

**BEFORE A HEARING: BAY OF PLENTY REGIONAL COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991  
**AND**

**IN THE MATTER** of a submission by Western Bay of Plenty Council to Proposed Change 5 (Kaituna River), to  
the Bay of Plenty Regional Policy Statement

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**STATEMENT OF EVIDENCE OF MATTHEW LEIGHTON  
ON BEHALF OF WESTERN BAY OF PLENTY DISTRICT COUNCIL**

**8 September 2022**

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**1. INTRODUCTION**

**1.1** My full name is Matthew George Leighton. I am the Policy and Planning Manager at the Western Bay of Plenty District Council (WBOPDC).

- 1.2** I have been the WBOPDC staff support for Te Maru o Kaituna (TMOK) from January 2018. I have attended the TMOK meetings and ensure the wider WBOPDC are engaged in the organisational commitments made through the co-governance entity.
- 1.3** I have led and prepared, on behalf of WBOPDC, submissions and feedback to all stages of 'Kaituna, he taonga tuku iho - a treasure handed down'; 'Te Tini a Tuna - Kaituna Action Plan 2019-29', and 'Proposed Change 5 (Kaituna River)'.
- 1.4** I am familiar with WBOPDC's submission and WBOPDC's Further Submission to Proposed Change 5 (Kaituna) to the Bay of Plenty Regional Policy Statement.
- 1.5** I would firstly like to acknowledge the work of Moana Boyd and her sad passing. Many at WBOPDC have worked with her and it is a loss keenly felt.

## **2. SUBMISSION POINTS**

- 2.1** As an active member of Te Maru o Kaituna, WBOPDC is pleased to see 'Kaituna He Taonga Tuku Iho - the Kaituna River Document' - given recognition in the Regional Policy Statement.
- 2.2** The Kaituna River and its tributaries primarily lie within the Western Bay of Plenty District, and WBOPDC is actively committed to protecting this taonga. It is a treasure for iwi and hapū, for our communities, and for the land itself.

- 2.3** It is acknowledged that several of WBOPDC's submission and further submission points have been recommended by staff to be accepted or accepted in part with suitable wording changes recommended and BOPRC staff are thanked for their work. These changes are supported.
- 2.4** There are however, several submission points that have been rejected by staff and we seek reconsideration of some of these.
- 2.5** WBOPDC is an active member of TMOK and recognises its importance as a co-governance entity. 'Kaituna, he taonga tuku iho - a treasure handed down'; and 'Te Tini a Tuna - Kaituna Action Plan 2019-29' were developed and adopted by all members through this body. It is felt that in some cases the proposed Change 5 has added its own interpretation to these and has gone beyond its scope.
- 2.6** Further discussion on specific elements is provided below. Where changes are recommended to the 'staff recommendations redline amendment version' these are shown by [blue text](#).

#### **Objective 41 and Policy KR 4B - Groundwater**

- 2.7** WBOPDC made two submission points related to the approach to groundwater in proposed change 5.
- 2.8** While we fully appreciate the interrelated nature of water in the catchment, the addition of and approach to groundwater in the proposed change 5 is beyond that expressed in 'Kaituna, he taonga tuku iho - a treasure handed down' and the Tapuika Claims Settlement Act 2014.
- 2.9** We seek to reiterate our original submission points in regard to Objective 41 and Policy KR 4B and have amended the decision sought text to reflect the latest version as appropriate. These are provided below for ease.

Page No	Reference (Issue, Objective, Policy, or Method)	(ii) Support/ Oppose	(iii) Decision Sought What changes you would like to see	(iv) Give Reasons
6	Objective 41 Water quality and the mauri of the water, including groundwater, in the Kaituna River is restored to a state which provides for ecosystem health, human contact, threatened species and mahinga kai values	Oppose in part	Amend to: Objective 41 Water quality and the mauri of the water, <del>including groundwater,</del> in the Kaituna River is restored to a state which provides for ecosystem health, <del>safe drinking water sources,</del> human contact, threatened species and mahinga kai values	<p>Specifically mentioning ground water is not necessary in Objective 41.</p> <p>Providing for ecosystem health, human contact, threatened species and mahinga kai values are all typically surface water values and not directly related to groundwater. We acknowledge there is an interplay between ground and surface water, but this would be better considered under Objective 42 or 43.</p> <p>It should be noted that in the Kaituna He Taonga Tuku Iho, groundwater is only mentioned in reference to Objective 5, which has been copied to become Objective 43 in the Proposed Change 5.</p> <p>This disconnect is further evidenced by the fact that groundwater does not currently link to the Policy or the Methods associated with Objective 41, but with Policy KR 4B which sits under Objective 42 and 43.</p> <p>It should be noted that the complex nature of groundwater makes the objective to 'restore' currently questionable. The groundwater aquifers are not accurately mapped and the state and quality not fully understood. There is no evidence or justification presented in the Section 32 report.</p> <p>It may be worth considering how far groundwater should be addressed here, given the definition of the Kaituna River in the Tapuika Claims Settlement Act 2014.</p>
17	Policy KR 4B	Oppose in part	Amend policy title to: Policy KR 4B: Managing groundwater abstraction in the Kaituna River <del>Catchment for the protection of puna and springs.</del>	<p>It is understood that the intent of the policy is the protection of puna and springs, rather than groundwater takes more generally.</p> <p>Amending the title better describes the policy's intent.</p>

