



# Te Maru o Kaituna River Authority Rārangi Take Agenda

NOTICE IS GIVEN that the next meeting of Te Maru o Kaituna River Authority will be held in Nukuteapiapi Room, Te Arawa Lakes Trust, 1194 Haupapa Street, Rotorua on:

FRIDAY 21 MAY 2021 COMMENCING AT 10.30 AM

# Te Maru o Kaituna River Authority

## Membership

<b>Chairperson</b>	Dean Flavell (Tapuika Authority Trust)
<b>Deputy Chairperson</b>	Cr Matemoana McDonald (Bay of Plenty Regional Council)
<b>Iwi Members</b> One representative each appointed by: Tapuika Iwi Authority Trust Te Tāhuhu o Tawakeheimoa Trust  Te Pumautanga o Te Arawa Trust  One member jointly appointed by: Tapuika Iwi Authority Trust and Te Kapu o Waitaha	Geoff Rice (Alternate) Nicki Douglas Vincent Brown (Alternate) Piki Thomas Rawiri Kingi (Alternate)  Vacant
<b>Council Members</b> One representative each appointed by: Bay of Plenty Regional Council Rotorua Lakes Council  Western Bay of Plenty District Council  Tauranga City Council	Cr Jane Nees (Alternate) Mr Nick Chater (Lakes Community Board) Cr Tania Tapsell (Alternate) Cr Grant Dally Deputy Mayor John Scrimgeour (Alternate) Commissioner Shadrach Rolleston Commissioner Bill Wasley (Alternate)
<b>Informal Members</b> Two informal members with voting rights appointed by: Te Komiti Nui o Ngāti Whakaue  Bay of Plenty Regional Council	Maru Tapsell Manu Pene (Alternate) Cr Te Taru White
<b>Quorum</b>	The chairperson or deputy chairperson and two members appointed by iwi and two members appointed by the local authority appointing organisations
<b>Meeting frequency</b>	Quarterly

## Purpose

The purpose of the Authority as set out in the Tapuika Claims Settlement Act 2014 is the restoration, protection and enhancement of the environmental, cultural and spiritual health and wellbeing of the geographical area of the Kaituna River Catchment as shown on deed plan OTS-209-79.

This is a permanent joint committee under the Local Government Act 2002 and co-governance partnership between local authorities and iwi that share an interest in the Kaituna River and must not be discharged unless all of the appointing organisations agree to the discharge.

## Role

- To prepare and approve the Kaituna River document in accordance with sections 125 and 127 of the Act.
- To monitor the implementation and effectiveness of the Kaituna River document.
- To support integrated and collaborative management of the river.
- To work with local authorities and crown agencies that exercise functions in relation to the Kaituna River:
  - to monitor the state of the river environment
  - to monitor the effectiveness of the management of the river
  - to engage with iwi in relation to their interests in the river and to consult them on how to manage the river.
- To provide advice and recommendations to local authorities:
  - relating to projects, action or research designed to restore, protect or enhance the health and wellbeing of the river
  - on appointment of commissioners to hear and decide applications for resource consents under the Resource Management Act 1991 that affect the river.
- To facilitate the participation of iwi in the management of the river.
- To monitor the extent to which the purpose of the Authority is being achieved, including the implementation and effectiveness of the Kaituna River document.
- To gather information, to disseminate information and to hold meetings.
- To take any action that the Authority considers is appropriate to achieve its purpose.
- The Authority may seek to obtain funds to enable it to perform its functions.
- Other iwi and local authorities may join the Authority through consensus of the Authority or through legislation.

## Decision Making

The Authority must make its decisions by a vote at a meeting and must seek to achieve consensus, be consistent with and reflect the purpose of the Authority and acknowledge the interests of iwi in particular parts of the Kaituna and its catchments.

If the Chair or Deputy Chair considers that the meeting is unlikely to achieve consensus on a matter, the decision on the matter may be made only by a 70% majority of those present. The Chair and the Deputy Chair of the Authority may vote but do not have a casting vote.

## Power to Act

The Authority has discretion except as provided for in section 116(2) (a) of the Tapuika Claims Settlement Act to determine in any particular circumstances whether to perform any function specified and how and to what extent any function specified is performed.

## Power to Recommend

To the partner organisations on any matters within the Authority's delegated functions as it deems appropriate.

The Te Maru o Kaituna River Authority members report directly to their respective organisations.

Recommendations in reports are not to be construed as policy until adopted.

# Rārangi Take

## Agenda

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    - Presented by: Jenny Riini

## **8.2 Masterplan outcomes developed between Beca and Te Karangi A 3D 2B Ahu Whenua Trust**

Presented by: Tom Abbott, Emma Stiven, Mihaere Naera

Development proposals for the site and the integrated thinking between Te Tini A Tuna and the Trust's masterplan.

## **8.3 Wai Ora funding application for Kaituna Pataka Kai Project**

Presented by: Elva Conroy

## **9. Ngā Pūrongo Reports Continued**

### **9.1 Update from Members 13**

Members not included within the report will be given the opportunity to provide verbal updates.

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## **10. Ngā Take Tōmuri Hei Whakaaroaro Consideration of Items not on the Agenda**

## **11. Karakia Kati Closing Prayer**



<b>Pūrongo Ki: Report To:</b>	Te Maru o Kaituna River Authority
<b>Rā Hui: Meeting Date:</b>	21 May 2021
<b>Kaituhi Pūrongo: Report Writer:</b>	Jessica Durham, Committee Advisor
<b>Kaiwhakamana Pūrongo: Report Authoriser:</b>	Yvonne Tatton, Governance Manager
<b>Kaupapa: Purpose:</b>	To appoint Members and update on Governance matters

## Governance Update

### Whakarāpopototanga Executive Summary

This report summarises legislative requirements under the Local Government Act (2002) (LGA) and the Tapuika Claims Settlement Act (2014) (the Settlement Act) regarding Te Maru o Kaituna River Authority (the Authority) and the appointments of Members.

### Ngā tūtohutanga Recommendations

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Governance Update;**
- 2 Confirms the appointments of Commissioners Shadrach Rolleston and Bill Wasley (Alternate) representing Tauranga City Council;**
- 3 Confirms the appointments of informal members Maru Tapsell and Manu Pene (Alternate) representing Te Komiti Nui o Ngāti Whakaue;**
- 4 Directs each Member of the Authority to complete Attachment 3, Declaration of Interests.**

### 1. He Whakamārama Background

There are appointments and administrative matters that require decision by the Authority as set out by the LGA and the Settlement Act.

## 2. **Membership Appointments**

Membership appointments to the Authority as defined in the Settlement Act are for a term of three years, and Members may be reappointed.

Tauranga City Council has advised the appointments of Commissioners Shadrach Rolleston and Bill Wasley (Alternate) (Attachment 1).

Te Komiti Nui o Ngāti Whakaue has advised the appointments of Maru Tapsell and Manu Pene (Alternate) (Attachment 2).

## 3. **Conflicts of Interest Register**

The Authority is required to keep a register of interests. Members are required to declare their interests - both pecuniary (financial) and non-pecuniary (non-financial) in matters that may relate to the work of the Authority. This includes any financial interests of a spouse, civil union partner, de facto partner, child, or parent. You do not have a conflicting interest merely from being a member of a relevant iwi or hapū involved in a matter before the Authority.

The Declaration of Interest form to be completed and signed by Members can be found at Attachment 3.

## 4. **Ngā Whakaarohanga Considerations**

### 4.1 **Ngā Mōrea me Ngā Whakangāwaritanga Risks and Mitigations**

There are no significant risks associated with this matter.

### 4.2 **Huringa Āhuarangi Climate Change**

The matters addressed in this report are of a procedural nature and there is no need to consider climate change impacts.

### 4.3 **Ngā Pānga ki te Māori Implications for Māori**

There are no significant implications for Māori with this matter.

### 4.4 **Whakawhitiwhiti ā-Hapori Community Engagement**



Engagement with the community is not required as the recommended decisions relate to administrative matters only.

### 4.5 **Ngā Pānga ā-Pūtea Financial Implications**

There are no unbudgeted financial implications and this fits within the allocated budget.



## 5. **Ngā Mahi Whai Ake Next Steps**

There will be ongoing Governance Update reports and appointment reviews as they fall due.

### **Tuhinga Tautoko Attachments**

Attachment 1 - Confirmation of Appointments - Tauranga City Council [↓](#)

Attachment 2 - Confirmation of Appointments - Te Komiti Nui o Ngati Whakaue [↓](#)

Attachment 3 - Declaration of Interest Form [↓](#)

**Jessica Durham**

**From:** Yvonne Tatton <Yvonne.Tatton@boprc.govt.nz>  
**Sent:** Monday, 22 February 2021 12:53 pm  
**To:** @Governance; @Leadership Team; @Executive Secretary Team  
**Subject:** FW: Tauranga City Council appointments to Joint Committees

**From:** Coral Hair <Coral.Hair@tauranga.govt.nz>  
**Sent:** Monday, 22 February 2021 11:49 am  
**To:** Yvonne Tatton <Yvonne.Tatton@boprc.govt.nz>; Barbara Whitton <Barbara.Whitton@westernbay.govt.nz>; Barbara Clarke <Barbara.Clarke@westernbay.govt.nz>; Vicki Jones <Vicki.jones@smartgrowthbop.org.nz>  
**Cc:** Robyn Garrett <Robyn.Garrett@tauranga.govt.nz>; Donna Karl <Donna.Karl@tauranga.govt.nz>; Fiona Hindmarsh <Fiona.Hindmarsh@tauranga.govt.nz>; Maree King <maree.king@tauranga.govt.nz>  
**Subject:** Tauranga City Council appointments to Joint Committees

Morena Tatou

The Commission held their first Council meeting this morning and resolved to appoint the Commissioners to Joint Committees and advisory boards (see the table below).

Committee	Membership (Tauranga City Council)
Smartgrowth Leadership Group	Commission Chair Anne Tolley Commissioner Stephen Selwood Commissioner Bill Wasley Alternate: Commissioner Shadrach Rolleston
Bay of Plenty Civil Defence Emergency Management Group	Commission Chair Anne Tolley Alternate: Commissioner Bill Wasley
Te Maru o Kaituna (Kaituna River Authority)	Commissioner Shadrach Rolleston Alternate: Commissioner Bill Wasley
Regional Transport Committee	Commission Chair Anne Tolley Alternate: Commissioner Stephen Selwood
Public Transport Committee (Bay of Plenty Regional Council Committee)	Commissioner Stephen Selwood Commissioner Bill Wasley

**Jessica Durham**

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**From:** Pim De Monchy  
**Sent:** Tuesday, 20 April 2021 2:16 pm  
**To:** Aaio Communications Ltd  
**Cc:** Tanya Anderson; info; Jessica Durham; Dean Flavell  
**Subject:** RE: Te Maru o Kaituna - Te Kōmiti Nui o Ngāti Whakaue Representatives

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** TMOK

Tēnā koe Kingi

Thank you for informing us of Te Komiti Nui's new nominees for Te Maru o Kaituna River Authority for the remaining 2021 meetings. We look forward to re-welcoming both Maru and Manu to the table.

