

**EDS Political Seminar  
1 November 2011**

**Participants: Hon Dr Nick Smith, Dr Russel Norman and Hon David Parker  
Host: Gary Taylor, Chairman, EDS**

GARY

Welcome everybody we did this last election and I was reminded earlier that there was a slight contretemps between one of our speakers and Mayor Bob Harvey. I don't know if any of you remember that but we're not going to do anything like that tonight. It's going to be terribly civilised and boring.

The objective really is to try to elicit from the parties the key differences between them on environmental policy and it was interesting to see a TV3 story earlier this week where they surveyed members of the public rather than politicians and asked them what they thought the key issues were and they ranked 21 of them and guess what number one was, it was the environment. Which I thought was fascinating and certainly for a group like EDS, and I guess other environmental NGOs working in New Zealand, quite a boost. So what we're going to do is we're going to work through some issues in a dialogue. There's no opening speeches although there may be a short concluding one. If anybody has any questions that they want asked please write them down on paper which always ensures succinctness and give them to Raewyn here who is going to ask questions that get through her filter of relevance and we'll do that as we go along.

Can I welcome our three political spokespersons, Hon Dr Nick Smith welcome Nick, Hon. David Parker welcome David and Dr Russel Norman, welcome. We did invite the Maori Party but they understandably are spread thin.

This event is focusing on what we consider to be the three main parties and their environmental policies. I'll tell you what the issues are so you don't get concerned that we're going to leave something out. These are the headlines: fresh water, offshore oil, gas and mining, oceans, the High Country with specific reference to the Mackenzie country, coastal development, climate change, and it wouldn't be an EDS seminar without the RMA, so the RMA is there, and Auckland planning.

Those are the issues we're going to cover off tonight and I'd like to start by asking all three of our spokespersons whether they agree that all freshwater bodies should be swimmable and fishable and if so by when. Why don't we start with you, David.

DAVID

Yes it's been in our policy this time and last and I put it in at the last one. It was also within the body of the National Policy Statement on freshwater quality that the last Labour Government put through to the Board of Inquiry. Having said that, the Board of Inquiry looked at it and said that whilst that might be your objective it's not best suited to sitting in the National Policy Statement and they preferred a methodology that said well if you've got a clean water body, don't let it get dirtier. They were effectively controlling increases in intensity of land use by requiring a resource consent for increases in intensity that would have the developer or the farmer proving to the Regional Council that they had mitigating farm practices that would not increase the load on the water body and they thought that that was a better way of

protecting the baseline from getting worse and then that then gave time for the authorities over time to clean up the other water bodies that were not of that standard.

GARY

And so by when?

DAVID

We looked at that. We were given advice that it's impossible to do within 10 years and the two choices that we were given by the Ministry for the Environment at the time as I recall were either 20 or 25 years as being the fastest time that you could clean up our waterways back to a swimmable standard. In the end I was actually convinced by the logic that Judge Sheppard and the others used on the panel that the important thing is to keep things from getting worse and then progressively clean up those that are worse than the standard that you want which is swimmability.

NICK

Firstly the objective, fishable and swimmable is a sound one. We've listed fresh water as the second most important environmental priority for the Government under climate change. Our view is that the RMA framework is doing a pretty good job of dealing with the point source discharge issue but we've got a real problem around the diffuse problem and that's where we'll put a heap of work. I know there's been criticism of the NPS. The first thing I'd say is that in the 18 years of the RMA there's only been one NPS produced by the National Government 1990 – 99, one in the years from 1999 to 2008. We've done three in the last year, renewable energy, coastal management and fresh water. Now we're not saying the NPS on fresh water is the end of the story. It is our view that it's going to need to be backed up by further regulations. The first set of regulations we did were based on the idea that you can't manage what you don't measure and so a year ago we introduced those national regulations to require water metering across the country, that will lift us from 34% of water takes being measured by volume up to 98% by 2006. I compliment the EDS on the initiative around the land and water forum. We put quite a lot of money into that process and quite a lot of backing. I think the report that they produced and presented to government this year in May is a damn good framework in which for us to work through water reform. I see one of the most important issues if National is privileged with another three years is to advance both those recommendations and the next phase of work from the Land and Water Forum which is about back up measures like National Environment Standards to really give some grunt to achieve those long term goals.

The time frame is a big challenge. If you take a water system like say Taupo the technical advice we receive is that even from nutrients that were applied you've probably got about a 45 year cycle before they come up through the lake and down through the system and so you need to have that sort of time frame. The Board of Inquiry recommended through to 2030 and that's what we've put into the NPS.

GARY

And swimmable and fishable?

NICK

Within that space.

GARY

Okay, Russel?

RUSSEL

Freshwater is one of the three key priorities for the Greens in this election and so the policy that we rolled out has if you like three elements to it. One is around standards, so a proper National Policy Statement on freshwater management, the Board of Inquiry one and also we actually need to control intensive agriculture. The fact is that 90% of the nitrogen going through a dairy farm is unregulated currently. Only 10% goes through the dairy shed and that needs a resource consent. The other 90% doesn't need a consent so it's effectively unregulated so we need a National Policy Statement on intensive agriculture in order to actually set some limits. Of course we need the complementary National Environmental Standards that go with the National Policy Statement on freshwater management, that is around quantity and quality obviously necessary to go with it. So it's about a set of standards is the first part of it.

The second part is an irrigation levy. An irrigation levy has two functions, one to provide a financial incentive to use water efficiently. The other is to generate a set of revenue which then can be used to fund the third part of our programme which is about remediation. Whether that's fencing and planting which can, with decent setbacks, and there need to be rules around setbacks can have a significant effect and so that's the third part of it.

In terms of time frame, so that's quite a comprehensive package and has attracted quite a lot of flack of course because of the irrigation levy and because we're saying you should regulate farming but actually if we have to bite the bullet and regulate intensive agriculture, we cannot clean up our waterways unless we regulate intensive agriculture and anyone who says anything else is not telling you the truth in my opinion because I don't think it's possible otherwise so in terms of time frame it is a real challenge. We know we can get some pretty fast results around riparian fencing and planting in terms of sediment and phosphorous which tends to be attached to sediment but the longer term brown water issues vary from location to location depending on the length of time that the water takes to get through the ground water.

GARY

So just a quick response to this one. Do you support the recommendations of the Land and Water Forum?

NICK

I think there's 54 recommendations and the Government has picked up a number of those and got them flicked off and worked on. Give you a really good example. I reckon one of the really big problems we've got about freshwater is the inconsistent way in which we measure it and its quality that's resulted in a whole lot of people arguing the stats rather than getting on and addressing the issue.

Each of our Regional Councils takes a different approach to where they measure. Some measure where there's recreation activity. Some measure where it's bad, some measure a representative sample. Compare them up and say well that region has got the worst water is actually really crappy and so one of the things that National has proposed is a new Environment Reporting Act. That was one of the recommendations that came through from the Land and Water Forum. We want the Parliamentary Commissioner for the Environment to independently produce a state of the environment report. That is something that we are the only OECD country that does

not have statutory reporting. You'll remember in 2008 when the last report came out, there was huge controversy about a chapter on freshwater quality being excluded. We think that's part of it.

There are some quite contentious recommendations. I'll give you an example. Are Regional Councils so dominated by farmers that central Government should appoint members to them to try and get some balance so that we get issues like freshwater quality addressed. That's interesting, but the Government hasn't made decisions on those.

GARY

What's your view?

NICK

No I'm saying the experience, I have to tell you the experience with District Health Boards has been rather interesting in that we went from the point that they're all elected and they're so business playing with politics that they didn't necessarily run our Health Districts very well. We then went to a period where our Government appointed the lot and in my view they became disconnected from communities. The Labour Government previously on the District Health Boards chose a 50/50 sort of model but I actually have to say it's worked very well. I also have to say it has crossed the bridge very constructively about how you get iwi involvement in District Health Boards. I'm attracted to the model but the Government has not made decisions. It is one of their important recommendations so the Government's programme is that we've got officials reporting back to Cabinet next March on the full stack of recommendations that have come from the Land and Water Forum. I emphasise again, I think the Land and Water Forum recommendations are a damn good cut and an important step forward and they will be the basis of the Government's decisions on freshwater reform over the next term.

DAVID

You know what I think. Last time I spoke at an EDS Forum I described the Land and Water Forum as an abject failure because you couldn't separate the substantial outcome from the theoretical strength of its recommendations. Guy Salmon came back from Scandinavia advocating the adoption of a Scandinavian collaborative approach to environmental issues. We tried that with the Climate Leaders' Forum and it worked pretty well and we actually got to a consensus outcome on 10 pretty basic principles that were to lie underneath emissions pricing. Then at the end of it, having had that agreement within it, some of the people who were involved in the process went outside and criticised it and said we no longer agree, they white-anted it and I always remember that Guy Salmon told me that in order for collaborative processes to work there have to be consequences for people who pretend to play the game and then don't. They need to not be invited back to the future powerful forum that is meant to get to a collaborative compromise eventually.

GARY

That hasn't happened with the Land and Water Forum.