## KR 7B – Economic development opportunities

**2.10** It is disappointing that WBOPDC’s recommendation has not been progressed in regard to this point. The failure to recognise the two aspects of this policy risks unduly narrowing its scope. Encouraging economic development that is not led by iwi or hapū but that recognises the cultural connections and looks to restore, protect or enhance the river’s well-being is important to achieve the most for the Kaituna.

**2.11** We restate our original submission point in regard to this:

Page No	Reference (Issue, Objective, Policy, or Method)	(ii) Support/ Oppose	(iii) Decision Sought What changes you would like to see	(iv) Give Reasons
19	Policy KR 7B	Oppose in part	<p>We request that this be split into two policies:</p> <p>Enabling economic development opportunities for iwi and hapu in the Kaituna River Area</p> <p>And</p> <p>Encourage economic development that enhances the Kaituna River and acknowledges its cultural connections.</p> <p>This may require reconsideration of the associated methods.</p>	<p>As it is currently proposed, there are two concepts raised here –</p> <p>1 - economic opportunities for iwi and hapū,</p> <p>2 - economic development that enhances the Kaituna and acknowledges its cultural connections.</p> <p>The bundling of these concepts together is somewhat confusing. It suggests iwi economic opportunities should only be enabled where they ‘promote greater understanding....or enhance the River’s wellbeing’.</p> <p>There is a lack of clarity as to what is therefore required through the District Plan.</p> <p>One aspect relates to zoning of land and discussions with iwi and hapū about future aspirations.</p> <p>The other is regarding ‘sustainable land management practices’ to ensure respect for the Kaituna River for any economic development opportunities.</p>

## Method KR6 – Reserves Maintenance

**2.12** We wish to reiterate and emphasise our original submission point in regard to the inclusion of ‘Council reserves maintenance’ in this method. We restate that this is a clear overreach of the RPS and the RMA.

**2.13** Paragraph 6.301 of the ‘Overview report on submissions’ states that this been included “to address previous tangata whenua criticism about Regional Council contracts for land management related activities on Māori land blocks...”. Whilst the intent and rationale are appreciated, this clearly relates to a BOPRC operational matter and is not a Regional Policy Statement matter.

**2.14** For ease our original submission point is given below:

Page No	Reference (Issue, Objective, Policy, or Method)	(ii) Support/ Oppose	(iii) Decision Sought What changes you would like to see	(iv) Give Reasons
22	Method KR6	Oppose	Delete all.  OR  Amend to:  Promote employment opportunities for tangata whenua through projects in the Kaituna River including providing: (a) Pest and silviculture management services (b) Fencing services (c) Council reserves maintenance; and	While we do not disagree with the method’s intent, it is felt that the Regional Policy Statement is the wrong tool for the job. Council’s procurement decisions are not a Resource Management Act issue.  We do not feel that the Regional Policy Statement, as a Resource Management Act document, is the correct place for this method. We are unaware of similar provisions being used elsewhere.  From a Council perspective, delivering on the intent of the method is better achieved through individual Councils’ procurement strategies and decisions to give effect to Kaituna He Taonga Tuku Iho and through other processes (e.g. Long Term Plans, Annual Plans, procurement approaches, etc.).

			(d) Environmental monitoring. <i>Implementation responsibility: Regional Council, <del>city and district councils</del>, Te Maru o Kaituna and iwi authorities</i>	
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**Method 23T – Rivers and streams**

- 2.15 Method 23T should be reworded for clarity, as suggested in WBOPDC’s original submission point or to a similar effect. This is necessary to ensure that access to and along streams in the Kaituna catchment is not inadvertently lost.
  
- 2.16 Paragraph 6.321 of the ‘Overview report on submissions’ states that WBOPDC’s suggested changes are not necessary due to “the following statement in the introductory section 2.12.3 of PC5: *In the context of this Policy Statement references to the Kaituna River includes all rivers and streams flowing into the Kaituna River and Maketū estuary identified in Map 4ab*”.
  
