

BEFORE THE FRESHWATER HEARINGS PANEL

IN THE MATTER

of the Resource Management Act 1991

AND IN THE MATTER

of Proposed Change 5 to the Bay of Plenty Regional
Policy Statement

**STATEMENT OF EVIDENCE OF MR GREGORY CARLYON (PLANNER)
FOR**

TAHEKE 8C AND ADJOINING BLOCKS INCORPORATION

21 September 2020

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EXECUTIVE SUMMARY

1. Te Maru o Kaituna River Authority (**‘Te Maru o Kaituna’**), made up of representatives from iwi and hapū and local government, have prepared a framework (Kaituna He Taonga Tuku Iho, **‘the Kaituna River Document’**) that provides for the Treaty Settlement associated with the Tapuika Claims Settlement Act 2014. The purpose of Te Maru o Kaituna is to provide for the restoration, protection, and enhancement of the environmental, cultural, and spiritual health and wellbeing of the Kaituna Awa. I understand that this undertaking is supported by The Proprietors of Taheke 8C & Adjoining Blocks Incorporation (**‘Taheke 8C’**).
2. Taheke 8C owners are tangata whenua, mana whenua, ahi kā, and kaitiaki for their lands and waters. They are associated with a number of iwi and hapū in proximity to their landholdings.
3. The Regional Council’s approach within PC5 emphasises the interests of iwi and hapū to an extent that mana whenua including Taheke 8C are unable to exercise their rights at place.
4. Taheke 8C have a demonstrated long-term involvement in the management of lands and waters at Ōkere and Kaituna. The aspirations they have for their lands include renewable geothermal energy generation, downstream use of waste heat and fluid, and sustainable land use practices across the remainder of their land holdings.
5. The position submitted by Taheke 8C does not exclude the involvement of iwi and hapū. In my opinion, it is important that the policy frameworks associated with the RPS, and subservient documents provide for that nuance without generating unintended perverse outcomes.
6. The Evidence in Chief (**‘EIC’**) of Mr Tawhiri Morehu and Mr Peter Mason (for Taheke 8C) sets out the important relationships that Taheke 8C have with the river at place and aspirations for Taheke 8C. They do not seek to avoid the need to utilise the whenua and awa in a sustainable way consistent with their tikanga. However, Taheke 8C do seek provisions within the PC5 that explicitly acknowledge their interests and associated methods to resolve conflict associated with resource use on or adjacent to their lands

and waters. Taheke 8C note there are not established and formalised connections between Taheke 8C and iwi and hapū institutions.

7. Taheke 8C are clear that the potential exists to address the issues raised by submission and in limited consultation with the work currently underway through to the Hearing.
8. In my opinion, a careful response is required that provides for those at place while meeting the purposes of the Resource Management Act 1991 ('**RMA**'). To that end, I have recommended changes to wording which achieve this purpose.

INTRODUCTION

9. My full name is Gregory John Carlyon. I am the Director and Practice Leader Planning at The Catalyst Group Planning and Environment Ltd.
10. I have been working as a practicing planner since 1991. This includes working with government agencies, regional and central government, non-governmental organisations, and private clients. I have spent a considerable part of that time as a resource management practitioner, addressing the effects generated by large-scale development programmes.
11. I hold a Bachelor of Regional Planning, am certified as an Independent Hearing Commissioner with the Chair's endorsement. I have completed Resolution Institute mediation training and am a member of the Resource Management Law Association. I was appointed to the Environmental Legal Assistance Panel by the Minister for the Environment in 2020.
12. I have worked for the Department of Conservation ('**DOC**') as a Conservancy Planner and as a Senior Manager, at the policy and executive management level, for regional councils. In 2011, I formed The Catalyst Group, a multi-disciplinary policy, planning, science, and catchment management practice.
13. For a significant part of my career, I have focused on developing solutions in relation to freshwater management, and over the past 10 years I have

worked extensively with iwi and hapū interests to ensure Māori rights and interests are provided for in planning processes.