Committee Advisor Jessica Durham will pass on your email to members to let them know.

Ngā mihi nui  
Pim

**Pim De Monchy**  
Coastal Catchments Manager  
**Bay of Plenty Regional Council Toi Moana**

**P:** 0800 884 880 **DD:** 0800 884 881 x8518  
**E:** [Pim.deMonchy@boprc.govt.nz](mailto:Pim.deMonchy@boprc.govt.nz)  
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**A:** PO Box 364, Whakatāne 3158, New Zealand

*Thriving together – mō te taiao, mō ngā tāngata*

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**From:** Aaio Communications Ltd  
**Sent:** Tuesday, 20 April 2021 2:03 pm  
**To:** Pim De Monchy  
**Cc:** Tanya Anderson; info  
**Subject:** Te Maru o Kaituna - Te Kōmiti Nui o Ngāti Whakaue Representatives

Tēnā ra koutou kai nga iwi huhua, mana nei e hāpai ana i te kaupapa o Te Maru o Kaituna. Ki a koutou o Toi Moana, ka nui te mihi e. Tangihia wō tātau aitua kua mene atu ki te pō, rātau ki a rātau, tātau te pito ora, tēnā tātau

It brings me great pleasure to inform you that Te Kōmiti Nui o Ngāti Whakaue have confirmed our Representative and Alternate for Te Maru o Kaituna. Maru Tapsell is our Representative, and Manu Pene is the Alternate. This will continue until after the November TMOK meeting as TKN will be having our triennial elections. We will then vote for new representatives shortly after that.

Maru Tapsell's phone number is: **REDACTED** - He does not have internet access. Manu Pene phone number is: **REDACTED** email: **REDACTED**

Ngā tauwhirotanga o Te Runga Rawa ki a koutou katoa

Kingi Biddle



## TE MARU O KAITUNA RIVER AUTHORITY APPOINTED MEMBER'S REGISTER OF INTERESTS

Schedule 5, section 6 of the Tapuika Claims Settlement Act 2014 requires the Authority to keep a register of interests.

Member's name:

Member's partner's name:

Entities in which a financial or beneficial interest is held	Relationship / role in entity	Property, assets or activities of the entity

This statement is given in accordance with the requirements of the Tapuika Claims Settlement Act 2014. The information contained in this statement is to the best of my knowledge complete and accurate as at the effective date. I confirm that I have included in this statement details of any interests held by me or my partner through trusts or companies.

Member's signature:

Effective date:

# Te Maru o Kaituna River Authority

## Ngā Meneti Open Minutes

<b>Commencing:</b>	Friday 5 February 2021, 10:40 am
<b>Venue:</b>	Zoom Video Conference Room ( <a href="#">Zoom Recording</a> )
<b>Heamana Chairperson:</b>	Dean Flavell (Tapuika Iwi Authority Trust)
<b>Heamana Tuarua Deputy Chairperson:</b>	Cr Matemoana McDonald (Bay of Plenty Regional Council)
<b>Ngā Kopounga Members:</b>	<p><u>Te Tāhuhu o Tawakeheimoa Trust</u> Nicki Douglas</p> <p><u>Rotorua Lakes Council (RLC)</u> Nick Chater (Lakes Community Board) Cr Tania Tapsell (Alternate)</p> <p><u>Western Bay of Plenty District Council (WBOPDC)</u> Cr Grant Dally</p> <p><u>Te Pumautanga o Te Arawa Trust</u> Rawiri Kingi (Alternate)</p> <p><u>Bay of Plenty Regional Council (BOPRC)</u> Cr Jane Nees (Alternate)</p>
<b>Informal Members</b>	<p><u>Te Komiti Nui o Ngāti Whakaue</u> Joe Edwards Kingi Biddle</p> <p><u>Bay of Plenty Regional Council</u> Cr Te Taru White</p>
<b>Te Hunga i Tae Ake In Attendance:</b>	<u>BOPRC Staff:</u> Pim De Monchy (Coastal Catchments Manager), Nassah Rolleston-Steed (Principal Advisor, Policy & Planning), Moana Boyd (Senior Planner), Brad Harburn (Environmental Engineer), Jessica Durham (Committee Advisor)

WBOPDC Staff: Peter Watson (Reserves and Facilities Manager), Matt Leighton (Senior Policy Analyst)

TCC Staff: Campbell Larking (Senior Planner)

## **Ngā Hōnea Apologies:**

Kiharoa Milroy (Te Komiti Nui o Ngāti Whakaue)  
Vincent Brown (Te Tāhuhu o Tawakeheimoa Trust)  
Deputy Mayor John Scrimgeour (WBOPDC) (Alternate)  
Geoff Rice (Tapuika Iwi Authority Trust) (Alternate)  
Piki Thomas (Te Pumautanga o Te Arawa)  
Tauranga City Council representation

### **1. Karakia Whakatuwhera Opening Karakia**

A karakia was provided by Kingi Biddle, and a mihi whakatau was provided by Dean Flavell.

### **2. Chair's Announcement**

This meeting was recorded as noted within the agenda and uploaded to the BOPRC website in accordance with BOPRC Policy.

### **3. Items not on the Agenda**

At the conclusion of agenda items, there would be a discussion on a NIWA/ BOPRC/ Te Maru o Kaituna River Authority (Authority) collaboration regarding an MBIE case study and research proposal on "Transforming coastal lowland systems threatened by sea-level-rise into prosperous communities".

### **4. Welcome to Informal Members**

Welcomed informal members representing Te Komiti Nui o Ngāti Whakaue at the hui, Joe Edwards and Chairman Kingi Biddle.

### **5. Ngā Hōnea Apologies**

#### **Resolved**

**That Te Maru o Kaituna River Authority:**

- 1 Accepts the apologies from Kiharoa Milroy, Deputy Mayor John Scrimgeour, Vincent Brown, Geoff Rice, Piki Thomas and Tauranga City Council representation, and for early departure from Kingi Biddle, Cr Te Taru White and Nicki Douglas tendered at the meeting.**

**McDonald/Kingi  
CARRIED**

## 6. Raupapa o Ngā Take Order of Business

The Chair announced Agenda Item 2.2, Direction on Proposed Changes in Response to Comments Received on Draft Proposed Change 5 (Kaituna River) to the Regional Policy Statement would be considered first.

## 7. Whakapuakanga o Ngā Take Whai Taha-Rua Declaration of Conflicts of Interest

No conflicts were declared.

## 8. Ngā Whakatau e Hiahiatia Ana Ngā Pūrongo Decisions Required Reports

### 8.1 Direction on Proposed Changes in Response to Comments Received on Draft Proposed Change 5 (Kaituna River) to the Regional Policy Statement

*Presentation: Draft Proposed Change 5 Comments: Objective ID A3732410*

Presented by: Nassah Rolleston-Steed (Principal Advisor, Policy & Planning),  
BOPRC

#### **Key Points:**

- Moana Boyd (Senior Planner, BOPRC) would be taking over work on the plan change in the future.
- Outlined the plan change process and feedback received.
- BOPRC's Strategy and Policy Committee reviewed the proposed plan change in December 2020 and provided comment.
- Staff sought further direction from the Authority on the comments provided as outlined in the report attachments and presentation.
- Strategy and Policy Committee would further review any changes at their 23 March 2021 workshop, then Proposed Change 5 would go to BOPRC's Council meeting on 21 April 2021 for approval to notify and commence the Schedule 1 submissions process.
- Because Proposed Change 5 related primarily to water, it would be subject to the new Freshwater Planning Process which included restricted appeal rights.

10:53am – Kingi Biddle **withdrew** from the meeting.

#### **Key Points - Members:**

Members agreed with most Strategy and Policy Committee comments and tracked changes, however made the following further amendments:

- Removed references to ‘tributaries’ throughout Proposed Change 5 because they were included in the legislative definition of Kaituna River.
- Objective 40 and Policy KR 1B were amended to state “The traditional and contemporary relationships that iwi and hapū have with the Kaituna River are recognised, strengthened, enhanced, and provided for.”
- Objective 44 and Policy KR 5B were amended to replace “good management practices” with “best management practices”. Members recognised Proposed Change 5 should be aspirational when it came to management practices.
- Staff to work with Authority members (particularly Cr White) on developing additional explanatory text for Policy KR 8B to recognise the existence of waahi tapu (including burial caves) in the Kaituna River and its margins. This would acknowledge their cultural significance and the metaphysical and spiritual dimension associated with their existence and recognising the tapu element associated with protecting them and ensuring cultural safety.
- Members acknowledged the Freshwater Planning Process would involve consideration and nomination of a Commissioner with expertise in tikanga Māori to be appointed to the Freshwater Hearings Panel. This would be considered at a future Authority hui.

## Resolved

### That Te Maru o Kaituna River Authority:

- 1 **Receives the report, Direction on Proposed Changes in Response to Comments Received on Draft Proposed Change 5 (Kaituna River) to the Regional Policy Statement.**
- 2 **Generally endorses the amendments made to Draft Proposed Change 5 (Kaituna River) to the Regional Policy Statement in response to comments received.**
- 3 **Provides direction on alternative wording to provisions where TMoK members disagree with proposed amendments.**
- 4 **Notes Toi Moana staff will seek Regional Council approval to commence the formal RMA Schedule 1 submissions process by mid-2021.**
- 5 **Notes Draft Proposed Change 5 (Kaituna River) to the Regional Policy Statement will be subject to the new Freshwater Planning Process (FPP) set out in s80A (2)(c)(ii) of the Resource Management Act 1991 (RMA). A tangata whenua nominee with tikanga Māori and mātauranga Māori experience must be appointed to the Freshwater Hearings Panel.**

Douglas/Chater  
CARRIED

## 9. Whakahoutanga Kōrero Verbal Updates

### 2.1 Chairperson’s Report

*Presentation: Te Karaka Property Listing: Objective ID A3736331*

*Presentation: Te Maru o Kaituna River Authority Website ([www.kaituna.org.nz](http://www.kaituna.org.nz))*



Presented by: Dean Flavell

**Key Points:**

- Highlighted the benefits of the Authority's website, which was now live and gave members a brief tour through the site's pages.
- Outlined the prospective opportunities that a piece of land for sale on Bell Road (known as Te Karaka) had to the Authority and its partners. Te Karaka was a Pā site of significant historical and cultural value that was listed for \$895k.
- Securing Te Karaka would present wetland opportunities and contribute towards the Authority's Action Plan.
- The Authority's partner organisations would be invited by letter from the Chair to review the details of Te Karaka and communicate with the Chairman or Pim De Monchy regarding their interest. Members indicated support for Te Maru o Kaituna River Authority to advocate for the site's purchase and protection.
- Sam Sutton's sky walkway project over the Kaituna River now had consent and ongoing updates would be provided to the Authority.

