

**File Reference:** 7.00123  
**Significance of Decision:** Receives Only - No Decisions



**Report To:** Strategy, Policy and Planning Committee  
**Meeting Date:** 11 September 2012  
**Report From:** Stephen Lamb, Natural Resources Policy Manager

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## Developing rules for Lake Rotorua: project overview

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### Executive Summary

An overview of the Lake Rotorua rule development project is provided for this Committee's information. The purpose of the project is to develop rules under the Regional Water and Land Plan that will contribute to ensuring nitrogen loss to Lake Rotorua does not exceed 435 tonnes per year by 2022.

The project will be run in three phases:

**Phase 1: October – December 2012: Review and Preparation.** Includes assessing possible regulatory options, collating existing benchmarking and science information, preparing an engagement plan.

**Phase 2: January – December 2013: Development.** Includes allocating the lakes assimilative capacity, and drafting suitable rules to ensure the limit of 435 t/y is achieved.

**Phase 3: January 2014 – July 2015: Notification.** Follows the requirements set out in Schedule 1 of the Resource Management Act.

The project will be undertaken in conjunction with the Lake Rotorua Incentives Scheme that seeks to incentivise significant nutrient reduction from rural land in the catchment. Staff will also work directly with stakeholders throughout the project.

### 1 Recommendations

**That the Strategy, Policy and Planning Committee under its delegated authority:**

- 1 Receives the report, "Developing rules for Lake Rotorua: project overview".**
- 2 Notes that this report will be sent to the Rotorua Te Arawa Lakes Strategy Group for their information.**

### 2 Purpose

The purpose of this report is to provide the Strategy, Policy and Planning Committee with an overview of the Lake Rotorua rule development project.

### 3 **Background**

The Proposed Regional Policy Statement 2012 – 2022 requires that the amount of nitrogen entering Lake Rotorua does not exceed 435 tonnes per year (t/y) by 2022. This is a nitrogen reduction of approximately 320 t/y.

The current Ten Year Plan provides for \$45.5 million to incentivise a 200 t/y nitrogen reduction from rural land (the proposed Lake Rotorua Incentives Scheme). Staff are currently working on an integrated framework for the Incentive Scheme to identify how the scheme will be designed and delivered.

Nitrogen reductions will also need to be achieved through rules. At its meeting on 31 July 2012, this Committee agreed that the development of rules for Lake Rotorua should begin immediately and in conjunction with the development of the Incentives Scheme.

It was also agreed that staff would provide an overview of the rules project at this Committee meeting. This overview, including phases, milestones and indicative timeframes is provided below.

### 4 **Comment**

#### 4.1 **Project description**

The purpose of this project is to develop rules under the Regional Water and Land Plan that will ensure nitrogen loss to Lake Rotorua does not exceed 435 tonnes per year by 2022.

Based on national and international experience, the types of rules that could be considered include:

- Discharge rules: Rule 11-type rules that permit or control discharges from activities on land within the catchment according to the amount of nitrogen loss associated with that activity.
- Input rules: rules that limit the amount of nitrogen that can be applied per hectare. For example, rules in parts of Europe dictate total amounts of fertiliser allowed per hectare (for example, no more than 40kg/ha can be applied to the land) as well as stocking rates.
- Land use rules: rules prohibiting particular land use or land management practices, such as prohibiting agriculture within 200m of a waterway, or prohibiting the wintering off of stock in a catchment.

A critical piece of work that will need to be undertaken to support the rule development is allocation. We need to understand how the current 755 tonnes is effectively allocated, and how this can be reallocated to meet the required 435 tonnes. This includes a decision on the mechanism to be used for allocation - such as apportioning by sector, grand-parenting (Rule 11), and matching allocations to land use capability.

The project will be undertaken in conjunction with the Lake Rotorua Incentives Scheme that seeks to incentivise significant nutrient reduction from rural land in the catchment. We will also work directly with stakeholders throughout the project. While stakeholders will not be a part of the decision-making process, they will be involved at critical stages of the package design.

## 4.2 Project outcomes and objectives

*The main outcomes of this project are:*

- Regulations that support improved water quality in Lake Rotorua
- Regulations that meet National Policy Statement and Regional Policy Statement requirements
- Certainty for landowners
- A clear relationship to the Lake Rotorua Incentives Scheme.

*The objectives of this project are:*

- To develop robust and efficient rules that meet statutory requirements but are also consistent with other plans and strategies (e.g. the Rotorua Sustainable Economic Growth Strategy; the Strategy for the Lakes of the Rotorua district)
- To work with stakeholders in the development and design of the rules, to ensure they are practical, workable and achievable
- To engage with affected landowners to ensure there are no surprises, and to allow them to have the information they need to participate in the Incentives Scheme

## 4.3 Project approach

This project will be progressed in three phases:

### **Phase 1: Review and Preparation: 12 weeks (October–December 2012)**

All background research and analysis required for rule development will be undertaken during this first phase. The key milestones will be assessing the regulatory methods available for achieving the lake's target, and identifying all existing information for the lake to support these methods.

An engagement plan will be developed in this phase to ensure we are talking to the right people at the right time during phases 2 and 3. This includes partners, iwi, stakeholders, affected landowners and the Rotorua community.

