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Jennifer Caldwell
Panel Convener
Environmental Protection Authority



Te Maru
o Kaituna

Tēnā koe Jennifer

Wairākei South (FTAA-2605-1227): Response to Minute 2 of the Panel Convener

Thank you for the opportunity to provide early feedback on the composition of the panel and the process for considering the Wairākei South application.

This response is intended to assist you to establish a panel and process that reflect the scale and complexity of the application and enable the Kaituna River Framework to be properly understood and addressed. It is a preliminary procedural response based on my review of the application material available to date and should not be treated as TMOk's final collective position on the merits of the application.

KAITUNA RIVER FRAMEWORK

The Kaituna River Framework was negotiated and legislated as Treaty settlement redress. It comprises Te Maru o Kaituna River Authority (TMOk) and the Kaituna River Document (KRD).

Together, TMOk and the KRD provide the statutory body and substantive direction through which the intent, integrity and effect of the Kaituna River Framework are upheld.

Te Maru o Kaituna River Authority

TMOk is a statutory co-governance partnership established through the Tapuika Claims Settlement Act 2014. Its purpose is to *promote the restoration, protection and enhancement of the environmental, cultural and spiritual health and well-being of the Kaituna River*.

TMOk provides the collective statutory forum through which River iwi and local authorities work together for the river. Its members are:

- River iwi: Tapuika Iwi Authority, Te Kapu o Waitaha, Te Pūmautanga o Te Arawa, Te Tāhuhu o Tawakeheimoa and Te Komiti Nui o Ngāti Whakaue.
- Local authorities: Bay of Plenty Regional Council; Rotorua Lakes Council; Western Bay of Plenty District Council; and Tauranga City Council.

Kaituna River Document

The KRD is a statutory document prepared by TMOk under the Tapuika Claims Settlement Act 2014. It sets the collective vision, objectives and desired outcomes for the Kaituna River and its tributaries.

The KRD's vision, objectives and desired outcomes have been recognised and provided for through provisions introduced into the Bay of Plenty Regional Policy Statement (RPS) by Change 5. Those operative RPS provisions carry statutory weight in resource-management decision-making.

Relevance to Wairākei South

The Wairākei South site is within the Kaituna River co-governance area, as shown in the attached map. The Framework is therefore directly relevant to the composition and expertise of the panel, the assessment process, and the development of any conditions.

MY ROLE IN SUPPORTING TMOk

As Kaiārahi, I provide strategic and cross-system support to help TMOk operate as an effective co-governance partnership and uphold the intent, integrity and effect of the Kaituna River Framework. This includes identifying emerging issues, translating complex reform and development processes into clear strategic advice, and supporting connection and coordination across TMOk member organisations between formal meetings.

My role includes regular engagement with River iwi representatives, iwi authority staff and relevant council officers. It does not replace the authority of TMOk members or the separate mandates and interests of individual iwi authorities or councils. Rather, it provides a cross-system perspective to support TMOk's collective voice and identify connections, gaps and overlaps.

I bring to this role my experience as a Full Member of the New Zealand Planning Institute and an accredited hearing commissioner through the Making Good Decisions programme.

WHY THIS APPLICATION REQUIRES TIME AND THE RIGHT EXPERTISE

My preliminary assessment of this application has focused on two questions:

- to what extent the Wairākei South proposal may support, or place further pressure on, restoring, protecting or enhancing the environmental, cultural and spiritual health and well-being of the Kaituna River and its tributaries; and
- to what extent the proposal aligns with, or contributes to, the vision and outcomes of the Kaituna River Document.

It is not a full technical assessment or an assessment of iwi-specific cultural effects. Those matters remain for the relevant technical experts, iwi and hapū, and TMOk's collective processes.

Based on my preliminary assessment, **the Wairākei South application is complex** because of its scale and long staging period, the number and interdependence of approvals and technical assessments, the site's peat, groundwater and flood characteristics, and its reliance on permanent drainage, pumping, stormwater and wetland systems. These features raise connected questions about freshwater habitat and tuna passage, climate-change and failure scenarios, and the long-term ownership, funding, maintenance and monitoring of infrastructure relied on to manage effects on the awa and its receiving environments.