- 2.17 This rationale does not stand up to testing because the method specifically limits itself to ‘rivers’ and uses this term. ‘River’ and ‘stream’ have their own meanings and are often differentiated between (often through references to gum boots). Whilst neither ‘river’ nor ‘stream’ are defined in the RPS, we do not want to create a potential gap in the method’s reach.
  
- 2.18 An alternative solution, taking onboard the rationale provide in the staff recommendations, would be to delete the word ‘river’. This would thereby rely on the introductory section 2.12.3 of PC5 and avoid any possible confusion.
  
- 2.19 For ease our original submission point and the new alternative is given below:

Page No	Reference (Issue, Objective, Policy, or Method)	(ii) Support/ Oppose	(iii) Decision Sought What changes you would like to see	(iv) Give Reasons
23	Method 23T	Support in part	<p>Amend the method to recognise that the tributaries are equally as important to access. Amend to:</p> <p><b>Method 23T: Retain and enhance public and cultural access to and along rivers <u>and streams</u> in the Rangitaiki River Catchment and Kaituna River</b></p> <p>Retain and enhance safe public and cultural access to and along rivers <u>and streams</u> within the Rangitaiki River Catchment and Kaituna River by:</p> <p>...</p> <p>(c) Subject to (b) provide and maintain safe and identifiable public access points along the margin of the rivers <u>and streams</u> in the Rangitaiki River Catchment and Kaituna River.</p> <p>...</p>	<p>Access to the tributaries in the catchments is important recreationally and culturally.</p> <p>We think it is important that the Regional Policy Statement is explicit that this method applies to all tributaries in the catchment, and not just those considered as rivers.</p> <p>For example the Waiari Stream and its importance culturally and recreationally.</p>



			<p>(f) Working with communities, landowners and industries to consider opportunities to create appropriate access, including vehicle, walking, bicycle and waka access to the rivers <u>and streams</u>.</p> <p>OR AMEND TO:</p> <p><b>“Method 23T: Retain and enhance public and cultural access to and along <u>rivers in</u> the Rangitaiki River Catchment and Kaituna River</b></p> <p>Retain and enhance safe public and cultural access to and along <u>rivers within</u> the Rangitaiki River Catchment and Kaituna River by:...”</p>	
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**Objectives, anticipated environmental results and monitoring indicators – Healthy ecosystems**

- 2.20 An anticipated environmental result and a relevant monitoring indicator is required to demonstrate that healthy aquatic ecosystems are being protected and enhanced.
- 2.21 The rationale for the staff recommendation has been considered, regarding specifying the Upper and Mid Kaituna catchments. This delineation may be unnecessary.
- 2.22 However there remains a clear gap in ensuring that healthy eco-systems are protected. This has not been addressed in the ‘Overview report on submissions’. Currently, the focus is only on ‘degraded aquatic ecosystems’ (under Objective 45) and there is no AER or measure looking at measuring to protect existing high value ecosystems.
- 2.23 We therefore suggest the below change:

Page No	Reference (Issue, Objective, Policy, or Method)	(ii) Support/ Oppose	(iii) Decision Sought What changes you would like to see		
25	4.2 Objectives, anticipated environmental results and monitoring indicators  Objective 45  AER and Monitoring Indicators	Other	Amend by inserting:		
			<p><b>Objective 45</b></p> <p>The Kaituna River’s wetlands, aquatic and riparian ecosystems are restored, protected and enhanced to support indigenous species</p>	<p><u>Healthy aquatic ecosystems, habitats, and biological communities are protected or increased.</u></p>	<p><u>An observed maintaining or increase in the health of natural communities and habitats of indigenous flora, fauna and ecosystems in the Kaituna River and their riparian margins and wetlands.</u></p>

### **Statements of support**

- 2.24** Apart from the above points, the staff recommendations in the 'Overview report on submissions' are supported or are considered acceptable.
- 2.25** The staff recommendation regarding Policy KR 6B, is particularly strongly supported. We would not like to see Policy KR 6B weakened in anyway. This is considered important for the well-being of the Kaituna River and for the integrity of the co-governance nature of Te Maru o Kaituna.
- 2.26** Support is also voiced for the further submissions of the 'Bay of Plenty Regional Council – Rivers and Drainage Assets'. The alignment with our own further submission points is pleasing to see. The staff recommendation accepts their submission points in regard to Issue 4 and also the definition of Riparian Areas or Margins. This is recommended to the panel.

### **3. CONCLUSION**

**3.1** Again, we acknowledge that many of our submission points have been implemented and thank BOPRC staff for their work.

**3.2** We however seek the additional amendments and changes as set out in this statement of evidence.

**3.3** We reiterate that the well-being of the Kaituna and our communities is at the heart of our submissions and look forward to continuing to work towards a Kaituna River that is in a healthy state and protected for current and future generations.



**Matthew Leighton**

**8 September 2022**