### **Phase 2: Rule development: 52 weeks (January - December 2013)**

During this second phase, we will focus on the design and development of the rules to be made under the Regional Water and Land Plan. The critical first step will be determining the way in which the 435 tonnes will be allocated in the catchment. This will include detailed scenarios that can be used to show the impacts of different options, and each scenario will be tested against allocation criteria that have been developed.

Once a preferred mechanism has been decided by Council, rules that can achieve this will be drafted. A critical step in this milestone will be testing the workability of all rules drafted with stakeholders and landowners. Legal advice will also be sought. Council will be provided with a series of rule options and will decide which options will form the basis for Phase 3.

### **Phase 3: Notification: 78 weeks (January 2014 - July 2015)**

This phase will follow the requirements set out for a plan change in the RMA, including a section 32 analysis, notification of plan change, submissions summary and hearings reports, and revised section 32 analysis and plan.

This timeframe and milestone does not include the response to any appeals.

#### 4.4 Stakeholders

Reducing nutrient loss to Lake Rotorua is a contentious issue. Nutrient rules that result in land use changes in the catchment will have direct and indirect impacts on landowners and communities. It is inevitable that this project will generate heated discussion and debate, and views across the community are likely to be polarised.

This Committee has directed staff to actively engage with stakeholders throughout the project. In the first instance we will work directly with a “Stakeholder Working Group” that was agreed at a Lake Rotorua Catchment Stakeholder Workshop on 31 August 2012. Participants at this workshop agreed that a representative group of stakeholders be nominated to engage directly with Council on development of both the rules and the Incentives Scheme. The working group is due to be convened shortly.

We will meet with the Group regularly throughout all phases of the project for critical review of all project deliverables, testing of scenarios, input into design and provision of advice.

We will also develop an engagement plan to direct discussions with partners, stakeholders, affected landowners and the broader Rotorua community. This engagement plan is a key milestone in Phase One of the project.

#### 5 Next steps

Staff will provide this Committee with regular milestone updates throughout all phases of this project. Decisions will also be sought from this Committee, including:

- Approval of the engagement plan
- The preferred mechanism for allocating the assimilative capacity of the lake (i.e. the 435 t/y)
- The preferred rules for notification (based on option analysis).

Sarah Omundsen  
**Senior Planner**

**for Natural Resources Policy Manager**

**4 September 2012**

**File Reference:** 8.00141  
**Significance of Decision:** Receives Only - No Decisions



**Report To:** Strategy, Policy and Planning Committee  
**Meeting Date:** 11 September 2012  
**Report From:** David Phizacklea, Regional Integration Manager

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## Update on Integrated Planning

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### Executive Summary

An update on integrated planning initiatives is provided following the June meeting presentation to the Committee. Staff are finalising an integrated planning tool to enable the public and stakeholders to display the initial version of integrated planning for the region, which comprises outcomes from the region's strategies and plans.

A one-day workshop has been planned with the region's territorial authorities, as requested by the Committee, but difficulties have arisen with arranging the involvement of all councils' elected members. An outline of the workshop agenda is included in this report.

There are a number of current external factors affecting spatial or integrated planning including the National Party – Act confidence and supply agreement requiring preparation of unitary plans (a combined regional and district plan per district). Ministry for the Environment staff have indicated they are providing advice on how to achieve this requirement. It is therefore likely that future changes to the Resource Management Act will include requirements to simplify and further streamline planning processes. It is considered unlikely that the current hierarchy of plans will withstand current government scrutiny.

It is recommended that while Council maintains a watching brief on proposed changes it recognises government intent and consider ways to prepare for this.

### 1 Recommendations

**That the Strategy, Policy and Planning Committee under its delegated authority:**

- 1 Receives the report, Update on Integrated Planning.**

### 2 Background

In response to concerns that Council should take a greater lead in spatial planning staff reported to the 12 June 2012 Strategy, Policy and Planning Committee meeting that Council contributes to a number of such projects. Examples included SmartGrowth, Bay of Connections and the Regional Land Transport Strategy. It was noted that most of Council's plans and strategies include a spatial component. Since preparing the earlier report there have been further developments in terms of integrated planning.

It was previously agreed that staff would bring back an integrated plan that collates existing outcomes and maps into a common framework for Council to use in developing a vision for the Bay of Plenty.

The integrated plan remains on track, albeit slightly delayed, and now rests with Geospatial for inclusion of mapped outcomes into a “Geocortex” mapping tool. Staff are also coordinating a regional workshop to consider better planning in the Bay of Plenty region.

### 3 **Integrated Planning Tool**

The Integrated Planning tool comprises maps and data derived from outcomes in Council’s plans and strategies presented using a web-based mapping tool. Plans have all been reviewed, metadata created and documentation completed. The Council’s Geospatial team are now inserting data into the Geocortex mapping tool. The project will be complete for verification and testing in the next month.

### 4 **Regional Workshop**

A regional workshop on “better planning” was initially proposed for 31 August 2012 but was postponed due to a workshop on Rotorua Lakes taking priority. A new event date is currently being confirmed. A proposed agenda for the workshop is provided in Appendix 1.