DAVID

No what I was going to say was that we had to put up with those people criticising emissions pricing and doing the opposite to which they had signed up to inside the forum and there wasn't consequences for them because the next time we weren't in

place when a collaborative process was started, National was and the same people who had white-anted it were invited back so there was no effective chastisement of them for ratting on the process that they'd agreed to participate in. I think that's the weakness that if you don't run collaborative processes well that's what happens and so what happened this time round, well actually the Land and Water Forum got to a point where they said essentially they agreed with the National Policy Statement on freshwater quality that had been promoted by Judge Sheppard and his fellow commissioners in terms of the important point, the increases of intensity in land use ought to be regulated which is Russel's point. So the collaborative recommendation came out and even then the Government didn't implement it. I don't know whether Federated Farmers...

GARY

So you support the outcome but not the process?

DAVID

Well no I say you can't separate the process from the outcome and the outcome has not been what you want. So why do we value it? We still haven't got to the point where increases in intensity of land use which making our water quality worse are regulated.

NICK

Can I make a point here.

GARY

Before you do, can I encourage you guys, we need a bit more brevity because we've got a lot to get through.

RUSSEL

The Land and Water Forum the Greens contributed to the paper that set it up. We are very supportive of it and the concept of it but David's right, the recommendation was received with the NPS with minor amendments and those were basically the NPS was fundamentally altered in my opinion. The draft NPS that came back to the Board of Inquiry. David Sheppard didn't write an illegal NPS which is what essentially the Government says.

NICK

Crown law says.

RUSSEL

Well you've never released the full Crown law opinion so we've got no way of testing it. You released a couple of sentences which was if you like the summary but there was never the reasoning released to the public so we could never test the reasoning that apparently Crown law used to reach the conclusion that the NPS that came back from the Board of Inquiry was ultra vires, we've never been able to test that because we've never seen it. We've seen one or two sentences and I appreciate you releasing those but what matters is the reasoning and I don't believe it was an illegal NPS.

GARY

Apart from the NPS what about the broad suite of recommendations?

RUSSEL

Okay so the other part is around pricing and so the other part of the Land and Water Forum was how do you price and they put us some options, because they couldn't reach a final conclusion. We've basically pegged for a resource rental rather than a trading system and the reason we've gone with that is that trading systems don't necessarily work in illiquid markets and for a lot of catchments they're very illiquid and small markets. We have very few large catchments like the Murray Darling Basin in New Zealand. The Waikato maybe is one of them and also the trading systems raise the question of ownership and we've tried to if you like side step the question of ownership so we can get a price on water and let the Treaty process which has to go through about ownership of fresh water proceed while we can still have a resource rental so we can proceed with the price because the price has benefit.

GARY

Okay let's go the other way round now, start with you Russel on water conservation orders. This is arguably the only tool that's in the tool box to actually protect rivers for their natural wild setting and recreational values. Would you support strengthening them?

RUSSEL

Yes.

GARY

And how?

RUSSEL

We think that the main thing is to actually make sure that they're, we thought they were like national parks until the ECAN Act came along and then they didn't start to look so like national parks so part of it is about saying these are national parks of river systems and they should be treated as sacrosanct, like national parks. It's very difficult to wind back. If you want to strengthen one yes, but if you want to wind it back, that's basically untenable and our concern with what's going on under the ECAN Act is with the variation with the Rakaia Water Conservation Order, the Rakaia River is now seriously under threat because of the proposed variation.

GARY

David?

DAVID

I was a junior on the Rakaia River Conservation Order and I actually I subsequently went on and did quite a few myself.

GARY

And I was a submitter...

DAVID

I absolutely believe in the importance of water conservation orders. I do think you need to have the ability to apply to vary them and I'm not threatened by that and I really believe in the protection of rivers. There's one filter and that is under law at the moment, putting aside what they've done in Canterbury and I'll come back to that. First of all the Minister has to be satisfied that he ought to entertain an application for a revision and then it goes to a Board of Inquiry and that Board of Inquiry looks at it again and says well should it be extended, should it be narrowed and we've had

applications that do both of those. We've had the current application at which I gave evidence actually in respect of the extension of the Wakitipu and tributaries of the Kawarau on the Nevis and that's an application to extend. We had the other application to narrow in respect of I think it was the Gowan wasn't it and in the end the Board of Inquiry said it shouldn't be narrowed and so I think that process is fine. What I think was wrong was that the Government tried to, or in their legislation or did in their legislation under urgency without any select committee process in respect of the Canterbury Conservation Orders put them within the jurisdiction of the Regional Council rather than binding the regional council as being a planning instrument that binds them and that was wrong so we need to protect their status and what happened in Canterbury.

GARY

Nick should we be worried about water conservation orders?

NICK

Well firstly water conservation orders are a really important tool for establishing and extra protective mechanism about rivers and National wants to retain them. But I am hugely positive about the changes that we have made in Canterbury. There has been more progress made around dealing with water where it is more contentious in Canterbury under this Government in the last 20 years. We've finally actually got a natural resources plan in place.

Now let me just specifically deal with one of the probably fulcrum issues of this debate is in the Hurinui. In the Hurinui you had three conjoint processes, application for a water conservation order, council trying to conclude a plan and an application for a very large water storage scheme. Can somebody explain to me why having three separate processes, of which the same core issues were being resolved, being dealt with by three different bodies? It was sensible to bring them together. Now take the Rakaia and I want to take the first one. Actually the most polluted water body in the whole damn country is Te Waihora Lake Ellesmere. It's a dog and it's a mess and it's a disgrace and we as a government have increased by five-fold the amount of funding going into freshwater lakes and clean ups and the first use of that legislation was a variation of the water conservation order on Lake Ellesmere to enable it to clean it up and why would anybody be opposed to us getting on and doing that.

Now with respect to the...

RUSSEL

It's cosmetic, central plains water will add enormous amounts of pollution whereas the Water Conservation Order variation will make a minor difference.

NICK

The changes to the Water Conservation Order and the clean up plan of which the Government is putting substantive resource is the best progress that's been made on cleaning up Ellesmere.

RUSSEL

Why do you need to change the Water Conservation Order in order to clean a river up?

NICK

Let's just go very specifically. The Lake Ellesmere Water Conservation Order put restrictions on the water range of which it could be used in terms of disposal to sea and part of the plan of cleaning it up is varying the exit of that water body out to sea and so was part of the changes to it, it required changes in the Water Conservation Order and I ask anybody here to go look at the changes in that Water Conservation Order that have been for the benefit of the environment.

RUSSEL

But the existing law allowed that to happen.

NICK

Gary are we going to have the approach where you're going to have interruptions?

GARY

You're going to have small interruptions but let's move on. Nick can I just nail you though on Water Conservation Orders. With a National led Government, our remaining wild and scenic rivers, are they at risk? We're talking about minor changes, you would argue...

NICK

Sure, take the Rakaia Water Conservation Order Variation that I have referred to the ECAN Commissioners and I do need to be careful legally about not compromising the process because ultimately they make a recommendation back to me and in the collaborative process that we're running in Canterbury, in my view considering changes and that's a Trustpower application, the use of Lake Coleridge around the water storage options for Canterbury in my view needs to sensibly be on the table as looking at what is the right mix of irrigation development, improving water quality in Canterbury and making the best economic use of that resource in Canterbury and there is in my view the potential for a positive outcome for both the environment and the economy of Canterbury around better managing water in that region and I say again look at the last 20 years pre this Government, the record of water in Canterbury, it's a disgrace and we've made more progress in three years on those issues than any government.

GARY

Alright let's move on to offshore oil.

RAEWYN

Gary can I just ask a quick question, I've just got a quick question here, it will be a yes/no to each of the panellists, this is a question from Proessor Dick Bellamy. Do you support the need for national versus regional water quality standards? Yes or no?

RUSSEL

Yes clearly we need national water quality standards.

DAVID

Yeah to the extent that you can give that a one word answer.

NICK

Maybe. I've said to the Land and Water Forum do we need national standards to come alongside and back up the NPS and I will be heavily guided by the advice of forum. My instinct is yes but I want to wait until that Land and Water Forum process comes to a conclusion.

GARY

Offshore oil gas and mining. So I think probably tonight unfortunately the Rena is being broken up, let's hope not because it would be good to get all those containers off and the balance of the oil off before it does but with five metre swells forecast it's at least a probability. Does it raise questions in your minds about whether we should be doing deep water oil exploration at all? Let's start with David, then Nick and then Russel.

DAVID

I think a combination of what happened in the Gulf of Mexico followed by what happened at Pike River actually. I think most of us are uncomfortable as to whether our avoidance of risk at Pike River was good enough and whether our response following the explosion was good enough, followed by Rena have given us all cause for concern as to whether we have the right protections in place. The Labour Party's position is that we haven't said we'll have a moratorium on deep sea drilling but we have said that we're sufficiently worried that we think there is a need to check carefully as to whether one, world's best practice is being applied; two, whether if world best practice is applied, whether there's a limit beyond which you can go because it's too hard to fix at deeper levels; and three, if world best practice requires you to have the capping devices and the capability to drill relief pressure wells, whether we have that capability in New Zealand and if not how you can bring it forward and until it is no more drilling or no more permits to drill being granted.

