owners and Landcorp. TLC reserves the right to bring individual specialists (on contract to TLC) in an advisory capacity, to assist in some of the more difficult areas of consultation. TLC must go back to their wider group for a mandate on major decision issues.

Environment Waikato: Tony Petch, Tony Fenton, Justine Young, Bill Vant, Bruce Thorrold (on contract to Environment Waikato). Environment Waikato staff cannot negotiate the water quality goal, but can speak on behalf of Council when details of policy options and implementation are being discussed.

Key aspects of the relationship:

- Trust in the integrity of group process
- All participants have an equal contribution to the debate and process
- The confidence of each parties wider group is maintained, with two way communication of the discussion and outcomes to that wider group and then back to the consultative TLC/Environment Waikato group

Venue, timing and output of meetings

- Meetings will be held at Environment Waikato Taupo offices.
- Timing may vary, but indicative monthly meeting May 2001 – March 2002. Further meetings to be scheduled as and when required to meet agreed timeframes.
- Preferable meeting times are mornings 10 – 12.30 with lunch provided by Environment Waikato, and early evenings 6-8pm.
- Agendas for forthcoming meetings are to be agreed between both parties prior to the meeting.
- Sum up at end of each meeting where TLC and Environment Waikato are, – what is agreed, what needs work, what research and networking to do before next meeting and what is confidential fill taken to both TLC wider group and Environment Waikato Councillors and other technical advisors
- Bullet points/minutes to be taken of each meeting on the electronic whiteboard, agreed as an accurate portrayal of that meeting and circulated within one week of the meeting. Any agreements made to be well documented throughout the process.
- Environment Waikato Staff will keep Councillors informed at regular briefings, through reports/discussions at workshops and Policy Committee
- TLC will be invited to attend relevant Policy committee meetings and speak to Councillors directly on issues relating to Lake Taupo Water Quality.
- Environment Waikato and TLC will exchange media statements concerning the TLC and Environment Waikato consultation and issues under discussion before they are released. Environment Waikato and TLC may issue separate media statements covering other aspects of the Lake Taupo variation process and forward these to each party as a matter of courtesy.

25 May 2001

Signed on behalf

Bob Cottrell
Chairman TLC

Tony Petch
Group Manager Information

Office of the Minister for the Environment

The Chair
Cabinet Policy Committee

Water quality and sustainable development in the Taupo catchment

Proposal

1. This paper sets out a rationale for central government interventions to protect Lake Taupo and underpin sustainable development in its catchment.
2. The proposed option is a joint fund that would be governed by a government/private partnership between the Crown, Environment Waikato, Taupo District Council and Te Whaiti. The fund should be treated with the primary objective of reducing nitrogen inputs to Lake Taupo at the lowest cost.
3. It is recommended that the Minister of Agriculture and Forestry a policy package based on partnership with local government and Te Whaiti, with a negotiation envelope described below, and subject to final Cabinet approval.

Executive Summary

- Lake Taupo is threatened by nitrogen losses from farms and urban land.
- Current nitrogen losses from farms and urban sources need to be cut by 20% simply to maintain current water quality (up to long term).
- Government of the environment public conservation land and pastoral land holdings in the Taupo catchment (groups of landowners and two prison farms).
- The lake is a source of recreation who own the lake bed and tributaries. Townshires affiliated economic benefits (economic) of this surrounding land. Treaty obligations relate to both the land and the lake.
- Lake protection would safeguard economic benefits to tourism which outweigh the costs to the farming sector of nitrogen reductions.
- Solving the environmental and economic challenge is also an opportunity for strong central Government leadership within the Sustainable Development Programme of Action.
- An effective and enduring solution needs a mix of:
 - o Regional plan rules to "cap" but not cut current levels of nitrogen loss
 - o A joint fund to convert some land to low nitrogen uses to meet the 20% reduction target
 - o Sewage and septic tank upgrades
 - o Research and advisory services to provide improved economic opportunities for landowners who continue farming under a nitrogen cap
 - o Political commitment and leadership

and natural resources

The cost of landuse changes to reduce nitrogen losses should be met collectively by district, regional and central government in order to get a cost-effective, transparent and equitable solution.

The estimated cost of changing land use, distributed across three tiers of government, is \$5.9 (2X1).

I recommend that Cabinet mandates Hon Jim Sutton and myself to negotiate, with local government and Te Whaiti, a policy and financial package to reduce nitrogen losses from farms by 20%.

The fund package will be submitted to Cabinet for approval once negotiations have agreed on the total cost, cost share and implementation method.

75.1

Context

4. The issue:
 - Lake Taupo is nationally, if not internationally important, for its natural and cultural values.
 - Lake Taupo water quality is threatened, primarily by increasing nitrogen inputs from land and protection of Lake Taupo is identified as a case study in the Sustainable Development Programme of Action.
 - The currently declining lake water quality reflects land use of the 10-20 years which it takes that long (on average) for groundwater to transport pasture and forest-derived nitrogen to the lake.
 - Just maintaining the current landuse pattern would still result in significant additional degradation over the next 30 years.
 - To prevent further degradation the manageable nitrogen inputs need to be cut by 20%, with about 90% of this reduction coming from sectoral changes in nitrogen systems such as forestry or retirement to bush.
 - Neither the polluters nor the beneficiaries of a policy need voluntarily carry the cost of actions to reduce nitrogen inputs.
 - There are Treaty obligations to actively protect the lake as a taonga and to meet Maori expectations to manage their own land, and to support the potential for conflicting objectives in the face of market failure.
 - Research and public agencies is needed to protect the lake and the economic and cultural values associated with it.
 - The overall economic benefits of a policy intervention greatly outweigh the costs.
5. Additional reasons for regional Government involvement include:
 - Legacy of past Government which developed much of the pasture land (1950s-70s)
 - An ongoing investment of about 70,000 hectares of pasture through Landcorp and Department of Conservation.
 - Overall Government responsibility for providing 104,000 hectares of conservation and recreation land.
 - Forestry for land reversion may also provide substantial Kyoto carbon sink credits.
 - Enhancing the sustainability of the RMA to make non-point source pollution.
6. Environment Waikato and Taupo District Council have developed a strategic partnership approach and invited regional government to contribute. The type and extent of contribution requires Cabinet decision and branding of Ministerial negotiations. In my view, the solution is a mix of:
 - Rules in a regional plan that cap nitrogen losses from farm and forest land at current levels.
 - An incentive fund to allow some farm land to low nitrogen uses, in order to achieve the 20% nitrogen reduction. This could be achieved through forestry on about 13,500 hectares of pastoral land, although many other land-use permutations are possible.
 - Septic tank, sewerage reticulation and urban sewage treatment upgrades.
 - Research and extension to provide more options for those landowners that continue farming.
 - Local and central Government political leadership.

If regulations were to be pursued as the primary method of management without incentives, it would probably require all farmers to make sufficient changes in landuse practices to cut back nitrogen

² Based on a cost benefit analysis carried out by Environment Waikato

³ There are several research bids that will assist Taupo work longer term. Short term applied research is also required

losses by 20% each. This "rule-only" approach would be economically inefficient and render many farms unprofitable, leading to significant compliance difficulties and a consequent high risk of failing to protect the lake.

Options for Government Involvement

- The three main options for Government involvement are:
 - Contribute to a joint fund to facilitate forestry conversion or re-forestation
 - Forestry on Government-controlled farms
 - Do "nothing" except comply with rules.

The preferred option is development of a joint fund. A hybrid option, dominated by the joint fund but with some prescribed land use change by Landcorp and Corri lands, may also be considered. The pros and cons for the three options are set out in the table below.

Joint fund	Pros	Cons
	<ul style="list-style-type: none"> Transparency of purpose and methods - treats all land equally; Providing a uniting vehicle for all stakeholders to act through; Incentive to minimise total cost rather than redistribute costs between families/agencies; Improved equity between Māori and freehold farmers, helping home-owning obligations; Flexibility over time, especially incorporation of different solutions that may arise; The large sector involvement allows a high level of government to be effective and secure of cost and outcome; Landcorp would be dealing with the "big picture" to Landcorp is likely to be financially neutral to the Government; Expectation by councils and local farmers that Landcorp will feature prominently in the solution. 	<ul style="list-style-type: none"> Lack of equity and potential to rebalance the joint fund; potential to relate to the different types of land management; the cost of the joint fund to establish a new approach, even as a trust, if one of the councils is not able to administer the fund and a need on behalf of the other two stakeholders; Potential fiscal risk from setting a precedent for funding land use change for environmental protection; Lack of flexibility; Potential inefficient conversion of naturally productive land ahead of farmland that should be given greater priority for conversion; Possible concern from freehold and Māori farmers that funding for land use change available to some farmer but not them; Difficulty in changing Landcorp's Statement of Corporate Intent, precedent for SOBs; Reducing Landcorp value through disrupting its interdependent farming networks; Landcorp does not have forestry expertise and would seek to sell land if forestry (or similar) was required, or transfer it to another SOB; Department of Corrections already has large plantation forests and substantial increases will reduce farm-based production options and farm profitability; Crown land and all road with costs of regulation under regional rule; Risk of local govt. also abandoning fund.

Consequent high risk of failing to protect lake and associated values, Risk of creating contemporary Treaty grievance if lake continues to decline

How would a joint fund work?

- The joint fund would be administered by a governance arrangement agreed between the parties contributing to it. (see the details of how this would operate as part of the negotiation process. Governance possibilities include a stand-alone Trust or administration of the fund by one of the councils involved. The fund should be created with the primary objective of reducing the nitrogen enrichment of Lake Taupo at the lowest cost, possibly using a tender system. Governance could include being equitable between various groups. I see the fund being applied to:
 - Purchase private land and on-sell with covenants limiting nitrogen losses
 - Encourage afforestation or other land use on private Crown and Māori land, through covenants that reduce nitrogen losses without changing land ownership
 - Assist in research and development of low nitrogen alternative by curbing burning practices, and
 - Generally promote sound, low nitrogen practices through the out-planting.

Building research and advisory services

- There is a case for establishing greater research and advisory capability before the joint fund commences. Townsman farmers and private farmers are well known for such a service to be available and it will enhance the credibility of the package. The successful Farming Fund and, more recently, Industry New Zealand have both funded local bodies to enhance economic opportunities for local landowners. These entities and others will continue to explore ways of building this momentum within existing budget constraints.