The workshop will invite all elected members and key staff from across the region’s territorial authorities. A series of informing presentations, including from Auckland Council and Ministry for the Environment, will form part of the workshop.

### 5 **Context and Developments**

On 8 August 2012 staff attended a workshop in the Waikato region to consider Integrated Planning - “where to now”. In attendance were representatives of the Waikato territorial authorities, NZTA, and Ministries for the Environment, Transport and Trade, Innovation and Employment.

Waikato is in a similar situation to the Bay of Plenty. Their “SmartGrowth” strategy (called “FutureProof”) is for part of the region only and there is no unifying vision for the Waikato. Councils there want to explore whether they need to develop an integrated plan and how this might help their situation. Specifically, they have looked at progress in Auckland and question whether similar progress might be achieved in the Waikato through application of a spatial planning approach.

The workshop noted that an integrated plan for Auckland came about through legislative change and concerted effort, political “buy in” and government having a physical presence in Auckland. Key factors that Ministry representatives considered important were:

- Consensus across territorial authorities on the need for a regional/spatial plan
- Strong working relationships with central government
- Effective community engagement
- A clear purpose and idea of benefits.

It was put to the Waikato that their region is different from the Auckland situation and the rationale for a spatial plan is far from clear. Ministry staff were firm that before considering a spatial plan, the Waikato should consider if other simpler methods might better achieve their goals. An outcome from the Waikato workshop is to develop an agreed problem statement for which an integrated plan might be the appropriate solution.

Looking wider, the Upper North Island Strategic Alliance is working to develop a picture of priority projects to deliver economic growth through improvements in freight, logistics, tourism and a range of economic development interventions. This broad study into how the upper North Island economy works involves a number of studies including where freight originates, its destination, possible network efficiencies and the role of the 3 major ports. It has been noted that the provision of industrial land should be coordinated to ensure agencies can deliver optimal network performance and that competition between ports may be another area where a more “united” view will help. With time, it is likely that an agreed picture of required “strategic” projects will emerge.

Nationally, there are signals that the way we plan may soon change. In responding to the Auckland Plan<sup>8</sup>, the government sent clear signals that it seeks to reign in fiscal and policy excess. Key messages include:

1. Government wants to avoid duplication of effort across local and central government.
2. Government priorities (development/growth/innovation, no waste, get on with business) must be supported.
3. Government is committed to best value from public spending.
4. Government will not support programmes or projects which do not convincingly deliver benefits to justify their cost.
5. Government supports Council recognising challenges and making required trade-offs.
6. Government is looking at detail and wants clarity.
7. The long-term contribution of projects must be justified.

At the 8 August workshop Ministry for the Environment staff acknowledged the above response and advised that their current priority is now giving effect to the National-Act confidence and supply agreement (Appendix 2). This includes requirements to “*support simplifying the planning process, and will legislate to ensure that there is only one plan (a “unitary” plan) for each district*”. Notwithstanding the substantial logistical challenges, Ministry staff are understood to be investigating a range of options including the use of National Standards and special legislation to streamline the plan development process.

Thus, spatial or integrated planning sits at an interesting juncture. It seems likely that the Upper North Island story will include aspects that require “anchoring” in a spatial plan and that other complementary strategies may evolve from these. But, at the same time, it is clear that the planning framework is likely to change, and that Councils must critically examine and understand the benefits of proposed plans.

## 6 **Where to now**

It is a central government priority to recover the New Zealand economy. Integrated planning and reform of the planning system at large may assist this goal. The Government response to the Auckland Plan includes pointers to an expectation that intervention in otherwise free markets, whether to build infrastructure or to impose policy, must only proceed if justifiable.

To this end activities that demonstrably improve the way people do business should be a priority.

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<sup>8</sup> [http://admin.beehive.govt.nz/sites/all/files/Government\\_response\\_to\\_Auckland\\_Plan.pdf](http://admin.beehive.govt.nz/sites/all/files/Government_response_to_Auckland_Plan.pdf)

Integrated planning will meet this objective if quantifiable “wins” can be demonstrated. “Optimising” infrastructure (i.e. reducing duplication, reducing network length and congestion) often show net positive values.

Therefore, an important first step in integrated planning is for the Bay of Plenty region to consider the problems it seeks to resolve and exactly how this/these problems might best be resolved. There are some major changes looming, including the impact a profoundly older population will have on our region, for which an integrated plan could add value. Furthermore, strategic aims such as port growth, aligning land-use and transport infrastructure, and matching population needs to infrastructure capacity may be best presented and managed spatially. Nevertheless, there are significant costs associated with planning including the opportunity costs and risk of getting it wrong. With the government being increasingly diligent in assessing the return on public investment clarity as to what is proposed and to what end is paramount.

Another key consideration is planning “churn”. The National-Act confidence and supply agreement implies that the planning system as we know it is flawed. It is certainly complicated, uncertain and confusing to some people. As the cornerstone of a government agreement, the system as we now know it, rightly or wrongly, appears set to change.

On the basis of government feedback to the Auckland Plan, content of the National-Act confidence and supply agreement and feedback provided at the recent Waikato region workshop developing a robust, integrated planning system should be a priority. There is a need to show that plan provisions are necessary and add value. Consistency within and across regions remains a high priority.