14. I have provided extensive evidence before independent hearing panels and the Environment Court, over a long period. I also sit as an Independent Hearing Commissioner and mediator on natural resource management issues.
15. I am familiar with the issues articulated by Taheke 8C in relation to Proposed Change 5 ('PC5') having been increasingly involved in cases that address overlapping interests associated with Māori rights and interests.
16. This has included:
 - a) Planning witness for the New Zealand Māori Council Waitangi Tribunal hearing – geothermal and freshwater enquiry.
 - b) Planning advisor and witness for iwi, hapū and marae associated with Port of Tauranga resource consent process (ongoing).
 - c) Representing Ngāti Whātua and Ngāti Manuhiri in the current Auckland Regional Landfill (Dome Valley) Environment Court proceedings.
 - d) Provided planning support to iwi associated with Waka Kotahi NZ Transport Authority road replacement projects for Te Ara o Te Ata: Mt Messenger Bypass and Te Ahu A Turanga: Manawatū Tararua Highway.
 - e) Assisting Whanganui hapū collective – Te Pūwaha with the Port of Whanganui redevelopment.
 - f) Principal planning advisor to Ngā Tāngata Tiaki o Whanganui for resource consents addressed through Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.
 - g) Appointed facilitator for Crown/Iwi resolution of High Court proceedings to address the protection of conservation values for Motiti Island and environs – Bay of Plenty Conservation Management Strategy.
 - h) Planning witness – Ngāti Pīkiau stormwater discharges for Little Waihi and Maketu estuaries.
 - i) Principal planning advisor to Te Tūmatakahuki (Ngāti Raukawa hapū collective).

- j) Council lead – One Plan combined Regional Policy Statement, Regional Plan, and coastal plan for the Manawatu-Whanganui Region.
 - k) Author Tongariro Taupo Conservation Management Strategy (2002).
 - l) Author Tongariro National Park Management Plan (2006).
17. I have been asked by Taheke 8C and Adjourning Blocks Incorporation ('**Taheke 8C**') to provide planning evidence in relation to Proposed Change 5 (Kaituna River) ('**PC5**') to the Bay of Plenty Regional Policy Statement ('**RPS**').

CODE OF CONDUCT

18. I confirm that I have read the Code of Conduct for expert witnesses as contained in the Environment Court's Practice Note 2014. Although this is not a hearing before the Environment Court, I have complied with the practice note when preparing my written evidence and will do so when I give evidence before the Hearing Panel. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed.

SCOPE OF EVIDENCE

19. My evidence addresses the following matters:
- a) The potential impact of the proposed PC5 on the interests of Taheke.
 - b) Response to the Council Officer's 'Overview Report' and proposed amended PC5, and assessment of relevant plan provisions and methods.
20. In preparing this evidence I confirm that I have read the following documents:
- a) The Kaituna River Document: Kaituna, he taonga tuku iho – a treasure handed down.
 - b) Draft Change 5 (Kaituna River) to the Regional Policy Statement.
 - c) Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement: Section 32AA Evaluation of changes.

- d) Proposed Change 5 (Kaituna River) – Overview Report on Submissions.
- e) Proposed Change 5 (Kaituna River) – Submissions and Further Submissions with Staff Recommendations Report.
- f) Redline Amendment Version 5.0 of Proposed Change 5 (Kaituna River) to the RPS.
- g) The coroner's report – kayak incident.

21. In addition, I have reviewed the relevant provisions of the following planning documents:

- a) The National Policy Statement for Freshwater 2020 ('**NPS-FM 2020**').
- b) The Bay of Plenty Regional Policy Statement ('**RPS**'); and
- c) The exposure draft of the National Policy Statement for Indigenous Biodiversity ('**NPS-IB**').

SUMMARY OF THE PROPOSED CHANGE

22. Ms Lucy Holden, the planner for Bay of Plenty Regional Council ('**BOPRC**'), has set out the background to this matter in full in the reporting to these proceedings. I do not repeat the full background and rationale behind PC5 as I accept the material provided. I have produced a brief summary below for the purposes of context.