Total public cost of land use change

- The biggest cost of the package is likely to be the loss of private capital value across all pastoral farms in the region, as a result of a nitrogen-capping rule in the regional plan. This may be in the order of several hundred thousand dollars for a typical sheep and beef farm. I do not think that competing for this loss as farmers are the main cause of the water quality problem, although government should consider any compensation for foregone profits would effectively be paying landowners to do an investment in the public interest.
- I propose that the majority of naturally reducing nitrogen inputs are met by the three tiers of government. This is the "business as usual" of Government, Waikato's proposed partnership strategy which has been discussed with the councils and myself previously. The costs over 10-15 years are estimated at:

Activity	Cost estimate
Land use change on ~13,500 hectares at \$100/ha	\$1,350,000,000
Stakeholding and running a joint trust	\$5,190,000,000
Research and extension	
Monitoring and compliance	
TOTAL	\$6,540,000,000

1. Implementation of the joint fund may also result in benefits to indigenous biodiversity?
 2. Conversely, I note that residential properties adjoining Lake Koroitoi have lost value due to poor lake health. This is the market value difference between pasture and forestry land. This is probably an upper bound and many factors could reduce this estimate.
 3. 10% of total funding, as estimated in Environment Waikato cost benefit analysis
 4. Annual estimates by Environment Waikato and MAE - does not include substantial existing FRST research Environment Waikato estimate

with the farming industry
 \$54m vs \$914m
 project overhead
 savings regime
 level?

The above figures are initial estimates only, while further analysis of the cost of intervention is required, they are consistent with local government figures

Sewage treatment upgrade costs

12. Taupo District Council expects to spend \$13.2M on sewage treatment upgrades² for several urban areas next to the lake. The Council has been asked to estimate how much of this cost will reduce nitrogen flows. Sewage infrastructure is considered a core local government activity and has not been factored into the total cost of the land use change policy package at this stage. Any Government contribution to Taupo sewage infrastructure for nutrient reduction purposes risks raising the expectations of other councils beyond the funding support provided under the recently established Sewage and Sanitary Works Subsidy Scheme. I will support that local government will want to raise sewage costs in negotiations.

Sharing the costs of changing land use

13. The basis for cost sharing between the Government, Environment Waikato and Taupo District Council needs consideration. Environment Waikato has done a lot of work on allocation analysis using the Local Government Act. This is often based on assumptions that the Government converts a significant proportion of Government subsidy and contributes roughly equally to a joint fund. Local government staff are often not fully aware of the subsidies they are receiving, and therefore there are occasionally two sets of numbers: ratepayers and taxpayers. Both councils have significant managed to establish financial statements relating options which will bear on local residents' ability to pay.

14. Officials consider that an equal sharing of the costs would be equitable and a reasonable basis for negotiation. This cost sharing arrangement is based on the fact that it is local farmers who are responsible for most of the production risk. Local tourism operators (and hence much of the local economy) who will enjoy the benefits of lake protection, but neither will be directly involved in recovering these costs. Based on the above, a third share is possible. This would increase water nitrogen-related savings costs to be included. The overall financial package and cost sharing arrangements would be the subject of negotiations with local government.

Negotiating packages

- 15. I envision a two-stage process with myself and Hon Jim Sutton acting on behalf of the Government with Environment Waikato, Taupo District Council and Tuwharetoa. We would seek a common position on:
 - Establishing a joint fund as the means of achieving the 20% nitrogen reduction
 - Establishing arrangements - suggest one third each i.e. up to each
 - Support for research and advisory services.
- I intend to report back to Cabinet on progress by 30 September 2003. Following completion of negotiations, I would submit a further paper seeking Cabinet agreement to the negotiated package. Separate but parallel negotiations would take place with Tuwharetoa to address Treaty issues.

² Sewage costs includes sewerage costs i.e. the \$13.2M includes extending reticulation for the Taupo municipal sewage network which brings effluent onto land outside the catchment, and possibly new sewage treatment plants. The Section 123 LGA requires that local government funds capital expenditure needs on the basis of balancing various funding priorities, including pollution prevention and cost recovery of direct benefits. The EW analysis looks at who contributed to the problem, and who will benefit from the solution, at a local, regional and national scale. This results in an allocation of costs between pastoral landowners, Government, Taupo District Council and Environment Waikato.

Treaty of Waitangi Implications

16. Tuwharetoa has mana whenua in the Lake Taupo area and have lived within the Taupo rāke for generations. The bed of Lake Taupo and its tributaries are vested in the Tuwharetoa Māori Trust Board. A large proportion of both pastoral and forest land in the catchment is owned by Māori Economic Authorities affiliated to Tuwharetoa. The large eastern Taupo pine forests established in the 1970s already help to protect the lake.

17. There are significant Treaty of Waitangi implications for any Government response. A "do-nothing" decision will fail to protect the Lake, a breach of Tuwharetoa. Active support of Environment Waikato's rules limiting nitrogen loss effectively constrains the options for Māori owners to profit from their land. Any joint fund will need careful management to avoid inequity for Māori owners who cannot sell land. Environment Waikato and Taupo District Council are willing to make ratepayer funds available for purchasing land for low nitrogen uses, but the Government should consider lease or covenants (analogous to the East Coast Forestry Scheme) should be pursued through the negotiation process, a flexible approach that allows for different types of land tenure.

18. Tuwharetoa, through the Trust Board, has maintained a close relationship with senior officials and local government. Officials have also met with the Māori Economic Authorities to discuss how Government might assist Māori landowners to convert their nitrogen land uses. I see the potential for a "win-win" for both Māori and environmental objectives through a meaningful partnership with the Tuwharetoa Māori Trust Board and ongoing negotiations with the Māori landowners.

Equity of "locking in" current land use

19. The joint fund should address the general equity and efficiency of allowing most farmers to continue farming and using public money to reduce nitrogen reduction. This relies on the proposed nitrogen-capping rule to largely level the playing field of farm intensity, stocking rate and forestry land use. Otherwise, nitrogen-capping rules combined with public money would be awarded by intensification on private land. Many landowners see the capping rule as inequitable between different land uses because they are not evenly intensified (e.g. the six dairy farms) will continue to make reasonably profitable investments in research to provide some cost-effective options for scenarios within a nitrogen-capping regime. However, farmers with less developed land will have a less desirable future. Most of the less developed land is Māori-owned.

20. Other regional government have also complained about a lack of options under a nitrogen capping rule. An urban land use plan provides higher nitrogen loading rates, except reversion to indigenous vegetation which provides a minor economic opportunity. About 30,000 hectares of forestry on Māori land within the 200 km² Taupo Forest Trust joint venture is expected to be replanted, consistent with the Trust deed. However, other forestry owners, like many farmers, want more flexibility and Environment Waikato has agreed to consider a nitrogen permit trading regime as a future option.

21. The inequities of locking in land use may be partly addressed by introducing some flexibility through the regional plan. The joint fund may also provide money for incentives to indigenous bush, thereby providing some capital to invest in alternative business opportunities. Some landowners may also take commercial advantage of the permanent (non-barrier) forestry carbon sink credit scheme currently being developed (refer POL Min (03) 10/6). Equity issues will need to be addressed in negotiation with local Government and Tuwharetoa, and via the regional planning process. During negotiations I intend to pursue a principle of flexibility that minimises inequity without undermining the environmental objective.

1) [redacted]
2) [redacted]
3) [redacted]

Financial Implications

24. If Cabinet approves the allocation of funds, and if negotiations with local government and the heretofore successful, actual spending on land use change is likely to commence in the 2004/05 year. The "upper bound" total cost estimate of \$13.2 million for land use change is subject to refinement. Any share of the estimated sewage costs of \$13.2 million in addition. Total costs will inevitably change over subsequent years as a "market" of willing sellers and covenants evolve and costs are clarified for monitoring, research and sewage upgrade. Emerging technological fixes will tend to reduce total cost in the long term but the development of these will need initial investment. Delays in implementing the regulatory and financial packages would probably result in further intensification of land use, with associated increases in lake nitrogen inputs requiring more land for conversion to forestry) and hence more money to achieve the desired lake water quality.

25. The central government share of the total is also a matter for negotiation but in a limited budgetary fiscal burden can be spread over several years, potentially between five and fifteen years overall. There is clearly scope to set total, annual and proportional cap on government spending. This will be the subject of the Cabinet paper that I will submit later this year following negotiations.

Legislative Implications, Regulatory Impact and Environmental Effects

26. The recommendations have no legislative implications, but guidance by Environment Waikato will be through provisions under the Resource Management Act, which are subject to cost-benefit analysis and appeal provisions. Combining a housing setback with a nitrogen capping rule will reduce compliance costs for farmers in the Taupo catchment.

Precedent Risk

27. I acknowledge that this initiative is a precedent for government investment in the protection of specific water bodies. As a result, the Government is very likely to face similar requests such as for the Taupo Lake in a poorer state than Lake Taupo. I consider that the case for Lake Taupo supports its own merits, i.e. that the national, cultural and economic values associated with Lake Taupo are demonstrably significant. The protection and enhancement of these values should be a key theme of the development investment and indeed Lake Taupo is cited in the Sustainable Development Programme of Action. I agree that we need to develop comprehensive policy and plans for investing in the protection of nationally important water bodies. This is one to open through the freshwater element of the Sustainable Development Programme of Action.

Risk of failure to protect Lake Taupo

28. The whole policy package, from both central and local government perspectives, has been developed to minimize the risk of its failure to protect water quality. The key risks (not addressed summarised below):

Risk	Response
20% nitrogen reduction target is a significant under-estimate i.e. the science is wrong	Ongoing investment in monitoring and lake modelling continues to validate the 20% figure
RMA appeals throw out nitrogen capping rule	Legal and planning analysts indicate that there are several viable RMA rule options. If appeals succeeded, the whole package will need re-design
There are insufficient willing landowners prepared to convert land at the level of	The net cost of [redacted] has a conservative and based on market data. The true cost will not be

incentive (per hectare) that funding allows established until "trading" commences, and will probably vary between landowners

Farmer Reaction Risk

29. Farmers currently face uncertainty and may suffer loss of capital value and restricted future income. They may lobby to defend their property rights and argue for compensation for their part in providing a public good through reducing their pollution discharges. Most farmers in the Lake Taupo catchment are represented by Taupo Lake Care (TLC), which has been very active in all discussions, especially in consultations with Environment Waikato and Taupo District Council. TLC million. The assumptions behind this, including massive dairy conversion, are neither realistic nor implementing solutions. One way this can be done is to involve farmers and their representatives in operational aspects of any joint fund.

Local Government Reaction Risk

30. Discussions between local and central government officials have raised two major concerns. Firstly, district and regional councils consider that central Government should pay more than one third to reflect its relative responsibility for the problem (i.e. historical production/land development) and [redacted] ability to pay.

31. Secondly, local government believes that a separate arrangement needs to be pursued with Landcorp. This paper proposes that the joint fund will be available to private farmers and Landcorp alike. Local government believe that if Landcorp, a central government entity, can tap into ratepayer funds. However, private land and farms are fair and transparent, Landcorp will be receiving no financial advantages (or disadvantage) relative to any other farmer. It is important that all landowners are treated the same and a range of the final criteria and process will need to be emphasised to help overcome the perception of unfairness. These concerns should be addressed within the negotiations and the development of the associated funding criteria.