On the basis of impending change it is recommended that Council maintains a watching brief and front-foots reform by engaging constructively with neighbours and constituents as to what is required to achieve the government’s vision. Administratively, there are a wide range of tasks that will make it easier to achieve a “unitary plan” (or similar) including streamlining current plans, reducing duplication, improving clarity and reducing policy “clutter”. The challenge is to see plans through a reform eye and ask, as the government will, “is this necessary, will it address the problem?” Developing agreements and processes with neighbours and the region’s territorial authorities around a process to achieve the common plan is an obvious first step.

## **7 Financial Implications**

### **Current Budget**

The cost of completing the integrated mapping work and working with the Committee on developing a "vision" for the region is included in the Non-Statutory Plans, Strategies and Policies programme of the Ten Year Plan 2012-2022. There is \$50,000 allocated in Year One and \$100,000 in Years Two-Ten to the regional integrated planning.

### **Future Implications**

There are no Ten Year/Annual Plan implications currently identified.

James Low  
**Senior Planner**

**for Regional Integration Manager**

**4 September 2012**



# **APPENDIX 1**

## **Better Integrated Planning Workshop - Proposed Agenda**



## **BETTER INTEGRATED PLANNING**

**TE PUKE GOLF COURSE, 10 – 4PM**

### **MORNING SESSION - SETTING THE SCENE**

10:00 am Morning tea, welcome

10:15 am Opening.

10:25 am: Ree Anderson (Manager Regional Strategy, Community & Cultural Policy- Auckland City).  
The Auckland Plan. Lessons learnt – opportunities and costs.

11:00 am: James Bevan. (Director, Latitude Planning). Collaborative Planning – What works and what does not.

11:40 am: Lesley Baddon (Manager, Urban Environment, Policy Division Ministry for the Environment). Change is afoot ... RMA and Local Government reform and what this means for the way that we plan.

12:00 pm: Cheryl MacGregor (Economic Development Executive, Bay of Plenty Regional Council).  
Bay of Connections.

*12:30 pm: Lunch.*

### **AFTERNOON SESSION – LOCAL INTEGRATION**

1:00 pm: Council Perspectives. An opportunity for mayors or their representatives to talk of their observations of the strengths and weaknesses of the current planning system and hopes for the future.

*2:30 pm Afternoon Tea*

3:00 pm. Group discussion. Where to next.

### **CLOSING**



## **APPENDIX 2**

# **National-ACT Confidence and Supply Agreement**



## **Confidence and Supply Agreement with ACT New Zealand**

ACT New Zealand agrees to provide confidence and supply through positive votes of support for the term of this Parliament to a National-led Government in return for National's agreement to the policy programme and other matters set out in this document.

The agreement between ACT and National builds on the stable and constructive relationship developed between the two parties over the past three years and will continue to be based on good faith and no surprises.

This agreement recognises that National and ACT have joint aspirations for a more prosperous country. It also recognises their shared goals of:

- improving the competitiveness of New Zealand's import-competing and exporting activities through reducing intrusive government regulation and excessive government spending
- raising productivity growth by the same means and through ongoing public sector reform and greater reliance on competitive processes; and
- reducing child poverty, educational underachievement and youth unemployment.

The policy programme outlined in this agreement upholds and advances these goals.

### **Consultation arrangements**

The Government will consult with ACT including on:

- the broad outline of the legislative programme
- key legislative measures
- major policy issues
- broad budget parameters; and
- policy issues and legislative measures to which ACT is likely to be particularly sensitive.

Consultation will occur in a timely fashion to ensure ACT views can be incorporated into final decision-making.

Formal consultation will be managed between the Prime Minister's Office and the Office of Hon John Banks.

Other co-operation will include:

- access to relevant Ministers
- regular meetings between the Prime Minister and Hon John Banks

- advance notification to the other party of significant announcements by either the Government or ACT, and
- briefings by Ministers and officials on significant issues and issues that are likely to be politically sensitive before any public announcement.

## **Policy programme**

National has agreed to adopt and implement during this term of Parliament the following policies advanced by ACT:

### **1. Economy-Wide Monitoring**

National and ACT agree that to better allow Parliament and the general public to monitor progress towards improving New Zealand's economy-wide performance the New Zealand Treasury should be charged with reporting annually on the progress being made to improve the quality of institutions and policies, as measured by international organisations, including those producing indexes of economic freedom, and on progress towards raising productivity growth and reducing the income gap with Australia.

### **2. Regulatory Standards Bill**

National and ACT agree with the OECD and the 2025 Taskforce that excessive and poor-quality regulation is holding New Zealand back. The *Better Regulation: Less Regulation* initiative in the previous Parliamentary term responded usefully to the problem, but more needs to be done.

The two parties agree to continue the work commenced in late 2008 to reduce the regulatory burden on businesses and individuals. In particular, work will continue on the legislative framework to achieve that objective. The Regulatory Standards Bill will be included in the continuance motion for the new Parliament, and the Minister for Regulatory Reform will work closely with the Minister of Finance to achieve a mutually agreed outcome, based on the Treasury's preferred option (option 5), for enacting within the next 12 months.