23. The Treaty of Waitangi claims settlement legislation for Tapuika iwi came into effect under The Tapuika Claims Settlement Act 2014. This Act required the establishment of the Te Maru o Kaituna River Authority ('**Te Maru o Kaituna**', '**the River Authority**'). The River Authority takes the form of a co-governance partnership with representatives from Tapuika Iwi Authority Trust, Te Kapu Ō Waitaha, Te Pumautanga o Te Arawa Trust, Te Tāhuhu o Tawakeheimoa Trust, Te Komiti Nui o Ngāti Whakaeu, BOPRC, Rotorua Lakes Council, Western Bay of Plenty District Council and Tauranga City Council. The purpose of this partnership is restoration, protection, and enhancement of the awa.

24. The formation of Te Maru o Kaituna lead to the production of a central document known as Kaituna He Taonga Tuku Iho (**'the Kaituna River Document'**). This was prepared and approved by Te Maru o Kaituna and guides how the river should be managed. It includes the Kaituna, Mangorewa and Paraiti Rivers and more than 24 tributary streams. The document highlights visions, objectives, and desired outcomes for the Kaituna Awa.
25. PC5 to the RPS proposes to incorporate the objectives of the Kaituna River Document and produce policies and methods that fit within those objectives. The objectives seek to protect, restore, and enhance the awa while enabling economic development opportunities for iwi and hapū in the awa.

TAHEKE 8C EXERCISE OF KAITIAKITANGA

26. Mr Tawhiri Morehu (Chair of the Incorporation) has set out the connections of the landowners to the whenua and awa which they are kaitiaki. I do not repeat his evidence here but highlight five key matters Mr Morehu raises.
 - a. Mr Morehu notes the members of the Taheke 8C are mana whenua, tangata whenua, and ahi kā, and kaitiaki at specific locations of the awa. Mr Morehu notes the inseparable whakapapa connection he has to their lands at Ōkere.¹
 - b. Mr Morehu supports iwi and hapū having a greater role in the management of natural resources. However, he notes that should not occur to the exclusion of those who are mana whenua, tangata whenua, and ahi kā, and kaitiaki.²
 - c. Mr Morehu identifies the River Document has an emphasis on the rights and interest of iwi and hapū. Mr Morehu says his concern is that this places too much focus on the role of iwi and hapū to the exclusion of those who are mana whenua, tangata whenua, and ahi kā, and kaitiaki at specific locations of the river.³

¹ Mr Tawhiri Morehu EIC [2].

² Mr Tawhiri Morehu EIC [14].

³ Mr Tawhire Morehu EIC [14].

- d. Mr Morehu identifies concerns with the way in which the River Document was prepared without the involvement of Taheke 8C. In his view, this is further exacerbated by an incorrect perception that there are active lines of communication between iwi and hapū, mana whenua, tangata whenua, ahi kā, and kaitiaki. However, Mr Morehu notes that this is not always the case.⁴
27. Mr Peter Mason (the Acting General Manager for the Incorporation) sets out the background to Taheke 8C and I do not repeat that detail here. I do however note that Taheke 8C has been an active participant within the PC5 process and have engaged throughout to advocate their position. It is also clear from Mr Mason's evidence⁵ that Taheke 8C has engaged on a strategic basis in the development of plans at the regional and district level, submitting on relevant national policy statements, and engaging widely on their own plans for Taheke 8C's lands. This is most evident in the uptake of the Taheke Development Plan as a plan to which regard must be had within the Rotorua Lakes District Plan.
28. Mr Mason also draws attention⁶ to a fundamental issue for Taheke 8C, being the status of recreational activities on the Kaituna River. The context for concerns held by Taheke 8C is associated with the contradiction in recreational use of the awa with substantial risks to life against the obligations tangata whenua have to provide for the mauri of the awa and manaakitanga for paddlers and other river users.
29. In my opinion, the response required within PC5 must be nuanced beyond simply providing for the rights and interests of iwi and hapū in an aggregated sense. There are complex relationships across kaitiaki, ahi kā, mana whenua, iwi, and hapū. It is simplistic to consider issues can be addressed simply through iwi and hapū broadly. This is particularly the case for Taheke 8C as they have a long standing and uncontested relationship to the whenua and awa, and have demonstrated that throughout time as ahi kā, and more recently with their documented involvement in strategic planning allied to their interests.

⁴ Mr Tawhira Morehu EIC [16]–[19].

⁵ Mr Peter Mason EIC [13].

⁶ Mr Peter Mason EIC [27].