World Trade Organisation Risk

32. In the WTO, the European Commission carefully at expenditures of public money by other WTO Member States. Any "resource-replenishment" programme, to ensure they are not simply a repackaging of state-aiding production subsidies. It is therefore important to design and administer the programme in a way that reduces, to the extent possible, the risk of challenge under WTO subsidy disciplines. For example, it may be important to avoid making payments that confer a benefit above short market value for the land or land use.

Consultation

33. The following government departments and agencies have been consulted in the preparation of this paper and their views have been taken into consideration: Ministry of Economic Development, Department of Prime Minister and Cabinet, the Treasury, Crown Company Monitoring and Advisory Unit, Te Puni Kōwhiri, Office of Treaty Settlements, Department of Conservation, Department of Corrections, Ministry of Research Science and Technology, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Ministry of Tourism and Ministry of Agriculture and Forestry. Consultation has also taken place with Environment Waikato, Taupo District Council, Taupo Lake Care, Landcorp, TWhareraua Māori Trust Board and Māori economic authorities.

Publicity

34. A joint press release on 20 December 2002, coordinated by Environment Waikato, indicated Government's willingness to be involved. Environment Waikato is pushing for further public profile and wants to publicly release an agreed partnership strategy following a Cabinet decision. Due to the sensitive nature of the expected negotiations, I recommend that only general statements of support, similar to that made in December, be made at this time.

Next steps

35. Hon Mark Burton and I met with senior Taupo representatives in December 2002. We agreed in principle that Government should be involved in a partnership approach and I undertook to explore the options via a Cabinet paper. Environment Waikato has delayed following the Raupo strategy until Government is able to determine its direction. Key actions and tentative dates are:

Date	Action
2003	
May/June	Initial Cabinet decision
June	Negotiations commence with local government and Tūwharetoa, including governance and funding arrangements
June	Partnership strategy signed by Environment Waikato
September	Negotiated financial transfer to local government and other parties
September	Detail of funding approach and funding criteria developed
October/November	Agree a funding rule proposed by Environment Waikato
January-March	Final funding rule agreed, parallel local government process
July	Final funding rule operation

Recommendations

36. It is recommended that Cabinet Policy Committee:

1. note that the Waikato water quality is threatened by nitrogen inputs from farms and urban land and that there is a need to reduce nitrogen inputs to be cut by 20% just to maintain current water quality in the long term;
2. note that local government and central Government have strong common interests in protecting Lake Taupo and thus underpinning sustainable development within its catchment;
3. note that in preparation of Lake Taupo is identified as a case study in the Sustainable Development Programme of Action;
4. note that Environment Waikato is proposing a rule in its regional plan to cap nitrogen losses to the lake from rural and urban sources;
5. note that the intended rule is causing landowner uncertainty and possible loss of capital value, but that compensation for such losses is not appropriate;
6. note that reducing nitrogen losses by 20% will require public funding to assist land use change from pastoral farming to low nitrogen land uses such as forestry;
7. note that Environment Waikato and Taupo District Council are proposing that central government join them in contributing to a joint fund to assist land use change;

4. note that Environment Waikato is proposing a rule in its regional plan to cap nitrogen losses to the lake from rural and urban sources;

5. note that the intended rule is causing landowner uncertainty and possible loss of capital value, but that compensation for such losses is not appropriate;

6. note that reducing nitrogen losses by 20% will require public funding to assist land use change from pastoral farming to low nitrogen land uses such as forestry;

7. note that Environment Waikato and Taupo District Council are proposing that central government join them in contributing to a joint fund to assist land use change;

8. note that the public cost of funding land use change is estimated at up to \$13.2 million and that the cost of sewage upgrades (estimated at up to \$13.2 million) which reduce urban nitrogen inputs are additional;

9. invite the Minister for the Environment and the Minister of Agriculture and Forestry to negotiate with local government and Tūwharetoa, within a preferred negotiation period of 9.1. contributing one third of the public cost of land use change;

9.2. managing land use change via a joint fund with a primary objective of cost-effectively reducing nitrogen losses;

9.3. treating all landowners equally by adopting a flexible suite of instruments mechanisms within the joint fund;

10. agree that the option of legislating new forests on landowners and Department of Corrections farms is not the preferred or primary means of Government action, while noting that these landholdings may utilize the joint fund to facilitate land use change;

11. agree to a parallel negotiation process with Tūwharetoa to ensure Treaty obligations are addressed;

12. note that this potential investment will subject a report procedure for Government intervention and the associated fiscal risk will be assessed through the development of policy and criteria within the Sustainable Development Programme of Action over the next two years;

13. note that no funding in this regard should be made no commitments by the Crown will be made before further Cabinet consideration occurs;

14. invite the Minister for the Environment to report back to the Cabinet Policy Committee on progress with the negotiations with the local parties described in (9) above by 30 September 2003.

Hon Niangina Hobbs
MINISTER FOR THE ENVIRONMENT

75.5



Ministry for the Environment
 Manatū Whakaiti

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PD-WA-01-06-01
 6 January 2004

Bob Cottrill
 9 Hindmarsh Drive
 TAUPŌ

Dear Bob

Official Information Act request

Your email request dated 17 December 2003 for the cabinet paper on the Lake Taupo negotiations has been processed under the Official Information Act 1982.

Accordingly please find enclosed, the Cabinet Paper entitled *Advancing Negotiations to Protect Lake Taupo* and subsequent Minute of Decision.

I have decided not to release a table and a number of sentences within the Cabinet paper and these have been annotated. This information is being withheld on the following grounds provided under the Official Information Act:

"enable a Minister of the Crown or any Department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)" (section 9(2)(j))

Under section 28(3) of the Official Information Act 1982, you have the right to ask the Ombudsman to investigate and review my decision to withhold some of the information you requested.

Yours sincerely

Lindsay Gow
 Lindsay Gow
 Acting Chief Executive



Cabinet Policy Committee

Minute of Decision

Copy No:

Negotiations: In Confidence

POL Min (03) 3219

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Advancing Negotiations to Protect Lake Taupo

On 10 December 2003 the Cabinet Policy Committee (CPC):

Background

1 noted that Lake Taupo water quality is threatened primarily by increased inputs from farms and that these inputs need to be cut by 20% just to maintain current water quality in the long term;

2 noted that local and central Government are working to protect Lake Taupo by promoting sustainable development through low nitrogen fertiliser use within its catchment;

New Information

3 noted that the estimated total cost to reduce nitrogen inputs to Lake Taupo by 20% has increased from \$54 million to \$81.5 million (including GST), due to increases in pastoral land value (which is being used to fund the programme);

4 noted that Taupo District Council (TDC) is committed to spending \$23 million on sewage and storm water treatment over the next 15 years to help protect Lake Taupo water quality;

5 noted that a full cost analysis between Government, Environment Waikato and TDC was appropriate when the total cost was \$54 million but that with the new estimated total cost a third-party audit would be required to determine if imposing a significant unfair burden on Taupo ratepayers;

New proposal

6 agreed to a revised split of:

65% Government, equivalent to \$36.7 million (including GST);

35% between Environment Waikato and TDC, equivalent to \$34.8 million, noting that the split between the two councils is up to them to decide;

7 agreed that should the overall cost of the scheme be less than \$81.5 million, the savings will accrue pro rata to Government and Environment Waikato in proportion to their contribution, with further pro rata savings on a third-cash basis if overall costs fall below \$54 million;

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Catchment management entity

- 14 noted that officials will discuss with Environment Waikato, Taupo Lake Care (a farmers group), and other stakeholders, the pros and cons of a new non statutory catchment management entity;

Funding

- 13 noted that no funding is being sought now and no commitments by the Crown will be made before the further consideration by POL in April 2004 referred to in paragraph 16;

- 16 invited the Minister for the Environment to report back to POL on a definitive funding proposal for reducing nitrogen inputs to Lake Taupo, and how it will be administered, by 30 April 2004;

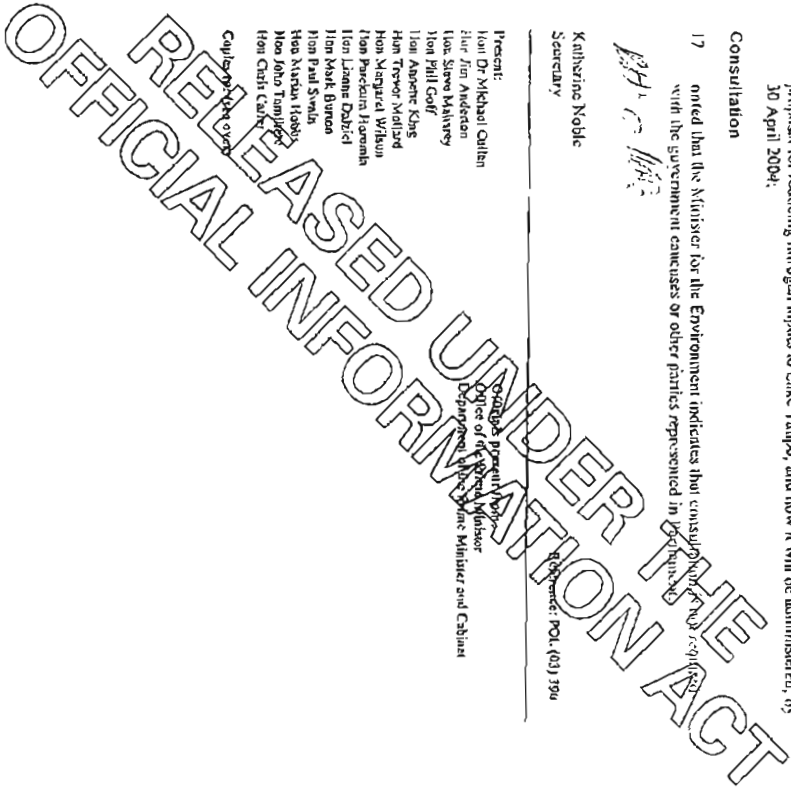
Consultation

- 17 noted that the Minister for the Environment indicates that consultation with the government caucus or other parties represented in parliament

Katherine Noble
Secretary

Telephone: POL (03) 390

- Hon Dr Michael Cullen
- Hon Jim Anderton
- Hon Steve Maharey
- Hon Bill Golf
- Hon Andrew King
- Hon Trevor Mallard
- Hon Margaret Wilson
- Hon Patricia Haworth
- Hon Lianne Dalziel
- Hon Mark Burton
- Hon Paul Swain
- Hon Alan Tait
- Hon John Tangiorua
- Hon Chris Carter



14/03/04

3

Office of the Minister for the Environment

The Chair

Cabinet Policy Committee

Advancing negotiations to protect Lake Taupo

Proposal

- 1. Hon Jim Sutton and I have been working with Environment Waikato, Taupo District, Tūwharetoa and farmers on a policy package to protect Lake Taupo water quality. This paper seeks to advance negotiations by:
 - emphasising the sustainable development rationale for government involvement
 - recognising that the overall cost estimate has risen from \$54 million to \$81.5 million
 - seeking approval that the government share increase from 33.3% to 45% of the overall cost, equal to \$36.7 million
 - recognising the need to address issues specific to Tūwharetoa lands
 - pursuing community ownership of the problem and solutions
 - seeking approval to explore explicit inclusion of some highdoop land, via direct negotiations on a commercial basis

The negotiation goal is an agreed package of regulation and funding in place by July 2004.

