

Te Maru o Kaituna River Authority

NOTICE IS GIVEN

that the next meeting of **Te Maru o Kaituna River Authority** will be held in **Council Chamber, Western Bay of Plenty District Council, 1484 Cameron Road, Greerton** on:

Friday, 19 October 2018 commencing at 10.30 am.

Dean Flavell
Chairman
Te Maru o Kaituna River Authority

Te Maru o Kaituna River Authority is a co-governance partnership made up of iwi representatives from Tapuika Iwi Authority Trust, Te Kapu Ō Waitaha, Te Pumautanga o Te Arawa Trust, Te Tāhuhu o Tawakeheimoa Trust, Ngāti Whakaue, and council representatives from the Bay of Plenty Regional Council Toi Moana, Rotorua Lakes Council, Western Bay of Plenty District Council and Tauranga City Council. It is a permanent joint committee of the four councils.

The purpose of Te Maru o Kaituna is the restoration, protection, and enhancement of the environmental, cultural and spiritual health and well-being of the Kaituna River and its tributaries.



Te Maru
o Kaituna

Te Maru o Kaituna (Kaituna River Authority) Terms of Reference

Interpretation

“Act” means the Tapuika Claims Settlement Act 2014.

“Appointing organisation” means an organisation that appoints a member of the Kaituna River Authority under section 118 of the Act.

“Authority” means Te Maru o Kaituna / the Kaituna River Authority.

“Iwi” means each iwi represented by an iwi appointing organisation.

“Iwi appointing organisation” means:

- the Te Tāhuhu o Tawakeheimoa Trust.
- the Tapuika Iwi Authority Trust.
- Te Kapu o Waitaha.
- the Te Pumautanga o Te Arawa Trust.

“Joint committee” means a joint committee within the meaning of clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

“Kaituna River or river” means the Kaituna River, including its tributaries within the catchment areas shown on deed plan OTS-209-79.

“Kaituna River document” means the document approved under section 127 of the Act.

“Local authority” means the Bay of Plenty Regional Council, the Rotorua District Council, the Tauranga City Council or the Western Bay of Plenty District Council – and “local authorities” shall have a corresponding meaning.

“Te Pumautanga o Te Arawa Trust” has the meaning given in section 10 of the Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008.

The scope and delegation of this Authority covers the geographical area of the Kaituna River catchment as shown on deed plan OTS-209-79.

Establishment

The Act provides for the establishment of Te Maru o Kaituna, a co-governance partnership between local authorities and iwi that share an interest in the Kaituna river.

Despite the composition of the Authority as described in section 118 of the Act, Te Maru o Kaituna is a joint committee of the Bay of Plenty Regional Council, the Rotorua District Council, the Tauranga City Council and the Western Bay of Plenty District Council.

Despite Schedule 7 of the Local Government Act 2002, the Authority:

- is a permanent joint committee; and

- must not be discharged unless all of the appointing organisations agree to the discharge.

Purpose

The purpose of the Authority is as set out in Tapuika Claims Settlement Act 2014.

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.

In seeking to achieve its purpose, the Authority may have regard to the social and economic well-being of people and communities.

Functions

- The principal function of the Authority is to achieve its purpose.
- In seeking to achieve its purpose, the other functions of the Authority are:
 - 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 the integrated and collaborative management of the river
 - to work with the 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 well-being of the river
 - on the 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 other 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.

Membership

Under section 118 of Tapuika Claims Settlement Act 2014, the Authority consists of 8 members:

- one member appointed by the Tapuika Iwi Authority Trust; and
- one member jointly appointed by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha; and
- one member appointed by the Te Pumautanga o Te Arawa Trust; and
- one member appointed by the Te Tāhuhu o Tawakeheimoa Trust; and
- one member appointed by the Bay of Plenty Regional Council; and
- one member appointed by the Rotorua District Council; and

- one member appointed by the Tauranga City Council; and
- one member appointed by the Western Bay of Plenty District Council

As per resolution by Te Maru o Kaituna River Authority on 14 June 2017, two informal members with voting rights:

- one informal member appointed by Te Komiti Nui o Ngāti Whakāue; and
- one informal member appointed by the Bay of Plenty Regional Council.

Quorum at meetings

In accordance with Te Maru o Kaituna standing order 2.4.3, the quorum for a meeting of the Authority is—

- the chairperson or deputy chairperson; and
- two members appointed by the iwi appointing organisations; and
- two members appointed by the local authority appointing organisations.

Decision making

The Authority must make its decisions by a vote at a meeting.

However, the members of the Authority must approach decision making in a manner that—

- seeks to achieve consensus; and
- is consistent with, and reflects, the purpose of the Authority; and
- acknowledges as appropriate the interests of iwi in particular parts of the Kaituna River and its catchment.

If the chairperson (or deputy chairperson) considers that the meeting is unlikely to achieve a consensus on a matter, the decision on the matter may be made only by a 70% majority of those members present and voting at the meeting.

The chairperson and deputy chairperson of the Authority may vote on any matter but do not have a casting vote.

Specific responsibilities and delegations

To avoid doubt, except as provided for in section 116 (2)(a) of the Act, the Authority has discretion to determine in any particular circumstances:

- whether to perform any function specified.
- how, and to what extent, any function specified is performed.

Provision for other groups to join the Authority

Other iwi and local authorities may join the Authority through consensus of the Authority or through legislation.

Public Forum

1. A period of up to 15 minutes may be set aside near the beginning of the meeting to enable members of the public to make statements about any matter on the agenda of that meeting which is open to the public, but excluding any matter on which comment could prejudice any specified statutory process the council is required to follow.
2. The time allowed for each speaker will normally be up to 5 minutes but will be up to the discretion of the chair. A maximum of 3 public participants will be allowed per meeting.
3. No statements by public participants to the Council shall be allowed unless a written, electronic or oral application has been received by the Chief Executive (Governance Team) by 12.00 noon of the working day prior to the meeting and the Chair's approval has subsequently been obtained. The application shall include the following:
 - name of participant;
 - organisation represented (if any);
 - meeting at which they wish to participate; and matter on the agenda to be addressed.
4. Members of the meeting may put questions to any public participants, relevant to the matter being raised through the chair. Any questions must be asked and answered within the time period given to a public participant. The chair shall determine the number of questions.

Membership

Chairperson:	D Flavell (Tapuika Iwi Authority Trust)
Deputy Chairperson:	Councillor A Tahana (Bay of Plenty Regional Council)
Appointees:	N Chater (Alternate, Lakes Community Board), N Douglas (Alternate, Te Tahuhu o Tawakeheimoa Trust), R Hancock (Te Tahuhu o Tawakeheimoa Trust), M Horne (Te Komiti Nui o Ngati Whakaue), Dr B Kihirini (Alternate, Tapuika Iwi Authority), R Kingy (Alternate, Te Pumautanga a Te Arawa Trust), Councillor K Marsh (Western Bay of Plenty District Council), Councillor M McDonald (Alternate, Bay of Plenty Regional Council), Councillor T Molloy (Alternate, Tauranga City Council), Councillor S Morris (Tauranga City Council), Councillor J Nees (Bay of Plenty Regional Council), R Pou Poasa (Alternate, Te Komiti Nui o Ngati Whakaue), Councillor J Scrimgeour (Alternate, Western Bay of Plenty District Council), Councillor T Tapsell (Rotorua Lakes Council), P Thomas (Te Pumautanga o Te Arawa)
Committee Advisor:	M Pansegrouw

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

Agenda

- 1 Opening Karakia**
- 2 Apologies**
- 3 Public Forum**
- 4 Acceptance of Late Items**
- 5 General Business**
- 6 Confidential Business to be Transferred into the Open**
- 7 Declarations of Conflicts of Interests**
- 8 Previous Minutes**
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- 9 Presentations**

9.1 Video: Celebrating the Launch of the Kaituna River Document on 30 September 2018

9.2 Presentation: Urban Storm Water Catchment Plan - Western Bay of Plenty District Council

For a presentation on the draft Catchment Plan for urban stormwater from Te Puke, Maketu, Paengaroa and Pukehina

Presenters: Bob Shaw - AECOM, Ariell King - AECOM and Coral-Lee Ertel - Western Bay of Plenty District Council

9.3 Presentation: Kaituna Catchment Operations Update

For an update on Bay of Plenty Regional Council's operations in the Kaituna Catchment - Kaituna Catchments Manager, Pim De Monchy

10 Reports

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10.2 Governance Update 37

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10.3 Freshwater Policy Update 49

10.4 Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement 55

11 Public Excluded Section 61

Resolution to exclude the public

THAT the public be excluded from the following parts of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of Matter to be Considered	Reason for passing this resolution in relation to this matter	Grounds under Section 48(1) LGOIMA 1987 for passing this resolution
11.1 Te Maru o Kaituna River Authority Action Plan - evaluation of proposals and decision to engage	To carry out commercial and industrial negotiations	Good reason for withholding exists under Section 48(1)(a)

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12 Confidential business to be Transferred into the Open

13 Readmit the Public

14 Consideration of General Business

15 Closing Karakia

Previous Minutes

Minutes of Te Maru o Kaituna River Authority Meeting held in Council Chamber, Western Bay of Plenty District Council, 1484 Cameron Road, Greerton on Friday, 24 August 2018 commencing at 10.30 a.m.