30. It is also the case that the statutory mechanisms in respect of iwi and hapū rights and interests are relatively recent as a consequence of Treaty settlements in 2008 and 2014.⁷ Of course iwi and hapū have existed from time immemorial. It is evident from the evidence of Mr Mason and Morehu that the communication mechanisms that are needed for good decision making in a resource management context have not been in place. In my opinion, it is appropriate for PC5 to formalise mechanisms for communication. This may avoid driving iwi, hapū, mana whenua, and ahi kā into a space where conflict is unable to be addressed. It will also assist by setting the framework for addressing differences of view. Ordinarily there would be tikanga amongst mana whenua that would address this, however within the context of the RMA, that is not present unless specifically provided for.

RELEVANT STATUTORY PROVISIONS

31. Regional Council Officers have assessed the relevant objectives and policies associated with the NPS-FM 2020, particularly Te Mana o te Wai, and the RPS. While the RPS precludes the NPS-FM 2020, BOPRC has still been subject to Te Mana o te Wai from 2014. I do not disagree with the Council Officer's assessment of the relevant provisions. However, there are matters of disagreement regarding interpretation.
32. I particularly note the focus within PC5 and the River Document on iwi and hapū. This is appropriate and I support BOPRC's approach that provides a significantly refined response to Māori rights and interest by contrast to the generation of documents that preceded it.
33. Analysis undertaken by Council Officers frame the interests of Taheke 8C in part as a property rights matter. The focus on this element in my view, is disproportionate as the submission from Taheke 8C identifies a broad range of issues. These have been well set out in the Overview Report on submissions⁸. I note some particularly important matters for Taheke 8C as follows:

⁷ See, for example, the Affiliate Te Arawa Iwi and Hapū Claims Settlement Act 2008 and the Tapuika Claims Settlement Act 2014.

⁸ From paragraph 6.8.

- a. The extension of tribal boundaries beyond those previously acknowledged by BOPRC.
 - b. Exclusion of Māori Land Trustees from resource management decision making on the basis they are not engaged as 'iwi'.
 - c. Onerous obligations on private Māori landowners in preference to other landowners.
 - d. The use of Māori terms which disadvantages Taheke 8C (e.g. iwi, and hapū in preference to tangata whenua, mana whenua, kaitiaki, ahi kā).
34. I draw the Commissioner's attention to these matters as the narrow use of terms within PC5 and the River Document is at odds with the language of the NPS-FM 2020 which predominantly refers to 'tangata whenua' in preference to using the terms 'iwi' and 'hapū' (noting that tangata whenua may align to iwi and hapū). By way of example (my emphasis added):
- a. The framework and principles of Te Mana o te Wai specifically refer to tangata whenua.
 - b. Policy 2 'tangata whenua are actively involved in freshwater management (including decision-making processes)...'.
 - c. Section 3.2(1) 'every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to waterbodies and freshwater systems in the region'.
 - d. Section 3.4(1) 'Every regional council must actively involve tangata whenua in freshwater management including all of the following ...(b) making or changing regional policy statements...
35. I note that the NPS-FM 2020 refers to 'tangata whenua' on approximately 24 occasions and 'iwi' twice; it does not refer to 'hapū'. This is similarly the case for the RPS which gives effect to the RMA in particular s6(e), s7(a), and s8. It is important that I note that I am not diminishing the role of iwi or hapū (to which mana whenua of Taheke 8C are affiliated) in decision-making. I am simply acknowledging the place of mana whenua, kaitiaki, and ahi kā (sometimes represented by Māori landowners) as part of the nuanced response required to provide for Te Mana o te Wai and Part 2 of the RMA.

36. The Exposure Draft of the NPS-IB is not yet operative and therefore holds no legal weighting. However, it is relevant to note that the NPS-IB (at subclause [3.18(1)]) refers to both tangata whenua and Māori landowners and requires that (my emphasis):

Local authorities must work in partnership with tangata whenua and Māori landowners to develop, and include in policy statements and plans, objectives, policies, and methods that, to the extent practicable:

(a) maintain and restore indigenous biodiversity on Māori lands; and

(b) protect SNAs and identified taonga on Māori lands⁹

37. Clause 3.18 relates to Māori land, and accordingly may have some relevance to Taheke 8C landholdings. The inclusion of 'Māori landowners' in the Exposure Draft perhaps signals a shift towards recognising the rights and interests of Māori landowners independently of, and in addition to, iwi and hapū.

