

**SUBMISSION OF IWI OF HAURAKI
ON
PLAN CHANGE 1/VARIATION 1 TO WAIKATO REGIONAL PLAN**

1. This submission by Iwi of Hauraki on Plan Change 1/Variation 1 to the Waikato Regional Plan (Proposal) is on the entire Proposal.
2. Parts of the Proposal do not:
 - (a) Promote the sustainable management of natural and physical resources;
 - (b) Recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;
 - (c) Take into account the principles of the Treaty of Waitangi;
 - (d) Give effect to Vision and Strategy for the Waikato River;
 - (e) Give effect to the National Policy Statement for Freshwater Management 2014.
3. In addition:
 - (a) The catchments in the rohe of Iwi of Hauraki are of great spiritual, cultural, customary, ancestral and historical significance.
 - (b) Tāngata Whenua Ancestral Land within the Waikato River and Waipa River catchments has been systematically alienated as a result of colonisation and breaches of the Treaty of Waitangi, and therefore not available for use.
 - (c) After inquiries into historical breaches of the Treaty of Waitangi and Crown negotiations, Iwi of Hauraki are in the process of having ancestral lands returned to them.
 - (d) It is necessary to ensure Treaty settlements are not prejudiced and devalued by an oppressive planning framework.
4. Further reasons for the submission are detailed with the relief sought in Schedule 1 to this submission.
5. Iwi of Hauraki seek:
 - (a) Amendments to the Proposal to address the above matters, including those set out in Schedule 1 (track change format) to this submission (or words of like effect); and
 - (b) Such further, consequential or other relief to address this submission.
6. The proposed changes are within the scope of Variation 1/Plan Change 1, particularly as they relate to the withdrawn area that is reinstated by Variation 1. The Waikato Regional Council therefore needs to ensure its summary of submissions fully reflects this submission in its entirety.

7. To the extent Council considers there are issues of scope arising from this submission, Council can treat it as one also made on Plan Change 1 and exercise its power under the RMA to waive the time limit for filing submissions. This course would be appropriate as Iwi of Hauraki could not make a submission on Plan Change 1 when it was engaging in good faith consultation with Council regarding the content of the changes given the failure to consult Iwi of Hauraki. In the context where a summary of submissions to Plan Change 1/Variation 1 will be published together and further submissions called for, no prejudice would arise.
8. Iwi of Hauraki will be heard in support of this submission.
9. If others make a similar submission, Iwi of Hauraki will consider presenting a joint case with them at a hearing.
10. Iwi of Hauraki could not gain an advantage in trade competition through this submission.

23 May 2018



Paul Majurey / Rowan Ashton

on behalf of Iwi of Hauraki

Atkins Holm Majurey Ltd
Level 19, 48 Emily Place
PO Box 1585, Shortland Street
Auckland 1140

(09) 304 0294

paul.majurey@ahmlaw.nz /rowan.ashton@ahnmlaw.nz

SCHEDULE 1

PROVISION	PROPOSED AMENDMENTS (OR WORDS OF LIKE EFFECT)	REASONS
Background and explanation	<p>Insert text (English and translated Te Reo Maori version):</p> <p><u>Mana Whenua</u></p> <p><u>Mana whenua of the Waikato and Waipa river catchments have enduring customary interests and relationships with the watercourses and wetlands of the catchments. Ongoing Treaty Settlements provide measures that enable mana whenua to fulfil their intergenerational responsibilities as kaitiaki. The rohe of iwi do not always align with catchment boundaries, and it is expected that as further Treaty Settlements and co-management agreements develop, there will be a need to consider the consistency and relevance of water quality management within and across rohe. Also, refer to Section 2.2 of the Waikato Regional Plan. Section 2.2 provides a description of the iwi of the Waikato region and a summary of the key resource management issues affecting them within their respective rohe</u></p>	<p>This description of Mana Wheuna provides necessary and appropriate context for the Proposal.</p> <p>The definition is consistent with the s 2 RMA definition and is particularised to the context of the Waipa and Waikato Rivers.</p>
Background and explanation	<p>Delete text regarding consultation:</p> <p>“Consultation</p> <p>Schedule 1 of the RMA includes requirements to consult with certain parties, including iwi authorities, during the preparation of the Variation. Consultation has taken place with affected parties including the relevant iwi authorities and the issues raised during consultation have been taken into account by Waikato Regional Council in the development of Variation 1. Consultation has led to a Variation to Proposed Plan Change 1.”</p> <p>Insert text regarding Pare Hauraki worldview (English and translated</p>	<p>The Proposal text regarding consultation is superficial and inconsistent with the Proposal.</p>