Present:

Chairman: Dean Flavell - Tapuika Iwi Authority Trust

Deputy Chairman: Councillor Arapeta Tahana - Bay of Plenty Regional Council

Appointees: Councillor Jane Nees - Bay of Plenty Regional Council; Maria Horne - Te Komiti Nui o Ngati Whakaue; Councillor Kevin Marsh - Western Bay of Plenty District Council; Rikihana Hancock - Te Tahuu o Tawakeheimoa Trust; Councillor Tania Tapsell - Rotorua Lakes Council; Councillor Steve Morris - Tauranga City Council; Dr Bryce Kihirini - Alternate, Tapuika Iwi Authority; Councillor Matemoana McDonald - Alternate, Bay of Plenty Regional Council; and Councillor John Scrimgeour - Alternate, Western Bay of Plenty District Council.

In Attendance: **Bay of Plenty Regional Council (BOPRC):** Chairman Doug Leeder; Namouta Poutasi - General Manager: Strategy and Sciences – Acting; David Phizacklea – Regional Integrated Planning Manager and Acting Water Policy Manager; Pim de Monchy – TMoK Committee Champion and Kaituna Catchments Manager; Kataraina O'Brien - Strategic Engagement Manager; Anaru Vercoe - Māori Policy Team Leader; Jo Watts - Senior Planner (Water Policy); Rawiri Bhana - Maori Policy Advisor; Ruth Keber - Marketing and Communications Advisor; Yvonne Tatton - Governance Manager and Merinda Pansegrouw - Committee Advisor

Western Bay of Plenty District Council (WBOPDC): Matthew Leighton – Senior Policy Analyst

Public: Maru Tapsell – Waitaha and Alfred Reko Potiki

Apologies: Nick Chater - Alternate, Rotorua Lakes Community Board (Rotorua Lakes Council); Piki Thomas - Alternate, Te Pumautanga o Te Arawa; Nicki Douglas - Alternate, Te Tahuu o Tawakeheimoa Trust and Councillor Steve Morris - Tauranga City Council for lateness.

1 Opening Karakia

Dean Flavell and Rikihana Hancock opened the proceedings with a karakia.

Quorum

Since there was no quorum present to constitute a formal meeting of the Authority, members agreed to proceed in workshop mode and discuss information only items until such time that a quorum could be established.

Workshop Mode

In response to the lack of a quorum, Chairperson Dean Flavell directed staff to consider the Terms of Reference and Membership of the Te Maru o Kaituna River Authority and pursue options to prevent future inquorate meetings.

Staff Follow-up

- Consider the Terms of Reference and Membership of the Te Maru o Kaituna River Authority and pursue options to prevent future inquorate meetings by assessing the following:
 - Informal membership status of Te Komiti Nui o Ngāti Whakaue not contributing towards a quorum
 - Progress with the appointment of representative: joint appointment by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha
 - Filling of the vacancy of Te Pumautanga o Te Arawa representative
 - Provide clarification on the roles of alternatives formally appointed by appointing organisations counting towards a quorum.

Order of Business

The meeting agreed that the following information-only report be received next on the agenda:

- Agenda Item 9.6: Presentation: Kaituna Catchment Operations Update

1.1 Presentation: Kaituna Catchment Operations Update

Refer Video Clip – Objective ID A2947253

Refer PowerPoint presentation – Objective ID A2949041

Te Maru o Kaituna's celebration of approval of Kaituna, he taonga tuku iho – a treasure handed down video, providing a snippet of the day, was presented to members.

Members congratulated staff on a job well done.

Kaituna Catchments Manager Pim de Monchy provided a PowerPoint Presentation outlining an update on Bay of Plenty Regional Council Toi Moana's operations in the Kaituna Catchment area:

Key Points

- Highlights for the 2017/18 year in terms of operations:
 - Kaituna River Document had been completed
 - 33km of waterway had been protected in 2017/18, step by step, making an impact
 - Priority biodiversity sites protected – BOPRC had identified 400 biodiversity sites; 18 were in the Kaituna water management area – seven were currently under protective management, with a commitment to continuously increase the number over the longer term
 - The Land Management Team had created nearly 10ha of new wetlands over the past year – a continuation of the aim to create over a 100ha of wetland
 - Ongoing Te Pourepo o Kaituna investigations – aimed at creating a new wetland area of between 45ha to 73ha. Proposals on possible concept designs would be submitted to the Authority at a future meeting before entering into a resource consent process

- Ford Road Pump Station – preferred option had been identified and would involve shifting the pump station upstream to prevent contamination
- Kaituna re-diversion construction had started on the 12th of June 2018
- 20,000 plants had been planted at Papahikahawai
- New project: Parawhenuamea Stream re-diversion

10:55 a.m. - Cr John Scrimgeour **entered** the meeting.

11:00 a.m. – Cr Tania Tapsell **entered** the meeting

11:01 a.m. – Cr Arapeta Tahana **entered** the meeting

In response to Questions

- Ford Road end (from the pump station near Ford's Cut bridge to Te Tumu Cut) would be closed from 1 August to 20 December
- As a priority, the fixing of the roads would be addressed in liaison with all role-players, led by the road controlling authority Western bay of Plenty District Council.

Quorum

At 11:15 a.m. a quorum was present to constitute a formal meeting of the Authority.

With the agreement of members, Chairperson Dean Flavell vacated the Chair to assume the capacity as a representative from Tapuika Iwi Authority and Deputy Chairperson Arapeta Tahana assumed the Chair.

Committee Mode

2 **Apologies**

Resolved

That the Te Maru o Kaituna River Authority:

1. **Accepts the following apologies tendered at the meeting: Nick Chater - Alternate, Rotorua Lakes Community Board; Piki Thomas - Alternate, Te Pumautanga o Te Arawa; Nicki Douglas - Alternate, Te Tahuhu o Tawakeheimoa Trust, and Councillor Steve Morris - Tauranga City Council for lateness.**

**Tahana/Flavell
CARRIED**

3 **Public Forum**

Nil.

4 **Acceptance of Late items**

Nil.

5 General Business

The following matter was raised for discussion under General Business:

1. Letter received from the Rangitāiki River Forum Chairperson, Maramena Vercoe dated 21 August 2018.

6 Confidential Business to be Transferred into the Open

Nil.

7 Declaration of Conflicts of Interest

Nil.

8 Previous Minutes

8.1 Te Maru o Kaituna River Authority minutes - 22 June 2018

Resolved

That the Te Maru o Kaituna River Authority:

1. Confirms the Te Maru o Kaituna River Authority minutes of 22 June 2018 with the following amendment:
 - Appointees Present: Add Councillor Tania Tapsell (Rotorua Lakes Council).

Nees/Flavell
CARRIED

9 Reports

9.1 Te Maru o Kaituna River Authority - Public Celebration of the Kaituna River Document 'He Taonga Tuku Iho, a Treasure Handed Down'

Refer PowerPoint presentation – Objective ID A2945565

Māori Policy Advisor Rawiri Bhana provided a brief outline as follows:

Key Points

- Proposed date for the public celebration event was Sunday, 30 September. This would be the first day of daylight saving, the first weekend of school holiday's and furthermore coincided with World River Day
- A mixture of information and interactive displays, with some water based activities, had been planned
- The event would be held at Waitangi on Rangiuru Reserve and would allow an opportunity for particular groups to have their own information/interactive booths
- The traffic management plan would be the biggest expense; Western Bay of Plenty District Council (WBOPDC) had offered the reserve booking under sponsorship and a traffic management plan was currently being drawn up by a qualified safety traffic management plan provider
- Extensive publicity / media coverage had been planned.