38. I note the definition of tangata whenua in the RMA is as follows: '*in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area*'. This understanding of the term has been subject to modification and reinterpretation for a time that is now thirty years beyond the gazettal of the Act. In my opinion, the RMA definition excludes those tangata whenua who for various reason are not represented by iwi or hapū and is contrary to the many definitions and scholarship in this space that address tangata whenua as a far more encompassing concept including the current draft of the NPSIB which incorporates Māori landowners (alongside iwi and hapū) in planning processes affecting their whenua. I understand legal submissions will be provided on this matter.

KEY MATTERS FOR TAHEKE 8C

39. I note that Taheke 8C has progressively accumulated and managed the 1214 hectares under their kaitiaki for their owners and am advised that Taheke 8C moved away from extensive farming practices on its lands in order to ensure sustainable outcomes at place. As set out in Mr Mason's evidence, there has also been an increased focus on forestry activity and

⁹ Exposure Draft NPS-IB 2022 Subpart 3 – Specific requirements [3.18(1)].

significant ongoing steps towards the development of geothermal energy development at site. This focus has continued for over a decade and Taheke 8C has partnered with Eastland Energy and is working to obtain consents in addition to its currently held consents for exploratory works that allow construction to occur by 2023.

40. In addition to the aspirations for renewable energy development and sustainable use of the land within the Taheke 8C's management, Taheke 8C has an obligation to its landowners (and interest on behalf of the community at large) to ensure the use of the Ōkere and Kaituna Rivers occurs in a way that respects the tikanga of Taheke 8C's landowners. Critically, the safety of river users and impact of recent tragic loss of life on the mauri of the awa has an impact on Taheke 8C, its whānau and the community at large. Taheke 8C identify that they have an obligation as kaitiaki to actively address this matter.

RESPONSE TO OFFICER'S OVERVIEW REPORT

41. The amended wording produced by BOPRC Officers in support of PC5 is identified to provide for the interest of iwi, hapū, and Māori landowners at place. In addition (in spite of minor amendments), the proposed changes to the RPS are identified and align with the assessment requirement of section 32AA RMA. I agree with the view of Ms Holden that a further evaluation within this framework is required in the event substantive amendments are made. I have proposed alternative wording in Table 1. This table sets out the position of Taheke 8C, the Officer's response to that position, and my recommendations for wording which achieves the outcomes sought by Taheke 8C. It is my opinion that the proposed wording does not undermine the objectives of PC5 and the Kaituna River Document. However, it does explicitly acknowledge Taheke 8C as mana whenua and ahi kā and their right to exercise kaitiakitanga on their lands and waters.

Table 1: Recommended revisions to policy framework

I note the submission points raised by Taheke 8C and Bay of Plenty Regional Council's response to those submission points are provided verbatim. Revisions are presented as blue, underlined font for additions, and ~~red-strike-out~~ as deletions.

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
1	IW 1B	<p>It is not appropriate to imply that the enabling of development of Māori land is in any way enabling iwi or hapū relationships. This is not reflective of the history of Taheke's inception.</p> <p>Mana Whenua and the Māori entities that represent them should have a right to engage on matters of tikanga and the application of this Plan Change on them. This includes requiring Te Maru o Kaituna to also engage. Taheke has relationships with certain agencies including DOC and does not wish to have those put at risk by this Plan Change.</p>	<p>Staff do not consider a further separate objective is required for the development of Māori land because the RPS already contains Māori land development Objective 16 which is linked to Policy IW 1B and Policy IW 2B. Objective 16 states: 'Multiple owned Māori land is developed and used in a manner that enables Māori to provide for their social, economic and cultural well-being and their health and safety, while maintaining and safeguarding its mauri.' Objective 16 is a region wide objective, so it already encompasses potential development of Māori land along the</p>	<p>Enabling development of multiple-owned Māori land <u>with particular regard for the interests of mana whenua or tangata whenua when exercising kaitiakitanga or ahi kā.</u></p> <p><i>These amendments ensure the sustainable management purpose of the Act is provided for while recognising the needs of private land owned by Māori. In addition it provides for a higher degree of influence in decision making</i></p>