Executive Summary

- Lake Taupo is threatened by nitrogen inputs from farms and urban land – these inputs need to be cut by 28% simply to maintain current water quality in the long term.
- Lake protection would safeguard the economic benefits to the community through tourism that outweigh the costs to the fishing sector of nitrogen restrictions.
- The lake is a shared resource for Tūwharetoa who own the lake bed and most tributaries. Tūwharetoa affiliated economic authorities own much of the surrounding land. Treaty obligations relate to both the land and the lake.
- A better rules based rule could be added to Environment Waikato's regional plan requiring landowners to reduce nitrogen inputs by 20%. Current estimates indicate this would adversely reduce farm incomes. Regulation on its own would be strongly resisted by farmers and therefore be unlikely to protect the lake.
- SOVING this environmental and economic challenge is an opportunity for strong central government leadership within the Sustainable Development Programme of Action
- The preferred policy response is a combination of public funding to cut nitrogen inputs, regulation to prevent landowners increasing nitrogen inputs and research and advisory services to help maintain a viable rural economy
- Cabinet agreed (CBC(03)54 refers) in July 2003 to mandate Hon Jim Sutton and myself to enter negotiations with Environment Waikato, Taupo District Council and Tūwharetoa to protect Lake Taupo.
- The key elements of the Government negotiation position were described as:
 - contribute one third of the public cost of land use change, up to \$18 million

- manage land use change via a joint fund with a primary objective of cost-effectively reducing nitrogen losses
 - treat all landowners equally by adopting a flexible suite of assistance mechanisms within the joint fund
 - pursue a parallel negotiation process with Tūwharetoa to ensure Treaty obligations are addressed
 - no compensation for loss of future profits
 - no funding commitments before further Cabinet consideration occurs
- The estimated cost of reducing nitrogen inputs by 20% has increased to \$81.5 million, mainly due to higher pastoral land values. This would lead to an excessive burden on local ratepayers under the "thirds each" funding scenario
- The common goal of the negotiating partners is for a regulatory and funding package to be in place by July 2004
 - Negotiations have progressed to the point where consideration needs to be given to providing more government financial support, plus increased flexibility in dealing with Tūwharetoa, Landcorp and farmers
 - A revised negotiated package will be submitted to Cabinet for approval in April 2004.

Background

2. The issue, as set out in CBC(03)54:
 - Lake Taupo is nationally important for its natural and cultural values and is threatened by increasing nitrogen losses from farmland
 - Protection of Lake Taupo is identified as a key priority in the Sustainable Development Programme of Action.
 - The currently declining lake water quality reflects land use of 20-30 years ago, as it takes that long for groundwaters to transport pasture and excreta-derived nitrogen to the lake. Direct fertiliser inputs are a minor factor.
 - Just maintaining the current land use pattern would still result in significant additional degradation over the next 30 years – see the Appendix for a catchment land use map.
 - To prevent further long-term degradation the manageable nitrogen inputs need to be cut by 20% (with about 80% of this reduction coming from converting farms to low nitrogen systems such as forestry or retirement to bush. Urban inputs need to be reduced as well. Neither the farmers nor the beneficiaries of a clean lake will voluntarily carry the costs of actions to reduce nitrogen inputs.
 - The Treaty obligations to actively protect the lake as a taonga and to meet Māori expectations to manage their own land, noting the potential for conflicting objectives.
 - In the face of market failure, intervention by public agencies is needed to protect the lake and the economic and cultural values associated with it.
 - The overall economic benefits of a proposed intervention greatly outweigh the costs¹.
- If regulations were to be pursued as the primary method of management without incentives, it would probably require all farmers to make sufficient changes in land use to cut back nitrogen losses by 20% each. This would render many farms unprofitable, pose compliance difficulties, be economically inefficient and probably fail to protect the lake.

3. Environment Waikato and Taupo District Council have developed a strategic partnership approach and invited central government to contribute. The type and extent of government's contribution was approved by Cabinet in July 2003 as:
 - contribute one third of the public cost of land use change, up to \$18 million
 - manage land use change via a joint fund with a primary objective of cost-effectively reducing nitrogen losses
 - treat all landowners equally by adopting a flexible suite of assistance mechanisms within the joint fund, encouraging a diversification of low nitrogen land uses
 - pursue a parallel negotiation process with Tūwharetoa to address Treaty obligations
 - no compensation for loss of future profits
4. Hon Jim Sutton and I were given a mandate to negotiate with local government and Tūwharetoa, with no funding commitments before further Cabinet consideration. On 23 September 2003 we visited Taupo and met with senior representatives of Tūwharetoa, Environment Waikato and Taupo District Council, plus key stakeholders from the farming and forestry sectors. Further discussions by officers and me have highlighted the important issues that are the subject of this paper.

Increased cost estimate for cutting nitrogen inputs

5. The 20% nitrogen reduction can potentially be achieved by converting 13,500 hectares of "average"² pasture land to permanent forestry or indigenous regeneration. While the actual reduction in nitrogen inputs to the lake will take many forms (i.e. diversification), calculating the cost of converting pasture land to forestry is a simple and valid method for estimating the cost of protecting lake water quality. Calculations based on 2001 data estimated the net cost of conversion at \$3,000 per hectare. More recent data³ indicates a \$5,000 per hectare net cost (a more appropriate) due to stable forestry land values and increased pastoral land values. The estimated cost of converting 13,500 hectares from pastoral uses to forestry has therefore increased from \$40.5 million to \$67.5 million. The other costs remain as estimated in July 2003.

Item	Cost
Afforesting 13,500ha at net cost of \$5000/ha	\$67.5 million
Applied research and advisory services	\$5 million
Monitoring and compliance	\$5 million
Fund administration	\$4 million
TOTAL	\$81.5 million

6. The total estimated cost of \$81.5 million is considered to be a valid basis for proceeding with regulations. If during implementation of the fund, the underlying assumptions are found to be too conservative, there will be scope for reduced Government contribution. This includes

¹ Based on cost benefit analysis carried out by Environment Waikato

² Most farms in the Lake Taupo catchment are sheep and beef operations, with only five dairy farms
³ Cumow Tizard Lake Taupo catchment land valuation report, prepared for Environment Waikato, August 2003

taking advantage of any technological breakthroughs which reduce nitrogen leaching without reducing productivity.

7. Overall costs may rise due to further cost increases in converting pastoral land to forestry, or if more than 20% nitrogen reduction in nitrogen inputs to the lake is needed. If the committed funding proves insufficient to reduce lake nitrogen inputs to the target level then the "gap" should be addressed via a lightened regulation rather than an expanded public fund. The expectation of a public funds top up would drive up land value expectations, further increasing the fiscal risk. It is important to send a clear signal that the public contribution will be capped and that the fund will operate in the most cost-effective manner possible.
8. There may be some flexibility options available to the Government which may assist the council financially, including Government funding applied earlier in the 15 year project. Such options will be discussed with Treasury officials and may be employed tactically during negotiations without increasing the overall Government contribution.

Revised funding split

9. The original negotiation position, as defined in the July Cabene paper, is simple "thirds each". The councils have proposed two alternative funding splits. I propose a revised funding split. Assuming a total cost of \$81.5 million spread over 15 years, the four options and associated rating impact* can be summarised below:

Option	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Option 1	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43
Option 2	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43
Option 3	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43
Option 4	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43	5.43

10. Government and the councils have current funding commitments estimated at \$61.5 million* for general Lake Taupo water quality protection that is not directly related to reducing nitrogen inputs. These include sewage upgrades, recently approved FRST research and catchment management. When combined with the nitrogen mitigation cost of \$81.5 million, the grand total of Lake Taupo water quality expenditure is \$143 million over 15 years. We need to be aware of these related water quality costs so that there is no transfer between committed and additional funding that would undermine broader water quality objectives.

11. The councils, particularly Taupo District, consider Government should pay more than a third because:

- Taupo residents already face at least a 4.3% rise⁶ in general rates for planned sewage and stormwater upgrades. When combined with the 12% rise associated with the "thirds" scenario, the result is a 16.3% district rate rise for "water quality". Regional rate increases for nitrogen mitigation and other water quality work are additional, meaning that Taupo District ratepayers will, on average, pay an extra \$231 in each of the 15 years.
- District income levels are lower than national averages, with the net result that the ability of local residents to pay large rate increases is limited. 38% of the Taupo population are in Decile 1 or 2 for income.
- Government actions in developing Taupo farms in the 1950s through to the 1970s gives government more responsibility as a key "contributor" to the nitrogen problem
- Local government spending is expected to reflect the contributor responsibility considerations set out in the Local Government Act (see rating impact table)
- Lake Taupo is nationally important.

12. The counter arguments are:

- The local community will benefit the most from protecting Lake Taupo particularly through safeguarding the local tourism sector
 - Future generations will benefit the most from actions taken now to protect the lake
 - Local government now has an explicit responsibility to responsible development with the 2002 amendments to the Local Government Act
 - Protecting Lake Taupo also protects the local economy, including the rating base
 - Accepting direct financial responsibility for government actions several decades ago that were legal and appropriate at the time, would be backward looking and set a precedent for parties aggrieved by all sorts of past policies to seek recompense from government
 - Increasing beyond a third still has profound fiscal implications due to the precedent for other water bodies being implemented and wish to help protect.
- On balance, I agree that Taupo District ratepayers will face a significant burden based on funding a third of \$81.5 million, equivalent to \$27.2 million. I considered that a third each of \$4 million was affordable at \$19 million each.

- 14.

However, it is ultimately up to the two councils how they split the "local share" of \$44.8 million (equal to 55%).

15. Should the overall cost of the scheme be less than expected, I propose that the savings accrue pro rata to Government and Environment Waikato in proportion to their contributions, with pro rata savings to Taupo District accruing only if overall costs fall below \$54 million.

