
WHAT IS THE PROPOSED DISTRICT PLAN PROPOSAL?

Liam Dagg

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

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

Overview - What is the Proposed District Plan proposal?

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

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

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

Some important things to remember

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

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

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

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

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

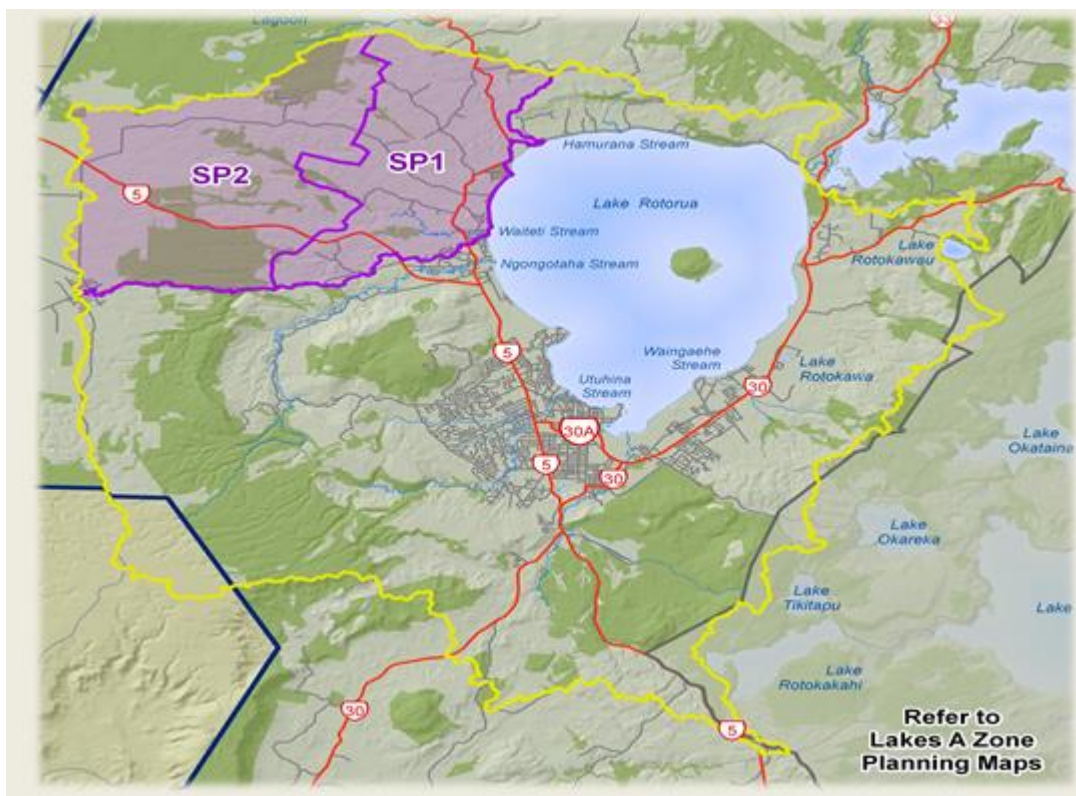
- To give effect to the Regional Policy Statement.
- The community has identified lake water quality as one of the top issues they want the District Plan to give effect to; something that has driven RDC. It is not just a Regional Council game but a 'What can the District Plan and District Council do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

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

How and where is it proposed to happen?

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

Slide 1



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

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

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

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

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

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

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

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

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

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

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

Some 20/20 hindsight comments

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

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

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

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

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

What the plan does not cover

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

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

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

A snap shot of feedback from the submissions

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

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

Next Steps

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

Some parting shots

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

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

I thank you for your time.

John Green

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

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