12:26pm – Cr Te Taru White and Nicki Douglas **withdrew** from the meeting.

## **10. Kia Whakaūngia Ngā Meneti Minutes to be Confirmed**

### **10.1 Te Maru o Kaituna River Authority Minutes - 28 August 2020**

#### **Matters Arising**

In relation to Minute Item 6.1, Proposed Flood Protection and Drainage Bylaws 2020, following discussion with Dr Kura Paul-Burke, erosion at Tūhourangi Marae could be a potential issue.

#### **Resolved**

**That Te Maru o Kaituna River Authority:**

- 1 Confirms Te Maru o Kaituna River Authority Minutes - 28 August 2020 as a true and correct record.**

**Flavell/Kingi  
CARRIED**

## **11. Ngā Whakatau e Hiahiatia Ana Ngā Pūrongo Decisions Required Reports Continued**

### **11.1 Committee Membership Update**

Presented by: Pim De Monchy (Coastal Catchments Manager), BOPRC

**Key Points:**

- Tapuika Iwi Authority Trust/Te Kapu o Waitaha joint seat discussions were ongoing, so could not yet be appointed.
- TCC Commissioners had been appointed, however TCC representation on the Authority was still to be advised.

**Resolved**

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Committee Membership Update.**
- 2 Notes the Minister of Local Government has confirmed a Commission will be appointed to manage Tauranga City Council's elected representative function which may affect Tauranga City Council's representative on Te Maru o Kaituna River Authority.**

**Chater/Flavell  
CARRIED**

## **12. Whakaaturanga Presentations**

### **12.1 Progress Update on 83 Ford Rd Concept Plan Process**

*Presentation: 83 Ford Road Concept Plan Update: Objective ID A3732411*

Presented by: Peter Watson (Reserves and Facilities Manager), WBOPDC

**Key Points:**

- WBOPDC and BOPRC each acquired parts of the land for community use.
- BOPRC used the site for the Kaituna River Re-diversion Project between 2018 and 2020.
- Since the last update to the Authority in May 2020, pre-engagement had been undertaken and feedback incorporated into the proposed draft concept plan.
- WBOPDC proposed a name change to Otaiparia based on research and feedback from mana whenua.
- Next steps would include formal consultation from 12 April to 12 May 2021.

## **13. Hei Pānui Anake Ngā Pūrongo Information Only Reports**

### **13.1 Kaituna Mole Maintenance**

*Presentation: Kaituna Mole Concept Plan: Objective ID A3732412*

Presented by: Brad Harburn (Environmental Engineer), BOPRC

**Key Points - Staff:**

- Outlined background to the project and next steps.
- Noted closure of Kaituna Mole to the public for approximately 4 months from April 2021 for construction.

**Key Points - Members:**

- Create synergy with design and construction at other nearby sites within Maketū, including Otaipara.
- Stage 2 aesthetics of the project could include a sculpture between the ramps and steps and sand blasted designs could incorporate Authority designs.
- Waste management needed close consideration.

**Resolved**

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Kaituna Mole Maintenance.**

**Flavell/Dally  
CARRIED**

**13.2 Toi Moana Kaituna Catchment - Report on Operations since 28 August 2020**

Presented by: Pim De Monchy (Coastal Catchments Manager), BOPRC

**Key Points - Staff:**

- Highlighted jet-boat and jet-ski speed concerns and the work underway to address them.
- There would be ongoing engagement with tangata whenua regarding Ford Road maintenance, prior to any works commencing.

**Items for Staff Follow Up:**

- Provide an update on timing of consent processing.

**Resolved**

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Toi Moana Kaituna Catchment - Report on Operations since 28 August 2020.**

**Flavell/Kingi  
CARRIED**

## 14. Whakahoutanga Kōrero Verbal Updates Continued

### 14.1 Western Bay of Plenty District Council

Presented by: Cr Grant Dally

#### Key Points:

- WBOPDC were investigating marae wastewater needs across the district.
- Investigations within the Western Bay had been completed, with the Eastern Bay starting next.
- Onsite and offsite reticulation options would be considered.
- WBOPDC was engaging with tangata whenua on wastewater options.

## 15. Ngā Take Tōmuri Hei Whakaaroaro Consideration of Items not on the Agenda

### 15.1 NIWA/BOPRC/Te Maru o Kaituna River Authority Collaboration

*Presentation: Transforming coastal lowland systems threatened by sea-level-rise into prosperous communities: Objective ID A3732400*

Presented by: Niketi Toataua, Scott Stephens and Darcel Rickard, NIWA

#### Key Points:

- NIWA would be submitting to MBIE in 2021 for research funding on transforming coastal lowland systems threatened by sea-level-rise into prosperous communities.
- NIWA would be working with hapū and iwi partners in co-developing research components.
- The final research proposal was due 28 February 2021.
- The funding was highly contested, with a 15% success rate.
- If funding was approved, the research would take place from October 2021 to September 2026.
- NIWA sought the Authority's interest and support in the research proposal.

#### Key Points - Members:

- The Chairman would write a letter of support on behalf of the Authority supporting NIWA's research proposal.

## **16. Karakia Kati Closing Karakia**

A karakia was provided by Dean Flavell.

**1.42pm - the meeting closed.**

**CONFIRMED**

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Dean Flavell  
Chairperson, Te Maru o Kaituna River Authority



<b>Pūrongo Ki: Report To:</b>	Te Maru o Kaituna River Authority
<b>Rā Hui: Meeting Date:</b>	21 May 2021
<b>Kaupapa: Purpose:</b>	To update the Authority on work underway on the Action Plan.

## Update from Members

### Whakarāpopototanga Executive Summary

- Western Bay of Plenty District Council's update on LTP process and Action Plan progress.
- Bay of Plenty Regional Council's update on LTP process, including draft budget for projects contributing to Te Tini a Tuna and the objectives and desired outcomes of Te Maru o Kaituna River Authority.

### Ngā tūtohutanga Recommendations

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Update from Members.**

#### 1. Western Bay of Plenty District Council (WBOPDC)

Consultation on the WBOPDC LTP has just closed and the process of decision making is underway. WBOPDC has included budget for some explicitly Kaituna related actions in the draft LTP (noting that this is still subject to Council decisions):

- Kaituna Action Plan Implementation - \$50k p.a for three years.
- Ford Road - \$287k over first four years. Council could consider additional increase to this budget through LTP deliberations.
- Bell Road River Access - \$148k over four years.
- Walking and cycling - \$13.85m over ten year's district wide. The draft Walking and Cycling Action Plan includes Kaituna connections.

- Reserves Management Plan Review – The Te Puke-Maketu RMP is being reviewed over the next year or so. I think this is a key document to river access enhancements and developments could be planned for. Feb 2022 and final adoption May 2022.

Council decisions may still change the timing and budgets.

## 1.1 Progress on the Action Plan

### 1.1.1 Lead or Joint Lead

Project #	Project	WBOPDC Update
3	Consented takes and discharges project	The annual compliance report is being prepared and will shortly be sent to Te Maru o Kaituna.
4	Focus catchment action plan project	The Waiari kaitiaki group is continuing. Initial meetings held with Tapuika representatives and discussion around one group to consider both the wastewater and water take matters.
8	Kaituna habitats network project	<p>The Te Puke-Maketu Reserves Management Plan is under review. This will be a key document to help inform some of this work and identify future projects. This is due to be completed mid 2022.</p> <p>In preparation for this review and to help inform its development, pre-engagement with Tangata Whenua will be undertaken in mid 2021.</p>
11	Kaituna River access project	<p>The Te Puke-Maketu Reserves Management Plan is under review. This will be a key document to help inform some of this work and identify future projects. This is due to be completed mid 2022.</p> <p>In preparation for this review and to help inform its development, pre-engagement with Tangata Whenua will be undertaken in mid 2021.</p> <p>Funding in the draft LTP provides for increased access to the river, particularly at Bell Road (\$148k over the first four years).</p> <p>Funding in the draft LTP provides for delivery of the Otaiparia (Ford Road) concept plan with consultation on this plan taking place between 12 April – 12 May 2021. There is currently \$287,000 allocated to this project in the Long Term Plan with additional funding being considered by Council as part of its final LTP deliberations.</p> <p>A Bay of Plenty Water Sports Facility and Access Strategy is being developed. This strategy will be led by Sport Bay of Plenty alongside the Spaces and Places Strategy Steering Group which WBOPDC are a member of. Scoping of this strategy is still being undertaken but will likely include a mapping exercise of current provision in the district to better understand how future demand can be met. It will include consideration of saltwater and fresh-water sites. Engagement with Tangata Whenua will be a key part of the development of this strategy.</p>

12	Kaituna cycleway/walkway project	<p>WBOPDC Cycle Action Plan (<a href="#">link</a>) has been prepared and Kaituna connections are included in this.</p> <p>This includes the Bell Rd to Maketu cycleway along the Kaituna stopbank and the Te Puke to Maketu cycleway project are currently in a consultation phase with Tangata whenua. Council is collaborating with the Te Ara Kahikatea Pathway Society, BOPRC, DOC, landowners and others on options.</p> <p>The draft LTP has budgeted \$13.85m over ten years, for walking and cycling district wide.</p> <p>The timing of this specific project is dependent on LTP funding and priority</p>
17	Kaituna catchment network mapping project	WBOPDC can provide relevant data as requested by BOPRC. Some of this may be the result of progress on the Reserve Management Plan review and Cycle Action Plan.

### 1.1.2 Key Partner

Project #	Project	WBOPDC Update
1	Lowland drain and drainage canal improvement project	No update from WBOPDC.
7	Wetland recreation project	<p>WBOPDC currently financially supports community and private land owners wetland restoration projects through the BOPRC Environment Plans system.</p> <p>Subject to LTP approval, \$50k pa for the first three years of the plan has been set aside for Kaituna Action Plan projects and may be utilised here.</p>
10	Kaituna community connection project	<p>WBOPDC is open to working with community partners to progress this aspiration.</p> <p>Council now has an Events Specialist who could advise and assist with the planning and implementing part of any promotional events associated with this.</p>
13	Kaituna cultural and historical heritage project	From WBOPDC perspective there has been no specific planning undertaken so far. However, elements of this will be incorporated as part of the Otaiparia Concept Plan implementation (subject to LTP), and cycleway projects currently in a consultation phase with Tangata Whenua.
15	Coastal park network project	WBOPDC continues to engage in discussions with BOPRC, TCC, DOC and others regarding this.
16	State of the Awa integrated monitoring and reporting project	WBOPDC can provide data and staff time as requested.



## 1.2 Funding Opportunities

### 1.2.1 Facilities in the Community Fund

More than \$100,000 is available every two years for the capital development of recreational facilities in the District. The next round will be open for applications from mid-April 2022. This provides funding for recreational facility development and meets a number of criteria.