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	<p>Te Reo Maori version):</p> <p><u>Pare Hauraki</u></p> <p><u>The process and requirement for iwi consultation is set out in legislation, and is underpinned by the need to recognise the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.</u></p> <p><u>Pare Hauraki were not included in the collaborative approach, and have customary interests in the Waikato River catchment. These interests are recognised in Deeds of Settlement between the Crown and Hauraki Iwi. This is a further step toward recognising mana whenua, rangatiratanga and kaitiakitanga across their rohe, in relation to all matters relating to the natural environment, and lays a foundation for promoting the restoration, maintenance and enhancement of natural resources in the Pare Hauraki world.</u></p> <p><u>During the recent consultation phase with Pare Hauraki, they shared their world view, values, aspirations and concerns in relation to the River and catchment.</u></p> <p><u>The catchments in the Pare Hauraki rohe are of great spiritual, cultural, customary, ancestral and historical significance to the iwi of Hauraki. The Crown and Hauraki Iwi have acknowledged that the involvement of the Hauraki Iwi in the governance and management of these waterways in these catchments be agreed as soon as possible between the Crown and Hauraki Iwi.</u></p> <p><u>The vision for Pare Hauraki is that waterways are restored to their indigenous state, are home to increasing populations of fish and water-plants have increased to provide a home for kaeo and protecting young of tuna and inanga. There are no longer any contaminants polluting the waterways and harbours, and many more wetlands exist because of the past and present activities of</u></p>	

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	<p><u>kaitiaki.</u></p> <p><u>The values and uses that Pare Hauraki hold for the Waikato River catchment are reflected in Chapter 3.11 of this Plan. The provisions of the Plan also reflect the shared vision of restoration and enhancement of the Waikato River and its tributaries and catchments, and the need to address the shared concerns relating to contamination and sedimentation of these waterways.</u></p>	
<p>3.11.1 Values and uses for the Waikato and Waipa Rivers</p>	<p>Te Mana o te Wai: Mana Atua, Mana Tangata - Additional wedge in diagram labelled:</p> <p><u>Intergenerational Equity - Use of tangata whenua ancestral lands.</u></p> <p>Additions to the outer circle of the terms “Ancestral and,” “connections,” “wetlands and springs” and “iwi” and deletion of the words “relationships” and “River iwi” to read:</p> <p><u>Ancestral and historical connections between rivers, wetlands, springs and iwi</u></p>	<p>The opening text to 3.11.1 states</p> <p>“Values can be thought of in terms of Mana Atua and Mana Tangata, which represent Te Mana o te Wai. Mana Atua represents the intrinsic values of water including the mauri (the principle of life force), wairua (the principle of spiritual dimension) and inherent mana (the principle of prestige, authority) of the water and its ecosystems in their natural state. Mana Tangata refers to values of water arising from its use by people for economic, social, spiritual and cultural purposes. Mana Atua and Mana Tangata values encompass past, present and future.[Emphasis added]</p> <p>It therefore follows that intergenerational equity and use of tāngata whenua ancestral lands are necessarily a component of Mana Tangata. These values should therefore be expressly included. This approach is consistent with ss 5, 6(e),7(a) & 8 RMA.</p> <p>In respect of Mana Atua, the reference in the Proposal to “other iwi” should be deleted. This drafting draws an improper distinction between “river iwi” and Iwi of Hauraki.</p>