* Taupo District advises that the current updating of infrastructure costs will increase overall "non-nitrogen" costs

⁶ Taupo residents will also be expected to pay the uniform region-wide rate component from Environment Waikato

⁷ For the year to June 2002 there were more than one million visitors to Taupo staying in commercial accommodation

16. Any further increase in the estimated overall cost of the proposal will be set out in a further Cabinet paper in April 2004. I consider cost increases unlikely, as the impending land use regulation should limit land value expectations based on productive capacity.

Managing the precedent

17. It was noted previously (CBC(03)54) that Government investment in protecting Lake Taupo "... will establish a recent precedent for Government intervention, and the associated fiscal risk will be addressed through the development of policy and criteria within the Sustainable Development Programme of Action over the next two years". This work is proceeding and will allow a consistent and rational approach by Government.

18. I acknowledge that increasing the Government share from 33% to 45% will increase consequent fiscal risk as there will be other local communities with limited ability to pay for comparable environmental protection initiatives. However, this needs to be weighed against the higher risk of failing to protect Lake Taupo if we cannot reach a mutually acceptable funding formula.

19. I propose that the fiscal risk be managed through a clear statement that confirms the discretionary nature of the Government's contribution which is based on the particular circumstances of Lake Taupo, taking into account the following factors:

- The nationally important status of the lake
 - The scale and urgency of the problem and feasibility of the proposed solutions
 - The cost burden on ratepayers
 - Past national and local policies relating to equipment, development and impacts
 - Crown land holdings
 - The Treaty relationship with Tūwharetoa
 - Relevant national policies
20. I further propose that we have a project review three years after funding commences. The review requirements will be undertaken by Cabinet with the final package in April 2004.

Discussions with Tūwharetoa representatives

21. The July Cabinet paper indicated that a parallel process would be followed with Tūwharetoa in respect of mutual Treaty obligations. A working party of officials and Tūwharetoa representatives have tentatively set a common timeline and goal: Environment Waikato's nitrogen reduction plan by July 2004 with no Tūwharetoa appeal. Four projects are being established now (November 2003) to reduce risks to meeting this goal:

- Independent science peer review, particularly of the 20% nitrogen target, and quantification of nitrogen output from Tūwharetoa lands
- Financial support for land use options, so diversification can be seen as a benefit
- Assistance with changing Trust orders and consultations via the Māori Land Court
- An improved process for working through issues with forestry stakeholders.

22. These projects were explicitly requested by the Tūwharetoa team and are necessary to maintain good faith, timeliness and to ensure Tūwharetoa landowners are able to effectively contribute nitrogen mitigation i.e. by entering into funded nitrogen covenants (or equivalent). As these projects evolve, we will know if they can be funded within Departmental baselines. Note that this Tūwharetoa-Crown engagement on the Lake Taupo water quality issue is quite separate from the current historical Treaty settlement process being managed by the Office of Treaty Settlements.

23. I believe we need to do more to engage with Tūwharetoa, in recognition of our Treaty relationship and because they are collectively owners of 54% of the pastoral portion of the

catchment and cannot sell their land. This means that in order to meet the 20% nitrogen reduction target, we must get wide involvement by Tūwharetoa landowners through "buying nitrogen", rather than buying land and on selling it for low nitrogen land uses. Furthermore, Tūwharetoa want to be seen with the Crown as leaders in protecting the lake, as part of a careful long-term strategic positioning for the tribe.

24. I propose that we continue pro-active discussions with Tūwharetoa representatives with the aim of ensuring a good level of acceptance by Tūwharetoa landowners of the proposed funding and regulatory package to protect the lake. The discussion will include but not be limited to possible higher-level arrangements between Tūwharetoa and the Crown over funding mechanisms e.g. a guaranteed contribution from the proposed joint fund and allied research and extension services in return for a guaranteed reduction in nitrogen outputs from Tūwharetoa lands. Any such arrangement would require Cabinet approval and would need to be at least as cost effective as other funding for nitrogen reductions from the joint fund and within a Government contribution of \$36.7 million.

Potential Landcorp Role

25. Landcorp Farming Ltd owns 7500 hectares of pastoral land within the Lake Taupo catchment, about 14% of the total pastoral land (Corrections owns another 2300ha, about 5%). Therefore Landcorp (and possibly Corrections) has always been envisaged as a major corporate player in the required land use changes needed to reduce nitrogen flows to the lake by 20%. However, in July 2003 Cabinet agreed that Landcorp was not to be treated differently from other landowners (private and Māori multiple owners), with the following recommendation:

"agree that the option of requiring forestry on Landcorp and Department of Corrections farms is not the preferred or primary means of Green Treaty action, while noting that these landholdings may utilise the joint fund to facilitate land use change"

26. The recent Environment Waikato valuation report indicated that the Landcorp farms are generally good candidates for forestry compared with some other pastoral land limited by altitude. The implication is that without Landcorp participation, achieving the 20% nitrogen target will be more difficult. Since the Landcorp and Corrections land represents 19% of about 2000 - 2500 hectares of land fit for conversion of pasture to forestry was the selected method of nitrogen reduction.

27. Landcorp owns six farms within the catchment, all with different characteristics. It is able to take a strategic and flexible approach to cost-effective nitrogen mitigation, although a number of its farms are currently not a strategic component of Landcorp's North Island breeding operation. The all-farms approach on Landcorp need to be explicitly considered.

28. A negotiated Landcorp component of the Government's contribution could:

- Provide explicit, timely and tangible Government leadership that meets the expectations of our partners and stakeholders
- Meet Government's own obligations as a landowner within the catchment
- Set an economically efficient nitrogen benchmark that would temper any unreasonable expectations of other landowners

29. Landcorp land could also be linked to:

- Any higher level Crown-Tūwharetoa arrangement as discussed above
- Catchment "re-design" as promoted by Taupo Lake Cane Farmers

⁹ "Buying nitrogen" would be achieved via funded covenants or equivalent mechanisms that limit future nitrogen losses

¹⁰ Higher altitude land will be cheaper to buy but the lower productivity of such land means it offers less nitrogen mitigation potential

- Establishment of an indigenous forest as a biodiversity corridor between lakeshore reserves and the Pureora Forest, providing biodiversity co-benefits that may attract funding from other sources, including corporate sponsorship and private tourist support
- The practicalities and costs of making these linkages need to be investigated.
30. I wish to explore direct negotiations with Landcorp primarily to achieve cost-effective nitrogen mitigation. Such direct negotiation would be on a commercial basis, within State Owned Enterprise policies and within the \$36.7 million Government contribution.

Overall Governance and Landowner Input

31. The success of the project relies on long-term local ownership of the problem and the solutions. Environment Waikato has provided effective leadership and coordination to date. The urban residents within Taupo District will contribute through rate increases, provided the revised cost share set out above is accepted.
32. The greater challenge lies with rural landowners who face the nitrogen-capping regulation. We must avoid a rural-urban divide on this issue. The financial impacts on farmers are expected to be significant, both in terms of capital value loss and future profits. Farmers have expectations of increased productivity which typically leads to increased nitrogen leaching. The threat of regulation led to the formation of a farmers group called Taupo Lake Care (TLC). This group has generally been very constructive in its engagement with Environment Waikato and officials over the past three years. They have all informed, articulate and strongly representative of the Taupo farmers, including Tūwharetoa landowners, with over 80% membership.
33. Landowners have been told there will be no compensation for any loss of future profits due to nitrogen restrictions. However, I expect the negotiated package to include:
 - additional applied research and farm trials for improved pastoral farm systems e.g. greater use of silage and wintering bloodstock on the catchment
 - farm advisory services to alternative land uses and business planning
 - joint fund flexibility that allows more diversified land use options within a farm.
34. Officials and Environment Waikato expect TLC will continue to have input to the overall policy package, and as they have done in the last three years. The Ministry of Agriculture and Forestry has approved in principle a Sustainable Farming Fund application from TLC that looks at rebalancing or adapting Codes of Practice for the main farming systems (dairy, deer, sheep, beef, etc.) but with additional emphasis on nitrogen management. The Codes will be aligned with a landscape "designer" which seeks to optimise nitrogen mitigation potential with profitability. TLC also seeks the establishment of a catchment management "entity" with strong farmer input would help ensure long-term commitment to nitrogen mitigation. I propose that officials discuss the pros and cons of a non-statutory catchment management entity with Environment Waikato, TLC and forestry landowners. However, robust land use regulations will still be needed.
35. TLC has also talked of "assistance" or "incentivising the nitrogen cap". There will be a range of advisory services but any direct financial transfer to landowners MUST be for the purpose of cost-effective nitrogen mitigation. We can still be creative in considering a matrix of land use changes that achieves net nitrogen mitigation, and fund accordingly. However, we should not blur this with compensation for foregone profits which is unacceptable.

Clarification of partners and stakeholders

36. During negotiations we have established a four-way partnership between Government, Environment Waikato, Taupo District Council and Tūwharetoa. This arrangement is consistent with the principles for sustainable development contained in the Sustainable Development Programme of Action and includes specific partnerships as follows:

- Government and Tūwharetoa as Treaty partners
 - Government, Environment Waikato and Taupo District Council as joint funders
 - Government and Environment Waikato as regulators.
37. In addition to these partnerships we have recognised farmers and foresters as key stakeholders who need to be involved in developing the solution.

Financial implications

38. If Cabinet approves the allocation of funds, and if negotiations with local government and Tūwharetoa are successful, actual spending on land use change is likely to commence in the 2004/05 year. The recommended government contribution of \$36.7 million can be spread evenly over 15 years or "front loaded" if desired. These aspects will be set out in the April 2004 Cabinet paper, following negotiations and consultation with Treasury.

Legislative Implications, Regulatory Impact and Compliance Costs

39. The recommendations have no legislative implications. Regulation by Environment Waikato will be through provisions under the Resource Management Act, which are subject to cost-benefit analysis and appeal provisions. Combining a trading scheme with a nitrogen capping rule will reduce compliance costs for farmers (the Taupo catchment).

Consultation

40. The following government departments and agencies have been consulted in the preparation of this paper and their views have been taken into consideration: Ministers of Economic Development, Department of Prime Minister and Cabinet, Treasury, Crown Company Monitoring and Advisory Unit, Te Puni Kōwhiri, Department of Conservation, Department of Corrections, Ministry of Research, Science and Technology, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, and from within New Zealand, Ministry of Tourism and Ministry of Agriculture and Forestry.
41. Consultation has taken place with Environment Waikato, Taupo District Council, Taupo Lake Care, foresters, Landcorp, Tūwharetoa, Māori Trust Board and Māori economic authorities.

Publicity

42. Environment Waikato is scheduled to publicly release its partnership strategy on 18 November (partly in preference for the expected regulation. I support this step in taking the policy package to the wider public. However, due to the sensitive nature of ongoing negotiations, do not recommend any public statements based on this paper.