### 1.2.2 Community Matching Fund

Councils Community Matching Fund is open from 19 April 2021 to 28 May 2021 and of the \$140,000 total funds available, \$40,000 of this is specifically tagged for environmental community projects.

## 2. Toi Moana / Bay of Plenty Regional Council

Consultation on the BOPRC LTP has closed and the process of decision making is underway. BOPRC has included budget for some explicitly Kaituna related actions in the draft LTP (noting that this is still subject to Council decisions).

The table below shows the draft allocations in the Coastal Catchments Activity for projects that are in the rohe of Te Maru o Kaituna River Authority and which relate to Te Tini a Tuna. Please note that Council has also allocated significant funding for policy work (such as for RPS Change 5 and implementation of the NPSFM). Both of these areas will include significant engagement with members of Te Maru o Kaituna River Authority, and the Authority itself.

More detail will be provided in a presentation on the day.

BOPRC OPEX	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Focus Catchment - Waitepuia/Ford Rd	\$ 200,195.07	\$ 201,145.36	\$ 202,234.92	\$ 203,272.52	\$ 204,078.06	\$ 153,371.22	\$ 102,527.38	\$ 102,791.70	\$ 51,520.00	\$ 309,827.92	\$ 1,730,964.15
Focus Catchment - Kopuaroa	\$ 120,117.25	\$ 150,859.02	\$ 151,676.19	\$ 152,454.95	\$ 102,038.45	\$ 102,246.69	\$ 82,022.15	\$ 82,232.61	\$ 41,216.00	\$ 30,982.92	\$ 1,015,846.23
Projects - Te Maru o Kaituna River Authority Strategy Implem	\$ 100,098.05	\$ 80,458.14	\$ 60,670.48	\$ 50,818.69	\$ 40,815.61	\$ 30,674.01	\$ 30,758.46	\$ 30,838.01	\$ 30,912.00	\$ 30,982.92	\$ 487,026.37
Projects - Te Pourepo o Kaituna (Wetland Creation)	\$ 100,098.05	\$ 120,687.22	\$ 121,340.95	\$ 121,963.74	\$ 122,446.83	\$ 122,697.21	\$ 123,032.62	\$ 123,349.54	\$ 123,648.00	\$ 123,931.70	\$ 1,203,195.86
Projects - Kaimai Mamaku pest control and biodiversity	\$ 300,293.12	\$ 301,718.04	\$ 303,352.38	\$ 223,600.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,128,963.54
BOPRC CAPEX	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Fish Passage Projects	\$ 21,801.29	\$ 22,407.56	\$ 23,034.53	\$ 23,701.60	\$ 24,366.91	\$ 25,009.66	\$ 25,693.36	\$ 26,396.84	\$ 27,140.74	\$ 27,202.93	\$ 246,755.42
Te Maru o Kaituna River Authority Strategy Implementation	\$ -	\$ 50,286.34	\$ 50,558.73	\$ 50,818.69	\$ 51,019.23	\$ 51,123.35	\$ -	\$ -	\$ -	\$ -	\$ 253,806.34
Kopuaroa Focus Catchment plan implementation	\$ 100,000.00	\$ 100,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200,000.00
Waitepuia/Ford Rd Focus Catchment plan implementation	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00	\$ 200,000.00	\$ 100,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 540,000.00
Te Maru o Kaituna River Authority Strategy Implementation	\$ -	\$ 50,000.00	\$ 200,000.00	\$ -	\$ -	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 500,000.00
Te Pourepo o Kaituna (Wetland Creation) Project	\$ 200,000.00	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 250,000.00



<b>Pūrongo Ki: Report To:</b>	Te Maru o Kaituna River Authority
<b>Rā Hui: Meeting Date:</b>	21 May 2021
<b>Kaituhi Pūrongo: Report Writer:</b>	Pim De Monchy, Coastal Catchments Manager
<b>Kaiwhakamana Pūrongo: Report Authoriser:</b>	Chris Ingle, General Manager – Integrated Catchments
<b>Kaupapa: Purpose:</b>	To provide an update on Toi Moana / Bay of Plenty Regional Council operations in the rohe.

## Operations Update

### Whakarāpopototanga Executive Summary

This report provides members with an update on Toi Moana / Bay of Plenty Regional Council operations in the rohe of the Authority for the period February to May 2021, and outlines upcoming work that may be of interest.

### Ngā tūtohutanga Recommendations

**That Te Maru o Kaituna River Authority:**

**1 Receives the report, Operations Update.**

#### 1. He Whakamārama Background

This report is a standing item on Te Maru o Kaituna River Authority's agenda and is provided at the request of the Authority.

#### 2. Operations

##### 2.1 Consents and Compliance

No significant matters to report. The AFFCO consent applications are still on hold pending further work by the applicant.

## 2.2 Engineering, Rivers and Drainage

### 2.2.1 2017 Flood Recovery Project

The flood recovery project is now in its last year of the estimated four year programme. Physical repair works have been steady across the programme in the region as conditions and materials availability have allowed. A total of 45 sites were identified for repair within the Kaituna Catchment Control Scheme at the start of the project. A total of 32 site repairs have now been completed. Work is no longer required on 12 sites which were originally identified as low priority repairs and have since self-healed. This leaves one site remaining where works are currently underway and will be completed before 31 May.

Across the region, total project repairs are 94% complete. The process for claiming eligible essential infrastructure repair costs from central government is ongoing. The total amount received from central government to date is over \$9.4 million and three progress payments for Infrastructure Insurance have been approved totalling \$3.6 million.

For the Kaituna Catchment Control Scheme expenditure for repair works is currently \$4,540,000 and recoveries received to date \$1,250,000. The majority of the expenditure in this Scheme is betterment i.e. the repair has involved the creation of new erosion protection assets rather than the repair of existing assets.

### 2.2.2 Ford Road Pump Station upgrade

Since the last meeting of the Authority, staff have engaged with iwi and landowners on the two remaining options. An updated estimate of costs has been prepared for each of those two options. The river scheme has made a submission related to the costs of the upgrade and the Regional Council is considering this submission as part of deliberations on its Long Term Plan 2021-31.

## 2.3 Maritime Safety

The Maritime Team has been busy in the Kaituna Catchment with a number of projects during the months of February, March, and April. Seasonal Maritime Patrols have included shifts on the Kaituna River, including on-water jet-ski patrols and land-based boat ramp patrols that focus on enforcement and education of local speed Bylaw. In conjunction with this, Maritime Staff spent a day on the Kaituna looking at 'hot spots' where locals have reported excessive speed on the river in 5-knot areas. Plans are now underway for the addition of signage in key parts of the river, including 5-knot signage at Ford Island and the Paraiti / Mangorewa Confluence, as well as on the Paraiti / Mangorewa itself.

Additionally, BOPRC Maritime Vessels Kaha and Moko assisted with the National River Practitioners Seminar, where 40 staff from regional councils around New Zealand came to the Kaituna to see floodgate structures, rock armouring works, and other related projects on the Kaituna River between Bell and Ford Roads. Local Maketū Coastguard vessels Kohinui Rescue and Gibby Rescue helped as well, with BOPRC Rivers and Drainage staff aboard each vessel to provide commentary and answer questions from visiting staff.

## 2.4 Catchment Management

Land Management works include riparian and wetland fencing for stock exclusion, native planting, pest animal and plant control, wetland enhancements, retirement of

marginal land from grazing, and various erosion protection works. Works are usually delivered through Environmental Programme Agreements.

There are a total of 34 active Environmental Programmes underway across the Kaituna catchment below Ōkere Falls. Some of these include works co-funded by the Ministry for the Environment through the Public Waterways Ecosystem Restoration fund (Jobs for Nature), and by the Ministry for Primary Industries through the One Billion Trees programme. Some of the bigger and more intensive dairy farms on the lower Kaituna plains are starting to engage and negotiate Environmental Programmes and / or Farm Environment Plans taking into account the reductions in contaminants required in the catchment.

Stage 2 earthworks and hydraulic control structure installations are complete at Te Pourepo o Kaituna wetland creation project. Extensive plantings are pending this winter and maintenance of last year's plantings is ongoing. Staff have sought advice from kahikatea ecology experts in relation to the observed water levels around the two existing stands of that species (thought to be established naturally following a 1983 flood event) to ensure that the hydrological changes are within the acceptable range.

As required by the resource consent conditions of the Kaituna Re-diversion project, flows through Ford's Cut and Te Tumu Cut (aka Kaituna Cut) were gauged in February (and will be again in May) to allow a comparison between modelled and observed changes. Despite the Kaituna River flows being near historic minimum levels (since monitoring records began at Waitangi in 1986), the data shows slightly higher than predicted flows into Te Awa o Ngatoroirangi / Maketū Estuary but still within the tolerance range allowed.

Ecological and water quality monitoring in the estuary suggests continued improvement in condition in terms of reduced macro-algal extent, increased benthic invertebrate and bird diversity and abundance, and improved tuangi / cockle populations. Anecdotal observations also suggest that fish populations are better than they were prior to commissioning of the re-diverted flows. Observations show that salinity in the upper estuary has been higher than predicted, but that is likely due to the very low flows in the river over much of the past 18 months due to drier-than-normal conditions.

### 3. **Ngā Whakaarohanga Considerations**

#### 3.1 **Ngā Mōrea me Ngā Whakangāwaritanga Risks and Mitigations**

There are no significant risks associated with this matter.

#### 3.2 **Ngā Pānga ki te Māori Implications for Māori**

This report provides an update on Operations. Many of these operations have been funded or developed in collaboration with Māori. Keeping Te Maru o Kaituna River Authority updated on the operations and plans of Council is a priority alongside our work with iwi and hapū.

4. **Ngā Mahi Whai Ake  
Next Steps**

Further operational updates will be provided at future meetings.



<b>Pūrongo Ki: Report To:</b>	Te Maru o Kaituna River Authority
<b>Rā Hui: Meeting Date:</b>	21 May 2021
<b>Kaituhi Pūrongo: Report Writer:</b>	Jo Watts, Senior Planner (Water Policy) and Reuben Gardiner, Senior Planner (Water Policy)
<b>Kaiwhakamana Pūrongo: Report Authoriser:</b>	Namouta Poutasi, General Manager, Strategy & Science
<b>Kaupapa: Purpose:</b>	The purpose of this paper is to seek further guidance on how and to what extent Te Maru o Kaituna (TMoK) wish to be involved in the Essential Freshwater Policy Programme.

## Implementing the National Policy Statement for Freshwater Management

### Whakarāpopototanga Executive Summary

This report provides a progress update for the Essential Freshwater Policy Programme (EFPP), which focuses on implementing the National Policy Statement for Freshwater Management 2020 (NPSFM), giving effect to Te Mana o te Wai. It also seeks TMoK's guidance on how and to what extent you wish to be involved.