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<p>3.11.1 Values and uses for the Waikato and Waipa Rivers</p>	<p>Delete "and other iwi":</p> <p>For River Iwi and other iwi, respect for the rivers, wetlands and springs lies at the heart of the spiritual and physical wellbeing of iwi and their tribal identity and culture. The river, wetlands and springs are is not separate from the people but part of the people, "Ko au te awa, ko</p>	<p>See above regarding "other iwi".</p> <p>Is it considered the "River iwi" is a fixed class of iwi that will not change?</p>

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Hononga ki te wai, hononga ki te whenua	te awa ko au" (I am the river and the river is me).			
3.11.1 Values and uses for the Waikato and Waipa Rivers Mana Atua - Intrinsic values Ancestry and History	<p>Delete reference to "other Iwi":</p> <p>Intrinsic values - Ancestry and History</p> <p>Ko ngā hononga tūpuna me ngā hononga o mua i waenga i ngā iwi o te awa me ētehi atu iwi me ngā awa, ngā repo me ngā puna / Ancestral and Historical connections between the rivers, wetlands, springs and River Iwi and other iwi</p> <p>Ko ngā korero tūpuna me ngā Kōrero o Muao / Ancestry and History</p> <table border="1" data-bbox="450 775 1339 1430"> <tr> <td data-bbox="450 775 734 1430"> <p>Each River Iwi and other iwi has their own unique and intergenerational relationship with the rivers, wetlands and springs.</p> </td> <td data-bbox="734 775 1339 1430"> <ul style="list-style-type: none"> • The rivers, wetlands and springs have always been seen as taonga (treasures) to all River Iwi and other iwi. • The rivers, wetlands and springs have always given River Iwi and other iwi a strong sense of identity and connection with the land and water. • Rivers, wetlands and springs were used holistically; River Iwi and other iwi understood the functional relationships with and between all parts of the rivers, wetlands and springs, spiritually and physically as kaitiaki. • Tribal taniwha and tupua dwell in the rivers which are also the location of continued spiritual and cultural traditions and practices maintained over the many centuries. • Iwi tupuna inhabited a rohe that teemed with life in the rivers, wetlands and springs. </td> </tr> </table>	<p>Each River Iwi and other iwi has their own unique and intergenerational relationship with the rivers, wetlands and springs.</p>	<ul style="list-style-type: none"> • The rivers, wetlands and springs have always been seen as taonga (treasures) to all River Iwi and other iwi. • The rivers, wetlands and springs have always given River Iwi and other iwi a strong sense of identity and connection with the land and water. • Rivers, wetlands and springs were used holistically; River Iwi and other iwi understood the functional relationships with and between all parts of the rivers, wetlands and springs, spiritually and physically as kaitiaki. • Tribal taniwha and tupua dwell in the rivers which are also the location of continued spiritual and cultural traditions and practices maintained over the many centuries. • Iwi tupuna inhabited a rohe that teemed with life in the rivers, wetlands and springs. 	<p>See above regarding "other iwi".</p> <p>Is it considered the "River iwi" is a fixed class of iwi that will not change?</p>
<p>Each River Iwi and other iwi has their own unique and intergenerational relationship with the rivers, wetlands and springs.</p>	<ul style="list-style-type: none"> • The rivers, wetlands and springs have always been seen as taonga (treasures) to all River Iwi and other iwi. • The rivers, wetlands and springs have always given River Iwi and other iwi a strong sense of identity and connection with the land and water. • Rivers, wetlands and springs were used holistically; River Iwi and other iwi understood the functional relationships with and between all parts of the rivers, wetlands and springs, spiritually and physically as kaitiaki. • Tribal taniwha and tupua dwell in the rivers which are also the location of continued spiritual and cultural traditions and practices maintained over the many centuries. • Iwi tupuna inhabited a rohe that teemed with life in the rivers, wetlands and springs. 			