In response to Questions

- Expressed appreciation towards WBOPDC for assisting with a traffic management plan. Local Schools would be considered as options for parking overflow
- The River Document had been shortlisted as a finalist for the 2018 Best Awards – Ngā Aho Award; the Award Ceremony had been scheduled for 22 September 2018.

Points raised by Members

- The event allowed an excellent opportunity for TMoK to interact / consult the local community and obtain feedback from the public on their expectations relating activities around the Kaituna River
- There was an obligation to engage all relevant whānau around the use of the Rangiuru Reserve as it was not a simple public reserve as many others were
- The World River Day opportunity should be leveraged to showcase/promote the innovative/indigenous leadership work done by Te Maru o Kaituna River Authority with regard to the River Document. Marketing material from the World Rivers Day should also be used during the public celebration launch event.

Staff Follow-up

- Ensure ongoing consultation with all parties involved in the Rangiuru Reserve
- Draft agenda/itinerary for 30 September 2018 to be circulated to members via email for comment/input
- Arrangements be made for a member of Te Maru o Kaituna River Authority to attend the 2018 Best Awards – Ngā Aho Award Ceremony on 22 September 2018
- Tikanga for 30 September 2018 to be finalised in consultation with Tapuika Iwi.

Resolved

That the Te Maru o Kaituna River Authority:

- 1. Receives the report, Public Celebration of Kaituna, he taonga tuku iho - a treasure handed down;**
- 2. Approves the public celebration details presented in this paper and delegates to the Chair of TMoK and the TMoK Working Group responsibility for the preparation and planning of the celebration.**
- 3. Endorses the proposal that the public celebration be registered as an official World Rivers Day event.**

**Flavell/Marsh
CARRIED**

9.2 Next Steps for Te Maru o Kaituna River Authority

Refer PowerPoint presentation – Objective ID A2945565

Māori Policy Team Leader Anaru Vercoe presented the report, outlining the following:

Key Points

- Review of the purpose and functions of Te Maru o Kaituna River Authority beyond the River Document, moving into the monitoring implementation / effectiveness of the River Document
- Timing, process, scope and resourcing for developing the action plan
- Regional planning document changes - timing and working together with BOPRC to progress changes to the Bay of Plenty Regional Policy Statement (through Change 5 to the RPS) and Regional Natural Resources Plan (RNRP) (through Plan Changes 12)
- Advice to BOPRC on Kaituna catchment freshwater policy matters going forward.

Comments Raised by Members

- Acknowledged the presence of Maru Tapsell - Waitaha Iwi, Te Kapu o Waitaha and supported that issues surround the joint Waitaha / Tapuika TMOk seat needed to be addressed by the respective iwi to enable representation on TMOk
- Since the Kaituna River Document's vision, objectives and desired outcomes needed to be recognised and provided for when preparing or amending the RPS, regional or district plans, it was vital that the Te Maru o Kaituna River Authority was closely involved in all freshwater RMA processes relevant to the Kaituna catchment.

11:55 a.m. - Cr Steve Morris **entered** the meeting.

- Since the Rangitāiki River Forum (RRF) had been involved in Change 3 (Rangitāiki River) to the Regional Policy Statement, discussions with the RRF would provide an opportunity for the Te Maru o Kaituna River Authority to obtain key learnings from and steps required in working together with BOPRC and the different roles during the RMA change process
- Noted that under item 5 "General Business" the Rangitāiki River Forum had sent a letter to invite the Te Maru o Kaituna River Authority to meet with them to celebrate common achievements and share key learning of the journeys and to discuss ideas that may contribute to the future direction that the respective groups may take
- Supported that a stand-alone session between the Rangitāiki River Forum and the Te Maru o Kaituna River Authority be arranged (An item for staff follow-up was recorded under item 10.1 of the minutes)
- The development of an action plan was of vital importance and needed to be addressed as a matter of priority by means of a streamlined process – the appointment of a working group to sign off the scope of work and appointment of a consultant would speed up the process
- The aim should be to have finalised the scope for the brief, requested offers of service from suitable consultants and appointed a consultant by the next TMOk meeting, 19 October 2018.

Members were invited to provide nominees to be invited to participate in the procurement process for the appointment of a consultant to develop/prepare an action plan.

The following motion was PUT and CARRIED:

Resolved

That the Te Maru o Kaituna River Authority:

- 1. Receives the report, "Next Steps for Te Maru o Kaituna River Authority";**

2. Directs staff to prepare a scope of work for the action plan development, obtain feedback on the scope via email from members.
3. Delegates to the Working Group approval of the scope and to engage a preferred consultant to develop the Action Plan.
4. Appoints the following members to the Working Group: Dean Flavell (Chair), Rikihana Hancock and Cr Arapeta Tahana (Deputy Chair).
5. Directs staff to bring back material for discussion on Proposed Plan Change 12 matters.

Hancock/Flavell
CARRIED

12.45 p.m. - The meeting adjourned.

1.05 p.m. - The meeting reconvened.

Order of Business

The meeting agreed that the following report be received next on the agenda:

- Agenda Item 9.5: On-site Effluent Treatment Draft Plan Change 14

9.3 On-site Effluent Treatment Draft Plan Change 14

Refer PowerPoint presentation – Objective ID A2937769

Team Leader – Integrated Planning Ruth Feist presented the report in good humour outlining the following:

Key Points

- Overview of what on-site effluent treatment (OSET) systems were
- Risks applicable to OSET systems
- BOPRC was responsible for the management of discharges from OSET systems to ensure discharges did not contaminate the environment – as required by the Resource Management Act 1991 (RMA)
- BOPRC had an OSET Regional Plan to help manage discharges but it was more than 10 years old and needed updating
- OSET Draft Plan Change 14 was to replace the current plan, and would include the updated rules into the Regional Natural Resources Plan
- Applicable timeframes/next steps envisaged.

In Response to Questions

- BOPRC was currently running a project involving all Tauranga Moana marae in liaison with marae maintenance staff and engaging with tangata whenua, in order to undertake a survey of wastewater management systems. Results to be reported to Council to determine the level of support required
- Marae played an important role within a community; it was therefore important to ensure that their systems were robust and able to operate effectively even under high load conditions
- Experience has shown that when a marae triggered the criteria to require a resource consent it was most often because the domestic wastewater generated was more litres of effluent per day than a standard household; however, this could

also be related to an OSET system's design, age, or location in relation to a particular water body.

Comments Raised by Members

- Acknowledged that it was an important matter from a health and safety perspective; however emphasised that care should be taken to consider the matter as highly sensitive as the subject could easily be seen as an impingement of Maori peoples' rights
- Some tangata whenua might be of the opinion that, based on the outcome of treaty settlements, the matter relating to on-site effluent treatment systems needed to be addressed with the Crown directly
- Since the use of marae was of a culturally sensitive nature, care should be taken to navigate the process with thorough and ongoing consultation with tangata whenua, taking care regarding the approach to be taken and the use of the correct language to demonstrate the correct intent
- As cost implications would be of great concern, the focus should be on the need/nature of the support required, and options to assist marae in the adoption of better OSET technology, rather than the cost
- Noted that different regulatory requirements had applied to Papakāinga Housing.

Item for Staff Follow-up

- To verify the on-site effluent treatment systems requirements applicable to higher density housing (two, three or more houses on a 1,200m² land block).

Resolved

That the Te Maru o Kaituna River Authority:

- 1. Receives the report, On-site Effluent Treatment Draft Plan Change 14.**

**Tahana/Nees
CARRIED**

Dr Bryce Kihirini opposed the motion.

9.4 Adoption of the 2018/2019 Te Maru o Kaituna Budget

Strategic Engagement Manager Kataraina O'Brien, on behalf of Governance, presented the 2018/19 Te Maru o Kaituna budget and updated members on current expenditure and the financial status.