There are also multiple iwi, hapū, Treaty settlement and co-governance interests. These interests may overlap, but they are not interchangeable. The process needs to recognise both TMOk's collective Kaituna River Framework role and the separate roles and mandates of individual iwi authorities.

For these reasons, efficiency should not be measured only by how quickly a decision can be issued. An efficient process is one that identifies the important issues early, provides the right expertise, and resolves technical, cultural and condition-related matters in the correct sequence.

ENGAGEMENT TO DATE

I have no concerns about the applicant's willingness and efforts to engage with TMoK. The applicant's representative has presented to TMoK twice and remained available for a further presentation. That presentation did not proceed because the planned TMoK workshop was postponed.

That engagement is acknowledged and appreciated. However, engagement with TMoK is not, by itself, evidence that the Kaituna River Framework has been properly addressed. The application must also show how the outcomes of that engagement, including relevant recommendations, have informed the AEE, the proposal design, the conditions and the implementation arrangements.

INFORMATION THAT STILL NEEDS TO BE DRAWN TOGETHER

I acknowledge that the proposed change in land use, wetland network, stormwater treatment, indigenous planting and ecological restoration for Wairākei South have the potential to contribute positively to the health of the awa.

The issue is whether those anticipated benefits are clearly demonstrated, secured and capable of enduring throughout the life of the development.

My preliminary review has identified the following matters that may require clarification or further targeted assessment. They are identified at this stage because they inform the expertise required on the panel and the process and timeframe needed to consider the application properly from a TMoK perspective:

- **There is no integrated assessment against the Kaituna River Document and relevant RPS provisions.** This is needed to show whether the proposal will contribute to, or undermine, the statutory vision and outcomes established for the Kaituna River.
- **The application does not provide a clear overall account of the effects of changing the site from pastoral to urban land use.** TMoK needs to understand whether the proposal will improve, maintain or place further pressure on the health of the Kaituna River and Te Awa o Ngātoroirangi/Maketū Estuary (receiving environment).
- **Water-quality effects are not assessed across the full development lifecycle.** A comparison is needed between existing rural losses, construction discharges, untreated urban loads and expected loads after stormwater and wetland treatment, so the overall implications for the Kaituna River and Te Awa o Ngātoroirangi/Maketū Estuary can be understood. The assessment should also demonstrate alignment with the National Policy Statement for Freshwater Management and the freshwater outcomes sought for Te Awa o Ngātoroirangi/Maketū Estuary.
- **The long-term sediment risks from the proposed earthworks are not yet clear.** The scale of earthworks, approximately 9.1 million cubic metres of material and a 15–20 year staging period, create potential risks to downstream water quality, particularly during extreme rainfall and transitions between stages.

- **The source and suitability of imported fill require clarification.** This is important because unsuitable or contaminated fill could affect groundwater, drainage systems and downstream receiving environments connected to the Kaituna River.
- **The long-term performance of the stormwater and wetland system is unclear.** TMOk needs confidence that the system will continue to protect water quality, freshwater habitat and the health of the Kaituna River through clear arrangements for sequencing, ownership, funding, maintenance, monitoring and accountability.
- **It is not yet clear how tuna passage and habitat will be protected throughout construction and operation.** This includes risks associated with temporary and permanent pumps, culverts, flap gates and other control structures, and how safe passage and ecological connectivity will be maintained. This is important because tuna are a taonga species, and their safe movement, habitat and ecological connectivity are closely linked to the health of the Kaituna River.
- **The proposal lacks clear and measurable water-quality and ecosystem-health outcomes.** Measurable standards, monitoring and responses to non-performance are needed to ensure that anticipated benefits for the Kaituna River are actually achieved and maintained.
- **The proposed approach to cultural health and mauri monitoring is unclear.** Further information is needed on what is intended by mauri monitoring, who would develop and undertake it, how mātauranga and tikanga would be protected, how results would inform decisions, and how the process would be secured through conditions or other implementation arrangements.
- **It is unclear how relevant cultural impact assessment and iwi-engagement recommendations have shaped the proposal.** This matters to TMOk because recommendations relating to the health and well-being of the Kaituna River need to be translated into clear design responses, management measures and enforceable conditions.