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		<ul style="list-style-type: none"> • These resources were subject to access and use rights as an essential part of kaitiakitanga. • Iwi strive to maintain and restore these relationships despite the modification and destruction that has occurred through different types of development affecting the rivers, wetlands and springs. 			
<p>3.11.1.2 Values and uses for the Waikato and Waipa Rivers</p> <p>Mana Tangata – Use values</p>	<p>Insert new use value:</p> <p><u>Tāngata whenua Ancestral land development</u></p> <table border="1" data-bbox="454 746 1323 1370"> <tr> <td data-bbox="454 746 734 1370"> <p><u>The ability for tāngata whenua to fully exercise the relationship with Tāngata Whenua Ancestral land</u></p> </td> <td data-bbox="734 746 1323 1370"> <ul style="list-style-type: none"> ▪ <u>The development and use of tāngata whenua ancestral land is provided for in ways that give effect to the outcomes anticipated by Treaty settlements.</u> ▪ <u>Recognise the historical context in which Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs.</u> ▪ <u>Where tāngata whenua are acquiring ancestral lands and means through Treaty settlements, there is a need to provide for tāngata whenua economic development of Tangata Whenua ancestral lands taking into account the principles of the Treaty of Waitangi pursuant to section 8 of the RMA.</u> </td> </tr> </table>		<p><u>The ability for tāngata whenua to fully exercise the relationship with Tāngata Whenua Ancestral land</u></p>	<ul style="list-style-type: none"> ▪ <u>The development and use of tāngata whenua ancestral land is provided for in ways that give effect to the outcomes anticipated by Treaty settlements.</u> ▪ <u>Recognise the historical context in which Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs.</u> ▪ <u>Where tāngata whenua are acquiring ancestral lands and means through Treaty settlements, there is a need to provide for tāngata whenua economic development of Tangata Whenua ancestral lands taking into account the principles of the Treaty of Waitangi pursuant to section 8 of the RMA.</u> 	<p>The use values associated with Tāngata whenua Ancestral land need to be recognised in the Proposal in order to be compliant with the requirements of the RMA, in particular ss 5, 6(e),7(a) & 8 RMA.</p> <p>Tāngata whenua Ancestral land is now being returned through the Treaty settlement process. This context, and the historical context whereby Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs must also be recognised in the values that inform the proposal.</p>
<p><u>The ability for tāngata whenua to fully exercise the relationship with Tāngata Whenua Ancestral land</u></p>	<ul style="list-style-type: none"> ▪ <u>The development and use of tāngata whenua ancestral land is provided for in ways that give effect to the outcomes anticipated by Treaty settlements.</u> ▪ <u>Recognise the historical context in which Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs.</u> ▪ <u>Where tāngata whenua are acquiring ancestral lands and means through Treaty settlements, there is a need to provide for tāngata whenua economic development of Tangata Whenua ancestral lands taking into account the principles of the Treaty of Waitangi pursuant to section 8 of the RMA.</u> 				

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Objective 5	<p>Amendments to Objective 5:</p> <p>Objective 5: Mana Tangata – protecting and restoring tangata whenua values/Te Whāinga 5: Te Mana Tangata – te tiaki me te whakaora i ngā uara o te tangata whenua</p> <p>Tangata whenua values are integrated into the co-management of the rivers and other water bodies within the catchment such that:</p> <ul style="list-style-type: none"> a. tangata whenua have the ability to: <ul style="list-style-type: none"> i. <u>use and develop land acquired as cultural and commercial redress to support their social, cultural and economic development; and</u> ii. manage their own lands and resources <u>including tangata whenua ancestral lands</u>, by exercising <u>mana or mana whakahaere</u>, for the benefit of their people; and iii. actively sustain a relationship with <u>tangata whenua ancestral land</u> and with the rivers and other water bodies in the catchment; and b. new impediments to the flexibility of the use <u>and development</u> of tangata whenua ancestral lands are minimised; and c. <u>overall</u> improvement in the rivers' water quality and the exercise of kaitiakitanga increase the spiritual and physical wellbeing of iwi and their tribal and cultural identity. 	<p>The use values associated with Tāngata whenua Ancestral land need to be recognised in the Proposal in order to be compliant with the requirements of the RMA, in particular ss 5, 6(e),7(a), & 8 RMA.</p> <p>Tāngata whenua Ancestral land is now being returned through the Treaty settlement process. This context, and the historical context whereby Iwi were excluded from the economic activities and benefits that have contributed to the degradation of the rivers, wetlands and springs must also be recognised in the objectives that inform the proposal.</p>

