

**BEFORE THE BAY OF PLENTY REGIONAL COUNCIL**

**UNDER** the Resource Management Act 1991 (**RMA**)

**AND**

**IN THE MATTER** of Proposed Change 5 (Kaituna River) (**PC5**) to the Bay  
of Plenty Regional Policy Statement (**RPS**)

---

**LEGAL SUBMISSIONS ON BEHALF OF EASTLAND GENERATION LIMITED**

---

**Introduction**

1. I appear on behalf of Eastland Generation Limited (**Eastland**) in relation to its submission and further submissions on PC5.
2. Eastland is a renewable electricity generator. In the Bay of Plenty, Eastland has interests in the Kawerau and Taheke geothermal reservoirs that support both its operational geothermal power stations and geothermal projects.
3. Eastland is a partner in the Te Ahi o Maui Geothermal Power Station in Kawerau, with A8D Ahu Whenua Trust. Geothermal Developments Limited, Eastland's wholly owned subsidiary company, also carries out geothermal electricity generation in Kawerau, and Eastland recently acquired the TOPP-1 geothermal power station in Kawerau.
4. Eastland is a partner with Taheke 8C and Adjoining Land Blocks Incorporated (**Taheke 8C**) in the development of a geothermal power station near Okere Falls using geothermal fluid from the Taheke geothermal reservoir – known as the "Taheke Geothermal Project".

5. The proprietors of Taheke 8C hold a water permit to take and use water from the Okere River (upper reach of the Kaituna River) for geothermal bore drilling and geothermal power generation, and to place and use a temporary surface water intake structure on and over the bed of the Okere River.
6. The property over which the Taheke Geothermal Project will take place is Māori freehold title, and Taheke 8C is a Māori land incorporation that acts as kaitiaki over the land to ensure that the land is developed sustainably. The project will allow Taheke 8C to fulfil their development aspirations for their land, and will also contribute to Aotearoa's efforts to mitigate climate change by way of increasing the country's supply of renewable electricity.
7. These submissions talk to some key issues raised in Eastland's submission and further submissions – in particular:
  - (a) Supporting provisions that promote economic development and employment opportunities for tangata whenua;
  - (b) Proposing additional policy support in recognition of the role of climate change mitigation in sustainable use of the Kaituna River; and
  - (c) Ensuring the provisions that manage existing structures in the Kaituna River are appropriate.

#### **Economic development and employment opportunities for tangata whenua**

8. Eastland submitted in support of objectives, policies and methods that promote economic development and employment opportunities for tangata whenua. Eastland submitted that this reflects the purpose of the Kaituna River Document and provides for the important relationship between tangata whenua and the Kaituna River.

9. Eastland also supported submission points made by Taheke 8C, which include concerns with the way that PC5 provides for the rights of whānau to make their own decisions and exercise kaitiaki over their whenua.
10. Taheke 8C have raised that the references throughout PC5 to “iwi and hapū” do not provide for Māori whānau and landowners along Okere River, including Taheke 8C. Eastland supports Taheke 8C’s submission that the rights of Taheke 8C and its whānau to self-determine their aspirations and develop their land should be supported by way of PC5. It is not appropriate to exclude mana whenua from exercising rangatiratanga over their own land on the basis that they are not an iwi or hapū group.
11. In response to Taheke 8C’s submission, the Overview Report on Submissions (the Report) notes that there are existing policies in the RPS that recognise the different roles and interests of tangata whenua in the community, including Policy IW 1B about enabling the development of multiple-owned Māori land.
12. The reasoning in the Report seems to be that these policies will address Taheke 8C’s concerns and can be relied on by Māori landowners in relation to the Kaituna River. Despite this, PC5 nevertheless proposes to introduce new Policy KR 7B relating to economic development opportunities for iwi and hapū in the Kaituna River.
13. As another example, Objective 43 relates to water allocation and references the social, economic and cultural well-being of iwi, hapū and communities. Taheke 8C submitted that mana whenua that are not iwi or hapū should not be relegated to “communities” as part of PC5. Eastland supports Taheke 8C’s submission that the phrase “iwi and hapū” should not be used to the exclusion of mana whenua, and supports PC5 being amended to ensure that Māori landowners and whānau are given due recognition.