There are lots of other things that I think we need to look at too. I'm interested in the fact that the United States clean up cost, was it about \$16b, it was an enormous amount from their Gulf of Mexico disaster and effectively it seems to me that the American Government monstered BP and I'm not sure that the entity that was the drilling entity there would have had the assets to actually make good the environmental damage and it causes me to reflect on whether in New Zealand the people that are drilling are actually the holding company or even if it's a billion dollar subsidiary it might actually not be enough. So we need to check on what legal entities we've got rights of action against because it ought to be the polluter that pays if it goes wrong so essentially we think there's a need to have a look at this space before we go any further. There will be some areas where I think eventually there will be drilling. But I think there's also likely to be areas where there is not.

NICK

Well we campaigned at the last election on a policy of filling that gap in our environmental space, that EEZ and continental shelf which makes up about 20 times our land area. In response to the huge Gulf of Mexico tragedy, myself and the Minister for Economic Development, triggered an independent technical review. We wanted to be damn sure that the regime that we were looking at doing was world's best practice for all the reason that David and others have done. That report had a series of three significant recommendations. One was that yes we needed to get on and fill that gap around the EEZ albeit they had some refinements. Interestingly the single most important conclusion out of the Gulf of Mexico was that you should not have the agency that's responsible for the promotion and getting the levies out of the

oil industry also deciding what the environmental rules are. That reinforced our view that the environmental protections need to sit with the environmental protection authority. They also recommended that we needed a high hazards unit and so we've expanded that specifically within the Department of Labour about the safety rules. We introduced the legislation around the EEZ, around the applications for deep sea drilling would require public notification, would require the agency to look at what would be the specific conditions that would apply to that drilling. We put an interim regime in place. We did have a bit of choice as a caveat, do we rush on and try and get this legislation through this year or do we take a bit more time to get it right and then put an interim arrangement in place for the next 12 months. The only drilling that's taking place over the next 12 months is in accepted places, re-drilling off spots in Taranaki. We've had a pretty safe industry, now that doesn't mean we should be cautious, for 30 years of a petroleum industry in Taranaki. I think there is a bit of a mismatch between the risks that are associated with our shipping industry as compared with the risks associated with oil. I went out on the Tuatara Well that was done just outside of Nelson and for instance one of the specific requirements that was in the territorial sea zone so you did have to go through a consenting process and a condition of the consent. It was reasonably deep. It was out at about 800 metres deep and one of the conditions of that consent Gary was that they had to have a vessel on board with quite a lot more protection so I think we've got the legislation, it's open to submissions right now before the select committee. EDS has I think beaten all us political parties up and got us to extend the time frame beyond the election and I think that's sensible. We're committed to getting that legislative regime in place by July next year because I think it is a big gap, actually not just for petroleum but there is quite a lot of interest for iron sands and a number of other activities in that EEZ space.

GARY

Let's explore that in a minute but first Russel the question about whether we should be doing deep sea oil drilling at all? Greens position?

RUSSEL

So deep water horizon 1500 metres, some of the permits that New Zealand has given out 3,000, up to 3,000 metres. Nobody, I think Nick's right to get the regulatory framework right and fair enough but at the end of the day, there isn't the technology to plug a well at 1500 metres let alone 3,000 and in the end they had to get relief wells dug. In the Gulf of Mexico there's a lot of oil drilling so there's a few rigs around. In New Zealand they just wouldn't be around. So for me that's pretty significant, that's why we've supported the moratorium. I think those of you who saw the debate last night John Key said there's thousands of wells in the Gulf of Mexico, but very few of them are deep sea. Most of them are shallow. Very few deep sea and it is the deep sea that is the technical challenge.

Just thinking back a little bit if we just step back a little bit I mean the age that we're living through is an age where according to International Energy Agency we've gone past peak oil and all that. As the price of oil goes up it gets more and more economic to go for these more and more dangerous and difficult last remaining reserves. That's why we're getting fracking with gas, that's why we're getting deep sea drilling and so that's the question that confronts us is do we take more and risk to try and get the last of the oil or do we say actually our future is somewhere else and that's where we should be throwing our money rather than putting everyone's environment at risk.

GARY

What about the idea of the EEZ legislation, let's call it that, the new bill that's before the House, seeks to kind of achieve a balance between economic values and environmental values. EDS would argue that we need to have an environmental bottom line before you start thinking like that, what's the Green's position Russel?

RUSSEL

I did actually re-read your submission before I came because I wanted to make sure, so yes I agree with you.

GARY

That's the correct answer!

RUSSEL

I actually think that for me the whole perhaps difference between National and the Greens and perhaps Labour and the Greens, I don't know but certainly between Nick and I, I think for me has come down to the idea of balance versus bottom lines and it just happens over and over so the draft National Policy Statement from the Board of Inquiry had environmental bottom lines. It was replaced and the concept became one of balance. The EEZ legislation has the idea of balance in it that as you trade off the environment for a bit of economic growth and EDS's submission says no, there should be environmental bottom lines. I think in a way that distils perhaps the philosophical difference here. I would argue that every year we trade off a bit more of the environment for a bit more economic growth then we're just going to end up with nothing and we just have to say there's environmental bottom lines and perhaps that is one of the philosophical differences that I think is really starting to emerge in my mind.

DAVID

I agree you need an environmental bottom line so I don't disagree with Russel there but just arguing it a little bit in Nick's favour, even if you have the environmental bottom line you still face trade offs unless you're going to have a prohibition on anything you do actually face a trade off between risk and reward and which is not to say that all things should be risked, don't mistake me. I'm just saying that if you actually have an environmental bottom line, unless that environmental bottom line is saying there's a ban on everything actually above that environmental bottom line you've still got a line that you're trying to draw and that's

GARY

You support water bottom lines for example?

DAVID

I do, I absolutely do support water quality bottom lines but you'll note that our policy isn't to have a freshwater quality that is drinking water standard. It's actually swimming standard, which in itself is a trade off from the natural bottom line.

GARY

And Nick have you read our submission?

NICK

Yeah I have had a look. Can I tell you, this is as much and I can't help myself being an engineer, being practical and I am going to use the freshwater example because it's a really good test of practicality. One of the most important freshwater clean up

projects that we've done most successfully and actually the best freshwater clean up in New Zealand's history has been Lake Rotoiti and what they've done is they've put a wall in that's taken the water out of the Ohau Canal and put it down the Kaituna River. Now the truth is that there's been a price for the Kaituna River in that the more nutrient rich water out of Lake Rotorua has gone into that river and if you want to apply your pure bottom line approach you'd say you can't do that because as a consequence, that water body, the Kaituna River has got slightly worse water quality as a consequence of that wall despite the fact that you've made a really big environmental gain by keeping those nutrients out of Lake Rotoiti and exactly the same issue as Gary apply in respect of the questions around this balance and these bottom lines. If your bottom line really is hand on heart that I'm not prepared to have any balance, what you're saying is I'm not prepared to accept any level of risk. It's a bit like saying in aviation safety, of course safety is paramount with aviation but does that mean that you don't fly because there's always some level of risk.

GARY

But your bill provides for prohibited activities.

NICK

Yes it does.

GARY

Where do you envisage that might happen?

NICK

And that's where you say when we weigh up the level of and let's say we've got someone that comes up with a proposal out of the EEZ and the continental shelf and the economic benefits are small and the risks are high, I want us to say that's prohibitive if the economic benefits are high and the environmental risks are low then I say in the overall community benefit, let's put the proper conditions around that and that is where it is, a question of balance and honestly when we make decisions every day and whether we get in a car and take all those other sorts of risks, yes there are issues of balance and that is what we need to apply in that legislation and in other areas of environmental regulation.

GARY

Let's move back to the Rena and obviously we're talking about oil, so the sources of an oil spill could be an oil well blowing as we've been discussing or could be a coastal container ship breaking up as we have in this instance, 7,500 tons or it could be an oil tanker with 100,000 tons going into Marsden Point breaking up, heaven forbid or it could be the Niagara which is at the bottom of the sea and has been for 50 years breaking up finally and the tank rusting and the oil coming out of there. Do you support the idea of an independent inquiry into the response to the Rena disaster and the issues that it raises more broadly I suppose for preventing oil spills off New Zealand's coast and start with you Russel?

RUSSEL

Yes the reason is this. The Government has come out very strongly to say that it could not have been done better effectively. I would dispute that but I'm not an expert. It seems to me that the Government, the responsible position for the Minister to take would have been the advice I've had from officials is that it couldn't have been done better or any faster, the salvors tell me this is the best it could be done however I

recognise that both have a vested interest in telling me that because of their position obviously and there's nothing wrong with that so we will have an independent inquiry afterwards which is independent of both the officials and the salvors to see whether actually we could have done it better. That seems to me a rational response for a Minister. Unfortunately we've had a political response from the Minister which is it has been done as quick as it could because crisis management and competency is a key election issue and so it was seen to be seen as competent and I would argue that's why they've defended a line which doesn't make any sense because the two vested interest bodies have told you that they've done it as fast as they could.

GARY

So an independent inquiry with cross-examination?

RUSSEL

It has to be. We just need to learn from it that's all.

GARY

David?

DAVID

Yes I agree.

GARY

Nick

NICK

Well I'm heading back to the Rena this evening and spending a great deal of time there and I do want to respond to a few of the assertions that Russel has made and I make no apologies for being a bit defensive. Guys, there are men on that boat tonight who are putting life and limb at risk to try and prevent environmental harm. If I'm a bit defensive of people who are putting life at risk for protection of our environment I make no apologies because some of the criticisms that have come both from Labour and the Greens about the response and work of the salvors and Maritime New Zealand have been both ill informed and unfair on people that are trying to deal in an emergency situation. Now specifically in terms of some of the issues. What I find extraordinary is this and I do want to deal with the detail Gary because it's important.