Resolved

That the Te Maru o Kaituna River Authority:

- 1. Receives the report, Adoption of the 2018/2019 Te Maru o Kaituna Budget;**
- 2. Notes the current balance of Te Maru o Kaituna River Authority funds;**
- 3. Adopts the 2018/19 Te Maru of Kaituna River Authority budget as outlined in the report.**

**Tahana/Marsh
CARRIED**

9.5 Freshwater Update

Refer PowerPoint presentation – Objective ID A2945532

Senior Planner (Water Policy) Jo Watts provided a Freshwater update, outlining the following:

Key Points

- Overview of what the National Policy Statement for Freshwater Management 2014 (NPSFM) was:
 - a process to set objectives/limits to protect freshwater taonga for future generations
 - Overarching concept of Te Mana o te Wai: that the water and the environment were the most important thing to protect/provide for, before we provided for other things such as use
 - Involving and working with iwi, hapū and communities to make sure we understood tangata whenua and community values and interests
 - Working on catchment specific management measures to set objectives and water quality and quantity limits
 - Using catchment models to more fully understand the impact of existing land use and what might happen into the future if we continued/changed to a different combination of land uses
- Plan changes Toi Moana was working on to improve how Bay of Plenty Regional Council (BOPRC) was managing freshwater: Plan Change 9 – Region Wide Water Quantity / Plan Change 3 to RPS – Rangitāiki River / Draft Plan Change 14 – On Site Effluent Treatment (OSET) and Plan Change 12
- Plan Change 12:
 - Setting water quality and quantity limits in the Kaituna/Pongakawa/Waitahanui Water Management Area/catchment
 - Would also cover a region wide NPSFM framework and other region wide changes such as swimmability, significant values of wetlands & outstanding freshwater bodies
 - Recognising and providing for the vision, objectives and desired outcomes of the Kaituna River Document
 - Kaituna-Pongakawa-Waitahanui Water Management Area timetable.

Kaituna Catchment Manager Pim de Monchy provided an overview of the latest science in the Environmental Summary Report for the Kaituna-Pongakawa-Waitahanui Water Management Area, outlining the current state and trends for the catchment:

Key Points

- Main environmental issues that had been identified in the Kaituna catchment area:
 - Declining health of Waihī and Maketū Estuaries: not always swimmable, affected social and cultural values. Too much nitrogen entering estuary. Currently reviewing what sort of nitrates and e.coli load reductions might be needed for these estuaries
 - Increasing nitrates in freshwater – land use intensification, particularly in the lower reaches
 - Substantial impacts on freshwater values in lower catchments – heavily modified, poorer water quality, discharging in to estuaries
 - Localised high E.coli levels affected swimming and mahinga kai
 - Increasing water use demand - over allocation
- States and trends relating to soil, freshwater quantity and wetlands/estuaries.

Comments by Members and in Response to Questions

- As part of BOPRC's work to implement central government's National Policy Statement for Freshwater, the outcome of Proposed Plan Change 9 to the Regional Water and Land Plan would provide rules and policy changes designed to strengthen water allocation limits and management; drawing a line in the sand and setting interim allocation limits. Moving forward more detailed local limits, rules and methods for the Kaituna catchment would be delivered through Plan Change 12
- The Plan Change 9 process had confirmed that there were gaps in existing water allocation information/insufficient information relating to actual quantities for water takes
- One strategy that could ensure greater understanding of consented vs actual water take quantities and efficiency would be the review of conditions/consents for existing resource consents due to expire
- Since many consent holders did not use the amount of water for which consents were granted, future options for water that was allocated but not used could be reassessed at the time of review
- No favouritism should exist when it came to water consents: all should be treated fairly - equality for all people
- Data provided for the health of estuaries (trends for water quality parameters over the long term data set - as per slide 24 of the presentation) should not only illustrate significant trends, but should provide actual data to enable the monitoring of all movement (negative and positive).

1:51 p.m. - Cr Kevin Marsh **withdrew** from the meeting.

Resolved

That the Te Maru o Kaituna River Authority:

- 1. Receives the report, Freshwater Update.**

**Tahana/Flavell
CARRIED**

9.6 **Membership Update - Te Pumautanga o Te Arawa Trust**

The item was not considered as Piki Thomas was not present to provide a membership update on behalf of Te Pumautanga o Te Arawa Trust.

10 **Consideration of General Business**

10.1 **Letter received from the Rangitāiki River Forum Chairperson, Maramena Vercoe dated 21 August 2018**

Tabled item 1: A letter received from the Rangitāiki River Forum Chairperson, Maramena Vercoe, dated 21 August 2018, was presented to the Authority.

Key Points

- Congratulated Te Maru o Kaituna River Authority on the successful completion and approval of the Kaituna River document
- Recognised the hard work and the journey that it took to get to this significant milestone

- The Rangitāiki River Forum found this process to be valuable in developing a platform for collaborative, multiparty partnerships in the implementation of our River Document – Te Ara Whanui o Rangitāiki – Pathways of the Rangitāiki
- Invited Te Maru o Kaituna River Authority to meet with the Rangitāiki River Forum at some time in the near future to discuss achievements and share journeys and to discuss ideas that may contribute to the future direction that the respective groups may take.

Staff Follow-up

- To arrange a discussion session between Te Maru o Kaituna River Authority and Rangitāiki River Forum as expressed under item 9.2 “Next steps for Te Maru o Kaituna River Authority” with the view of amongst other matters, obtain a better understanding of the role of the Authority in RMA change process and any key learnings from RRF.

11 Closing Karakia

Dr Bryce Kihirini closed the meeting with a karakia.

The meeting closed at 2:24 pm

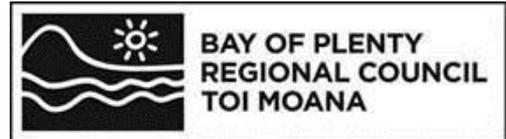
Confirmed

Dean Flavell, Chairperson, TMOK

Date

Presentations

Reports



Report To: Te Maru o Kaituna River Authority
Meeting Date: 19 October 2018
Report From: Pim De Monchy, Kaituna Catchments Manager

Te Maru o Kaituna River Authority Quorum Matters

Executive Summary

Staff were requested by the Authority to investigate quorum options available to Te Maru o Kaituna River Authority following inability to gain a quorum for the last meeting at the advertised time.

While it is recognised that the quorum requirements are clearly defined in the Tapuika Claims Settlement Act 2014, solutions to minimise the risk of not meeting quorum requirements are provided in the report.

Recommendations

That the Te Maru o Kaituna River Authority:

- 1 Receives the report, Te Maru o Kaituna River Authority Quorum Matters;**
- 2 Supports meetings being held at alternate marae and council venues.**

1 Background

Te Maru o Kaituna River Authority's (the Authority) meeting held on 24 August 2018 could not commence at the advertised time due to the lack of a quorum. In response, Chairman Dean Flavell directed staff to consider membership of the Authority as identified in the Terms of Reference and pursue options to ensure quorums at future meetings are met. The following items were identified for follow-up by staff:

- Informal membership status of Te Komiti Nui o Ngāti Whakaeue not contributing towards a quorum
- Progress with the appointment of representative: joint appointment by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha
- Filling of the vacancy of Te Pumautanga o Te Arawa Trust representative
- Provide clarification on the roles of alternatives formally appointed by appointing organisations counting towards a quorum.

- The issue of not being able to raise a quorum has resulted from the long term vacancy of the joint appointment by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha, and the unavailability of the Te Pumautanga o Te Arawa Trust representative to attend meetings on a regular basis.

2 Legislative Requirements for a Quorum

The Tapuika Claims Settlement Act 2014 (the Act) established Te Maru o Kaituna River Authority and defines its membership, functions and operation. Schedule 5 of the Act lays out the administration and procedure of the Authority, including quorum requirements, meeting procedure and decision making.

Section 3(4) of Schedule 5 spells out the requirements for a quorum:

The quorum for a meeting of the Authority is-

- (a) *The chairperson or deputy chairperson; and*
- (b) *2 members appointed by the iwi appointing organisations; and*
- (c) *2 members appointed by the local authority appointing organisations.*

The quorum requirements for the Authority meetings are clearly defined in the Act, and supersede any quorum definition from the Local Government Act 2002 (LGA), and are designed to ensure the various appointing organisations are fairly and equally represented at any meeting.

It is not practicable to change the quorum requirements in the Act. The Act replicates the provisions of the Deed of Settlement (16 December 2012) so far as membership and quorum, and would require an amendment to the legislation. To operate contrary to the current legislation framework would risk the integrity and mana of the Authority to be challenged.

3 Membership

Section 118 of the Tapuika Claims Settlement Act 2014 sets out the members of Authority:

- (a) 1 member appointed by the Tapuika Iwi Authority Trust; and
- (b) 1 member jointly appointed by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha; and
- (c) 1 member appointed by the Te Pumautanga o Te Arawa Trust; and
- (d) 1 member appointed by the Te Tāhuhu o Tawakeheimoa Trust; and
- (e) 1 member appointed by the Bay of Plenty Regional Council; and
- (f) 1 member appointed by the Rotorua District Council; and
- (g) 1 member appointed by the Tauranga City Council; and

- (h) 1 member appointed by the Western Bay of Plenty District Council.