Items in this report include:

- Engaging with Māori on the Essential Freshwater Policy Programme (EFPP). Three options are presented and TMoK's guidance sought.
- Amendments to Komiti Māori Terms of Reference (KM TOR) for your information.

### Ngā tūtohutanga Recommendations

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Implementing the National Policy Statement for Freshwater Management;**
- 2 Considers how and to what extent TMoK wish to be involved in implementing the NPSFM for the Kaituna River and its tributaries;**

### 3 Considers how the implementation of the NPSFM 2020 will recognise and provide for the vision, objectives and desired outcomes in *Kaituna, he taonga tuku iho* – the Kaituna River Document.

## 1. He Whakamārama Background

The Essential Freshwater Policy Programme (EFPP) is the primary project to implement the NPSFM through changes to the Regional Policy Statement (RPS) and Regional Natural Resources Plan (RNRP). Komiti Māori provides direction and advice on engagement approaches Toi Moana undertakes with Māori, and endorsed Te Hononga in August 2020. Te Hononga was presented to TMOk at its hui in August 2020 and guidance was sought about on-going involvement in the EFPP.

TMOk's statutory role and functions in restoring, protecting and enhancing the Kaituna River and its tributaries are acknowledged, as is the significant mahi TMOk have undertaken to develop and endorse *Kaituna, he taonga tuku iho* – a treasure handed down (the Kaituna River Document) and *Te Tini a Tuna* (the Kaituna Action Plan).

The next significant milestone is progressing proposed Change 5 (Kaituna River) to the Regional Policy Statement (which is the subject of another paper on this agenda). Its purpose is to recognise and provide for the vision, objectives and desired outcomes of the *Kaituna, he taonga tuku iho* in the RPS that will then inform changes to implement the National Policy Statement for Freshwater Management (NPSFM) relevant to the Kaituna in the Regional Natural Resources Plan.

Collectively, these initiatives are expected to have a significant impact on land use, water quality and quantity within the co-governance framework area.

This report builds on and provides an update on the EFPP since the last hui in August 2020, particularly as it relates to engaging with Māori. This paper seeks further guidance from you on how and to what extent TMOk wish to participate in the EFPP.

It also briefly outlines changes made to Toi Moana's Komiti Māori terms of reference for TMOk's information.

## 2. Te Hononga feedback received

Since late September 2020, Toi Moana staff have had 47 hui with various iwi/hapū/roopu and Māori Land Trusts. From the feedback received, the following are considered the preferred approaches for tangata whenua involvement in the EFPP:

- Local Kaitiaki Advisory Groups – Mātauranga based, focussing on Te Ao Māori;
- Te Taiao Hubs;
- Sub-regional hui for information sharing and to ensure that engagement reach is enhanced;
- Tangata whenua designed approaches to suit local conditions;
- Preparation of Water Management Plans and Iwi Management Plans alongside Toi Moana's EFPP process.

Toi Moana staff are continuing to meet with tangata whenua and co-governance entities to establish how and to what extent they would like to be involved with the EFPP, and on what matters they wish to focus. For example, kōrero with tangata whenua with interests in the Kaituna co-governance area has indicated a strong preference to lead freshwater research and policy development.

It is clear from the kōrero to date that there are significant capability and capacity issues facing some groups who would like to be involved. Responding to the raft of government regulatory reforms including freshwater is a challenge and will not be addressed through funding support provided by Toi Moana on its own.

## 2.1 Support for Māori engagement

Some additional actions to progress and support Māori engagement have been endorsed by Toi Moana's Komiti Māori, and the Strategy and Policy Committee. These include:

- Up to 6 sub-regional hui to be arranged for 2021 to 2022.
- Establishment of a region-wide RMA focussed technical support group (Ngā Kaitohutohu<sup>1</sup>).
- Plan Change 9 (PC 9 Water Quantity) Māori appellants continue to participate as a focus group and were recently engaged in the review of the RNRP Water Quantity chapter. PC9 group members may prefer to join Ngā Kaitohutohu in which case we would disestablish the PC9 group.
- Up to two consultants may be engaged to work with key Māori Land Trusts across the region, and to support other initiatives focussed on Kaitiaki capability and capacity building.
- In parallel with engagement approach under Te Hononga, Toi Moana is focussed on developing online information resources and resourcing tangata whenua to map and describe values as part of developing visions and objectives.
- Independently, some tangata whenua groups – including co-governance fora are reviewing their work programmes to include aspects of the NPSFM. For example, the Rangitāiki River Forum is including Te Mana o Te Wai as a key component of their ongoing work.
- Note, that visions, objectives and desired outcomes in river documents must be recognised and provided for when amending the RPS & RNRP. This will be critical to the success of freshwater changes to the RPS & RNRP to implement the NPSFM.
- RPS proposed Change 5 (Kaituna) is expected to be notified in June 2021 (and is the subject of another paper on this agenda).

## 2.2 Next steps for Māori engagement

The first phase of tangata whenua engagement is expected to be complete by late May or early June 2021. However, Toi Moana must continue to review and develop

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<sup>1</sup> Note: 46 letters/emails were sent on 26 April 2021 to Iwi and other tangata whenua interest groups seeking nominations for membership of the Ngā Kaitohutohu group.



policy to meet the government's 2024 deadline. In order to avoid too great a backlog of matters for Ngā Kaitohutohu to review, it has prioritised forming Ngā Kaitohutohu and their first hui as soon as possible.

Budget and tangata whenua capacity remain important considerations. Additional budget is being sought via Toi Moana's Long Term Plan (LTP) as a result of submissions from tangata whenua. Given the scale, complexity and potentially large number of entities involved another key consideration for Toi Moana is achieving funding equity within the budget that will be allocated to Māori engagement.

Once the preferred approaches for involvement have been confirmed with tangata the next phase will involve the following:

- Where possible, to align tangata whenua projects (lwi Management Plans, Kaitiaki training, capacity and capability building, etc.).
- Develop work programmes centred on mahinga kai and Te Mana o Te Wai.
- Develop and or consider options to complement Mātauranga Māori in monitoring methodologies.
- Consider decision-making opportunities as per NPSFM 2020, clauses: 1.3 (4 a & b); 3.2 (2a), (2d); and all of 3.4.

Phase 2 engagement will be reported to Komiti Māori and the Strategy and Policy Committee in August this year.

### 3. **How might TMOK be involved in freshwater policy and regional plan review?**

TMOK's role and functions are relatively wide with respect to the Kaituna co-governance area. For example, it has the power to lead research, engage with tangata whenua, draft documents in accordance with its role and functions, provide advice and recommend to Toi Moana any matters it should have regard to.

For example, TMOK may wish to take an active role in one of the kanohi ki te kanohi sub-regional hui, lead discussions on vision statements for the Kaituna freshwater management unit, or provide governance 'approval' of draft policy documents. Alternatively, TMOK may support technical work by providing advice and recommendations on how that work proceeds. TMOK may also consider providing advice to Toi Moana on the appointment of commissioners as provided for in its functions. *Kaituna kōrero* newsletter is also an important tool to communicate how the Toi Moana and TMOK is involved in the NPSFM and any matters that its affiliated groups should be informed of. TMOK may also consider facilitating or promoting involvement through its webpage [www.kaituna.org.nz](http://www.kaituna.org.nz).

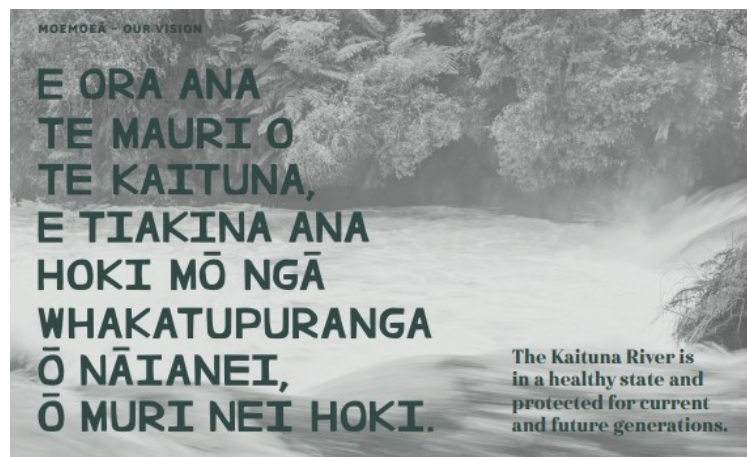
#### 3.1 **Alignment with TMOK purpose and functions**

For your consideration, the TMOK's purpose and functions are set out in **Attachment 1**. Parts have been highlighted as a means of understanding how it may advance your involvement.

#### 3.2 **Alignment with *Kaituna, he taonga tuku iho* - the Kaituna River Document**

TMOK's involvement in implementing the NPSFM for the Kaituna aligns closely with ensuring [\*Kaituna, he taonga tuku iho - a treasure handed down\*](#) (the Kaituna River

Document (KRD) is recognised and provided for appropriately, in both the RPS & RNRP.



The river document sets the above aspirational vision and contains eight objectives and associated desired outcomes under each of the five themes which are outlined in the [summary](#) of the KRD:

- *Ngā Piringa me ngā Herenga - Iwi Relationships with the River - Obj 1 & 2*
- *Te Mauri me te Rēto o te Wai - Water Quality and Quantity - Obj 3, 4 & 5*
- *Mahinga Whenua - Land Use - Obj 6*
- *Te Oranga o Te Pūnaha-hauropi - Ecosystem Health - Obj 7*
- *Ngā Herenga o Te Maru o Kaituna - TMoK Collaboration with Iwi and the Community- Obj 8*

As noted above, the vision, objectives and desired outcomes in the river document must be recognised and provided for when amending the RPS & RNRP. This will be critical to the success of freshwater changes to the RPS & RNRP to implement the NPSFM. It will also inform the vision statement for Te Mana o Te Wai for any Freshwater Management Unit (FMU) established within the co-governance framework area. The NPSFM 2020 does not override any Treaty participation legislation, and any draft policy provisions developed by Council must ensure that in the case of the river document, they complement the vision, objectives and desired outcomes endorsed by TMoK.

### 3.3 Alignment with *Te Tini a Tuna* - Kaituna Action Plan

Involvement in implementing the NPSFM also aligns closely with Priority Action 1 and a number of the projects in [Te Tini a Tuna](#) outlined in detail on TMoK's [website](#):



**PRIORITY ACTION 1:** Take collective responsibility for improving the health and well-being of the Kaituna River and its tributaries

**Project 1.** Lowland drains and drainage canal improvement project

**Project 2.** Freshwater quality and quantity limits project

**Project 3.** Consented takes and discharges project

**Project 4.** Focus catchments project

**Project 5.** Farm environment plans project

**Priority Action 1:** primarily implements Objectives 3 – 6 of the Kaituna River Document (which are the water quality, quantity and land use objectives). **Project 2: Freshwater quality and quantity limits project** involves working collaborative to implement the NPSFM for the Kaituna River and its tributaries.