At 2.20am when that Rena hit that reef, in my view an oil spill was inevitable given the extent to which the underside of that vessel was so severely damaged. At 2.40am Maritime NZ's emergency response was underway. The first conversation and the ordering of key equipment for its salvage occurred at 2.40am on the Wednesday. On the Thursday we had the Green party ask the last question of this parliamentary term not on the Rena but on the fate of Happy Feet. And for them to be telling us what we should have been doing on Wednesday in my view really is a bit of a miscue. Now in respect of an inquiry, yes there does need to be. I think it needs to be broader Gary than what you say. I think there is a legitimate question.

GARY

Well I'm saying it needs to be broad.

NICK

No you said specifically on the aftermath. My frank view...

GARY

..and on prevention...

NICK

Well you didn't mention that at the beginning and I believe that's the case. It is my view and I have to tell you that I do come from a little bit of a technical background and I'm not just taking the views that have come from Maritime staff. I, for instance believe that the wildlife recovery operation that has been done by DOC and by the Maritime Transport people is first class. I do think we need to ask the questions about what is the level of response equipment that we have in New Zealand. We actually asked that and there was an independent report produced in February this year looking at our preparedness for dealing with pollution responses. I think the question needs to be are we using for instance all the technology that is possible around GPS and the like to effectively prevent what it seems like human error and a gross human error at that to cause a disaster such as Rena, so yes I support an inquiry.

GARY

An independent inquiry, with cross-examination?

NICK

Cross-examination I have no difficulty. I think the space we're in, we haven't made decisions as a cabinet. We wanted to keep the focus on trying to minimise dealing with the disaster rather than the aftermath questions just as appropriately with Cave Creek. I don't know what it is about the fortunes of this Government but we keep having these sorts of major challenges. My personal instincts is that there was a Royal Commission of Inquiry quite appropriately with the huge loss of life both in Christchurch and on the Pike tragedy and my view is that the level of a Commission of Inquiry would be what we'd be looking at and in my view it needs to look at the full range. I am more interested from the information that I have seen around the navigation and prevention rather than necessary, yes we do need to ask the questions. The only last point I'd make is this. When you have people in emergency responses be it in Christchurch, or be it in Pike, or be it in Rena, I am a little bit cautious of those kicking around those that are making decisions in those crisis situations, it's very easy in sort of the after sight and the coolness of time to say oh with all that we know now you should have done that, that and that then. Everything that I have seen is of the view that actually Maritime New Zealand has had a pretty professional response and the real tough questions of how we ended up with a 47,000 ton vessel on a very well known reef on a perfectly calm day.

DAVID

You seem to have made a conclusion about the inquiry though. I'm not really willing to have reached that conclusion yet.

NICK

I did condition it David on saying and I'd have to say David, your party is on record saying that they got it wrong and it was too slow. On what basis do you draw that conclusion given the fact that...

DAVID

The assertions from the people who were offering barges that could have taken oil off earlier.

NICK

And they might have a commercial interest David.

DAVID

Well they might be right but they might be wrong, we haven't concluded that they, we can't conclude that they're right. Well actually we haven't. I'll tell you something else Nick, in the weekend the Labour Party was contacted and I was the person who spoke with the source who was involved in the salvage operations concerned that there were things being done by Maritime New Zealand. So there are questions to be answered here by an inquiry and I haven't made merry with that.

NICK

I'm not saying you personally.

DAVID

So to suggest that all is well and good here without an inquiry is wrong.

RUSSEL

We contacted Maritime New Zealand on the Friday because we assumed on Thursday it was under control, obviously things weren't under control so we contacted Maritime New Zealand on Friday for a briefing. Steven Joyce then spends the weekend attacking us saying we haven't asked for a briefing so then on Monday we contact his office and we have the email exchange asking for a briefing. Monday night he goes on national television, attacks us again saying we haven't asked for a briefing. I have the emails from his office where we were asking for a briefing and then he comes out and says oh the Greens are just a problem anyway because they support coastal shipping. It was ridiculous, trying to deal with the Government on this stuff was very, very difficult.

GARY

I think from an EDS point of view Nick, nobody is wanting to undermine the effort that's going in by people working in dangerous situations on the ship at present. I don't think anybody is wanting to do that. What they're asking quite rightly and EDS amongst them, is whether the initial response was fast enough. Whether we had done enough contingency planning, whether we had the right gear, why were we experimenting with different pumps and methods when we should have been prepared. Those are the sorts of questions that we are looking to be answered and I think the positive thing that's come out of this is that you all agree that there ought to be an independent inquiry, look at all of those things objectively after the immediate problem of dealing with the wreck has been dealt with. Now Raewyn you've got a question?

RAEWYN

Just a quick yes/no again to wrap up. This question is from Terry Moore. If elected, would your party commit to allocating more resources to Maritime New Zealand for response to environmental incidents and ensure transparency about their level of preparedness?

NICK

Good question. For instance one of the preparedness issues. Should New Zealand have a dedicated oil response vessel? Now the first conclusion that I've had is that it

would have made zip difference in terms of getting the oil off earlier but if you're going to have an inquiry that's a core question that needs to be at the source of it. Was a lack of resourcing a question mark over the provision. I think the proper question in terms of reference for that inquiry is have we got the right amount of resourcing back up for the response.

GARY

And if you don't, you'd give it?

NICK

Absolutely and in exactly the same way we've upped the resourcing from the Department of Labour very quickly in respect of a very legit question. I think it might have been David that said that he's got bigger question marks in his mind around Pike and the risks management around that and I share David's perspective on that.

DAVID

I'd go one step further than that and I would say that if we're looking at that in the round and including not just shipping risks but other oil response risks we have to be very careful that we don't break our principle our about, or principle that I hold that these environmental costs ought to be internalised to economic transactions and one of the reasons why that's really important is an earlier point that Russel made, and that is we are on a journey now converting from fossil fuels to new technologies and things that subsidise one level of technology effectively hinder the development of another and so I would say that if there are additional cost in preparedness for oil disasters as a consequence of oil, those costs ought in some way be sheeted back to that industry and through that industry to the price that consumers pay for that good so that the relative value of renewable at the margin is improved.

RUSSEL

I agree with what David said. I mean obviously that should be through the fee rather than the taxpayer who ends up with a water pollution levy rather than the taxpayer.

GARY

Let's move on to oceans and I guess two questions that I'll blend into one in the interests of time. Does your party support a comprehensive review and update of New Zealand's oceans policies and legal framework and a subsidiary question, would your party support the creation of a comprehensive network with the emphasis on comprehensive network of marine protected areas.? We'll start the other end, Russel?

RUSSEL

In the interests of brevity yes and yes.

DAVID

Yes and yes.

NICK

In the marine space our priorities if we're privileged to be the government for the next three years is getting the EEZ legislation and we've got a Marine Reserves Bill, the original Marine Reserves Act was 1971, the Marine Reserves Act is way out of date, it's been held up with the big scrap that occurred over foreshore seabed, hopefully that's been to bed, a priority for a National led government if re-elected is to get a new Marine Reserves Act completed in the next term of parliament.

GARY

And what about the bigger picture of oceans reform which these two guys have said yes to?

NICK

Yeah well the previous government spent a huge amount of resource, I think it was \$22m on the ocean policy review and at the end of it they concluded that the ocean was wide and blue.

GARY

Well foreshore and seabed came along and interfered to be fair.

NICK

Yeah to be fair, it didn't go far. Fundamentally I do believe there is a job for a government to re-look at both the legislative and the sort of bureaucratic architecture around oceans management. That is a job to be done at some stage. Myself and Simon Upton then as Minister of Conservation started triggering off some of that process. It's a job as big as the original RMA reforms. I'm not in a position to be able to commit to doing that in the next three years. I am on the EEZ and the marine reserves legislation.

RAEWYN

Could I perhaps just intervene with a question here that's sort of related because of the potential role of the EPA in the EEZ. This is a question from Joce Fryer. She said the new EPA seems like nothing more than a mechanism to fast track the approval of contentious resource consents. I cannot understand why it has not been equipped with comprehensive monitoring, investigation and enforcement powers liker EPAs in other developed countries. How will the EPA develop under the policies of your respective parties?

NICK

Well perhaps as the architect of this system I should be really upfront with you about what the model is and you can draw your own conclusions as to whether it's a good model. That is we've got a very well established policy architect around finance. Effectively you have the Treasury as the policy wonks, the brains trust. You have the Reserve Bank as the sort of arms length regulator and then completely separate you have the Auditor General. Now in my view that's a really robust framework and I'm wanting to replicate it in the environment space. That is Ministry for the Environment as the brains trust obviously directed by politicians. That is appropriate. It's the policy machine. The EPA as the arms length regulator and the next stage with that environment the reporting legislation is to beef up the parliamentary commissioner for the environment as the monitor and reporter of the system. My view is that the architecture of those three different parts, the policy agency, the regulating agency and the auditor are of the system is the best way in which to provide for New Zealand's environment.

GARY

So the EPA is tracking towards a fulsome role as environmental regulator?