4 Alternate Members

In order to provide continuity of meetings, alternate members have been appointed by each representative organisation in the event the appointed member is unable to attend. In this instance the alternate member assumes the position of the appointed member with full voting rights and contributes towards the quorum.

Where the appointed member is present at a meeting and an alternate member is also present, the alternate member cannot substitute for an appointed member and therefore assumes observer status with no voting rights and does not contribute towards the quorum.

5 Informal Members with Voting Rights

At its meeting on 14 June 2017, the Authority voted to invite Te Komiti Nui o Ngāti Whakaue to join Te Maru o Kaituna River Authority as an informal member with full voting rights. Ngāti Whakaue had previously held observer status on the Authority, in anticipation of full membership being granted as part of its own Treaty settlement. In acknowledgement of this settlement being delayed, the Minister for Treaty of Waitangi Negotiations supported Ngāti Whakaue seeking an “informal voting seat” on the Authority.

Te Maru o Kaituna River Authority supported Ngāti Whakaue’s informal membership, with that membership including full voting rights, on the condition that an additional Council member with the same status is also appointed. This reflects clause 5.18.2 of Tapuika’s Deed of Settlement, which provides for an additional Bay of Plenty Regional Council member to be appointed when Ngāti Whakaue gain formal membership through their Treaty settlement legislation.

It is recognised the informal voting member status is an interim step until formal membership can be confirmed through Ngāti Whakaue’s Treaty settlement negotiations and legislation (which is the only mechanism for formalising full and legal voting membership for Ngāti Whakaue with Te Maru o Kaituna River Authority). That Treaty settlement legislation will also formalise the additional Regional Council member.

As the two informal members with voting rights do not constitute formal membership at this time, their presence at a meeting cannot contribute to the quorum until such time as such membership is formalised through relevant Treaty settlement legislation.

6 Options for Achieving a Quorum

Option 1 - Current requirement

With the long term vacancy of the joint appointment by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha, and the unavailability of the Te Pumautanga o Te Arawa Trust representative to attend meetings on a regular basis, the only way to achieve a quorum is through compulsory attendance by the member for Tapuika Iwi Authority Trust and the member

for Te Tāhuhu o Tawakeheimoa Trust with the Deputy Chair assuming the role of the Chair.

The quorum requirements for Te Maru o Kaituna River Authority meetings are clearly defined in the Act: comprising of the Chair or Deputy Chair, two members from iwi organisations and two members from the local authorities. However, for the interim, taking into consideration the current “vacancies” (the joint seat of Tapuika Iwi Authority Trust and Te Kapu o Waitaha and the informal status of Te Komiti Nui o Ngāti Whakaue), members should be cognisant that with the Authority currently consisting only of seven members and with the requirement of five for a quorum, the following attendees will always be required to be present at meetings to constitute a quorum:

The chairperson (Tapuika Iwi Authority Trust) or deputy chairperson; and

2 members appointed by the iwi appointing organisations; (being Te Pumautanga o Te Arawa Trust and Te Tāhuhu o Tawakeheimoa Trust)

2 members appointed by the local authority appointing organisations.

Where the Te Pumautanga o Te Arawa Trust representative is unavailable to attend meetings the only way to achieve a quorum is for the Deputy Chair to assume the role of the Chair, the Chair then counts as one of the two members appointed by the iwi appointing organisations along with the member for Te Tāhuhu o Tawakeheimoa Trust.

Option 2 - Progress with filling the current vacancy for joint appointment by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha vacancy.

Nomination of a member jointly appointed by the Tapuika Iwi Authority Trust and Te Kapu o Waitaha is a matter for the relevant iwi appointing organisations and remains vacant at present. In a letter to the Deputy Chair, Cr Arepeta Tahana, received 11 September 2017, Te Kapu o Waitaha advised agreement with Tapuika Iwi Authority Trust could not be reached and therefore the seat would remain vacant for the 2017-2020 three year term.

This effectively means the number of members from iwi appointing organisations participating in meetings is reduced from four to three, thereby causing issues when the quorum requires two members from iwi appointing organisations.

This matter is a political issue that cannot be resolved by staff and therefore is a matter for the respective iwi governance bodies to resolve.

Option 3 - Formal appointment of the Te Pumautanga o Te Arawa Trust representative vacancy

Te Pumautanga o Te Arawa Trust gave notice on 24 July 2017 that it had reappointed Hakopa Paul as its primary member and Piki Thomas as its alternate member on the Authority.

Following the resignation of Hakopa Paul, Piki Thomas as the appointed alternate, has been representing Te Pumautanga o Te Arawa. Te Pumautanga o Te Arawa Trust has been asked to formally appoint a primary and alternate member however written advice is yet to be received. This has been followed up by the Committee Advisor on the Chairman's behalf.

Piki Thomas was scheduled to address the Authority at its meetings on 22 June 2018 and 24 August 2018 but was not in attendance whereafter the matter was deferred.

There have been issues with the alternate member's ability to attend meetings held in Tauranga due to conflicting commitments resulting in quorum issues.

Therefore until Te Pumautanga o Te Arawa Trust has formally notified the Authority of their representative appointments it is recommended that, in the interim, the Authority consider alternating the location of their meetings to enable the current alternate member to attend meetings, and thereby contribute to the quorum.

Additional actions

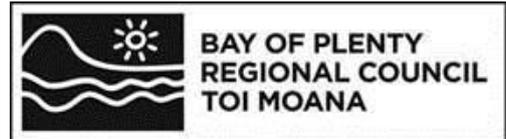
In order to ensure quorum requirements are met so that Te Maru o Kaituna River Authority meetings can proceed, it is important that all members are familiar with the requirements (these are included in the Te Maru o Kaituna Terms of Reference which are printed at the front of each meeting agenda) and any apologies for meetings are provided to the Chair or to the Regional Council Governance Team as soon as possible.

Once a meeting has been confirmed the Committee Advisor will ring all members to ensure the required number of members will be present at the meeting. This will be followed up by a further phone call three days before the scheduled meeting. On the direction of the Chairman, if a quorum cannot be raised, members will be notified and a meeting cancellation notice sent to all members and relevant parties.

Yvonne Tatton
Governance Manager

for Kaituna Catchments Manager

5 October 2018



Report To: Te Maru o Kaituna River Authority
Meeting Date: 19 October 2018
Report From: Yvonne Tatton, Interim Governance Manager

Governance Update

Executive Summary

This report updates members regarding the following administrative matters:

- Authority Membership Update
- Financial status as at 30 September 2018
- Proposed 2019 meeting schedule.

Recommendations

That the Te Maru o Kaituna River Authority:

- 1 Receives the report, Governance Update;**
- 2 Acknowledges the appointment of Piki Thomas as the appointed member and Rawiri Kingi as the alternate member for Te Pumautanga a Te Arawa Trust;**
- 3 Notes the financial position of the Authority as at 30 September 2018;**
- 4 Approves the proposed 2019 meeting dates for the Authority, being: 22 February, 22 March, 3 May, 28 June and 30 August.**

1 Membership - Te Pumautanga a Te Arawa Trust

Following the resignation of Hakopa Paul, Piki Thomas as the appointed alternate, has been representing Te Pumautanga o Te Arawa on the River Authority. Te Pumautanga o Te Arawa Trust has been asked to formally appoint a new primary representative.

Email correspondence received on 6 October 2018 from Te Pumautanga o Te Arawa Trust ([Appendix 1](#)) confirmed the following:

At a meeting of the Ngati Hinerangi / Ngati Hinekiri hapu on Saturday 6th October at Taheke Marae, Hakopa Paul tabled his resignation from Te Maru o Kaituna.

At the same meeting:

Piki Thomas was elected as the member onto Te Maru o Kaituna

Rawiri Kingi was elected as the alternate member onto Te Maru o Kaituna

Moved: Kawekura Samuels / Rangimaria Kingi

The requirements for membership of Te Maru o Kaituna River Authority are specified in the Tapuika Claims Settlement Act 2014 s118. As well as defining the qualifications for membership, the Act states that each member is appointed for a 3-year term and may be reappointed.

2 Budget 2018/2019

Te Maru o Kaituna River Authority (TMoK) received a grant of \$250,000 from the Crown to assist with costs associated with the initial operation of the Authority and preparation of the first Kaituna River Document.

TMoK, at its meeting on 24 August 2018, approved the 2018 – 2019 Budget as a starting point for refinement by Te Maru o Kaituna as part of considering the work program for 2018/219.