### **3. Legislated spending limits**

National and ACT agree that New Zealand's current fiscal problems were caused by irresponsible increases in government spending between 2005 and 2008. They agree that this could happen again in the future unless institutional changes are put in place that will better constrain excessive future increases in government spending.

To this end they agree to legislate within the next two years to provide that core Crown operating spending, excluding finance charges, spending on the unemployment benefit, asset impairments and spending on natural disasters, will be subject to a spending limit. Under this limit expenditure will grow no faster than the annual increase in the rate of population growth multiplied by the rate of inflation. National and ACT will work together to amend the Public Finance Act to add:

- a requirement, to be reflected in the principles of fiscal responsibility and reporting provisions, that governments will not introduce expenditure



appropriations that would at any point in the future exceed the spending limit;  
and

- a requirement that the Minister of Finance explain any unplanned breach of the spending cap to Parliament and outline what actions will be taken to ensure expenses remain within the cap in future.

#### **4. Resource Management Act**

National and ACT agree that significant change is needed to the RMA to promote investment, jobs and prosperity as well as environmental protection.

ACT believes a full review and rewrite of the RMA is necessary, while National intends to focus on Phase 2 reviews and reforms to address particular weaknesses and deficiencies in the legislation.

A key change that both parties will work to achieve is in the planning area; where there is a need to reduce the clutter of planning documents and increase the efficiency of the planning process. ACT and National support simplifying the planning process, and will legislate to ensure that there is only one plan (a “unitary” plan) for each district.

The RMA reform agenda will be a standing item in the regular National/ACT leadership meetings, and Hon John Banks will work closely with the Minister for the Environment to advance reform proposals.

#### **5. Education**

National and ACT acknowledge that many New Zealand children are not achieving their potential in education and are leaving school ill-equipped to enter the workforce and with limited choices for their future. Underachievement in education often compounds the disadvantages already faced by children in vulnerable, at-risk communities, and can contribute to intergenerational disadvantage, poor health, poverty, joblessness, welfare dependence, criminal offending and social dysfunction. It is one of the reasons for New Zealand’s very high rate of youth unemployment.

Both parties agree that to break this cycle a range of mutually-supporting reforms is required in the areas of welfare, primary health, education, youth transition and employment law.

With respect to education, the parties have, in particular, agreed to implement a system, enabled under either sections 155 (Kura Kaupapa Maori) or 156 (Designated character schools), or another section if appropriate, of the Education Act, whereby school charters can be allocated in areas where educational underachievement is most entrenched. A series of charters would initially be allocated in areas such as South Auckland and Christchurch. Iwi, private and community (including Pacific Island) groups and existing educational providers would compete to operate a local school or start up a new one. Schools would be externally accountable and have a clearly-defined, ambitious mission. Public funding would continue to be on a per-child basis. (Details are included in the attached Annex).

National and ACT agree to establish an implementation group comprising a private sector chair, and private sector, business, iwi and community representatives along with government officials to develop the proposal. They also agree to ensure it is implemented within this Parliamentary term. The terms of reference and composition of the group would be agreed by National and ACT and be supported by the Ministry of Education and external resources. (Details are included in the attached Annex.)

National and ACT also agree to set up a task force to produce a comprehensive report on governance issues relating to policy towards state, integrated and independent schools.

## **6. Welfare**

National and ACT agree that the two most important aims of welfare reform are the alleviation and prevention of child poverty, and a focus on work as the best route out of poverty and welfare dependence for those who are able to work. Both parties also agree with the broad thrust of the recommendations of the Welfare Working Group (WWG), and support their implementation.

In particular, National and ACT agree to implement in this Parliamentary term measures to promote the well-being of children in benefit-dependent households set out in WWG Recommendations 27: *Parenting obligations*, 28: *Support for at-risk families*, and 30: *Income management and budgeting support*.

They further agree to implement measures to improve the effectiveness of employment placement services for beneficiaries through contracting out such services to private sector and community organisations, as set out in WWG Recommendation 34: *Employment services*.

## **7. ACC**

National and ACT agree to introduce competition for ACC's Work Account. National acknowledges ACT's concern about the participation of private insurers and the fairness of the competitive process if ACC remains a competitor for Work Account business, and agrees to implement policy to manage and minimise this risk.

### **Ministerial position**

Hon John Banks will be appointed to the positions of Minister for Regulatory Reform, Minister for Small Business, Associate Minister of Education, with delegated authority to lead the work on charter schools and the interface between public, integrated and independent schools, and Associate Minister of Commerce. These Ministerial positions will be outside Cabinet.

Hon John Banks will be a member of the Expenditure Control, Economic Growth and Infrastructure, and Appointments and Honours Cabinet Committees.

### **National's Post-Election Action Plan**

The Government has identified the initiatives on National's *Post-Election Action Plan* as priorities and ACT acknowledges the electoral support for this plan. Accordingly, ACT

agrees to support the legislation required to give effect to the plan, insofar as it is consistent with the shared goals and aspirations set out in this agreement.

National will consult with ACT about the details of the legislation that it proposes, before its final decisions are taken. Where any points of difficulty arise, both parties agree to discuss these in good faith seeking a mutually-agreed resolution.