NICK

Yes it is and some people have said it's different to the American EPA in that it doesn't have that monitoring function. My personal view is of a stronger structure that has the monitoring auditing role at completely arms length from the government of the day. Exactly the same way as the Auditor General does. The danger in my view is that if you have the EPA doing the regulatory function and doing the audit function who says when the EPA screws up. My view is you want that function at arm's length so it can be totally honest about where is the environment system working and where it is not and I say very strongly again, I think that is a really robust framework that our government has attempted to put in place in the environment area.

RUSSEL

So on the EPA, I support the auditing function for the PCE I think that's a good idea. In terms of the EPA unfortunately we've had to deal with it in Wellington where it's been used to weaken our freshwater plan and so it's a classic trade off, balance as we're told so currently the regional fresh water plan protects a bunch of rivers and streams, New Zealand roading or Transport Authority as they're called wants to put Transmission Gully through there which would detrimentally effect those streams so NZTA applied to change the Wellington Freshwater Plan to weaken the protection on these streams so it can put a motorway over them and the Minister appointed a panel and the panel rubber stamped the application from the NZTA. Now the problem is that this was designated a road of national significance by the Cabinet and then the Cabinet appointed or one of the members of the Cabinet appointed the Board that then heard the application to vary or weaken our Regional Freshwater Plan because it was of national significance. So the problem is that it's not really independent of the executive. The executive is driving this process to drive this road and destroy our rivers.

GARY

What would you do?

RUSSEL

And so the problem is that if you go at the heart of it, if the EPA doesn't have environmental protection as part of its purpose, which it doesn't, it's not in the Act, it's called the EPA but it doesn't have it. In fact it's based on the RMA as what sits underneath it. Within the RMA, the RMA has now come to essentially mean trade-off. In effect that's what happens with RMA now is straight off balance if you like.

GARY

And what would you do?

RUSSEL

So that's why you've got to have environmental bottom lines and a precautionary principle in the RMA and then the EPA has got to implement it.

GARY

Okay we're going to come to a discussion about the RMA later. David on the EPA?

DAVID

I'm not sure that I have a strong view on this one. I'm always suspicious of grand visions I've got to say. Give me five things that need to be improved by new national policy statements with rules that impose environmental minima and I'd call that progress that I can measure.

GARY

Okay Maui's dolphin, big issue in Auckland. At last count 111 or so of them left. The rarest, I think, marine mammal in the world. And some work that we think is going to be released shortly that's going to show those numbers declining quite dramatically. What would you do about that, 'sRussel?

RUSSEL

Well the Auckland plan obviously needs to reflect protection of Maui's dolphin and obviously around the changes that the current government has made around the bans on set nets needs to be reversed. We need to protect and do we want to be the next country that wipes out a dolphin because that's what's on the agenda. China wiped out the last one, does New Zealand want to be the next country that sends a dolphin to extinction.

NICK

We made a set of decisions to increase the protections for the Maui dolphin. I certainly share the view that it's a species that we need to do everything practical to ensure its survival. I'm also of a view that the science and the technical basis for those decisions has got to be the basis for doing the right things. In other words, if there's good scientific evidence to show that these interventions are what is required to ensure its protection they are the things we should do and that was certainly the basis of the latest rounds of decisions we've made to further its protection. I remember back in the 1990s as Minister of Conservation we created a number of marine mammal protected areas to further its protection. If there is a new technical report suggesting there are more practical things that need to be done to ensure its protection and it's well scientifically backed up you need to do it.

DAVID

Yeah I agree you've got to take an evidence-based approach overlaid with precaution. The government that I was part of that had introduced the very wide ranging and controversial set net restrictions for Hector's and Maui's dolphins so we stand on a record there.

GARY

Let's move to the dry bits, the very dry bits in the High Country and talk first about tenure review, is it working and secondly about the Mackenzie Country what can be done to stop the loss of Mackenzie dryland landscapes to intensive irrigated farming? And maybe we'll go this way, start with you Nick and move along the row.

NICK

There's no question that there are very significant and environmental issues developing quite rapidly in the Mackenzie and it is quite divisive. The Government has chosen to fund a collaborative process of trying to get the farming, the environmental, the tourism and the other interest in the Mackenzie, they've had a further meeting this week and I've been hugely encouraged by the level of engagement that sectors that were very polarised at the beginning. I'm hopeful of them being able to produce a report and a way for the Mackenzie, it's just one of a number of practical areas, the Rotorua Lakes, Manuawatu River, the Waituna Lagoon down in Southland. We're trying to really hard get parties engaging around solutions. Around the issue of tenure review there is a difference between the current

Government and Labour and that is we don't think the State has to own everything to be able to protect the biodiversity values that are there. We do put a greater degree of emphasis on QE2 covenants, on access covenants rather than actually forever expanding the DOC estate and that's been reflected in some of the tenure decisions that have occurred over the term of this Government. Fundamentally is tenure review sound, yes it is. In my view the old high country leases that were created are not a particularly efficient mechanism and that where we can separate it out between the freeholding and the areas that go into DOC, so it's about a balance rather than all. Last point, there's been ambitions from Forest and Bird for a dryland park in that Mackenzie Basin. We're pretty open minded about that and it is one of the core issues that Mackenzie Futures Forum is discussing and looking at.

DAVID

Couldn't disagree much more. Tenure review is not working for a number of reasons. The current Government changed the assessment of rents under Crown pastoral lease legislation which are set at 2% or were until the legislation changed, were set at 2% of the land value excluding improvements, paid on time. Land values increased enormously and therefore rents should have gone up and the Government stepped in and said no we'll give those millionaire landowners a rent discount and the effect of that flows through to tenure review because the relative value of the Crown interest as lessor and the lessee interest determines the split of the property upon tenure review. There are no significant, sorry not no, there are few significant tenure outcomes that get a suitable outcome without a multimillion dollar payment from the Crown to the lessee and the Crown just can't afford to buy all these properties and ought not to, so I would turn the argument around about the Crown not having to own everything on you Nick because the Crown doesn't have to own the freehold of these properties to get a better outcome and is being achieved through tenure review now. It's better to sit and enforce its interest as lessor and just enforce the lease. Now the farmers then turn around and say we've got a right to tenure review. That's rubbish. They have a right to have their property rights respected in their lease and so does the Crown have the right to expect its property rights in those leases to be respected. Now I was the last Minister on this and I reached the view that we couldn't afford decent tenure review outcomes around lakesides and we couldn't. We really couldn't. They were multi-million dollar transfer payments needed in respect of each tenure review outcomes.

GARY

Because of the subdivision potential?

DAVID

Well because of the relative value of the lessee's interest compared to the lessor and one of the ways you fix that long term is actually enforcing the rental provisions but you could not get decent outcomes around lakesides. Now the biodiversity issues are difficult. I agree with that but there are landscape issues here as well as biodiversity issues and I've got no doubt that if we continue with tenure review and we don't fund it with tens of millions of dollars every year you're not going to get decent tenure review outcomes so you're better not to proceed.

GARY

So what's the policy? Is it a moratorium and a think?

DAVID

No it's gone as far, we've had some good highland parks but no you're not going to get...

GARY

And Mackenzie dryland park?

DAVID

Not opposed to that but I think the biggest answer here, the biggest costless answer is to stop going any further with tenure review because pastoral leases only have a right of pastoralism, you don't have a right of irrigation or indeed a right to apply fertiliser so you can pretty much effectively save the status quo through the existing provisions in the lease.

RUSSEL

And I think that's under-rated how much power the Crown has because the Commissioner of Lands has quite a lot of power over what happens. It's Crown land and you're not supposed to destroy the biodiversity but if you convert to irrigated fertilised pasture, you absolutely destroy the biodiversity of the Mackenzie. It's dry lands. The ecosystem is a drylands eco system so when you start irrigating it and putting lots of fertiliser on it you replace it with rye grass it's as if you've gone in and bulldozed a forest. It's just that people look at it and go well it's just a bunch of tussock. Yeah it is just a bunch of tussock but tussock happens to be a unique piece of biodiversity which is being rapidly eroded through bits and pieces up in the Mackenzie so we should enforce our rights as the owners of the land to protect the biodiversity and we need a dryland park.

RAEWYN

Okay this is quite a broad question but it would be good if you could just in one or two sentence answer. It's from Stephen Knight. How does your party propose to tackle the need to effectively integrate private property into broad biodiversity management regimes? Big question. Just a couple of sentences.

NICK

My view is protection of native biodiversity is one of New Zealand's most challenging environmental issues and all the international surveys it's the one in which we look really ugly. We've been trying to advance an NPS and at the core of that national policy statement, is trying to resolve that dilemma between what are your reasonable property rights over the land you own vis-a-vis the public property rights and the biodiversity of that space. Central government has not been able to provide any guidance and I don't think that has helped council working that stuff through. Our ambition would be to see through an NPS on biodiversity on the next term of parliament.

GARY

Over private land obviously.

NICK

Absolutely.

RUSSEL

One way to look at it, one of the prisms to look at this is fresh water biodiversity or wetland biodiversity and so we had an opportunity to put in place the bottom line. You can't continue to destroy freshwater biodiversity whether that's draining wetlands, whether that's adding pollutants into waterways and taking water out of it so that was the NPS on freshwater management was an opportunity to protect freshwater biodiversity with the bottom line rather than a trade off. I don't call it a balance. I call it a trade off but obviously the NPS on biodiversity is going to cover other kinds of biodiversity on dry land and the state of biodiversity is such in New Zealand lowland biodiversity, that we can't go around and say we've got to buy it all back. The Government has to pay everyone to protect the last of the biodiversity. We can't afford to do that.