## Climate change mitigation

14. Eastland sought that an additional policy be included in PC5 to recognise climate change mitigation in sustainable use of the Kaituna River. The Report rejected this submission on the basis that no desired outcomes or objectives are specific to climate change in the Kaituna River Document.
15. The Kaituna River Document includes a reference to climate change in terms of one of the key issues – being “pressure on the Kaituna River due to land use intensification, urban growth and climate change”. This has been captured in PC5 by way of one of six significant issues affecting the Kaituna River and its tributaries – and reads:

Urban growth, climate change, rural land use intensification

Rural land use intensification, urban growth and climate change effects are all placing pressure on the state of the Kaituna River, ecosystem health and wetland habitats

16. Section 62 of the RMA requires regional policy statements to state significant resource management issues for the region and the policies for those issues. It is therefore appropriate for PC5 to introduce additional policies to address this significant issue affecting the Kaituna River and its tributaries.
17. Addressing the pressure that climate change places on the Kaituna River can be addressed in two broad ways:
  - (a) By managing the effects of climate change on the Kaituna River, such as through addressing sea level rise and changing weather patterns – known as “adaptation”; and
  - (b) By reducing climate change – known as “mitigation”.

18. As the Report notes, the RPS does include provisions that relate to the effects of climate change, such as through natural hazard risk assessments. However, Eastland considers that it is also appropriate to include supporting policies that recognise climate change mitigation and, in particular, the benefits that the use and development of renewable energy enable by way of reducing greenhouse gas emissions.
19. Such a policy would be consistent with the direction in s 7 of the RMA to have particular regard to the benefits to be derived from the use and development of renewable energy, and the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG). It would also be consistent with the Government's goal of reaching 100% renewable electricity in New Zealand by 2030, and the target set by the Climate Change Response (Zero Carbon) Amendment Act 2019 to reduce greenhouse gas emissions to net zero by 2050.
20. Providing for geothermal development that relies on the Kaituna River is also consistent with Taheke 8C's aspirations for its land and the Taheke 8C Development Area included in the Rotorua Lakes District Plan. As Mr Mason states in his Evidence in Chief (at [28]):

“The Taheke/Eastland Project will be a planned geothermal electricity plant offering a point of difference – one that reflects the vision and care of a Māori incorporation and its whānau which has been a part of the rohe for over 140 years.

Future development of Taheke 8C whenua and therefore use of the wai will be based upon the tikanga of kaitiakitanga, manaakitanga and sustainability. The intent is to improve the social and economic future of generation of Taheke whānau and of the district.”

21. As discussed above, PC5 must recognise mana whenua's right to self-determine their aspirations and develop their Māori land. Taheke 8C, as mana

whenua over their land, have made it clear that geothermal development is one of their aspirations, which relies on the resources of the Okere River. Including policy support for this type of project should be a priority for PC5 and to that end, PC5 should be amended to provide for both renewable electricity generation as a means of mitigating climate change, and mana whenua's right to self-determine their aspirations and develop their Māori land.

### **Existing structures in the Kaituna River**

22. Eastland's submissions raised concerns over how existing structures in the Kaituna River are dealt with in PC5.
23. PC5 proposes to expand Method 23S to encompass the Kaituna River in addition to the Rangitāiki River Catchment. With the proposed changes this method would require, where appropriate and in consultation with tangata whenua, the removal of structures that impede cultural and recreational access in the Kaituna River. Where removal is impracticable, it requires measures to be employed that adapt existing structures or provide alternative access points to minimise adverse effects on cultural and recreational access.
24. Eastland considers that this method should not be extended to the Kaituna River as issues regarding hydro-electricity generation structures in the Rangitāiki River Catchment do not apply to the Kaituna River. Perhaps tellingly, Method 23S includes specific reference to such schemes by way of an exception for lawfully established hydro-electric dams and power stations.
25. There is no similar exception for other structures on the Kaituna River that would now be caught by this method, including the intake from Okere River associated with the Taheke Geothermal Project and consented by Taheke 8C. As raised in their submission, Taheke 8C exercise rangatiratanga over the use of their land along the Okere River and should not be required to remove consented structures to suit other groups.

**DATED** at Tauranga this 11<sup>th</sup> day of October 2022

A handwritten signature in blue ink, appearing to read 'Megan Exton', written in a cursive style.

---

**Megan Exton**  
**Counsel for Eastland Generation Limited**