An overview of the approved budget with expenses to date as well as invoices/quotes for services yet to be paid as at 30 September 2018 is attached as [Appendix 2](#).

A summary of financial transactions incurred against TMoK funds at 30 September 2018 is included below:

Financial Statement at 30 September 2018

	Amount (\$) excl GST
Opening Balance - 1 July 2018	232,758.03
Printing (Kaituna River Document)	14,599.00
Promotions & Marketing (Kaituna River Brochure)	2,600
Stationary (silver pens)	34.70
Stickers, application of stickers and artwork amendment.	2,517.60
Videography for the first celebration at Moko Marae	3,000.00
Kaituna River Brochure Reprint	1,386.00
Accrued Interest	(3,650.86)
Closing Balance – 30 September 2018	212,271.59

3 2019 Hui Dates

Bay of Plenty Regional Council Toi Moana is currently finalising its proposed meeting schedule for 2019.

The following were taken into consideration in determining the proposed TMoK dates:

- An agreement amongst territorial authorities to keep Fridays open for joint committee meetings
- Development of the TMoK action plan
- Plan changes 5 & 12 timelines
- No meetings being convened for the months of October and November due to the scheduled 2019 Triennial Local Government Elections.

Authority members are asked to note and approve the following proposed meeting dates for Te Maru o Kaituna River Authority:

2019 Hui Dates – Te Maru o Kaituna River Authority

- Friday, 22 February – Action Plan Discussion
- Friday, 22 March – Plan Changes 5 & 12 and Action Plan discussion
- Friday, 3 May – Action Plan Focus
- Friday, 28 June - Plan changes 5 & 12 and finalise Action Plan
- Friday, 30 August - Plan changes 5 & 12

Merinda Pansegrouw
Committee Advisor

for Interim Governance Manager

11 October 2018

APPENDIX 1

Te Pumautanga a Te Arawa Trust Membership of Te Maru o Kaituna River Authority Update - Piki Thomas and Rawiri Kingi

From: [Piki Thomas](#)
To: [Pim De Monchy](#)
Cc: [Ngaroma Maika](#); [Merinda Pansegrouw](#); [Dean Flavell \(Dean.Flavell@tauranga.govt.nz\)](#); [Hakopa Paul](#); [Karen Vercoe](#)
Subject: Re: Te Pumautanga a Te Arawa Trust Membership of Te Maru o Kaituna River Authority
Date: Saturday, 6 October 2018 12:01:27 p.m.

Tena koutou.

Please be advised that at a meeting of the Ngati Hinerangi / Ngati Hinekiri hapu on Saturday 6th October at Taheke Marae, Hakopa Paul tabled his resignation from Te Maru o Kaituna

At the same meeting:

Piki Thomas was elected as the member onto Te Maru o Kaituna

Rawiri Kingi was elected as the alternate member onto Te Maru o Kaituna

Moved: Kawekura Samuels / Rangimaria Kingi

Regards, Piki

On Thu, 4 Oct 2018, 2:12 PM Pim De Monchy, <Pim.deMonchy@boprc.govt.nz> wrote:

Attention: Karen Vercoe (Chairperson) and Wally Tangohau (General Manager)

Tena korua,

At the Te Maru o Kaituna meeting on 27 April 2018, it was noted by the Authority that Hakopa Paul was no longer in New Zealand and that the alternate for Te Pumautanga a Te Arawa Trust, Piki Thomas, would be attending in his place until a new appointment had been made. To date no formal resignation from Te Pumautanga o Te Arawa, Hakopa Paul, had been received.

At Te Maru o Kaituna meetings held on 22 June and 24 August 2018 no representative

from Te Pumautanga a Te Arawa Trust was present.

It would be greatly appreciated if Te Pumautanga o Te Arawa Trust could provide guidance with regard to the future status of the appointment of Hakopa Paul as the appointed member/ attendance of representatives at future meetings. If you have any queries, please call me on 021 649 818.

Thank you for your co-operation.

Nga mihi

Pim de Monchy

TMOK Champion

Pim De Monchy

Kaituna Catchments Manager

Bay of Plenty Regional Council Toi Moana

P: 0800 884 880 **DD:** 0800 884 881 x8518

E: Pim.deMonchy@boprc.govt.nz

M: 021 649 818 **W:** www.boprc.govt.nz

A: PO Box 364, Whakatane 3158, New Zealand

Thriving together – mo te taiao, mo nga tangata

APPENDIX 2

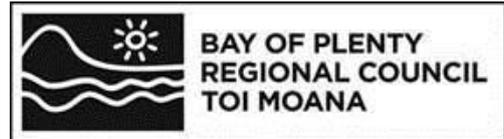
TMoK 2018-2019 Budget Update

Te Maru o Kaituna River Authority

2018-2019 Budget: 1 July 2018 - 30 June 2019

Budget Line	Description	Approved Amount (\$)	Actual as at 30 Sept	Invoices or quotes for services (yet to be paid)	Comments
Printing	Printing of 650 copies of the river document and 2000 summaries delivered June 2018	14,599	14,599		
Videography	Videography / photography of the two celebrations – 22 June and September	5,000	3,000	2,000	\$2,000 (Videography for public celebration)
Design and publishing of document	Last invoice for design and publishing of document, correction and reprinting summary	2,518	2,517.60		
Communications	External communications including media, social media, newsletters, and print advertising as required	2,000			
Public celebration – approval of Kaituna River Document	Event management, venue, koha, catering, invitations, equipment, publicity/advertising	10,000		7,496.06	\$3,340.00 (NZME Advertising for the Public celebration) \$4156.06 (Event management, traffic and first aid, waka, entertainment, PA equipment, generator, toilets and incidentals: sunscreen, insect repellent, rubbish bags)
Production of te reo summary document if required.	Summary, translation, design and printing.	5,000			

Publishing and printing document	Professional printing if required for further copies of the river document, summary or action plan material. Lesser quality docs = \$5 each	2,000			
Development of the action plan	<ul style="list-style-type: none"> Engagement of consultant Setting up process, engagement with iwi & key stakeholders venue, koha, catering external specialist support as needed e.g. technical, planning 	20,000		20,229	Overspent \$229 (Refer to item on Action Plan)
External advice from consultants	Technical, historical, translation, cultural, and legal research and advice (outside of BOPRC internal staff time deemed business-as-usual) as required	5,000			
Implementation of outcomes and actions	<p>To progress the delivery of desired outcomes such as:</p> <ul style="list-style-type: none"> Environmental education programs Contribution or promotion of priority restoration, protection and enhancement projects Pou and other appropriate markers Matauranga Māori toolkit to support KRD objectives. Members should note that the Regional Council is undertaking work on method 44; Mauri Monitoring, and the mātauranga Māori Framework (He Korowai Mātauranga). Preparation of a toolkit should be cognisant of these projects 	10,000			
Total		\$76,117			



Receives Only – No Decisions

Report To: Te Maru o Kaituna River Authority

Meeting Date: 19 October 2018

Report From: David Phizacklea, Regional Integrated Planning Manager

Freshwater policy update

Executive Summary

This report provides an update on work being undertaken to progress freshwater management policy, including work underway to support implementation of the National Policy Statement for Freshwater Management (NPS-FM) relevant to the Kaituna River catchment.

Key activities of focus since the last update include:

- Regional-wide Water Quantity Plan Change (Plan Change 9) - Council's decision was notified on 9 October 2018. The period for appeals closes on 21 November 2018.
- Change 3 (Rangitaiki River) to the Bay of Plenty Regional Policy Statement (RPS) became operative on 9 October 2018 which completes the process of embedding the Rangitāiki River document into the RPS and provides the framework for the Kaituna River Document.
- Proposed Change 5 (Kaituna River) to the RPS - Council's Regional Direction and Delivery Committee will be considering the timing and process for progressing Change 5 at its meeting on 30 October 2018.
- Draft Plan Change 12 (Kaituna-Pongakawa-Waitahanui and Rangitāiki WMA). Catchment modelling is nearly complete. Further technical work is being progressed which should provide a more complete picture of the issues for the catchment.
- Release of the Government's blueprints for freshwater [Essential Freshwater Healthy Water, Fairly Allocated](#) and [Shared Interests in Freshwater](#) on 8 October 2018 which outline the key actions government will be taking in the freshwater management space over the next two years. This work acknowledges that water quality cannot be addressed without a concurrent and substantive discussion with Māori.

Recommendations

That the Te Maru o Kaituna River Authority:

- 1 Receives the report, Freshwater policy update;

1 Purpose

The purpose of this paper is to provide an update to Te Maru o Kaituna River Authority (TMOk) on activities relevant to the Kaituna River catchment being progressed to improve the management of freshwater and implement the National Policy Statement for Freshwater Management (NPS-FM).