DAVID

Yeah I agree, actions speak louder than words. The National Policy Statement on freshwater quality says it all and tenure review is the other example. Those are the two easiest things that we could do to protect biodiversity, stop tenure review and have a decent NPS on water quality.

GARY

Let's rattle along to coastal development now. Do you agree that we should be identifying and mapping nationally significant coastal environments or landscapes at a national level rather than leaving it up to local authorities who in our considered opinion using the technical terminology, tend to stuff it up?

NICK

We completed the new National Policy Statement on coastal management last November and I think it is a step forward on the old 1994 version. The questions about resourcing and whether you want to go another stage again. I'm unconvinced at this point relative to other priorities like an NPS on biodiversity.

DAVID

I think the new statement is progress and that we should try and make that work.

RUSSEL

I think geographical mapping would help a lot so just identifying the areas on a map. I think it would help a lot. The draft Auckland plan is some progress but we actually need to have in place again I would call them bottom lines where we say you can't get a private plan change to go into Te Arai Beach or wherever and rip it up. Actually we draw a circle and say no, you can't go and do a development in there, that's that. It's over, it's protected.

RAEWYN

I've got a question here which is a bit broader but I think quite relevant to the coast and other areas. It's from Bill Brownhill. We now know that the Rugby World Cup focused tourism works but in the absence of any more Rugby World Cups here for at least 24 years what do the three parties represented see as our more permanent and unique attributes as a country that could draw even greater numbers of overseas visitors to New Zealand and do they have any policies in place for effectively marketing those attributes and for assisting local businesses to better service those nature and scenery and outdoor adventure loving tourists.

RUSSEL

Protecting the conservation estate so that we have no mining in the conservation estate was a good start. Trying to restore some of the lowland biodiversity because that's really the big hole. I also quite liked the work we've done with National on the cycleway in terms of actually finding a way for tourists to access like along the Waikato River for example, some of those areas of remaining lowland biodiversity and I hope also locals will use it and want to increase the biodiversity along our rivers and so forth. There's a whole bunch of policies we have around supporting small to medium size enterprises as well.

DAVID

I'll start with a somewhat facetious story that is actually a true story. There's a guy in Dunedin called Dave Withero who's a strong environmentalist and he of course would disagree that these two ambitions are compatible and so he would say the best thing he can do in respect of both the environment and tourism is being rude to at least six tourists a day and he has a multiplier effect and claims responsibility at any one time for there being about a million fewer tourists in New Zealand. He's of Irish heritage and tells a good story.

Look I think we probably all agree here that we need to protect the things that are special about New Zealand and that relates to our natural features and in addition to that of course there are cultural experiences here relating to our indigenous populations which people will only get in New Zealand and that's something that people come to see so I do see a cultural dimension there as well as a natural one.

NICK

I don't think there is a big difference between the Greens and Labour and National about those opportunities. I do think in terms of the questioner though. The focus of our visitor industry needs to be more on yield rather than volume. If you look for instance under the European ETS of long air flights, coming into the realm of that on 1 January are likely next year and in terms of the change in the make up of the mix of tourists coming to New Zealand I think we should be rather than totally focusing on the number that come through Auckland International Airport we should be more focused on the value and the experience. In the cycle way you get people, what I find amazing, I've had this really stropmy debate in my corner of the world around people wanting to put a road through the Heaphy Track and the real irony about it, is if you put a \$200m motorway through the Kahurangi National Park and you want to charge people 200 bucks to put their car on it they'd scream blue murder but with a mountain bike track they'll happily pay that amount of money and we're attempting to market it regionally as the premium mountain bike route in the world and that is where I think there are real opportunities for our visitors and that's where we need to get the focus on the yield rather than just numbers.

GARY

That's a nice segue into climate change. The ETS review panel recommended three critical things that I took out of it. One – scaling up the half obligation to 100% by 2015. Two – removing the price cap progressively by 2017. Third – including agriculture with a progressive obligation by 2015 and I think ramping up at 1.3% per annum which I don't know how long it takes us to get to the full obligation but beyond our lifetimes I suspect. Do you support those recommendations and let's start with David. You were the architect of the ETS legislation.

DAVID

Not on agriculture. We've made up our mind on that. There's no rational economic argument that convinces us that agriculture which is responsible for 50% of our emissions and is increasing, there is no rational argument that convinces us that they ought not to be facing a price for their increases in emissions and we say that we will go with the original recommendation which was bring them in 1 January 2013 with them having initial responsibility for allocation of 90% of their 2005 emissions and therefore they pay for 10% plus growth since 2005.

GARY

And ramping up at what rate?

DAVID

Well we've said that it would abate at the rate that was originally recommended in the legislation but we say that with the rider that there are five yearly reviews and we mean that. I personally would be a bit surprised if New Zealand in the future does abate agricultural emissions at that full rate of 8.3% in the absence of a strong international agreement.

GARY

So that's pretty well consistent with the recommendations of the review panel what you've just said?

DAVID

Hell no. That's both a different date 2013 rather than 2015 and it's a different allocation methodology and also we would start, yeah 90% and we would also start with the point of obligation being at the processor level rather than deal with on farm measurement for reasons of both compliance and enforceability. But in respect of the other issues, we haven't yet made up our mind. We'll have a think about that. There's a lot in that report. I don't know what National is going to do either in respect of that. In respect of those areas we do think it's desirable that we have settled agreement to the extent that it's possible. Now we've already moved considerably in respect of our agreeing to National's allocation methodology in respect of industry because we think it's desirable that you actually have settled settings that are predictable for industry but we can't go so far as to agree with what they're doing with agriculture which is a step too far for us.

GARY

So on these three points but also on the point that we've got I think bipartisan support for the over arching framework of the ETS argument with differences around some of the detail, where are the Greens on that now? Are you still carbon tax aficionados or are you going to join the club?

RUSSEL

My recollection, I may have got this wrong is that National voted against the original legislation.

NICK

We voted for it at first reading.

RUSSEL

And later?

NICK

And we voted against it at second and third reading.

RUSSEL

So third reading is the one that makes it law. So National voted against the legislation and it was the Greens and Labour and NZ First who actually got the numbers to set up the ETS so let's just correct the history because there is a lot of misinformation where National supposedly supported ETS, they opposed the original legislation which set up the Emissions Trading Scheme at the third reading. And so we supported it not because we're great fans of emissions trading but because we thought we have to get some progress on this thing and we got certain concessions and improvements in the negotiations with Labour as we saw it to make it worthwhile voting for. I would say obviously we've always said we preferred a carbon tax and recycling the revenue but we just accepted the reality of the politics of it.

GARY

So your current policy is what?

RUSSEL

It's basically to rapidly strengthen the thing but I would just say that emissions trading and a price on carbon can only ever be one part of it. Think about lignite mining, a state owned enterprise is about to begin a whole bunch of lignite mining massive increase in greenhouse emissions. We own Solid Energy and if the Greens were in government we would tell Solid Energy that they have to stop their lignite project because it will dramatically increase New Zealand's emissions. Now they're called complementary measures. Not everything is about the price, there are a bunch of complementary measures and actually they're more important.

GARY

And the review panel recs specifically?

RUSSEL

Well basically we think the review panel is too weak.

GARY

So you'd go further and faster, like Labour?

RUSSEL

Yeah.

DAVID

We haven't said we'd go further and faster outside of agriculture. We're still considering that.

NICK

Firstly around the issue of climate change we have made more progress in the last three years around actually getting a price on carbon, actually my entire 21 year political career has been in the argument of whether you do it or not and we've got it in place. The complementary measures include 120,000 homes that are insulated. If we look in terms of de-forestation, record de-forestation 2005 – 2008, actually every

single year that we've been government the amount of new planting has been growing and I do want to compliment David. David did a bloody good job of developing key elements of the ETS legislation and there is a higher level of consensus in New Zealand probably than in any other western country about the way forward. Now in terms of Russel's point about National's voting on the initial legislation, Russel just voted for the EEZ legislation of this Government and he said we're voting for it because in principle we think we need to have it but we reserve the right to vote against it at the second or third reading in the event that we don't agree with the detail and fair enough. We voted for Labour's ETS legislation saying in principle we agree with an ETS, we may have some discussion around the detail and we do have a view that New Zealand does need to carefully balance the cost impacts of the ETS because they are real and they effect real families in terms of fuel price and electricity price and the amount of progress that we make on climate change. It is our view that New Zealand needs to do it's fair share and in calibrating the future of the ETS the progress that we make in Durban, the progress that is made in countries like Australia and our other major trading partners is going to influence how fast we go. Now on the key question of agriculture, National's view is this. The purpose of the ETS is not to slap simply a cost on the most important exporting sector that New Zealand has and if you simply impose the cost at the processor level, that is all you're doing. You're not going to have any influence on emissions because that processor, whether it be a dairy factory or a meat factory just pro rata bangs that on the farmers. We're only interested in an ETS in the event that it will reduce emissions. That is why I've always made plain going back to three of these forums that EDS has run that the most important sector that we need to get into the ETS is the electricity sector because our electricity emissions were going through the roof and there were real choices in that sector about how we generate the electricity and delighted over the last year that we've seen a five fold increase in the amount of consents for renewable power stations. So the key tests for National around including agriculture into the ETS is firstly there needs to be practical technologies by which farmers can actually reduce their methane and their nitrous oxide emissions.