Next steps

43. Negotiations by officials with Environment Waikato and Taupo District Council are ongoing. Additional efforts will be needed with Tūwharetoa, Landcorp and Taupo Lake Care. I will seek to resolve all major elements of the policy package by April 2004 and present a final package to Cabinet. This timetable will be mirrored by the other negotiating parties in their respective processes. The mutual objective is an agreed package in place by July 2004.

Recommendations

44. I recommend that you:
1. Note that Lake Taupo water quality is threatened primarily by nitrogen inputs from farms and that these inputs need to be cut by 20% just to maintain current water quality in the long term;
 2. Note that local and central Government are working to protect Lake Taupo by promoting sustainable development through low nitrogen land uses within its catchment;

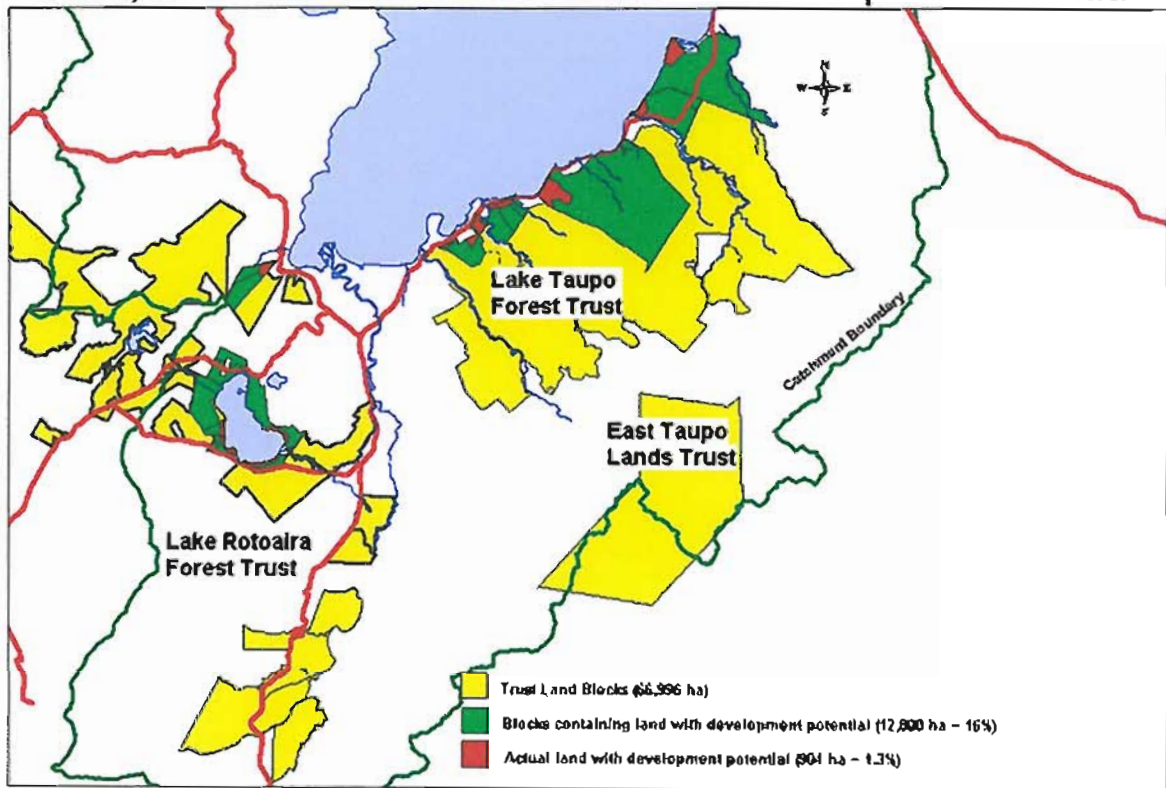
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3. **Note** that the estimated total cost to reduce manageable nitrogen inputs to Lake Taupo by 20% has increased from \$54 million to \$81.5 million (including GST), due to increases in pastoral land value relative to forest land;
4. **Note** that Taupo District Council is committed to spending \$23 million on sewage and stormwater upgrades over the next 15 years to help protect Lake Taupo water quality;
5. **Note** that a thirds-each share between Government, Environment Waikato and Taupo District Council was appropriate when the total cost was \$54 million, but that with the new estimated total cost it would be seen as imposing a significant unfair burden on Taupo ratepayers;
6. **Agree** to a new cost split of:
 - 6.1. 45% Government, equivalent to \$36.7million (including GST);
 - 6.2. 55% between Environment Waikato and Taupo District Council, equivalent to \$44.8 million, noting that the split between the two councils is up to them to decide;
7. **Agree** that should the overall cost of the scheme be less than \$81.5 million, the savings will accrue pro rata to Government and Environment Waikato in proportion to their contributions, with further pro rata savings on a thirds-each basis if overall costs fall below \$54 million;
8. **Agree** that the final Government position on protecting Lake Taupo must:
 - 8.1. provide for local government to meet more than 50 percent of the marginal cost of land-use changes to reduce nitrogen inputs to the lake;
 - 8.2. recognise the primary role of local government in addressing water resource degradation;
 - 8.3. be supported by robust regulatory action by local government;
 - 8.4. confirm the discretionary nature of a Government contribution, taking into account factors such as: the nationally important status of the lake; the scale and urgency of the problem; feasibility of solutions; cost burden on ratepayers; past national and local policies on catchment development; Government land holdings; the Treaty relationship with Tūwharetoa; and that these had to be assessed in the context of the particular circumstances of the lake and of relevant national policies;
9. **Agree** that any final agreement on costs is subject to Environment Waikato and Taupo District making firm commitments to their respective shares and a comprehensive review agreement;
10. **Note** that Tūwharetoa landowners control 54% of the pastoral land in the Lake Taupo catchment and such land cannot be sold;
11. **Agree** to continue Crown-Tūwharetoa discussions with a view to ensuring a good level of acceptance by Tūwharetoa landowners of the proposed funding and regulatory package;
12. **Agree** to explore explicit inclusion of some Landcorp land in the nitrogen reduction package, via direct negotiations on a commercial basis and within the Government's fiscal commitment;
13. **Note** that officials will discuss with Environment Waikato, Taupo Lake Care and other stakeholders the pros and cons of a new non statutory catchment management entity;
14. **Note** that no funding is being sought now and no commitments by the Crown will be made before further Cabinet consideration occurs, due in April 2004;
15. **Invite** the Minister for the Environment to report back to POL on a definitive funding proposal for reducing nitrogen inputs to Lake Taupo, and how it will be administered, by 30 April 2004.

Hon Marian L Hobbs
Minister for the Environment

Appendix G –Tuwharetoa land Use Flexibility Map

LTFT, LRFT and ETLT Land Blocks with Development Potential



Appendix H – Memorandum Of Understanding (MOU) between
Ministry for the Environment and Landcorp

f. File - Taupo Nitrate Reduction
(number 7.)

Memorandum of Understanding
Ministry for the Environment - Landcorp Farming Ltd
Nitrate Reduction in the Taupo Catchment

Thursday, 2 December 2004

Background

1. Taupo nitrate reduction

1.1. Lake Taupo, New Zealand's largest lake, is threatened by excess nutrient run-off, and particularly nitrogen, from past and current land use activities within the catchment. The Ministry for the Environment is responsible for leading a cross government agency programme to help protect the lake.

2. Ministry for the Environment

2.1. The Government has acted with its partners Environment Waikato, the Taupo District Council and Ngati Tuwharetoa in a programme to protect the lake. The government has confirmed funding of \$36.7 million towards an \$81.5 million programme to improve the lake's water quality. Environment Waikato and the Taupo District Council have committed to funding the balance. The programme is aimed at reducing the manageable sources of nitrogen into the lake by 20 per cent over 15 years. The Ministry for the Environment has the lead role in negotiating solutions to the nitrogen issue with government agencies and entities.

2.2. Run-off from pastoral farming activities is estimated to make up 35% of nitrogen sources into the lake. Urban sources are estimated to contribute to another 3% of the load. The joint funding package will be used to facilitate and encourage pastoral farmers to diversify to low nitrogen land uses through a mixture of financial incentives, research and support. Robust land use controls will be implemented to underpin the programme and secure the gains made in achieving low nitrogen leaching land uses.

3. Landcorp Farming Ltd

3.1. Landcorp Farming Ltd (LFL) currently farms approx. 8,500 ha running 94,000 stock units (SU) in the lake Taupo catchment. This represents approx 5% of total LFL area and 6.2% of total SU's. Of the total LFL SU's in the catchment approx 10% are deer with the balance evenly split between sheep and beef.

3.2. A portion of the land area due to proximity to the lake and outlook has potential for development into alternate non-farming use.

3.3. One of the properties (Waihora) has significant strategic value to LFL as a part of the LFL breeding programme.

Proposal

4. The Ministry for the Environment would like to discuss and explore with Landcorp the range of options available to the company to reduce its nitrogen emissions from pastoral farming activities in the Lake Taupo catchment. These options include, but are not limited to, afforestation and LFL selling whole or part of its landholdings in the catchment so that the land area can be used in the nitrate emission reducing process:

Undertakings

5. In undertaking the investigation LFL wishes to ensure the following:

5.1. That the process and any subsequent negotiations are managed on commercial terms

5.2. Costs incurred for the investigation exceeding those from normal farming within this catchment and business opportunity identification are considered separately on an as agreed basis

General

6. Good faith

6.1. The parties recognise and accept that it is impractical to make provision for every contingency that may arise in the course of the investigation. Accordingly, the parties declare their intention that this Memorandum of Understanding shall operate between them with fairness and without detriment to the interests of either of them. The parties have entered into this Memorandum of Understanding in good faith with a clear understanding of its nature and intent. The parties shall endeavour to resolve and agree the detailed terms of any omissions or future additions with this original intent in mind.

7. Disclosure

7.1. The Ministry for the Environment is subject to examination by the Audit Office, Parliamentary scrutiny, the Official Information Act and to review by the Ombudsman. While every effort will be made to protect sensitive information, no guarantee can be given.

7.2. Where disclosure is required under the Official Information Act it shall only be made to the extent necessary, and only after Landcorp has been notified and has had reasonable opportunity to consider and discuss the timing and the context of the disclosure.

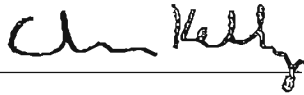
8. Not legally binding

8.1. This document does not legally bind the parties. It is not intended to be a legally enforceable agreement.

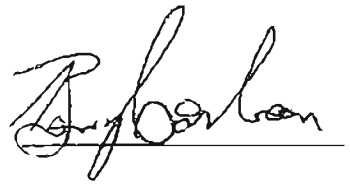
9. Demonstrate commitment

9.1. Entering into this Memorandum of Understanding demonstrates a serious intent by both parties to reach a mutually agreed resolution.