2 National changes

2.1 *Essential Freshwater Healthy Water, Fairly Allocated*

The Government released their new blueprint for freshwater [Essential Freshwater Healthy Water, Fairly Allocated](#) on 8 October 2018. It outlines the key actions government intent to take in the freshwater space over the next two years.

The three key objectives of the government focus are on:

1. stopping further water quality degradation and loss
2. reversing past damage in at risk catchments
3. addressing water allocation

The blueprint signals a review of the NPS-FM and a new National Environmental Standard programmed for public consultation in 2019 and operative in 2020 as well as an RMA amendment bill late 2018/ early 2019. Work streams are also underway about at risk catchments, water allocation, and exclusion of stock from waterways.

The Government will bring experts together to test policy options and provide advice on how to achieve the freshwater objectives outlined above. These groups will build on the significant contributions made by the Land and Water Forum and the Iwi Leaders Group who have improved our understanding of complex freshwater management issues.

2.2 *Shared Interests in Freshwater: A new approach to the Crown/Māori relationship for freshwater*

The Government also announced on 8 October 2018 [a plan](#) to improve freshwater quality which acknowledges that water quality cannot be addressed without a concurrent and substantive discussion with Māori.

2.3 **LAWA - 10 Year River Quality Trends**

Land, Air, Water Aotearoa (LAWA) have released new 10-year river quality trends information on the [LAWA website](#) on 4 October 2018. This round adds a ninth water quality indicator- Macroinvertebrate Community Index (MCI). It should be noted that whilst these trends are sufficient to provide a national picture, the data used for some water quality indicators is not statistically significant enough to draw regional trends or comparisons.

3 Regional Plan Changes

Bay of Plenty Regional Council - Toi Moana is actively working on several freshwater plan changes to the operative Regional Policy Statement (RPS) and Regional Natural

Resources Plan (RNRP) relevant to the Kaituna catchment, freshwater and the river document:

3.1 **Proposed Plan change 9 to the RNRP Region-wide Water Quantity**

On 18 September 2018, Bay of Plenty Regional Council's-Regional Direction and Delivery Committee decided to adopt the hearing panel recommendations on the Region-wide water Quantity Proposed Plan Change 9 (PPC9). The decision was notified on 9 October 2018. The period for appeals will close on 21 November 2018.

PPC9 is part of a two-step process towards improving water quantity and quality management in the Bay of Plenty. Plan change 12 is the catchment-specific plan change being developed. Work is already underway for the Kaituna-Pongakawa-Waitahanui and Rangitāiki Water Management Areas (WMA) which are programmed to be public notified next year.

3.2 **Change 3 (Rangitāiki River) to the Regional Policy Statement**

Appeals have been resolved and consent orders approved by the Environment Court enabling Regional Council to complete the process of embedding the Rangitāiki River document – *Te Ara Whanui o Rangitāiki* into the Regional Policy Statement. Proposed Change 3 became operative on Tuesday 9 October 2018.

3.3 **Proposed Change 5 (Kaituna River) to the Regional Policy Statement**

Now the Kaituna River Document has been approved, Toi Moana and Te Maru o Kaituna River Authority are required to progress the second Treaty Co-governance change to the Regional Policy Statement to recognise and provide for the vision, objectives and desired outcomes of *Kaituna, He Taonga Tuku Iho* - the Kaituna River document. There is a separate paper on the agenda about preparing Proposed Change 5 (Kaituna River).

4 **Plan change 12 – Kaituna- Pongakawa-Waitahanui and Rangitāiki Water Management Areas and regional components**

The key purpose of this work is to deliver catchment specific freshwater objectives based on freshwater values for the Kaituna-Pongakawa-Waitahanui and Rangitāiki Water Management Areas (WMA). The outcome being to set catchment specific appropriate water quality and quantity limits and methods to support the freshwater objectives by way of a change to the Regional Natural Resources Plan (RNRP).

Plan Change 12 is also intended to include some region-wide components, such as the NPS-FM framework, review of the stock exclusion provisions, and implementing the contact recreation (or swimmability) part of the NPS-FM. The change must also recognise and provide for the vision, objectives, and desired outcomes of the Kaituna River Document 'Kaituna, *he taonga tuku iho* – a treasure handed down' and also give effect to Change 3 (Rangitāiki River) which recognises and provides for the vision, objectives and desired outcomes of the Rangitāiki River Document '*Te Ara Whanui o Rangitāiki* - Pathways of the Rangitāiki'.

The biophysical catchment modelling is nearly complete. In the Kaituna-Pongakawa-Waitahanui WMA the preliminary science suggests our focus should be on sediment, nitrogen and phosphorus key source areas generated by human activities, particularly in the lower catchments, continuing to improve trends (e.g, ammonia in Kaituna River

at Te Matai), addressing worsening *E. coli* trends in Pongakawa catchment and water bodies within C or D bands, avoiding increasing in *E. coli*, nitrogen, phosphorus or sediment if land use and practices change in the estuary catchments.

Further work to 'test' and validate the model is ongoing. Once complete, additional scenarios will be modelled next year with more conclusive findings then considered for inclusion in a discussion document scheduled for later in the year.

Council have agreed staff must finalise modelling and present the results in a simpler and more user friendly way before the information will be ready to share with iwi, TMoK and community groups. The catchment modelling results will be provided to TMoK at its next hui when work on the coastal receiving environments should provide a more complete picture of the issues for the catchment.

4.1 Technical work in progress

Other technical work currently underway includes:

- Coastal receiving environments – which includes Maketū and Waihi estuaries
- Groundwater modelling
- Surface water quantity - what minimum flows and allocation limits support habitat for key species and reliable supply?
- Reporting gap filling science - lowland drainage network water quality, springs, tributaries, periphyton.

4.2 Working with tangata whenua

The current engagement focuses on further identifying (exploring and refining) tangata whenua values and interests related to fresh water, working with iwi about how they would like to be involved going forward and sharing the science findings on freshwater as they come to hand.

Staff are continuing to make progress as and when iwi authorities are available. This includes checking with iwi authorities to:

- Make sure the right information has been captured about tangata whenua values and interests.
- Ensure the water conditions that might best support those values are understood (eg, minimum flows or water levels, or measures of water quality).
- Explore modelling results as soon as a more complete picture of the issues in the catchment is available.

It is expected that TMoK members will continue to be conduits to promoting involvement in the freshwater work being undertaken by Toi Moana. Regional Council staff are open to invitations to discuss with iwi, hapū and other tangata whenua entities with interests in fresh water, such as key Māori land trusts.

4.3 Community Group Workshop 8

The Kaituna and Pongakawa community groups came together in a combined workshop on 26 September 2018 where they considered what preliminary surface water quality modelling results might mean in terms of the preferred states they had

set and also objectives set in the river document. Modelling results included *E. coli* concentrations; sediment, nitrogen and phosphorus loads and source areas. All [community group material](#) including briefing notes, workshop records, reports and presentations and hui-a-iwi notes are available on Council's website.

5 Implications for Māori

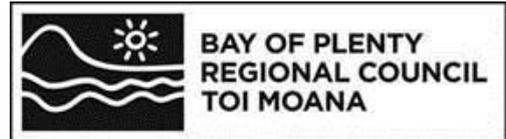
The Kaituna River and its catchment is significant to iwi and hapū with regard to cultural and traditional relationships with the ancestral water bodies, and also as landowners. The implications for Māori are extensive, particularly with respect to how freshwater will be managed, the extent to which mātauranga Māori will be acknowledged and opportunities for enhanced participation in decision making. With the passing of the Resource Legislation Amendment Act 2017, Toi Moana acknowledges that the new provisions relating to enhanced participation by Māori in the planning processes and has recently initiated a survey to gauge involvement via the E-Panui.

For the Kaituna-Pongakawa-Waitahanui catchments opportunities for Māori involvement in freshwater discussions will continue to be provided for through Change 5 (Kaituna River) to the Regional Policy Statement and Plan Change 12 to the Regional Natural Resources Plan process. Staff are reviewing available information on iwi/hapū values and interests and analysing biophysical modelling results and awaiting more of the technical work to be able to share a more complete picture of modelling results before engaging in greater detail over the next period.