It is also noted that the AEE does not assess the relevant iwi planning documents for Ngā Pōtiki and Ngāti Whakaue ki Maketū, despite their provisions relating to the Wairākei area.

CONSENT CONDITIONS

The proposed conditions provide a starting point. However, a number of material matters appear to be absent, broadly expressed or deferred to later management plans or detailed design.

PANEL COMPOSITION

The panel should collectively have experience in major urban development and resource management decision-making; hydrology, stormwater, groundwater, peat and natural hazards; freshwater quality and ecology, wetland systems and fish passage; Treaty settlement implementation; tikanga Māori; and statutory river or freshwater co-governance.

Given the scale, long staging period and nature of the application, the multiple approvals sought, and the matters relating to iwi participation and the Kaituna River Framework, a panel of more than four members may be warranted if needed to secure the appropriate collective expertise.

Section 116(2)(e)(ii) of the Tapuika Claims Settlement Act 2014 expressly provides for TMoK to give advice and recommendations to local authorities on the appointment of commissioners to hear and decide applications for resource consents under the Resource Management Act 1991 that affect the river. Although this application is being determined under the Fast-track Approvals Act 2024, the provision demonstrates statutory recognition of TMoK's interest in the expertise of decision-makers considering applications that may affect the Kaituna River.

I recommend Antoine Coffin and/or Siani Walker for consideration. Their commissioner, tikanga and river co-governance experience would be directly relevant to the panel's task.

PROCESS STEPS THAT WOULD ASSIST THE PANEL

I consider that the following steps would support an efficient and well-informed process:

- targeted requests for further information on the matters identified above.
- a panel site visit covering the application site, key drainage and wetland interfaces, associated flood-management infrastructure such as stopbanks and pumps, and Te Awa o Ngātoroirangi/Maketū Estuary as the ultimate receiving environment.
- a TMoK briefing on the statutory basis and practical relevance of the Kaituna River Framework.
- technical conferencing on material matters that remain unresolved.
- an iterative review of draft conditions, using clean and tracked versions, once the relevant technical, cultural and condition-related matters have been clarified.

Any process involving tikanga, mātauranga or culturally sensitive information should be developed with relevant iwi.

DECISION TIMEFRAME

Given the scale, duration of proposed staging and complexity of the application, the decision period and procedural timetable should allow sufficient time for TMoK and individual iwi authorities to review material, obtain technical advice, communicate internally, and complete their respective authorisation processes.

I ask that the timeframe established for the panel process be sufficient to accommodate meaningful invited comments, responses to further information, targeted technical or cultural processes, and iterative review of draft conditions. To the extent available under the FTAA, realistic timeframes should be provided for each of those steps.

This is important because TMoK's collective response must be coordinated alongside the separate processes and mandates of individual iwi authorities. Compressed timeframes risk producing fragmented or insufficiently authorised responses and may limit the panel's ability to resolve issues efficiently. This is not a request for unnecessary delay. It is intended to ensure that participation is informed, properly authorised and capable of contributing to clear, workable and enduring conditions.

Thank you again for the opportunity to provide this early procedural input. I trust it will assist in establishing a panel and process that are proportionate to the application and capable of properly addressing the Kaituna River Framework.

I would welcome the opportunity to assist further through a TMoK briefing, site visit or other process considered useful by the panel.

Nāku noa, nā



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Te Maru o Kaituna River Authority



Te Maru o Kaituna River Authority co-governance area

Legend

-  Marae Location
-  Co-governance Area
-  Urban Areas
-  Territorial Boundary
-  State Highway

Landcover

-  Agriculture
-  Indigenous Vegetation
-  Forestry
-  Horticulture

The co-governance area approx. 582km², is co-governed by the statutory body Te Maru o Kaituna (The Kaituna River Authority).

There are other marae outside the co-governance area which have associations with marae inside it but have not been shown here.

