

BEFORE THE FRESHWATER HEARINGS PANEL

IN THE MATTER OF

the Resource Management
Act (RMA)

AND

Proposed Change 5 to the
Bay of Plenty Regional
Policy Statement

OPENING STATEMENT

ON BEHALF OF THE BAY OF PLENTY REGIONAL COUNCIL TOI MOANA

11 October 2022



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MAY IT PLEASE THE COMMISSIONERS:

Tēnā koutou

Ko Rachel Boyte toku ingoa

Ko ahau te mangai ture mo te kaunihera o Toi Moana I te kaupapa o te whakarereke o te mahere taiao.

Kei te Mihi ahau ki a koutou ngā iwi o te Maru o Kaituna, ngā kaitono me te poari o te kaupapa nei.

Ko te Tumanako kei te tutuki tatou I ngā whaingā o te kaupapa nei.

Tēnā koutou katoa

1. This brief opening statement will introduce Proposed Change 5 (Kaituna River) (PC 5) and place it in context for the Panel and will also address procedural matters.
2. I do not propose to address specific legal issues raised in the submissions or evidence at this stage but reserve the right to do so in closing.

Proposed Change 5

3. PC 5 comprises a suite of objectives, policies, and methods relating to the Kaituna River Catchment.¹ The background to PC 5 is set out in detail in the Reporting Planner's Overview report on submissions.
4. Bay of Plenty Regional Council Toi Moana (Regional Council) is proposing the changes to recognise and provide for the vision, objective and desired outcomes in *Kaituna, He Taonga Tuku Iho* (the Kaituna River Document). This is consistent with its obligations under the *Tapuika Claims Settlement Act 2014 (Settlement Act)*.²

¹ Refer 2.12.3: *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. In total, there are approximately 1,197 kilometres of water ways in the Kaituna River Catchment.*

² Section 123(1) *Tapuika Claims Settlement Act 2014: In preparing or amending a regional policy statement, regional plan, or district plan, a local authority must recognise and provide for the vision, objectives, and desired outcomes of the Kaituna River document.*

5. In doing so, PC 5 must achieve the purpose of the RMA and of an RPS,³ including its focus on integrated management, and must also give effect to relevant national policy statements, including the National Policy Statement for Freshwater Management (NPSFM).⁴

Freshwater Planning Instrument

6. PC 5 is not being advanced “for the purpose of giving effect to [the NPSFM]”.⁵ The RMA anticipates that changes will be made to policy statements and plans that are not for this purpose, but “otherwise relate to freshwater”. PC 5 is one of those changes.
7. Its provisions directly relate to the maintenance or enhancement of the quality or quantity of freshwater. They are focussed on the health and wellbeing of the Kaituna River catchment and the fundamental interconnection between the River and tāngata whenua. It is, accordingly, a freshwater planning instrument and is subject to the freshwater planning process.
8. While not being proposed for the purpose of giving effect to the NPSFM, PC 5 is entirely consistent with and takes steps towards the implementation of its directions. In particular, the proposed provisions are consistent with the fundamental concepts of Te Mana o te Wai and the hierarchy of obligations in that concept (refer clause 1.3(5) and Objective 1 of the NPSFM).

2024 RPS and Regional Plan Changes

9. Regional Council is currently progressing changes to both the Regional Policy Statement (RPS) and Regional Natural Resources Plan to give effect to the NPSFM by the statutory deadline in 2024.
10. There is no intention to undertake a full review of the objectives, policies and methods proposed in PC 5 as part of that implementation process.

³ Section 123 Tapuika Claims Settlement Act and s59 RMA: *The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.*

⁴ Section 62 RMA.

⁵ Section 80A(2)(a) RMA.

11. However, Regional Council does intend to engage with tāngata whenua and the community to develop a long-term vision objective for the Kaituna Catchment. It also may need to make consequential amendments to PC 5 provisions. The obligation to recognise and provide for the Kaituna River Document under the Settlement Act applies each time Council amends the RPS or regional plan.

Procedure

12. Lucy Holden, the Reporting Planner, is present to listen to the cases presented.
13. The Panel's directions require Council, having heard the submissions and evidence of the parties, to lodge reply evidence and amended draft provisions by Friday 28th October.
14. Regional Council considers that there is likely to be benefit in caucusing between the planners prior to its reply and amended provisions being filed.
15. Following the lodging of Council's reply evidence, there is an opportunity for the parties to present closing submissions at a reconvened hearing (likely online). Regional Council can also provide closing submissions. For timing reasons, and to ensure they are of most assistance to the Panel, it is respectfully requested that these be able to be provided in writing following that further hearing.

Acknowledgement

16. Lastly, I would like to take this opportunity to acknowledge the very sad passing of Moana Boyd earlier this year. Moana was the lead planner on PC 5 and put a great deal of time and effort into its development. Moana was a gifted planner, and a great friend to all who worked with her both within and outside of Council. She is very much missed.

Rachel Boyte