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
			Okere River. Policy IW 1B and Policy IW 2B are existing operative RPS provisions considered complementary to guide decision making and courses of action towards accomplishing Objective 40. Incidentally these two policies are also linked to operative Māori land development Objective 16. Method 41 'Promote consultation with potentially affected tangata whenua' is also linked to Objective 40 which provides for the request for (a) consultation and (b) engagement with tangata whenua.	<i>while respecting the directions and influence of iwi and hapū.</i>
2	IW 2B	Council must balance all interests in its implementation of the Kaituna River Document into its Plan and protect the interests of other Māori stakeholders with equal cultural rights and obligations as Taheke.	Taheke 8C are concerned that the determination of Māori terms will disadvantage Māori land trusts and incorporations, and that Māori land trusts are excluded from resource management decision making	Recognising matters of significance to Māori <u>including those mana whenua or tangata whenua exercising kaitiakitanga or ahi kā.</u>

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
	<p>In Taheke's case, it is an anachronism to place iwi and hapū above Taheke. Taheke has been responsible for caring for the Ōkere River including seeking better protection for it from the pollution that flows from the lake catchments.</p>	<p>processes. All persons exercising functions and powers under the RMA are required to recognise and provide for the relationship of Māori and their culture and traditions, with their ancestral lands, water, sites, waahi tapu, and other taonga as a matter of national importance.</p> <p>Policy IW 2B recognises that 'only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.' Tangata whenua who have lived in an area for a long time can express their association with places that are special to them. These directions in the RMA and RPS are not prescriptive about which entities or</p>	<p><i>The definition of tangata whenua within the Act and reliance on that phrase narrows the scope of interests to hapū and iwi. This does not intend to be the purpose of the policy. The proposed amendment provides for a broader scope of interest without undermining the clear requirement for iwi and hap involvement.</i></p>

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
		groups are relevant or are to be considered and it is for tangata whenua to direct the appropriate level.	
3	KR 3B	See comments for 2.	<p>Using Mmātauranga Māori held by tangata whenua, mana whenua, ahi kā, iwi or hapū to inform resource management decision making in the Kaituna River.</p> <p><i>This amendment explicitly recognises the contribution to mātauranga Māori held by mana whenua at place. It does not undermine the contribution of iwi and hapū.</i></p>
4	KR 7B	Mana whenua and ahi kā should be included in the definition of Māori and tangata whenua and should be entitled to participate in the same rights	Enabling economic development opportunities for tangata whenua, mana

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
		<p>and roles as other groups representing Māori. Mana whenua should be able to participate in the development of protocols, implementation of policies and methods which affect them and should not be excluded. It is not appropriate for Council to exclude Māori who do not or have chosen not to be represented by iwi. Nor are mana whenua just part of the “wider community” for the purpose of this Plan Change. Mana whenua, whānau, and Taheke as a representative of the whānau have their own cultural responsibilities and economic and environmental aspirations.</p>	<p><u>whenua, ahi kā, iwi or hapū in the Kaituna River</u></p> <p><i>It is appropriate to explicitly acknowledge the role of mana whenua and ahi kā in policies that address economic development opportunities. This does not diminish the role for iwi and hapū. In the case of Taheke 8C there is a demonstrated, long-term, transparent programme to ensure influence in decision-making to protect values of significance.</i></p>
5	KR 9B	<p>Mana Whenua and ahi kā should be included in the definition of Māori and Tangata Whenua and should be entitled to participate in the same rights and roles as other groups representing Māori.</p>	<p>See comments for 2.</p> <p>Recognising kaitiakitanga <u>exercised by ahi kā, mana whenua, tangata whenua, hapū or iwi</u> in the Kaituna</p>