Signed:



Chris Kelly
CEO
Landcorp Farming Ltd



Barry Carbon
CEO
Ministry for the Environment

21/12/04

10 DEC 2004



20 OCT 2006

Cabinet Policy Committee

POL (06) 318

19 October 2006

Copy No: 36

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Title	Protecting Lake Taupo: Joint Fund Administration
Purpose	This paper seeks approval to the documentation to establish the Lake Taupo Protection Trust and the formal funding arrangements between the Crown, Environment Waikato and the Taupo District Council.
Previous Consideration	In December 2003 the Committee agreed to a joint approach to protecting the water quality of Lake Taupo [POL Min (03) 32/9]. In April 2004 Cabinet agreed to commit funding of up to \$36.7 million over 15 years, in collaboration with Environment Waikato and the Taupo District Council, to the Lake Taupo Water Quality Protection Programme [CAB Min (04) 13/3(28)].
Summary	<p>Lake Taupo's excellent water quality is under threat from the effects of past and current land use activities in the catchment. The deterioration of the lake's water quality is due to excess run-off of nutrients, and particularly nitrogen.</p> <p>It is proposed that the Lake Taupo Water Quality Protection Programme with a Joint Fund of \$81.5 million to administer be governed by the Lake Taupo Protection Trust, a Council Controlled Organisation under the Local Government Act 2002. Independent interim Trustees have been appointed following a public nomination process. The Trust will be accountable to a Joint Committee made up of representatives from Environment Waikato, the Taupo District Council and the Crown, and two nominees of the Tuwharetoa Maori Trust Board.</p> <p>The project documentation comprises three documents: the Project Agreement, a Trust Deed and a Funding Deed. Copies of the three documents are attached to POL (06) 318. The documentation includes the necessary checks, balances, performance monitoring and review clauses to manage the risks around the government's investment in the programme. In effect the Project Agreement and the Trust Deed form the constitutional arrangements of the project, and the Funding Deed serves as the purchase agreement.</p> <p>Environment Waikato has prepared a proposed variation to the Waikato Regional Plan that contains new policies and rules to manage land use in the Lake Taupo catchment. The proposed new rules are designed to lock in the nitrogen reduction</p>

gains of the Lake Taupo programme and are integral to underpinning the effectiveness of the programme. Hearings have been held on the proposed variation to the Regional Plan and Environment Waikato is expected to consider the Hearing Committee's recommendations in February 2007.

Baseline Implications

Crown funding of \$36.7 million over 15 years in Vote Environment was approved in the 2004 Budget for the project. The Crown funding was GST inclusive. The funding from Environment Waikato and the Taupo District Council was GST exclusive.

In the first five year review it is proposed that the overall funding issues, and the apparent GST anomaly be addressed.

Legislative Implications

None.

Timing Issues

Subject to Cabinet confirmation of the proposal the council funding partners plan to consider the set of documentation at their council meetings in late October.

Announcement

Publicity will be planned for joint announcements with the programme partners following endorsement of the project documentation by the councils and the formal establishment of the Trust.

Consultation

The Minister indicates that consultation is not required with the government caucuses or other parties represented in Parliament.

Paper prepared by MfE, DPMC, Treasury, TPK, MAF, DIA, OTS and DoC have been consulted. Environment Waikato and the Taupo District Council were consulted on the project documentation.

The Minister for the Environment recommends that the Committee:

- 1 note that in April 2004 Cabinet approved appropriations to develop a policy package aimed at reducing the nitrogen levels in Lake Taupo by 20 percent from land within the catchment, and capped the Lake Taupo water quality funding package at \$36.7 million (GST inclusive) over an estimated 15 years [CAB Min (04) 13/3(28)];
- 2 note that Environment Waikato and the Taupo District Council have committed to funding the balance of the \$81.5 million Joint Fund;
- 3 note that the administrative proposal for the Joint Fund involves Environment Waikato, the Taupo District Council and the Crown entering an agreement to fund and implement the Lake Taupo Protection Trust (the Trust), a Council Controlled Organisation under the Local Government Act 2002;
- 4 note that the Trust will be accountable to a Joint Committee made up of two representatives from each of the following parties: Environment Waikato, the Taupo District Council, the Crown, and two nominees of the Tūwharetoa Māori Trust Board;

- 5 agree to the project documentation attached to POL (06) 318, made up of a Project Agreement, a Trust Deed and a Funding Deed, subject to minor editing and drafting corrections;
- 6 note that the Project Agreement and the Trust Deed in effect form the constitutional arrangements for the project, and that the Funding Deed in effect serves as the purchase agreement;
- 7 authorise the Minister for the Environment to sign the attached project documentation on behalf of the Crown;
- 8 note that the administrative arrangements for the programme include a formal review at five yearly intervals, and that at the first review, five years from the commencement date of the Trust, the funding issues and the apparent GST anomaly will be included in the review;
- 9 note that the Minister for the Environment indicates that consultation is not required with the government caucuses or other parties represented in Parliament.

Bob Macfarlane
for Secretary of the Cabinet

Copies to:
 Cabinet Policy Committee
 Chief Executive, DPMC
 Director PAG, DPMC
 Secretary to the Treasury
 Director-General, Ministry of Agriculture and Forestry (Agriculture)
 State Services Commissioner
 Chief Executive, Te Puni Kōkiri
 Secretary for Internal Affairs (Local Government)
 Director, Office of Treaty Settlements
 Minister of Conservation
 Director-General of Conservation
 Minister for the Environment
 Secretary for the Environment

Office of the Minister for the Environment

Cabinet Policy Committee

Protecting Lake Taupo: Joint Fund Administration

Proposal

1. The purpose of this paper is to seek Cabinet's approval of the project documentation to establish the Lake Taupo Protection Trust, which will form the administrative structure for a scheme to protect Lake Taupo's water quality.

Executive summary

2. The Government's funding commitment to the Lake Taupo Water Quality Protection Programme of \$36.7 million (including GST) was confirmed, through budget processes, by Cabinet in April 2004. Environment Waikato and the Taupo District Council have committed to funding the balance of the \$81.5 million Joint Fund.
3. The Minister for the Environment had been invited to report back to POL on a definitive funding proposal for reducing nitrogen inputs to Lake Taupo, and how it will be administered, by 30 April 2004 [POL Min (03) 32/9 refers]. It has, however, taken longer to establish an administrative structure for the joint fund than was envisaged and extensions to the report back date were sought and granted.
4. This paper seeks Cabinet's endorsement of an administrative proposal involving Environment Waikato, the Taupo District Council and the Crown entering an agreement to fund and implement the Lake Taupo Protection Trust, a Council Controlled Organisation under the Local Government Act 2002. Interim trustees have been appointed following a public nomination process. The project documentation [attached] will, subject to approval, set up the formal funding arrangements between the government, the Councils and the Trust.
5. The Trust will be accountable to a Joint Committee made up of two representatives from each of the following parties: Environment Waikato, the Taupo District Council, and the Crown; and two nominees of the Tuwharetoa Māori Trust Board (as holder of the title and kaitiaki of Lake Taupo for Ngati Tuwharetoa and its hapu).
6. The project documentation is made up of the Project Agreement, a Trust Deed and a Funding Deed. In effect the Project Agreement and Trust Deed form the 'constitutional' arrangements for the project and the Funding Deed serves as the 'purchase agreement'.
7. Subject to Cabinet's endorsement of the proposal, the council funding partners propose to consider an agreed set of documentation at their council meetings in late October 2006.

Background

8. Lake Taupo's excellent water quality is under threat from the effects of past and current land use activities in the catchment. The deterioration of the lake's water quality is due to excess run-off of nutrients, and particularly nitrogen.
9. On 10 December 2003 the Cabinet Policy Committee (POL) noted that local and central government are working to protect Lake Taupo by promoting sustainable development through low nitrogen land uses within its catchment. The Minister for the Environment was invited to report back to POL on a definitive funding proposal for reducing nitrogen inputs to Lake Taupo, and how it will be administered, by 30 April 2004 [POL Min (03) 32/9 refers]. It has, however, taken longer to establish an administrative structure for the joint fund than was envisaged and extensions to the report back date were sought and granted.
10. The Government's funding commitment to the programme of \$36.7 million (including GST) was subsequently confirmed, through budget processes, by Cabinet in April 2004. This confirmation was announced and reflected in the Estimates of Appropriations for the Government of New Zealand for the Year Ending 30 June 2005 as an appropriation agreed for Vote: Environment. Environment Waikato and the Taupo District Council have committed to funding the remainder of the \$81.5 million programme to improve Lake Taupo's water quality.
11. This paper reports on, and seeks Cabinet's approval of, the administrative structure for the Joint Fund.
12. Environment Waikato and the Taupo District Council agreed in June 2005 to establish a Council Controlled Organisation in the form of a Trust, under the Local Government Act 2002, for administering the public fund for the programme.
13. My officials have worked closely with the council funding partners to ensure the project documentation includes the necessary checks, balances, performance monitoring and review clauses to manage the risks around the government's investment in the programme. I am now in a position to seek Cabinet's endorsement of the proposed Trust to administer the fund and implement the programme. The project documentation [attached] will set up the formal funding arrangements between the government, the Councils and the Trust. Subject to Cabinet's endorsement of the proposal the council funding partners propose to consider an agreed set of documentation at their council meetings in late October 2006.
14. Environment Waikato is the authority currently administering the joint fund on behalf of the funding partners pending the formal establishment of the Trust.

Comment

15. In summary, the administrative proposal involves Environment Waikato, the Taupo District Council and the Crown entering an agreement (the

'project agreement') to fund the Lake Taupo water quality protection project. The project will be implemented by the Lake Taupo Protection Trust, a Council Controlled Organisation under the Local Government Act 2002. Independent trustees have been appointed in an interim capacity until the Trust is established.

16. The Trust will be overseen by a Joint Committee made up of two representatives from each of the following parties: Environment Waikato, the Taupo District Council, and the Crown; and two nominees of the Tuwharetoa Maori Trust Board (as holder of the title and kaitiaki of Lake Taupo for Ngati Tuwharetoa and its hapu). The Trust is accountable to the Joint Committee.
17. The objective of the Joint Committee is to establish the Lake Taupo Protection Trust and ensure the Lake Taupo Protection Project is implemented in accordance with the Trust Deed.
18. The project documentation is made up of the Project Agreement, a Trust Deed and a Funding Deed. In effect the Project Agreement and Trust Deed form the 'constitutional' arrangements for the project and the Funding Deed serves as the 'purchase agreement'.