#### 4. **To what extent does TMoK wish to be involved in the EFPP?**

TMoK are requested to consider how it wishes to work with Toi Moana to support implementation of the NPSFM and RNRP review process. The following options are presented to assist members:

**Governance only:** Toi Moana will lead the freshwater policy and RNRP review programme and seek key recommendations from TMoK, prior to decisions being endorsed through Komiti Māori and Toi Moana. TMoK would be expected to receive, consider and provide advice and recommendations on a wide range of freshwater policy matters relevant to the Kaituna co-governance area, prior to those matters moving through the Toi Moana council process.

**Operational only:** TMoK would contribute to technical work by advocating for its vision and values articulated through *Kaituna, he taonga tuku iho* – the Kaituna River Document.

**Hybrid of Governance and Operational:** This option would require members to undertake both roles. Realistically, this could mean considerably more work for TMoK with the advantage of much more intimate involvement in a wide range of freshwater policy activities. Given that there are likely to be limits to what can be achieved in the time available, members will need to consider:

***Where on the governance spectrum do members want to be?***

- 1: Mostly operational: significant governance issues that have an impact on the river document come to TMoK.
- 2: Mixed operational and governance: disregard minor operational matters in favour of a lighter meeting workload and more policy decision-making.
- 3: Mostly governance: TMoK would like an overview of operational matters but no involvement in development of the programme. This option leans toward guiding policy decision-making.

## 5. **Kaupapa Tuatoru: Amendments to Komiti Māori Terms of Reference**

On 1 April 2021, Toi Moana unanimously approved a change to Komiti Māori Terms of Reference (KM TOR), in line with its 'Partnerships with Māori' strategic priority.

Matters of partnership and shared decision-making with Māori, will be a key focus area led by Komiti Maori. KM will cast a strategic lens across Toi Moana mahi to identify and progress shared decision-making opportunities. They would have a leadership mandate to influence the landscape of other committees.

Key changes are that KM will become a Committee of the whole and will alternate meetings between Marae and Toi Moana Council chambers. The next steps to implement this change is for KM to consider a work priority framework and map out its work programme.

## 6. **Ngā Whakaarohanga Considerations**

### 6.1 **Ngā Mōrea me Ngā Whakangāwaritanga Risks and Mitigations**

There are no significant risks associated with this matter/subject/project/initiative.

### 6.2 **Huringa Āhuarangi Climate Change**

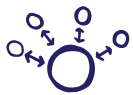
The matters addressed in this report are of a procedural nature and there is no need to consider climate change impacts. Climate change impacts will be considered as part of implementing the NPSFM and reviewing of the RNR.

### 6.3 **Ngā Pānga ki te Māori Implications for Māori**

The material presented in this report cover a range of EFPP initiatives which have a positive impact on Māori. These along with Komiti Māori's amended Terms of Reference which focus on shared decision making with Māori have provided impetus on co-partnering and building relationships with tangata whenua and further promoting Te Mana o te Wai.

The implications for Māori are positive where Toi Moana recognises opportunities to enhance Māori capacity through partnerships and collaboration options. These partnerships have benefits to Māori and the wider community. Te Hononga for example represents Toi Moana's acknowledgement that by working with Māori, priority initiatives such as implementing the NPSFM, can be successfully achieved when Māori have meaningful participation in the planning/policy process.

## 6.4 Whakawhitiwhiti ā-Hapori Community Engagement



**INVOLVE**  
**Whakaura**

To work directly with affected communities throughout the process to ensure that their issues and concerns are consistently understood and fully considered in Council's decision making.

## 6.5 Te Hāngai ki te Pou Tarāwaho Rautaki Alignment with Strategic Framework

Implementing requirements of the NPSFM and supporting TMoK are core, non-discretionary Toi Moana functions. They are both supported by the strategic framework.

## 6.6 Ngā Pānga ā-Pūtea Financial Implications

There are no material unbudgeted financial implications and this fits within the allocated budget.

## 7. Ngā Mahi Whai Ake Next Steps

Based on TMoK's feedback on how it wishes to be involved with implementation of the NPSFM and RNRP review, Toi Moana staff will review TMoK's programme of work and initiate drafting a schedule of tasks. Staff will discuss these matters with the chair and deputy chair.

## Tuhinga Tautoko Attachments

Attachment 1 - TMoK Purpose and Functions [↓](#)

## Te Maru o Kaituna River Authority Purpose and Functions Tapuika Claims Settlement Act 2014

### Section 115 Purpose of Authority

- (1) The purpose of the Authority is the restoration, protection, and enhancement of the environmental, cultural, and spiritual health and well-being of the Kaituna River.
- (2) In seeking to achieve its purpose, the Authority may have regard to the social and economic well-being of people and communities.

### Section 116 Functions of Authority

- (1) The principal function of the Authority is to achieve its purpose.
- (2) In seeking to achieve its purpose, the other functions of the Authority are—
  - (a) to prepare and approve the Kaituna River document in accordance with [sections 125 and 127](#)
  - (b) to monitor the implementation and effectiveness of the Kaituna River document:
  - (c) to support the integrated and collaborative management of the river:
  - (d) to work with the local authorities and Crown agencies that exercise functions in relation to the Kaituna River—
    - (i) to monitor the state of the river environment:
    - (ii) to monitor the effectiveness of the management of the river:
    - (iii) to engage with iwi in relation to their interests in the river and to consult them on how to manage the river:
  - (e) to provide advice and recommendations to local authorities—
    - (i) relating to projects, action, or research designed to restore, protect, or enhance the health and well-being of the river:
    - (ii) on the appointment of commissioners to hear and decide applications for resource consents under the Resource Management Act 1991 that affect the river:
  - (f) to facilitate the participation of iwi in the management of the river:
  - (g) to monitor the extent to which the purpose of the Authority is being achieved, including the implementation and effectiveness of the Kaituna River document:
  - (h) to gather information, to disseminate information, and to hold meetings:
  - (i) to take any other action that the Authority considers is appropriate to achieve its purpose.
- (3) The Authority may seek to obtain funds to enable it to perform its functions.
- (4) To avoid doubt, except as provided for in subsection (2)(a), the Authority has discretion to determine in any particular circumstances—
  - (a) whether to perform any function specified in subsection (2); and
  - (b) how, and to what extent, any function specified in subsection (2) is performed.





<b>Pūrongo Ki: Report To:</b>	Te Maru o Kaituna River Authority
<b>Rā Hui: Meeting Date:</b>	21 May 2021
<b>Kaituhi Pūrongo: Report Writer:</b>	Moana Boyd, Senior Planner (RIN)
<b>Kaiwhakamana Pūrongo: Report Authoriser:</b>	Julie Bevan, Policy & Planning Manager Namouta Poutasi, General Manager, Strategy & Science Nassah Rolleston-Steed, Principal Advisor, Policy & Planning
<b>Kaupapa: Purpose:</b>	To provide an update on the process for Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement

## Update on Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement

### Whakarāpopototanga Executive Summary

On 1<sup>st</sup> April 2021 Council approved public notification of Proposed Change 5 (Kaituna River)(Proposed Change 5) to the Bay of Plenty Regional Policy Statement (RPS) in accord with Schedule 1 to the Resource Management Act 1991 (RMA). Proposed Change 5 seeks to fulfil Council's statutory obligation to recognise and provide for the vision, objectives and desired outcomes of the Kaituna River Document – *Kaituna He Taonga Tuku Iho*.

As Proposed Change 5 primarily relates to freshwater it is required to follow a new Freshwater Planning Process (FPP) which was introduced through the Resource Management Amendment Act 2020 (RMAA). This alternate planning process supports the need to improve freshwater management and outcomes in New Zealand by providing a more efficient decision making pathway.

The FPP is overseen by the Chief Freshwater Commissioner (CFC). The CFC will convene and decide on the Freshwater Hearing Panel (FHP) configuration and membership. All FHP's must include a member with an understanding of tikanga Māori and mātauranga Māori who is nominated by tangata whenua. The CFC will make the final decision on who will be the tangata whenua representative to sit on the FHP for Proposed Change 5 alongside members who are freshwater commissioners and persons nominated by the Regional Council.

This report provides:

- An overview of the FPP with a focus on freshwater hearings panel provisions.

- The process to invite expressions of interest for tangata whenua nominations to sit on the FHP for Proposed Change 5.
- An outline of 'next steps' for Proposed Change 5.

## Ngā tūtohutanga Recommendations

**That Te Maru o Kaituna River Authority:**

- 1 Receives the report, Update on Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement.**

### 1. He Whakamārama Background

The approval of Proposed Change 5 for public notification on 1<sup>st</sup> April 2021 follows a number of Te Maru o Kaituna (TMoK) and Strategy and Policy Committee meetings and workshops.

Proposed Change 5 was first reported to TMoK on 19 October 2018 before being placed on hold so that TMoK could develop Te Tini a Tuna – Kaituna River Action Plan (2019 – 2029). In late 2019 staff began working on Draft Proposed Change 5. TMoK members formally considered Draft Proposed Change 5 on 29 May 2020 and a resolution was made to obtain independent advice. That advice was provided by David Marshall to the TMoK workshop on 26 June 2020. TMoK requested a number of amendments to provisions and most of these were subsequently endorsed by the Strategy and Policy Committee at the same time. Draft Proposed Change 5 was approved for broader community, iwi/ hapū and stakeholder consultation on 11 August 2020.

Draft Proposed Change 5 was released for comment between 18 August to 16 October 2020 with notice sent to all iwi and hapū contacts in the Kaituna River catchment. Written comments were received from 12 parties and staff recommendations in response to these comments were considered by TMoK on 5 February 2021.

Further changes to Draft Proposed Change 5 were made in response to staff recommendations, Strategy and Policy Committee direction and TMoK recommendations. On 23 March 2021 the Strategy and Policy Committee endorsed final amendments sought by TMoK members and, Council approved commencement of the Schedule 1 RMA process on 1<sup>st</sup> April 2021.

As the policy framework for Proposed Change 5 relates to freshwater it is required to follow the new Freshwater Planning Process (FPP) introduced through the Resource Management Amendment Act 2020. Proposed Change 5 will be one of the first RMA policy or plan changes to use the FPP. It will also be the first Bay of Plenty Regional Council policy statement or plan change to be notified on an ePlan platform (with associated submissions and reporting to manage).

#### 1.1 Legislative Framework

Proposed Change 5 seeks to fulfil Regional Council's responsibilities under the Tapuika Claims Settlement Act 2014 which requires the RPS recognise and provide for the vision, objectives and desired outcomes of *'Kaituna He Taonga Tuku Iho – a*



*treasure handed down*’ (the Kaituna River Document). Section 123(4) of the Tapuika Act contains two conditions to this obligation being:

1. They apply only to the extent that the contents relate to the resource management issues of the region; and
2. Recognising and providing for these is the most appropriate way to achieve the purpose of the RMA in relation to the Kaituna River.