For the avoidance of doubt ACT will, in particular, seek reassurance that the \$400 million investment by the Crown Water Investment is in the national interest and does not embody significant non-transparent wealth transfers.

In addition, as part of this agreement, ACT has agreed to support legislation to reduce the impact of the Emissions Trading Scheme on New Zealanders, consistent with the recommendations of the independent review, including by deferring the introduction of agriculture to the ETS in 2015 and holding down the increase in energy prices. ACT continues to believe that the ETS should be repealed, however it believes some progress will be made through the Government's initiative.

### **Confidentiality**

It is agreed that where briefings are provided to ACT, or where ACT is involved in consultative arrangements with regard to legislation, policy or budgetary matters, all such discussions shall be confidential unless otherwise agreed.

In the event that Government papers are provided to ACT in the course of consultation or briefings they shall be treated as confidential and shall not be released, or the information used for any public purpose, without the express agreement of the relevant Minister.

In the event that Cabinet or Cabinet committee papers are provided to ACT for the purposes of consultation they shall be provided to a designated person within the Office of Hon John Banks, who will take responsibility for ensuring they are accorded the appropriate degree of confidentiality.

### **Collective responsibility**

Hon John Banks agrees to be bound by collective responsibility in relation to his portfolios. When he speaks about issues within his portfolio responsibilities he will speak for the Government, representing the Government's position in relation to those responsibilities. When he speaks about matters outside his portfolio responsibilities, however, he may speak as an ACT MP, or as a member of Parliament. He will support the Government's position in all matters that are the subject of confidence and supply votes.

Where there has been full participation in the development of a policy initiative outside of any portfolio responsibility held by Hon John Banks, and that participation has led to an agreed position, it is expected that all parties to this agreement will publicly support the process and the outcome.

### **Cabinet Manual**

Hon John Banks agrees to be bound by the Cabinet Manual in the exercise of his Ministerial responsibilities and, in particular, agrees to be bound by the provisions in the Cabinet Manual on the conduct, public duty, and personal interests of Ministers.

### **Procedural motions**

ACT agrees that it will support the Government on procedural motions in the House and in Select Committees, unless ACT has previously advised that such support is not forthcoming. The Government agrees that it will operate a no-surprises policy in terms of procedural motions it intends to put before the House or a Select Committee.

### **Select Committees**

ACT and the Government will consult on the make-up and operation of Select Committees with a view to reaching an agreed majority position.

### **Legislative programme**

Support for particular measures which do not relate to confidence or supply will be negotiated on a case-by-case basis.

Dated 5 December 2011

**Rt Hon John Key**  
**National Leader**

**Hon John Banks CNZM QSO**  
**ACT MP**

## **Annex to the National - ACT Confidence and Supply Agreement**

The proposed School Charter System detailed below is a guide which sets out the vision and expectations of both the National Party and the ACT Party, and is subject to amendment at the agreement of both parties.

### **A Charter School System**

The proposed charter school system is targeted at lifting educational achievement in low decile areas and disadvantaged communities where educational underperformance has become the norm. It is designed to provide greater flexibility in governance and management including the ability to attract top quality teachers, prepare and inspire children to achieve their potential and be accountable for doing so, and to better meet the particular needs of local communities.

Initially the system will be implemented in areas such as South Auckland and central/eastern areas of Christchurch. Once successfully established, and as fiscal conditions permit, the system would be extended to other areas of low educational performance.

The approach is modelled on successful international examples such as the KIPP schools in the US and to some extent on the system of 'free' schools currently being introduced in the UK.

#### **Legislative basis**

The system would be enabled under the Education Act 1989, sections 155, Kura Kaupapa Maori, or 156, Designated character schools, or any other section as appropriate.

#### **Mission**

Missions would be ambitious and clearly defined. They would likely differ from school to school, but would typically be some or all of the following:

- a rigorous academic focus
- a traditional curriculum
- faith based
- to serve a target population of students
- based on specific governance principles eg Te Aho Matua, or
- to focus on a particular language, vocational training or other area of specialisation.

#### **Operation, governance and accountability**

Groups proposing to operate charter schools may be non-profit, community organisations including iwi and Pacific Island groups, school trustees, faith-based educational organisations, and not-for-profit and for-profit management groups (likely to operate multiple charter schools). They would be granted a charter by an authorised body.

Boards of Trustees would be responsible for all aspects of school operations. They may operate the school themselves or contract out management to not-for-profit or for-profit education providers. Boards would be free to set the length of the school day and year, set

their own teaching practices, raise their own revenues (including from iwi, private individuals, faith-based organisations and corporate and other philanthropic or community programmes), pay their teachers according to performance, and use any approved curriculum/qualification.

Schools may operate as individual entities or as a network of schools. Public funding would continue to be by way of normal operational grant funding and may include funding targeted at disadvantaged groups. Schools may also be eligible for capital funding for school property, although overseas experience suggests use of private capital will be required. Schools may choose to rent, rather than own the school building and hence may instead receive equivalent funding to cover rental costs.