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
	<p>Mana Whenua should be able to participate in the development of protocols, implementation of policies and methods which affect them and should not be excluded. It is not appropriate for Council to exclude Māori who do not or have chosen not to be represented by iwi. Nor are mana whenua just part of the "wider community" for the purpose of this Plan Change. Mana whenua, Whānau and Taheke as a representative of the Whānau have their own cultural responsibilities and economic and environmental aspirations.</p> <p>Statutory acknowledgements do not necessarily require agreement between iwi on boundaries. In a river area with multiple iwi rohe adjacent to it the boundaries can be blurred and tikanga can conflict. Neither council or the Authority should limit the Kaitiaki or Rangatira of Māori landowners. The Plan Change places unnecessary barriers before Taheke. Taheke 8C</p>		<p>River involves sustainable use, development and protection.</p> <p><i>This minor amendment explicitly recognises those who contribute to the exercise of kaitiakitanga.</i></p>

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
		has spent years working within the RMA and law preparing to develop the whenua and taonga, it is finally seeing some tangible benefits that could be lessened or hindered by the Plan Change.		
6	Method KR1	See comments for 1 and 2.	See comments for 1 and 2.	<i>No recommended revision</i>
7	2.12 Treaty Co Governance Issue 1	Clarify that the needs of those at the top of the Okere River (including Taheke) should not be compromised by actions taken at the bottom.	The consenting process requires consideration of effects on existing users where appropriate; this may include an assessment of effects on users in the upper reaches by proposed users in lower reaches of the river. Staff do not consider a statement to this effect is necessary in PC5.	Water demand is high and could pose a risk for springs, surface water bodies and associated tangata whenua, mana whenua, and ahi kā , ecological, recreational , and recreational values
8	2.12 Treaty co governance Objective 40	See comments for 1 and 2.	See comments for 1 and 2.	The traditional and contemporary relationships that iwi, hapū, tangata

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)	
		<p>Reducing definitions and participation down to iwi and hapū would be a breach of Taheke Whānau Treaty rights. It is also in contrast to legislation acknowledging Māori rights. Māori, Tangata Whenua includes Whānau and the institutions they mandate to represent them.</p> <p>Taheke 8C reiterates that it is the kaitiaki and exercises rangatiratanga in its land, its use and along the Okere River as it relates to Taheke land. The Council cannot use a Plan Change to usurp those rights and responsibilities or to imply they belong to iwi or hapū only.</p>	<p>Grouping cultural access with recreational access is considered appropriate because both relate to access to the river. Taheke 8C would not be required to remove logs from the river to enable access, because they are not considered ‘structures’ under the RMA.</p>	<p><u>whenua, mana whenua, ahi kā, and Māori landowners that exercise kaitiakitanga</u> have with the Kaituna River are recognised, strengthened, enhanced and provided for.</p> <p><i>Taheke 8C have been subject to regular unlawful access across their lands and use of the awa in a way that diminishes the exercise of manaakitanga. This use has led to loss of life within the awa with significant pressures on Taheke 8C as a directly affected landowner and kaitiaki at place.</i></p>

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
9	Objective 41	If it is related to Māori matters, then it should relate to those. Council should not include recreation into the Plan through the resolution of Māori specific matters. Having recreation matters included in this section will give them higher effect than other parts of the plan where there is conflict with this Plan change and the Kaituna. Taheke should not be forced to remove structures, logs etc. from the Okere River to enable kayakers and others to traverse inherently dangerous parts of the Okere river.	Recreation is an important aspect of people's relationship with the river, and protecting recreational values is consistent with Objective 4 of the Kaituna River Document.	The methods that address recreation matters KR3, 23S and 23T achieve the action plans focussed on public access, safety and contact recreation without recognising the fundamental kaitiaki role of Māori landowners adjacent to the Kaituna. It avoids addressing the substantial risks to river users and the impact on the Mauri of the awa and Māori landowners of Taheke 8C. <i>See notes associated with Objective 46.</i>

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
10	Objective 42	It is not appropriate for any council or group to redefine or evaluate tikanga.	Staff agree that the method relates only to providing this information, which sits with iwi/hapū authorities. The method is not intended to redefine or evaluate kaitiakitanga and rangatiratanga.	<p>There is sufficient water quantity in the Kaituna River to support the mauri of rivers and streams and provide for tangata whenua, ahi kā, mana whenua, kaitiaki ecological and recreational values.</p> <p><i>This minor amendment acknowledges the needs and obligations of mana whenua, ahi kā, and kaitiaki.</i></p>
11	Objective 43			<p>Water in the Kaituna River is sustainably allocated and efficiently used to provide for the economic, social and cultural wellbeing of iwi, hapū, tangata whenua, mana whenua, ahi kā, kaitiaki and communities now and for</p>