Proposed Change 5 introduces a new Kaituna River section into the Treaty Co-Governance section 2.12 of the RPS and includes:

- 6 significant resource management issues for the Kaituna River
- 7 Kaituna River objectives
- 9 Kaituna River policies
- 6 Kaituna River methods of implementation; and
- Expansion of 5 existing Rangitāiki River methods to also apply to the Kaituna River.

## 2. National Policy Statement for Freshwater Management

The National Policy Statement for Freshwater Management (NPS-FM) 2020 along with other freshwater regulations came into effect on 3 September 2020. The NPS-FM 2020 requires a specific process for engagement and development of RPS and Regional Natural Resources Plan (RNRP) changes to give effect to its directions.

Regional Council has formally endorsed aligning the RPS and RNRP change process through an *Essential Freshwater Policy Programme* which will deliver region wide NPS-FM 2020 implementation through RPS and RNRP changes to be notified in July 2024.

The purpose of Proposed Change 5 is not to implement the NPSFM 2020. The primary purpose of Proposed Change 5 is to recognise and provide for the Kaituna River Document in accordance with Tapuika Claims Settlement Act. That legislation is “iwi participation legislation” under the RMA and is to be considered as part of the FPP.

## 3. Freshwater Planning Process

The FPP provisions are set out in [Section 80A](#) and [Part 4 Freshwater planning process in Schedule 1](#) to the RMA. Regional councils are required to use this planning process to implement changes required by the NPS-FM 2020 and for any change to a regional plan or regional policy statement if it ‘otherwise relates to freshwater’<sup>2</sup>. Proposed Change 5 meets the second criterion. It recognises and provides for the vision, objectives and desired outcomes for the Kaituna River and its tributaries. Because it relates to freshwater it is a ‘freshwater planning instrument’ and it must follow this compulsory process.

The FPP is overseen by the Chief Freshwater Commissioner (CFC) who is appointed by the Minister for the Environment. The CFC is [Professor Peter Skelton CNZM](#), the

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<sup>2</sup> Section 80A (2)(c)(ii) of the Resource Management Act 1991 (RMA)

Deputy CFC is Environment Court [Judge Craig Thompson](#). The FPP commences when a change is notified and must be completed within two years.

Proposed Change 5 will follow the standard Schedule 1 process for submissions and further submissions. Then as shown in **Attachment 1** Council must provide the CFC with council and local tangata whenua nominations for the FHP and notice to expect 'required documents' within 20 working days. Documents required by clause 37 (1) of Schedule 1 (the required documents) must then be provided to the CFC no more than 6 months after public notification.

For Proposed Change 5 required documents to be submitted include:

- Notified Proposed Change 5, the Section 32 report, submissions and further submissions, the summary of submissions, late submissions, planning documents recognised by an iwi authority, relevant iwi participation legislation and other relevant information including the Kaituna River Document and Kaituna Action Plan.

The CFC has been advised Regional Council is preparing to publicly notify Proposed Change 5 and commence the Schedule 1 process. This has been acknowledged by the Secretary for the CFC who advised that their office will make contact to discuss appointing the FHP and scheduling of hearings in due course.

Section 80A (5) of the RMA includes the following outline for the rest of the FPP as set out in [Part 4](#) of Schedule 1:

- (a) the Chief Freshwater Commissioner must convene a freshwater hearings panel to conduct the public hearing of submissions on the freshwater planning instrument;*
- (b) the freshwater hearings panel must conduct the public hearing of submissions in accordance with its powers and the procedures set out in [Part 4](#) of Schedule 1;*
- (c) after the public hearing of submissions is concluded, the freshwater hearings panel must make recommendations to the regional council on the freshwater planning instrument;*
- (d) the regional council may accept or reject any recommendation. However, —*
  - (i) the regional council must provide reasons for rejecting a recommendation; and*
  - (ii) a person who made a submission on the freshwater planning instrument may make an appeal in accordance with subpart 2 of Part 4 of Schedule 1.*

Appeal rights are limited under the FPP. The ability to appeal depends on whether Council accepts or rejects the FHP's recommendation.

Further detail about the FPP is available in Ministry for the Environment guidance documents: [technical guidance](#) and [factsheet](#). There is also a guide to procedure and practices which is to be followed unless there is good reason to do otherwise. This is the [Chief Freshwater Commissioner and Freshwater Hearings Panels Practice and Procedures Note 2020](#).

## 4. Freshwater Hearings Panel

Proposed Change 5 will be one of the first 'freshwater planning instruments' to go through the FPP. Otago Regional Council are planning to notify the Proposed Otago Regional Policy Statement in late June 2021 which includes freshwater related provisions that must go through the FPP.

The FHP functions are set out in Clause 39 of Schedule 1 to the RMA. For Proposed Change 5 this will include:

- Conducting a hearing of submissions on Proposed Change 5;
- Making recommendations after the hearing has concluded to Council; and
- Hearing any objections made in accordance with [clause 40\(2\)](#) (objections relating to struck out submissions).

FHP have additional duties and powers compared to the standard Schedule 1 plan making process as illustrated below.

**Table 1: Duties and Powers of Freshwater Hearings Panels**

Standard duties and powers (also applicable to freshwater hearings panels)	Additional duties and powers that apply to Freshwater hearings panels
<ul style="list-style-type: none"> <li>• hearings to be public and without unnecessary formality (s39, except restrictions on cross-examination)</li> <li>• limit number of parties with the same interest to speak or call evidence (s40)</li> <li>• exercise powers under the Commissions of Inquiry Act 1908 (s41 e.g. power to maintain order and summon witnesses)</li> <li>• direct applicants to provide briefs of evidence before the hearing (s41B)</li> <li>• direct order of business, take evidence and submissions as read, and limit speaking time (s41C)</li> <li>• request further information (s41C)</li> <li>• strike out a submission (s41D)</li> </ul>	<ul style="list-style-type: none"> <li>• permit, regulate or prohibit cross examination (cl 48(2))</li> <li>• convene pre-hearing meetings (cl 41)</li> <li>• direct a conference of experts (cl 43)</li> <li>• refer submitters to alternative dispute resolution, such as mediation (cl 44)</li> <li>• commission reports (cl 45)</li> <li>• appoint a special advisor(s) (cl 46)</li> <li>• appoint a friend of the submitter (cl 46)</li> <li>• accept or reject any late submissions (cl 40(3))</li> <li>• recommend to the relevant regional council that a variation be made to a freshwater planning instrument (cl 40(4)).</li> </ul>

Sourced from *A new Freshwater Planning Process: Technical guidance for councils* (Mfe, Sept 2020), p16

#### 4.1 Freshwater Hearing Panel Appointment and Composition

The CFC must convene a FHP as soon as practicable after receiving the required documents set out in clause 37. The FHP will usually comprise 5 members including:

- 2 freshwater commissioners who are appointed by the Minister (Cl 65, current freshwater commissioners are listed [here](#))
- 2 persons nominated by the Regional Council, and who may or may not be elected Councillors; and
- 1 person with an understanding of tikanga Māori and mātauranga Māori nominated by local tangata whenua (with appointment to be by the CFC if no nomination is made).

The chair of the FHP will be a freshwater commissioner who is appointed by the CFC.

The CFC can however appoint more or fewer than 5 members to the FHP. The FHP may be fewer than 5 if the CFC considers that the scale and complexity of the freshwater planning instrument does not warrant the appointment of 5 members. In

that instance the panel must include as a minimum: a freshwater commissioner, a tangata whenua nominee and, a council nominee.

*A new Freshwater Planning Process: Technical guidance for Councils* (Ministry for the Environment, September 2020), p17 includes this statement:

*'if a regional council considers that there is a good reason to have more, or less than the default of five members, it should provide this information to the Chief as soon as possible in the process, and at least at the time of providing nominations ...'*<sup>3</sup>

The Strategy and Policy Committee meeting on 4 May 2021 resolved to request that the CFC establish a smaller hearings panel made up of 3 members (1 freshwater commissioner, 1 council nominee and 1 tangata whenua nominee) for the following reasons:

- The limited scope of Proposed Change 5 being a change for a single catchment with the purpose of reflecting the Kaituna River Document (i.e. it is not a full RPS review);
- It is not for the purpose of implementing the NPS-FM 2020;
- As it is an RPS change it does not contain any regulatory methods (i.e. rules) which limits its complexity;
- Such an approach is consistent with the first RPS Treaty co-governance change, with the hearings panel for RPS Change 3 (Rangitāiki River) comprising 3 hearing panel members;
- It has been through a full draft comment process involving opportunity for community and tangata whenua input, and based on the comments received by 12 parties via that process Council considers that it is likely to attract a similar number of submissions; and
- To limit hearing and procedural costs and increase administrative efficiencies as the Council is responsible for all costs incurred by a FHP.

## 4.2 Skills and Experience

All FHP members must be accredited under section 39A of the RMA (Making Good Decisions certified) unless the CFC is satisfied there are 'special circumstances' in relation to the FHP to which the commissioner is appointed. It is not clear yet what this could include, but perhaps this could apply to people with specialist skills, such as those with mātauranga Māori expertise, hydrologists and other scientists.

In appointing members to a FHP the CFC will consider the need for collective knowledge and expertise (clause 59(6)) across the following areas:

- judicial processes and cross-examination;
- freshwater quality, quantity and ecology;
- the RMA;
- tikanga Māori and mātauranga Māori;
- Te Mana o te Wai;
- water use in the local community; and
- subject areas likely to be relevant to the work of the panel.

<sup>3</sup> Mfe 'A new Freshwater Planning Process: Technical guidance for councils, Sept 2020', p17.

## 5. Council nominations for the Freshwater Hearing Panel

### 5.1 Tangata Whenua Nominations

Council must provide the CFC with local tangata whenua nominations received for appointment to the FHP. At their 4 May 2021 meeting the Strategy and Policy Committee approved a process for inviting tangata whenua nominations for the FHP from the same iwi/hapū and Māori land trusts (in the Māori contacts directory) who were notified when Draft Proposed Change 5 was released for informal comment in 2020. Nominations from tangata whenua will be sought at the same time that Proposed Change 5 is publicly notified.

The request for tangata whenua nominations will include information on the FPP process and the function and role of the FHP as well as relevant criteria for nomination with particular emphasis on:

1. Proven experience and expertise in tikanga Māori and mātauranga Māori;
2. Current s39A hearing commissioner accreditation; and
3. Previous hearing commissioner experience, being desirable but not essential.

Staff have also prepared an additional list of potential candidates for the tangata whenua nomination process based on:

- accredited non-elected Commissioners who have tikanga Māori as an area of interest or specialist area;
- having experience on a hearings panel and/ or tikanga Māori and matauranga Maori knowledge and;
- proximity to, or within the Bay of Plenty region.

Staff will be approaching these potential candidates to gauge whether they are available and interested in having their names put forward for consideration. Names of potential candidates interested in being nominated as a tangata whenua representative for Proposed Change 5 will be provided to TMoK for consideration.