As at other state schools, tuition fees would not be charged. Schools will be required to accept all students who apply for entrance (until they have reached capacity), irrespective of academic ability, although they may set geographical boundaries as long as these do not deny opportunities to disadvantaged students. Where demand exceeds supply schools may choose to conduct entrance on a ballot basis. Schools may co-locate with social service providers and/or early childhood providers and like other public school developments could use public designation powers to facilitate Resource Management Act consents.

Schools would be externally accountable to charter school sponsors (eg. universities, iwi, community organisations, a special accountability group within the Ministry of Education) and to external review (eg by the Education Review office). Charter schools will be required to enter into a contractual relationship with sponsors, with the latter being responsible for ensuring that charter schools meet agreed student achievement goals, as well as financial and operational standards.

**File Reference:** 7.00001  
**Significance of Decision:** Receives Only - No Decisions



**Report To:** Strategy, Policy and Planning Committee  
**Meeting Date:** 11 September 2012  
**Report From:** David Phizacklea, Regional Integration Manager

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## District Consent Applications Annual Report 2011/12

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### Executive Summary

The purpose of this report is to advise the Committee of the district resource consent applications received, commented on, or submitted on by the Bay of Plenty Regional Council, for the year 1 July 2011 to 30 June 2012.

Regional Council staff considered 171 resource consent applications referred from the region's territorial authorities during the 2011/2012 year under agreed protocols with each council. Comments were provided on 153 of those applications, and one formal submission was lodged. The number of applications referred to the Bay of Plenty Regional Council represented 14% of the total applications received by the territorial authorities in the region.

The Regional Council is involved in two High Court appeals as a section 274 interested party. An Environment Court hearing was held in early July 2011 for appeals on a proposed rural subdivision on Matakana Island by Blakely Pacific Ltd and in December 2011 for a proposed apartment development at Whakatane Heads by Mirador Ltd. Both applications were refused consent by the Environment Court and the applicants subsequently appealed the decisions to the High Court. The Regional Council is a party to the appeals.

The Environment Court awarded the Regional Council \$35,500 in costs against Mirador, subject to the outcome of the High Court appeal. Mirador filed notice with the High Court on 3 September to discontinue their appeal.

### 1 Recommendations

**That the Strategy, Policy and Planning Committee under its delegated authority:**

- 1 Receives the report, District Consent Applications Annual Report 2011/12.**

### 2 Background

The Bay of Plenty Regional Council has protocols with each district and city council in the region for receiving and evaluating resource consent applications made to those territorial authorities.

Resource consent applications cover a range of activities from simple subdivisions through to large scale developments and designations. Territorial authorities are required by the Resource Management Act 1991 (RMA) to send all notified applications to the Bay of Plenty Regional Council.

Applications are assessed by expert staff who evaluate the proposed activity against Council's plan and policy requirements. The District Applications Officer administers this process and produces the necessary response based on staff comments. The process also detects activities that may require regional consent from the Bay of Plenty Regional Council and identifies opportunities for joint consent processes.

In order to audit the relevance and adequacy of the comments made by the Regional Council, the territorial authorities are requested under the protocol to forward a copy of their decisions to the Bay of Plenty Regional Council. From the information received it is apparent the comments made by the Bay of Plenty Regional Council are generally reflected in the decisions, and the conditions of those consents granted.

The interaction with the district resource consent application system also helps the Bay of Plenty Regional Council remain aware of overall development trends in the region and the demands on resources this brings.

### 3 District Applications Summary

For the year 1 July 2011 – 30 June 2012, staff considered 171 applications referred by the territorial authorities in the region (compared to 225 for the 2010/2011 financial year). Comments were made on 154 of those applications (compared to 199 for the 2010/2011 financial year). The following table gives a breakdown of these figures by district:

<b>Council</b>	<b>Total 2011/2012 Applications</b>	<b>Comment / Submission</b>	<b>Total 2010/2011 Applications</b>	<b>Comment / Submission</b>
Kawerau District Council	0	0 (0%)	0	0 (0%)
Ōpōtiki District Council	18	18 (100%)	31	31 (100%)
Rotorua District Council	33	31 (94%)	39	34 (87%)
Taupō District Council	0	0 (0%)	0	0 (0%)
Tauranga District Council	19	10 (53%)	27	22 (81%)
Western Bay of Plenty District Council	56	53 (95%)	70	59 (84%)
Whakatāne District Council	45	42 (93%)	58	53 (91%)
Bay of Plenty Offshore Islands	0	0 (0%)	0	0 (0%)
<b>Totals</b>	<b>171</b>	<b>154 (90%)</b>	<b>225</b>	<b>199 (88%)</b>

Points of note:

- No applications received from Kawerau District Council or Taupō District Council in 2011/12.
- Reduction in the overall number of applications received.
- Almost half the number applications received from Tauranga City Council were notified applications (legally required to be sent to the Bay of Plenty Regional Council under the RMA). Examples of the types of notified applications which were "No comment" responses included childcare centres, registered tree removal and designations; hence only a 53% "submission/comment" figure.



## 4 District applications referred by territorial authorities

The following table provides information regarding the total number of applications received by the territorial authorities<sup>9</sup> and the number subsequently referred to the Bay of Plenty Regional Council under either the protocols or the RMA for the year 1 July 2011 – 30 June 2012. The number of resource consent applications referred to the Bay of Plenty Regional Council (171) represented 14% of the total applications (1250) received by the territorial authorities in the Bay of Plenty Region.