GARY

Well there aren't there?

NICK

Take the nitrous oxide one, there's more prospect and I am open minded potentially about separating out the nitrous oxide part of the ETS from the methane because they're further down the track of developing those mechanisms, but even if you take the nitrous oxide and the nitrogen inhibitors that do offer us some options there, none of it is at a point yet where you can reliably measure it and if you're going to have a property rights system like an ETS where there's big amounts of money associated with it, you've got to measure it reliably. In the second test around agriculture is in terms of the progress that's been made internationally and that is National's view is that if there is no more progress New Zealand is the only country outside the EU currently to even have an ETS and ours is more comprehensive, covers a broader range of sectors than Europe. Now the other question that's in here the Caygill recommendation has recommended rather than hitting consumers and business with a single hit, in stepping up to a full obligation 2013 that they do it in three steps. We actually think that's a pretty sensible option. We're due to announce our climate change policy in the next two weeks.

DAVID

Australia would love to exclude lignite just like we'd love to exclude agriculture. They're both greenhouse gasses. It makes no sense for New Zealand to allow the agricultural sector to expand their emissions at the future cost of the New Zealand economy. It makes perfect sense now for the marginal land use decision as to whether at the margin there's conversion of more land into dairying or more land into an alternative land use be it forestry or some other use. That's true now. You don't need new technology for that to be true. In fact in the absence of new technology it's still true. There are technological options open to farmers at the margin and we're not asking them for 100% of their emissions. We're only asking them to pay for 10% of their emissions, as to whether it is at the farm level or the processor level we actually said well we'll let farmers opt in at the farmer level but we won't force them in at the farmer level because some of them have a different capability. That will encourage farmers who can do something at farm level to do it and have the personal advantage of it. The other reason why it should not go down to the farm level is that you and I well know from the experience of the fart tax that we would have civil disobedience at the farmer level which would try and knock the whole thing over and there's no way I am going to let a democracy in new Zealand have that happen to it and farmers if they don't think that's the ideal economic outcome and that it should be devolved to all farmers at the start they've only got themselves to blame because of their own conduct. Final point in that is the difference between an emissions trading scheme and a carbon tax is not nearly as big as people understand and given that there is no successor agreement to the Kyoto Protocol and that it expires at the end of 2012, we're not going to have an agreement and this Government has said that they're going to maintain the price of carbon which is the right thing to do in the economy, effectively at that stage the Government is issuing a restricted number of free units and offering the rest of them at a price that effectively controls by the price it accepts or the number of units that it offers into the market. So it becomes even more like a carbon tax post the first commitment period. So with respect Russel I don't know that there's that much of a difference in that point.

GARY

We've got two more topics to handle and they're big topics and we are running out of time so let's see if we can do the progress on being succinct. First, the RMA and I'm going to run these two quite different questions together and see if we can deal with them in one round. So the first one is the current Government proposes a review of s6 and 7 of the RMA, should we be worried; and the second question is how can we reduce the time line for plan making whilst retaining the independent review function of the Environment Court or the best of that process which is its independence and it's quality, I think people would argue. So I think we've got to start with you Nick because you're proposing.

NICK

It is our view that we need to have a fresh look at Clauses 6 and 7. We've set up a review to do that. Let me be very upfront with you why and some people would say they're super religious and you can never change 6 and 7. I point out there have been a number of amendments to both of them over the years. There are three drivers to it. We did the technical advisory group around the urban design and infrastructure issues. Both of them recommended changes to 6 and 7 but said just to add bits into the list was going to be pretty unconstructive and that you needed to have a fuller look at it. Then in the third issue was the substantive issue that's arisen in Christchurch and I think it is real. We've got about 17,000 sections in Christchurch that were approved through the Resource Management process where there was very good knowledge,

area specific knowledge about liquefaction risk and nobody thought about it when approving those subdivisions and there is no compulsory requirement to do so in our view.

GARY

But they should have.

NICK

Well the RMA currently says they may, you may when you're dealing with the resource consent put restrictions on the basis of actual hazards. We actually think managing natural hazards is sufficiently important, that it should be a requirement to consider natural hazard risks in approving subdivision and that's one of the key terms of reference around it. The assurance that I want to give is the alternative agenda around, no it's at the core of that sort of second phase of RMA changes we're wanting to make. To quickly answer the second question.

GARY

Well before you go on, so 6a, b, and c we're not going to see them gutted? We're not going to see some lowering of coastal protection and landscape protection measures?

NICK

Well there's a whole series of key elements there around water protection, air quality. There's landscape, there's coastal management. Of course they've got to be important considerations so it's more likely to be Gary adding to them and the question for us is what goes into 6, matters of national importance. What goes into the other matters. But there is no agenda and I can reassure you and others here that there is no agenda for watering down some of the key environmental protections that are in 6 and 7 and we've given an absolute assurance that we're not changing section 5 the principles of sustainable management or section 8 in respect of the Treaty Clause. Now on the plan making job I reckon this is one of the most challenging issues we've got and I give you the Auckland scenario. My advice is if you leave the current processes as they are, it's going to take you 15 years for the new Auckland Council to be able to complete a unitary plan for Auckland. Well I'm sorry, both environmentally and economically that is too damn slow and I am getting significant work done around how can we try and get those planning processes so that we can get there more quickly. I actually think the Board of Inquiry process that we used on Waterview and those other projects, has actually been relatively robust. The interesting thing for me is that with two of them, both of them in Auckland, I actually had letters from the opponents saying they actually thought that streamlined process was more constructive than the very drawn out processes. So the challenge for us is as part of Phase 2 RMA trying to concertina those process round those plan making processes because to take 15 years to get a new unitary plan for Auckland would be a disaster for the city and quite frankly for New Zealand.

GARY

But not removing the merits based investigation of the Environment Court?

NICK

I'm not ruling that out Gary and like I say we'll be releasing our final RMA...

GARY

You should rule it out shouldn't you?

NICK

Well I'll tell you the real trickiness here...

GARY

Otherwise you've got councils and we know how variable they are around the country making decisions around matters arguably of national importance without a review on the merits.

NICK

And the difficulty of the dilemma is this and we had this with Round 1 RMA, everybody agrees that the process is too damn slow but nobody wants to give up their submissions or their appeal rights. In my view we do have to make some trade offs around getting plan processes working more efficiently so it's not my preference Gary. Had a crack at it first time. We dropped it because we didn't think it was the right answer but we do think there's a real challenge for us in the RMA community to find better ways of which we can get plans concluded more quickly. We've got some ideas about collaborative processes and we will see those come out in our policy and whether that might be the right route for getting there so that is not my first preference by any means Gary but it is my view that we've got to crack this nut if we're going to get better outcomes for the environment and for our country.

GARY

David you're a former RMA lawyer, what do you think about all this?

DAVID

I think I'm pretty out of date. That's a lawyer's answer isn't it? If I was going to respond as Nick probably would have three years ago I would have just said nanny state. Should we worry? Look I actually think all of these things are appropriate to review periodically and it could be that there's a need for some specific reference to geotechnical issues on subdivisions although I would also take your point that it's probably already covered by the duties that councils have and their ability to do it where it's relevant rather than their obligation to do it where it's already proven to be stable land. Should we be worried, well actually I'll worry about it when I see their proposal. I don't hold to the view that any of these areas are so sacred that they can't be looked at again.

GARY

But you wouldn't support any diminution of environmental standards around landscape and coast.

DAVID

Absolutely not. In fact and in terms of the plan making function this is real difficult because on the one hand I think it's absurd because a council that's elected with a mandate to change a plan can't change a plan within the length of their elected term. That seems a bit absurd. Parliaments can change laws and yet councils can't but having said that on the other hand, it's really important that we give people merits based reviews and I'll give you an example of why that's important. I at one stage lived in Queenstown and I was there at the time there was a change of council from the former mayor to when Warren Cooper was re-elected mayor and the first thing that Warren Cooper did when he got back into being mayor is he stripped out all of the landscape protections from the draft plan that had been written by the prior

council and the only way that was able to be fixed and one of New Zealand's really important landscape areas was because Barry Lawrence of the Wakitipu Defence Society had put in a private objection to the proposed plan, and under that reference to the Environment Court was what allowed Judge Jackson to fix it. Now are we so trusting of councils that we don't think that people should have the ability to challenge the merits of a decision? Well I'm not. So I don't know where the balance lies. I was talking to a couple of people earlier before we came in here because I don't know what the solution is and so I was asking them and one person was saying yes we need to go for collaborative processes and we need to have some sort of high level heads of agreement and then give some sort of third party, I don't know whether it's an Environment Court or something, an ability to make a determination and someone else was saying well look speed isn't everything and sometimes these things do need to take longer than what I might like to hope inside three years so I don't know the answer.