Tangata whenua nominations received will be reported to TMoK following the close of submissions. TMoK iwi members will be asked to recommend their preferred tangata whenua FHP nominee(s). The CFC will then be provided with the full list of tangata whenua nominations received during submissions along with the preferred TMoK nominee(s). This ensures there is a role for TMoK in the nomination process, and that the CFC is provided with information to assist with the appointment process in the event there are a number of nominees he must select from.

### 5.2 Council Nominees

At the 4 May 2021 Strategy and Policy Committee meeting Councillor Iti and Councillor von Dadelszen were nominated for the FHP in no order of preference. The CFC will determine which Councillor is appointed to the FHP if a smaller FHP is convened.

## 6. Ngā Whakaarohanga Considerations

### 6.1 Ngā Mōrea me Ngā Whakangāwaritanga Risks and Mitigation

There are no significant risks associated with Proposed Change 5. There is an expectation Council will act in accordance with the Treaty of Waitangi principles of 'good faith' and 'partnership' by continuing to progress Proposed Change 5 without delay.

There is however a potential risk around communicating and ensuring that tangata whenua, the community and stakeholders in the Kaituna River catchment are aware that:

- Proposed Change 5 will fulfil requirements under Treaty Claim legislation, it does not seek to implement the NPS-FM;
- Regional Council has a specific and overarching *Essential Freshwater policy Programme* which will fully implement the NPS-FM, this requires changes to be notified to the Regional Policy Statement and the Regional Natural Resources Plan no later than 31 December 2024;
- Proposed Change 5 is separate from and not part of enhanced engagement with tangata whenua to implement the NPS-FM as set out in [Te Hononga: Regional Maori Engagement Plan for Implementing the NPSFM \(2020\)](#) and;
- Although care has been taken to ensure the Proposed Change 5 policy framework aligns with and is consistent with the NPS-FM requirements staff cannot guarantee that NPS-FM implementation (once notified in 2024) will not impact on Proposed Change 5 provisions.

Staff will mitigate the above risk by ensuring that the messaging provided for Proposed Change 5 is consistent and the wider and separate programme of work to implement NPS-FM is acknowledged. This will be by way of information on the Regional Council website for Proposed Change 5 and supporting information provided at the time of notification.

### 6.2 Huringa Āhuarangi Climate Change

Proposed Change 5 seeks to recognise and provide for the vision, objectives and desired outcomes of the Kaituna River Document. The Kaituna River Document lists as a key issue to respond to '*pressure on the Kaituna River due to land use intensification, urban growth and climate change*'. In addition, existing RPS provisions, will continue to apply to the Kaituna River catchment including RPS Policy NH 11B '*Providing for climate change*' and Policy IR 2B '*Having regard to the likely effects of climate change*'.

### 6.3 Ngā Pānga ki te Māori Implications for Māori

Proposed Change 5 is the second RPS Treaty co-governance change. It has significant implications for Tapuika Iwi in particular as it relates to their Treaty settlement legislation and strategic cultural aspirations. It also has cultural significance to other Te Maru o Kaituna River Authority iwi members namely Ngāti Pīkiao (through Te Pumautanga o Te Arawa Trust member), Waitaha, Ngāti Rangiwewehi and Ngāti Whakaue.

Kaituna is considered a tupuna and is revered as a living entity. Statutory acknowledgements exist along the Kaituna River and its tributaries that recognise the mana of Waitaha, Tapuika and Ngāti Rangiwewehi and particularly the cultural, spiritual, historical and traditional associations they have with these specified areas. There are also numerous sites of significance to Māori within and adjacent the Kaituna River and its tributaries many of which are described in rich detail in iwi and hapū resource management plans and the aforementioned statutory acknowledgements.

#### 6.4 **Whakawhitiwhiti ā-Hapori Community Engagement**

Now the process is entering into a formal Schedule 1 process there is limited opportunity for community engagement. People can make submissions on Proposed Change 5. There are appeal rights, although these are limited under the FPP.

#### 6.5 **Te Hāngai ki te Pou Tarāwaho Rautaki Alignment with Strategic Framework**

Proposed Change 5 directly contributes to a Healthy Environment, Freshwater for Life, a Vibrant Region and The Way We Work Community Outcomes in the Council's Long Term Plan 2018 – 2028.

#### 6.6 **Ngā Pānga ā-Pūtea Financial Implications**

The cost of developing Proposed Change 5 is budgeted in the Long Term Plan 2018 – 2028 within the Regional Planning activity. Costs to date have involved consultant fees, staff time, printing and publication associated with releasing Draft Proposed Change 5 for informal comment in 2020. The process has involved reporting to and workshopping with TMoK members and the Strategy and Policy Committee (and its predecessor Regional Direction and Delivery Committee).

Future costs will relate to public notification of submissions (original and further) and training staff to implement the ePlan and associated submissions management software. The other significant cost for Proposed Change 5 will relate to the FHP because regional councils are responsible for all costs incurred by the FHP including remuneration and expenses of FHP members, any experts or mediators engaged by the panel, administrative costs for holding the hearing etc. (see Clause 63).

### 7. **Ngā Mahi Whai Ake Next Steps**

The proposed public notification date is Tuesday 8<sup>th</sup> June 2021. At the time of public notification Māori contacts (being the same as those who were contacted by Council when Draft Proposed Change 5 was released for informal comment in 2020) will be invited to put forward tangata whenua FHP nominations. See section 5.1 Tangata Whenua nominations.

At the next TMoK hui on 27 August 2021 staff will:

- Provide a high level update on submissions received;
- Report any tangata whenua nominations received;
- Seek TMoK Iwi members' endorsement of a tangata whenua nominee to be provided to the CFC.

Further submissions will be notified in an expedient manner following the close of submissions on Proposed Change 5. The submission process is anticipated to be completed by late September 2021.

Council must provide the CFC with council and tangata whenua FHP nominations at least 20 working days in advance of the required documents being submitted. Based on the proposed notification date of 8<sup>th</sup> June 2021 the relevant date for this is by (at the latest) the 9<sup>th</sup> of November 2021.

An update report providing an overview of the further submissions will be provided to TMoK members on 19 November 2021. This will coincide with the end of the Schedule 1 process as Council must provide the CFC with 'required documents' by the 7<sup>th</sup> of December 2021 if Proposed Change 5 is notified on 8 June 2021<sup>4</sup>.

After receiving the required documents and nominations the CFC must then convene a FHP 'as soon as practicable'.

## **Tuhinga Tautoko Attachments**

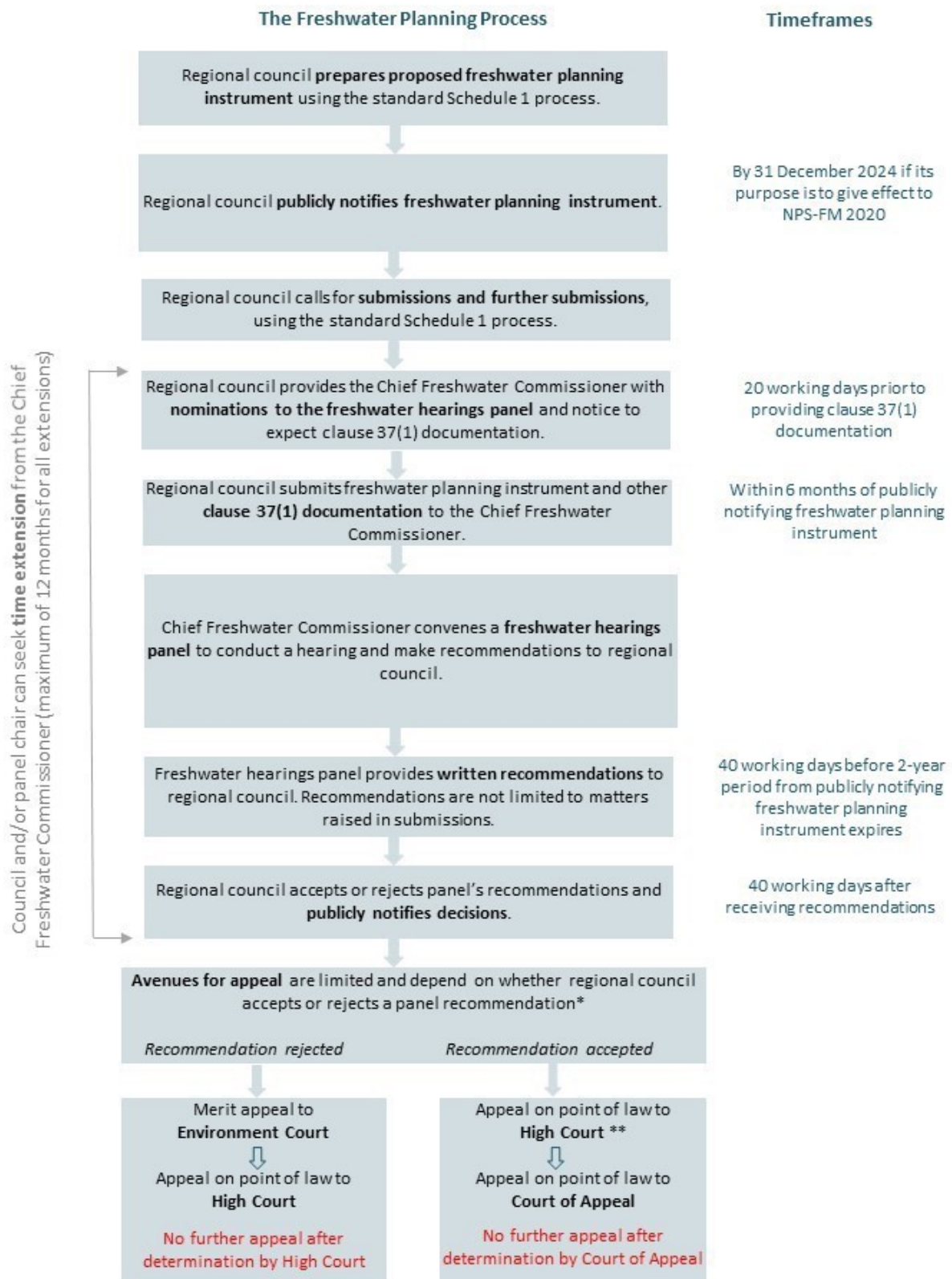
### **Attachment 1 - The Freshwater Planning Process**

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<sup>4</sup> This being no more than 6 months following notification of the 'freshwater planning instrument' see Section 80A (4)(c) and CI 37 of Schedule 1 of the RMA



## Attachment 1: The Freshwater Planning Process



\*Where a decision applies to a recommendation that is *outside* the scope of submissions, appeal rights are available to *any* submitter on the freshwater planning instrument

\*\*An application for judicial review to the High Court must be made concurrently with the point of law appeal to the High Court