Council	Subdivision	Land Use	Total applications to territorial authority	Received by the Bay of Plenty Regional Council for comment / submission	% of total applications received for comment / submission
Kawerau District Council	1	7	8	0	0%
Ōpōtiki District Council	8	19	27	18	67%
Rotorua District Council	52	282	334	33	10%
Tauranga City Council	146	256	402	19	5%
Western Bay of Plenty District Council	150	219	369	56	15%
Whakatāne District Council	56	54	110	45	41%
<b>Totals</b>	413	837	1250	171	14%

Subdivision consent figures include boundary adjustments, changes to consent conditions and cancellation of consent notices. Land use consent figures include designations, outline plans and changes to consent conditions.

## 5 Submissions and appeals

### 5.1 Submissions

As shown in the following table, of the 171 applications received 18 were notified or limited notified. One formal submission was lodged by the Bay of Plenty Regional Council. Delegated authority for approving submissions lies with the General Manager Strategy and therefore they do not come before the Strategy, Policy and Planning Committee.

The formal submission made was:

1. Farmlands Trading Society Limited – to construct, use and maintain a commercial building and associated activities at 36 Marguerita Street, Rotorua. Subsequent further information and proposed conditions of consent addressed the Bay of Plenty Regional Council submission concerns. Consent has been granted.

<sup>9</sup> Excluding: objections, time extensions, certificates of compliance, revocation of easements, existing use rights certificates and survey plans.

<b>Council</b>	<b>Total notified</b>	<b>Submission</b>
Kawerau District Council	0	0
Ōpōtiki District Council	2	0
Rotorua District Council	7	1
Taupō District Council	0	0
Tauranga City Council	8	0
Western Bay of Plenty District Council	0	0
Whakatāne District Council	1	0
<b>Totals</b>	18	1

## 5.2 Environment Court Appeals / High Court Appeals

An overview of the Environment Court and High Court appeals on district consents that the Bay of Plenty Regional Council has been involved in during the 2011/12 year is provided below. Two are still active.

### 5.2.1 Mirador Ltd

In March 2006 the Bay of Plenty Regional Council lodged a submission on an application by Mirador Ltd for an 8-storey development at the Whakatane Heads. The Regional Council's submission opposed the application for various reasons – landscape and visual effects, flood risk and slope stability, and navigation and safety.

Whakatāne District Council granted consent (subject to conditions) for a 6-storey development. Five appeals were made on the decision to the Environment Court, including one by the applicant. The Bay of Plenty Regional Council joined these appeals as a section 274 interested party.

The applicant also had outstanding appeals to the High Court on Variation 2 to the Whakatane District Plan (regarding height limits). The Environment Court and High Court decisions on the district plan variation set criteria to be applied to the assessment of any application to exceed the height limits for the site.

An Environment Court hearing was held on 15 and 16 December 2011. The Environment Court decision dated 27 February 2012 cancelled the consent granted to Mirador. Mirador appealed against the decision of the Environment Court to the High Court, with the Regional Council maintaining an interest as a party to that appeal. The Environment Court awarded the Regional Council \$35,500 in costs against Mirador, subject to the outcome of the High Court appeal.

Mirador filed notice with the High Court on 3 September to discontinue their appeal.

### 5.2.2 Blakely Pacific Ltd

In February 2009 the Bay of Plenty Regional Council lodged a submission on an application for a 48 lot rural subdivision on Matakana Island. The Regional Council submission opposed the application unless appropriate conditions of consent were imposed around coastal hazard, ecological values and land management matters.

Consent was granted subject to conditions and consent notices in 2010. The application was heard by four Commissioners: David Hill (Chairman), Councillor Jo Gravitt, Rauru Kirikiri and Dr Robert Wear. The decision to grant consent was made by majority decision of Commissioners Hill, Kirikiri and Wear with Councillor Gravitt dissenting.

Three appeals were made to the Environment Court (Blakely Pacific Ltd, Te Runanga o Ngai Te Rangi and Donna Poka on behalf of Nga Hapu o Te Moutere o Matakana). The Bay of Plenty Regional Council joined these appeals as a section 274 interested party to the appeals.

An Environment Court hearing was held from 4 to 11 July 2011. David Phizacklea (Regional Integration Manager) presented planning evidence for the Regional Council. The Environment Court decision dated 4 November 2011 refused consent to Blakely Pacific. Blakely Pacific has appealed against the decision of the Environment Court to the High Court. The Regional Council is a party to the appeal which has been adjourned to allow the Western Bay of Plenty District Plan 'Whole of Island Plan' process to catch up.

## 6 **Financial Implications**

### **Current Budget**

District consent applications work is covered within the Statutory Strategies, Policy and Plans programme budget under the Strategic Policy activity of the Ten Year Plan. That budget includes staff time and the provision of expert advice as needed for landscape and heritage matters.

### **Future Implications**

None. This is an existing level of service.

### **Ten Year / Annual Plan Implications**

None.

Pam Crabbe  
**District Applications Officer**

**for Regional Integration Manager**

**4 September 2012**