One final thing, and that is a question through you Mr Chair is this controversy as to whether the Auckland spatial plan can effectively be ignored by central government because it hasn't got legislative status under the RMA has been posed by that opinion that's been circulated by that lady at Russell McVeagh and she effectively says that that plan has no legal status and that it can effectively be cherry picked by central government depending on whether or not they like the outcome of the process of this new council body which was meant to be able to provide one voice to Wellington.

GARY

We're going to come to that as our last topic so just hold that thought. Russel on the RMA changes?

RUSSEL

I say be worried and I am suspicious. When an Act Party candidate was put in charge of the tag for RMA, the technical advisory group for RMA part one, yeah I was worried. I think that was worrying. Actually a lot of the recommendations the RMA reform part one were rejected at select committee even by the National Party, such as the appeals on merit. So yeah and then the other thing is this constant rhetoric we're getting about the RMA is a real problem from Act in particular but constant stuff. For example Nick you're going around saying the Tauhara 2 to eight month consenting, it was actually 10 month from the lodging to the decision, was the fastest in 20 years. Absolutely not true. So if anyone has a look at the latest Energy magazine there's a list of geothermal projects that go through in less than 10 months. Dating back now from '94, '93, 2008, 2010 there's a whole series of projects actually that got through in under 10 months which is what Tauhara 2 actually got through in from when it was lodged and when the decision was made and so we had this rhetoric which is completely false that the RMA never lets anything through and yet the truth is that there's all these very large geothermal and other projects that have got through very quickly and so when that's the framework and the letter from Mark Brockleby programme manager at Energy Resource Use Group at Waikato Regional Council he says look the RMA has always attracted a fair bit of criticism as do local authorities who try to do their best. The public perception of both is not assisted by misinformation of this sort and the fact that it was generated in the first instance by the Minister responsible for the Council's implementation of the RMA makes it particularly concerning. So Council officers Nick they're the ones that wear it when you go round and say that stuff and so I just think I am worried by the rhetoric that you and Act use.

NICK

But I make no apologies for putting some heat on Council officer to...

RUSSEL

But it's not true

NICK

Well actually let's take the record. In the 2008 survey 29% of resource consents were late, another 35% they granted themselves extensions. Those numbers have dropped to 5% late and only 15% granted extensions. That is a very substantive improvement which is a direct result of our streamlining and simplified bill and I'm very proud of it.

RUSSEL

What you've said is actually false though when you said and you're on the public record now saying it many times and it's repeated by all sorts of people, possibly people in this room hearing it saying it must be true the Minister says it. It's the fastest consent in the 20 years of the RMA. It's simply not true.

NICK

It is the fastest consent that had considerable objectives and I challenge you Russel, put hand on heart and tell me that the Waterview \$2b project in Auckland would have gone through under the old RMA system in the nine month period. Anybody in this room believe that.

(all talking together).

RUSSEL

Transmission Gully is going to wreck a bunch of rivers in Wellington, fantastic.

GARY

Let's move on and can I just say from an EDS point of view we're doing our own piece of work against the same terms of reference as the TAG and on the s6 and 7 review and we're also giving some thought to the idea of how you could shorten the plan making process because we do agree that it takes too long. But we need to retain the bests of the current system and not just cut to some kind of cheap and nasty thing that's going to produce bad outcomes, so we'll be talking to whomever is in the Government after the election about that.

So now we move onto the last topic, Auckland. We are big now you guys so sit up straight and pay attention here! So first of all this question that David started us on the formal linking of Auckland's spatial plan with its unitary plan. Clearly we can't have a plan sitting out there in some other dimension like a Dr Who story can we, we've got to bring it into the same world and have a law change that requires the unitary plan to give effect to it or to recognise and provide for it or whatever terminology you want to use. David do you want to start?

DAVID

I'm going to confound you by putting back the argument on the prior issue. When we were discussing this with someone before we came in here too and he made the point that well all well and good but then you haven't had a merits review. He thought we

were just arguing for a merits review in respect of plans so it just shows you the complexity of these issues but I think that I mean it makes a nonsense of having an Auckland spatial plan if it doesn't have to be given some statutory effect.

RUSSEL

Yeah ditto. One of the live issues is around compact urban form, which is the next question. I don't know if you want us to talk about that. We now have this tension between what Auckland is trying to do which seems entirely rational and what central government is trying to do which wants more sprawl and so Steven Joyce tells us that everyone should have the right to live wherever they want and that local government should have to pay for all the services to support them. That we can have endless urban sprawl. Actually we can't have endless urban sprawl. We need compact urban form. The plan is right. Central government is wrong and this connects to the third question which is about better support for public transport rather than endless motorways. I think Auckland is going in the right direction, the problem is central government.

NICK

Number of really important questions here. There's actually a real link between this plan making question and the connection between the spatial plan and the unitary plan future for Auckland. The best expression of the Government's thinking is in the technical advisory group report on urban design where it talks both in that and the one on infrastructure around how the links go. Now the tough part and David was right to almost challenge you about the view because one of the beauties of the spatial plan is it's not caught up in a whole lot of legalistic appeals. If you applied the RMA tests to the development of the spatial plan and everybody who didn't agree with the new Auckland Council on it could appeal, then the time frame for getting that spatial plan would be a lot longer. Now come back to the key question. Should there be a link between that spatial plan and the unitary plan? The Government's view is yes. The really tough question is how strong should the link be i.e. there's a different range of legal terminologies. Should it have to give effect to, must provide and recognise or the really tough one at the other end and how does that impact on the appeal rights as you go through the process of putting that unitary plan together. So they are big questions and which I'd give that design of that technical advisory group. Around the question of the compact urban form, there's a really important trade off going on here and the trade off is between if you want to draw rigid lines around cities, be up front about what that is going to do to section prices and to housing affordability and there's actually really good research around that. Now it's not actually in the head space of Government and Auckland Council being at loggerheads despite what Mr Rudman might say in the New Zealand Herald. There's actually a really constructive process going on of making sure well-informed decisions are being made. One of the Government's concerns Gary is this. The Auckland Regional Council in 1999 set out a target of an urban form of Auckland. Take a look 10 years later and you see that only one fourth or a quarter of the amount of urban intensification occurred that they provided in their plan 10 years ago and then you've got the new Auckland Council saying actually we want to go another step harder than that again and the Government is quite legitimately asking, well given the fact that you haven't achieved any of that intensification in the last 10 years, show us the instruments by which you think that you could not do four times as much intensification of the last decade but actually what works at about seven times as much intensification. Are those realistic? How are you going to achieve it? The last point...

RUSSEL

Go to war on Auckland, Auckland is trying to do one thing and central government keeps shafting it.

NICK

Well I think that Russel has very extravagant rhetoric.

RUSSEL

It's true Nick, on transport it is true.

NICK

No the view on transport is if the Auckland Council decides it wants a particular transport initiative that we in central government fund, are we meant to write out a blank cheque, is that really the way the Green Party is going to operate?

RUSSEL

Not if they want public transport you won't fund it.

NICK

If the Nelson Council decides they want a particular transport option is it realistic....

RUSSEL

You'll fund it if it's a motorway.

NICK

No. The question is this central...

RUSSEL

You won't fund it if it's something else.

NICK

No that's not correct.

GARY

I think Nick there is a perception that the Government is more predisposed to fund motorways than public transport.

NICK

The Government will apply as you would expect a government to do with the sort of fiscal and financial challenge this country has to robustly test all of the transport options.

RUSSEL

No you don't it's so untrue. Those roads of national significance, some of them were identified as roads of national significance before you'd done a benefit to cost analysis on it. You identified them first. That's crazy.

NICK

Let's take for instance the decision we've made to substantially expand the original proposal around electrification for rail. Why? Because a good deal was available for us to buy good set of electric trains for Auckland. So the Government is simply saying we want robust analysis around those proposals and a balanced approach.

DAVID

Can I add something around what I think is an important issue for compact urban form.

NICK

How's affordability?

DAVID

Well that's important. There's an undone bit of policy work here and this isn't Labour Party policy but I was Minister of Transport for a while and I was always amazed that the additional infrastructure costs put to a council by distant subdivisions are not internalised to the cost of the subdivision. The costs of sewage is, the cost of footpaths, the cost of lighting is but the cost of transport isn't and I think that's a policy hole in New Zealand that should be considered. Now I'm not...

NICK

Read the Government submission to the Auckland Council it says just that.

DAVID

We do need to be careful here because we also need if you're going to do that you also need to have a look at some of the locking up of land shall I say by or I won't go there. Anyway I think that's a very, very important part of policy work that would lead to better outcomes in terms of compact urban form and public transport and affordability of lifestyles in cities.

RAEWYN

I've got one burning question because I thought we just needed something a bit different to wrap up. Very brief response, this is a question from Kit Howden. To what extent will your government fund and assist the Tamaki Collective and Auckland Council to better manage the volcanic field of Auckland to enable it to gain World Heritage status?

DAVID

I'm sure we would do what we could to assist.

RUSSEL

I'm sure we would as well. I'm sorry I don't have more specifics than that.

NICK

Community environment fund is an ideal place for them to apply. We've changed the criteria and put a lot more emphasis on that fund on support and collaborative approaches and I rate the volcanic cones in Auckland as actually a pretty significant environmental issue for the city and if there was a good proposal that came up through there be happy to have it tested albeit the final decisions on the quality of applications is made by officials and not ministers.

GARY

I think that's a wrap. I'd like to thank everybody for coming.

ends