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
				<p>future generations.</p> <p><i>These amendments acknowledge the role of Taheke 8C as a landowner and mana whenua with a particularly strong relationship to the Okere River. It also acknowledges the work undertaken to prepare a development plan which is adopted by Rotorua District Council as a document by reference within their District Plan.</i></p>
12	Objective 44	See comments for 2.	See comments for 2.	Policy as follows: Recognise the development plan prepared by Taheke 8C that provides for sustainable use of

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
				<p>resources within the awa and adjacent whenua.</p> <p><i>Proposed additional policy under Objective 44 acknowledging the status of Taheke 8C as mana whenua, sustainable use of the landscape and work undertaken within a range of statutory contexts to have their established rights and interests provided for.</i></p>
13	Objective 45	See comments for 2.	Statutory acknowledgements and associated processes are negotiated between iwi and central government (not regional council), and one or more statutory acknowledgements can sometimes apply to an area/river	The Kaituna River's wetlands, aquatic and riparian ecosystems are restored, protected, and enhanced to support indigenous species while recognising the rights

Objective/ Policy from PC5		Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
			<p>or feature. Regional Council acknowledge that tangata whenua who have no whakapapa to iwi with a statutory acknowledgement can also have strong cultural associations with these same areas/rivers of features. Statutory acknowledgements do not affect the lawful rights or interests of any person who is not a party to a deed of settlement.</p>	<p><u>and interests of mana whenua, tangata whenua, ahi kā and kaitiaki.</u></p> <p><i>The restoration aspirations for the Kaituna are strongly supported, however the influence of Māori landowners excising their customary obligations should be explicitly acknowledged.</i></p>
14	Objective 46	See comments for 2, 7 and 8.	<p>See comments for 2 and 8.</p> <p>Regional Council accepts that appropriate qualifications are a necessity for any hearing committee member; this is provided for in Method 48, which has been linked to new proposed Objective 46 and Policies KR 7B, KR 8B, IW 7D.</p>	<p>Te Maru o Kaituna <u>in</u> collaborate <u>collaboration</u> with iwi, <u>Māori landowners, tangata whenua, mana whenua, ahi kā and kaitiaki,</u> and the wider community and primary industry groups, to enable environmental, economic, social, educational and cultural</p>

Objective/ Policy from PC5	Submission points raised by Taheke 8C	Regional Council Response	Recommended wording to address outcomes sought and reasons for this and explanation (in italics)
			<p>aspirations to provide for the restoration, protection and enhancement of the Kaituna River.</p> <p><i>These amendments specifically acknowledge the rights and interests of mana whenua, Māori landowners, tangata whenua, ahi kā, and kaitiaki and prioritise those interests accordingly.</i></p>

CONCLUSION

42. The broad approach taken to PC5 which addresses Treaty Settlement obligations and responds to the Kaituna River Document is supported by Taheke 8C.
43. Taheke 8C have demonstrated a particular interest in the restoration, management, and sustainable use of the Kaituna River. This is demonstrated through the development of a kaitiaki plan adopted by Rotorua District Council, and active mana whenua engagement in statutory processes associated with policy development.
44. Critically, Taheke 8C are a prominent landowner on both sides of the awa and have worked over a long period of time to develop their landholdings on a sustainable basis to provide for cultural, economic, and environmentally sustainable outcomes.
45. The rights and interests of Taheke 8C at place are important. The Incorporation has long-term publicly-disclosed aspirations for its lands which are not at odds with the fundamental direction taken within PC5. In this context, it is important that the objectives, policies, and methods are appropriately nuanced to recognise this.
46. It is my opinion that caucusing with BOPRC planners (or planners for other parties where appropriate) to address the evidence and prepare a Joint Witness Statement focused on plan provisions prior to the Hearing commencing would be helpful. I understand this is a determination for the Commissioners.