The Project Agreement

19. The Project Agreement is the founding document for the project and will provide for its governance structure and implementation. The Project Agreement defines the objective of the project and covers the membership, functions and operation of the Joint Committee.
20. The single objective of the project is to reduce the volume of nitrogen, from manageable sources, entering Lake Taupo by a minimum of 20 percent over the 15 year term of the project. The manageable sources of nitrogen to the lake are nutrient run-off from farm land and urban areas (including stormwater and wastewater systems).
21. The Joint Committee has been in operation since August 2005 and is working well. It is chaired by Environment Waikato chair Jenni Vernon. The other members of the committee are: Mayor Clayton Stent and Councillor Don Ormsby (Taupo District Council); Councillor Basil Morrison (Environment Waikato); George Asher and Ian Kusabs (Tuwharetoa Maori Trust Board nominees); and Lindsay Gow and Tim Bennetts (Ministry for the Environment). Subject to the formal approval of the structure it could be appropriate for a representative from another government agency (e.g. Te Puni Kokiri or the Ministry of Agriculture and Forestry) to partner Lindsay Gow, the Deputy Chief Executive of the Ministry for the Environment, as the Crown's representatives on the Joint Committee.
22. The Project Agreement includes provisions whereby, in the event that the Joint Committee is not reconstituted (following local authority elections), or is otherwise inoperative, the governance of the project will continue on the same basis through a 'Representative Group', ie a group with representatives of each party and a representative of the Tuwharetoa Maori Trust Board will continue to govern the project.

23. The project documentation provides for the payment of all moneys directly from the funding parties to the Trust [see clause 5.1]. The Trust, however, will not apply all of the moneys to the Trust Fund. It will first pay the costs of establishing the Trust and the operation of the Joint Committee. The balance of the moneys will constitute the Trust Fund and must be applied to the purpose of the Trust.

The Trust Deed

24. The Trust Deed details the powers and provisions relating to the establishment of the Lake Taupo Protection Trust and its trustees. The Trust Deed sets out the charitable purpose of the Trust and defines its structure, monitoring and reporting requirements. The appointment of between six and eight trustees is the responsibility of the Joint Committee.
25. The Trust will be established as a charitable trust incorporated under the Charitable Trusts Act 1957. The Trust will seek charitable status under the Charities Act 2005. This is not guaranteed. If granted, however, such status would provide the Trust with tax and gift duty exemptions.
26. The Trust is accountable to the Joint Committee and this accountability will be managed through the preparation of an annual Statement of Intent, by the Trust. The Joint Committee will be given the opportunity to comment on the Statement of Intent.
27. Following a public nomination process the Joint Committee appointed six trustees, in an interim capacity until the Trust is established, to the proposed Trust. It is an excellent group and brings a wide range of skills, attributes and experience to the programme. The Interim trustees are (alphabetically):
- Gerald Fitzgerald - (Wellington) Lawyer/Partner with Kensington Swan.
 - Colin Horton - (Hamilton) Registered Agricultural Consultant.
 - John Hura - (Turangi) - Planning Manager- NZ Forest Mangers Ltd
 - John Kneebone - (Cambridge) – Retired. Very experienced with rural issues
 - Jeremy Rickman – (Hamilton) Chartered Accountant
 - Susan Yerex – (Turangi) Farmer

The Funding Deed

28. The Funding Deed records the manner in which the public funders (Environment Waikato, the Taupo District Council, and the Crown) will contribute to and manage the public fund. The Funding Deed defines the respective obligations to each other in respect of funding the Trust.
29. For the avoidance of doubt, the Funding Deed explicitly states that any party's contributions to the Public Fund, and the obligations of any party as a funder, shall terminate in the event of a change in relevant policy resulting in funding for the project no longer being available [Clause 2.10]. Twelve months notice of termination is required and the exiting

party must try to meet with the remaining parties prior to the change of policy and after service of notice of termination to discuss the implications for the project.

Review provisions

30. The project documentation includes robust review provisions, including:
- A requirement to review the project at five-yearly intervals [Clause 10.2 Project Agreement and Clause 6.1 Funding Deed]
 - An ability to review the project at any time if the parties are not satisfied with the Trust's performance. This review is triggered if a majority of the funders consider the Trust is not meeting its obligations and has not improved its performance following an agreed plan with the Joint Committee [Clause 5.3 Funding Deed]

Performance monitoring

31. The proposed Trust, as a Council Controlled Organisation (under the Local Government Act 2002), will be subject to the accountability and monitoring provisions contained in Part 5 of that Act. The Trust must act in accordance with its statement of intent and provide half-yearly and annual reports to the Joint Committee.
32. The documentation requires a statement of intent to be prepared and given to the Joint Committee for comment each year. The Trust must take into account the comments of the Joint Committee in finalising the statement of intent. The statement of intent must include the requisite information (including the nature and scope of activities to be undertaken) under the Local Government Act 2002 and also the Trust's proposed annual expenditure and projections for the next 2 financial years. The Funding Deed requires the Trust to obtain the Joint Committee's approval to spend more than 15% of the total proposed annual expenditure on any one project or item [Clause 4.1].

Funding Issues

33. In finalising the administrative structure for the programme officials and council staff realised that the council funding partners and the government had treated GST differently in the set up of the programme. The councils contributions have been calculated on a GST exclusive basis while the government's agreed contribution includes GST. I can only assume that in designing the funding profile for the programme in late 2003 each of the parties assumed, without explicit agreement, that there was a consistent approach to the treatment of GST.
34. I have agreed that the best way forward is to proceed with the programme on the basis of the current, and agreed, funding arrangements. The administrative arrangements for the programme include a formal review at five-yearly intervals. I propose, therefore, that the funding issues and the apparent GST anomaly are addressed at the first of the formal five year reviews.

Catchment land use policies and rules

35. For your information, Environment Waikato has prepared, under the Resource Management Act 1991, a proposed variation to the Waikato Regional Plan that contains new policies and rules to manage land use in the Lake Taupo catchment. The proposed new policies and rules include controls for nitrogen emitting activities in the catchment including for farming activities and new urban development. Depending on the outcome of the plan variation process, the proposed new policies and rules could set some interesting and useful precedents for the Government's Sustainable Water Programme of Action.
36. The proposed new rules are designed to lock in the nitrogen reduction gains of the Lake Taupo programme and are integral to underpinning the effectiveness of the programme.
37. The proposed variation to the regional plan was publicly notified in July 2005 and submissions called for. The Hearing Committee, chaired by former Environment Court Judge Peter Skelton, has now completed hearing submissions and is due to complete its deliberations in late November 2006. Environment Waikato staff have informed my officials that the council is expected to consider the committee's recommendations in late February 2007. After the council has released its decisions, submitters will have 30 days to appeal decisions they are not satisfied with to the Environment Court.
38. One of the most contentious issues the hearing committee has had to deal with throughout the hearing process is the mechanism by which forested and undeveloped land is initially treated under the proposed plan. Under the variation, as proposed, owners of land that is currently in a forested or undeveloped state cannot develop alternative land uses unless nitrogen is sourced from other nitrogen emitters in the catchment. Farming activities are, however, effectively capped at existing levels. The foresters have argued that their activities are not the cause of elevated nitrogen levels in the lake and it is inequitable for their development opportunities to be restricted while those whose activities are leaching nitrogen can continue at their current intensity.
39. The issue is not about the use of nitrogen capping land use controls, which are integral to the overall programme, but is about the initial allocation mechanism used to implement the regime.

Consultation

40. The following government departments that have a direct interest in the outcome of this paper have been consulted during its preparation: Department of Prime Minister and Cabinet, Treasury, Te Puni Kokiri, Ministry of Agriculture and Forestry, Department of Internal Affairs, the Office of Treaty Settlements and the Department of Conservation. Environment Waikato and the Taupo District Council have been consulted in the development of the project documentation but not directly on the contents and recommendations of this paper.

Financial implications

41. The Government's funding commitment to the programme of \$36.7 million (including GST) was confirmed, announced and reflected in the Estimates of Appropriations for the Government of New Zealand for the Year Ending 30 June 2005 as an appropriation agreed for Vote: Environment.

Human rights

42. There are no human rights issues associated with the proposal.

Legislative implications

43. There are no legislative implications resulting from the proposal.

Regulatory impact and compliance cost statement

44. The proposal does not require the preparation of a regulatory impact statement (RIS) and business compliance cost statement (BCCS).

Gender implications

45. There are no gender implications associated with the proposal.


Publicity

46. Note that publicity will be planned for joint announcements with the programme partners following endorsement of the project documentation by the councils and the formal establishment of the Trust.

Recommendations

47. I recommend that the Cabinet Policy Committee:
- 45.1 Note the Government's funding commitment to the Lake Taupo Water Quality Protection Programme of \$36.7 million (including GST). Environment Waikato and the Taupo District Council have committed to funding the balance of the \$81.5 million Joint Fund.
- 45.2 Note the administrative proposal for the Joint Fund involves Environment Waikato, the Taupo District Council and the Crown entering an agreement to fund and implement the Lake Taupo Protection Trust, a Council Controlled Organisation under the Local Government Act 2002.
- 45.3 Note that the Trust will be accountable to a Joint Committee made up of two representatives from each of the following parties: Environment Waikato, the Taupo District Council, the Crown and two nominees of the Tuwharetoa Maori Trust Board.
- 45.4 Agree to the project documentation attached, made up of a Project Agreement, a Trust Deed and a Funding Deed, subject to minor editing and drafting corrections.

- 45.5 Authorise the Minister for the Environment to sign the attached project documentation on behalf of the Crown
- 45.6 Note that the administrative arrangements for the programme include a formal review at five yearly intervals and at the first review, five years from the commencement date of the Trust, the funding issues and the apparent GST anomaly will be included in the review.



Hon David Benson-Pope
MINISTER FOR THE ENVIRONMENT

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Appendix J - Abbreviation key

AgR	AgResearch
CCO	Council Controlled Organisation
CG	Central Government
CHH	Carter Holt Harvey
E Court	Environment Court
EW	Environment Waikato
FM	NZ Forest Managers
LTFT	Lake Taupo Forest Trusts
LTPT	Lake Taupo Protection Trust
MAF	Ministry of Agriculture and Fisheries
MEA	Maori Economic Authority
MfE	Ministry for the Environment
MOU	Memorandum of Understanding
N	Nitrogen
NDA	Nitrogen Discharge Allowance
NTAG	Ngati Tuwharetoa Agricultural Group
RFT	Rotoaira Forest Trusts
RPV5	Regional Plan Variation 5
TDC	Taupo District Council
TMTB	Tuwharetoa Maori Trust Board
TPD	Tongairiro Power Development
WRC	Waikato Regional Council (EW)