Jo Watts
Senior Planner (Water Policy)

for Regional Integrated Planning Manager

10 October 2018



Receives Only – No Decisions

Report To: Te Maru o Kaituna River Authority

Meeting Date: 19 October 2018

Report From: David Phizacklea, Regional Integrated Planning Manager

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

Executive Summary

The Bay of Plenty Regional Policy Statement is required to recognise and provide for the vision, objectives and desired outcomes of *Kaituna, He Taonga Tuku Iho* - the Kaituna River document. This report advises on the commencement of this mahi.

The first treaty co-governance change to the Regional Policy Statement has recently been completed for the Rangitāiki River. With the approval of the Kaituna River Document, the Regional Council is now required to progress a change to the Regional Policy Statement. Preparation of the draft change – Change 5 (Kaituna River) is budgeted in Council's Long Term Plan 2018-2028. It is intended to work closely with Te Maru o Kaituna members in drafting the change.

The authority to prepare, approve and decide on the change to the Regional Policy Statement sits with the Bay of Plenty Regional Council. The timing and steps for progressing Change 5 is intended to be reported to the Regional Direction & Delivery Committee of Council on 30 October 2018 for approval.

In that paper it is recommended Change 5 be progressed in tandem with the freshwater plan change to the Bay of Plenty Regional Natural Resources Plan for the Kaituna-Pongakawa-Waitahanui and Rangitaiki water management areas (referred to as Plan Change 12). This will ensure alignment of these two Resource Management Act processes.

Recommendations

That the Te Maru o Kaituna River Authority:

- 1 Receives the report, Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement.**
- 2 Notes Te Maru o Kaituna River Authority will be involved throughout the project's key stages.**

1 Purpose

To provide an overview of the intended process to recognise and provide for the *Kaituna, He Taonga Tuku Iho* (the Kaituna River document) in the Bay of Plenty Regional Policy Statement.

2 Treaty Settlement Acts effect on Regional Policy Statement

Section 123 of the Tapuika Claims Settlement Act 2014 compels Bay of Plenty Regional Council to recognise and provide for the vision, objectives and desired outcomes of the Kaituna River Document in the operative Bay of Plenty Regional Policy Statement (RPS) and the Regional Natural Resources Plan (RNRP). Section 123 states:

Effect on Resource Management Act 1991 planning documents

(1) 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.

(2) The local authority must comply with subsection (1) each time that it prepares or changes its regional policy statement, regional plan, or district plan.

(3) Until the obligation under subsection (1) is complied with, where a local authority is considering an application for a resource consent to authorise an activity to be undertaken within the catchment of the Kaituna River, the local authority must have regard to the Kaituna River document.

(4) To avoid doubt,—

- (a) the obligations under subsections (1) to (3) apply only to the extent that the contents of the Kaituna River document relate to the resource management issues of the region or district; and*
- (b) the obligations under subsection (1) apply only to the extent that recognising and providing for the vision, objectives, and desired outcomes of the Kaituna River document is the most appropriate way to achieve the purpose of the [Resource Management Act 1991](#) in relation to the Kaituna River.*

(5) In this section, a reference to a plan or a policy statement includes a reference to a proposed plan or a proposed policy statement.”

The requirement to ‘*recognise and provide for*’ is a stronger legislative directive than to ‘*have particular regard to*’ the Kaituna River Document. The Ngāti Manawa and Ngāti Whare Treaty Settlement Acts 2012 also included the same requirement.

Regional Council is required to amend the RPS and RNRP to recognise the Kaituna River Document the next time a relevant RPS and RNRP change will affect the Kaituna River catchment. Until this occurs, councils considering resource consents to authorise activities within the Kaituna River catchment must have regard to the Kaituna River Document.

2.1 Requirement to ‘recognise and provide for’

Legally the requirement to ‘*recognise and provide for*’ is a stronger directive than ‘*having particular regard to*’.

Similar terms are used in Part 2 ‘Purpose and Principles’ of the RMA. Section 6 (Matters of national importance) requires persons exercising functions and powers to **recognise and provide for** several matters in relation to managing the use, development and protection of natural and physical resources including:

- (c) the protection of significant indigenous vegetation and significant habitats of indigenous fauna; and
- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Section 7 (Other matters) requires persons exercising functions and powers under the RMA to **have particular regard to** several matters in relation to managing the use, development and protection of natural and physical resources. Such matters include Kaitiakitanga, intrinsic values of ecosystems, the effects of climate change, and the benefits to be derived from the use and development of renewable energy.

There is a cascading effect in terms of the legislative weighting afforded to the provisions of Part 2 of the RMA. It is well established that the requirement to recognise and provide for various matters of national importance (under section 6) has greater judicial weighting than the requirement to have particular regard to (under section 7).

3 Treaty Co-Governance and the Regional Policy Statement

Proposed Change 5 is the second treaty co-governance change to the Regional Policy Statement. On the 9 October 2018 Change 3 (Rangitāiki River) to the RPS became operative. Change 3 is the baseline template for Proposed Change 5 (Kaituna River) to the RPS. Change 3 introduces a new Treaty Co-governance chapter into Part 2 of the RPS which will house the Kaituna River RPS change and the subsequent Treaty Co-governance change for Tauranga Moana.

The *Kaituna River Document* contains a vision, eight objectives and associated desired outcomes. Unlike the Rangitāiki River Document, it does not contain an action plan as the Tapuika Claims Settlement Act 2014 stipulates that it cannot contain any rules or other methods for achieving the purpose of the river document. The Rangitāiki River Document actions were utilised to formulate the Change 3 policy framework. The absence of detailed actions in the Kaituna River Document will make the crafting of detailed policies more challenging for staff.

4 Alignment with Plan Change 12

An important consideration is the integration and alignment of Proposed Change 5 (Kaituna River) to the RPS with Plan Change 12 (Kaituna, Pongakawa, Waitahanui and Rangitāiki Water Management Areas (WMA)) to the Regional Natural Resources Plan (RNRP). Careful consideration needs to be given to the timing of these two RPS and RNRP changes as it has the potential to be confusing for people. It makes sense to time these processes to run in parallel so affected communities can consider Kaituna River catchment provisions in tandem. The current timeframe for notifying Proposed Change 12 (WMA) to the RNRP is late 2019.

5 Next Steps

The *Kaituna River Document - Kaituna, he taonga tuku iho – a treasure handed down* is owned by Te Maru o Kaituna River Authority. Te Maru will be actively involved in this project during the policy development process.

The opportunity to provide input and comment on the development of Proposed Change 5 will be provided to stakeholders consulted during development of the Kaituna River Document.

Change 3 took just over three years from initial project planning and policy drafting to making it operative. Change 5 will involve a similar timeframe although staff are recommending the RPS change be progressed in tandem with Plan Change 12 (Kaituna-Pongakawa-Waitahanui and Rangitāiki water management areas) to the Regional Natural Resources Plan. This will ensure greater alignment of these two Resource Management Act processes.

5.1 Timeline

The table below provides an overview of the key phases for developing and notifying Proposed Change 5.

Timeframe	Action
30 October 2018	Regional Direction and Delivery Committee approves commencement of Proposed Change 5 process
14 January 2019	Draft Proposed Change 5 ready for consultation
February 2019	Regional Direction and Delivery Committee approve Draft Proposed Change 5 for consultation
February - April 2019	Consultation (internal and external)
February – July 2019	Proposed Change 5 policy and section 32 evaluation finalised, incorporating consultation feedback and legal review
August 2019	Regional Direction and Delivery Committee approve Proposed Change 5 for notification
September 2019	Notification of Proposed Change 5. Schedule 1 submissions process commences.

6 Implications for Maori

Proposed Change 5 has significant implications for Tapuika iwi in particular as it gives effect to their treaty settlement legislation. It is also of significance to other iwi members of Te Maru o Kaituna River Authority including Waitaha, Ngāti Rangiwewehi, Ngāti Whakaue and Te Arawa represented by Te Pūmāutanga o Te Arawa, particularly Ngāti Pīkiao.

Proposed Change 5 will enshrine the vision, objectives and desired outcomes of the *Kaituna River Document - Kaituna, he taonga tuku iho – a treasure handed down*

within the Regional Policy Statement. Iwi and hapū have high aspirations in terms of the practical effect Proposed Change 5 will have on the Kaituna River and its tributaries which are taonga (treasures) – valued for their clean water, healthy ecosystems, unique landscape, natural beauty, recreational and cultural values. District and regional plans will need to give effect to, and resource consents decision making processes will need to have regard to, the Regional Policy Statement policy framework.

Nassah Steed
Programme Leader (Statutory Policy)

for Regional Integrated Planning Manager

9 October 2018