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Policy 7	<p>Amendments to Policy 7:</p> <p>Policy 7: Preparing for allocation in the future/Te Kaupapa Here 7: Kia takatū ki ngā tohanga hei ngā tau e heke mai ana</p> <p>Prepare for further diffuse discharge reductions and any future property or enterprise-level allocation of diffuse discharges of nitrogen, phosphorus, sediment and microbial pathogens that will be required by subsequent regional plans, by implementing the policies and methods in this chapter. To ensure this occurs, collect information and undertake research to support this, including collecting information about current discharges, developing appropriate modelling tools to estimate contaminant discharges, and researching the spatial variability of land use and contaminant losses and the effect of contaminant discharges in different parts of the catchment that will assist in defining 'land suitability'.</p> <p>Any future allocation should consider the following principles:</p> <ol style="list-style-type: none"> Land suitability which reflects the biophysical and climate properties, the risk of contaminant discharges from that land, and the sensitivity of the receiving water body, as a starting point (i.e. where the effect on the land and receiving waters will be the same, like land is treated the same for the purposes of allocation); and Allowance for flexibility of use and development of tangata whenua ancestral land <u>as provided for in Policy 16</u>; and Minimise social disruption and costs in the transition to the 'land 	<p>For the reasons addressed above it is necessary to include use as well as development as an aspect of policy 7.</p> <p>Policy 7 is sought to be linked to policy 16 which provides appropriate bounds for the use and development of tāngata whenua ancestral land. This ensures that use and development of tāngata whenua ancestral land is provided for in a manner that does not compromise giving effect to the Vision and Strategy for the Waikato River.</p>

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	<p>suitability' approach; and</p> <p>d. Future allocation decisions should take advantage of new data and knowledge.</p>	
<p>Method 3.11.4.1 Working with Others</p>	<p>Delete reference to "other iwi":</p> <p>3.11.4.1 Working with others/Te mahi tahi me ētehi atu Waikato Regional Council will work with stakeholders including Waikato River iwi partners, and other iwi, Waikato River Authority, Waikato River Restoration Strategy partners, Department of Conservation, territorial authorities, industry and sector bodies, to implement Chapter 3.11 including all the following methods in 3.11.4. This will include coordinating priorities, funding and physical works, promoting awareness and providing education, to assist in giving effect to the <i>Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato</i> for the Waikato and Waipa Rivers.</p>	<p>As above.</p>
<p>Rule 3.11.5.7</p>	<p>Insertion of a new rule Restricted Discretionary Activity Rule – Land Use Change for Tāngata Whenua Ancestral Land:</p> <p><u>Rule 3.11.5.7 – Restricted Discretionary Activity Rule – Land Use Change for Tāngata Whenua Ancestral Land</u></p> <p><u>Any change in the use of tāngata whenua ancestral land from that which was occurring at 22 October 2016 to an activity that does not comply with the conditions, standard or terms of Rules 3.11.5.1 to 3.11.5.5 and the associated diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens onto or into land in circumstances which may result in those contaminants entering water is a restricted discretionary activity (requiring resource consent).</u></p>	<p>This restricted discretionary rule provides an appropriate discretion to Council in considering applications for change in use of Tāngata Whenua Ancestral Land. This discretion (as compared to the non-complying activity applying to other types of land) is entirely appropriate when seen in the proper historical context that is addressed above. Because of this context, the discretion provided by this rule will give rise to greater benefits due to historical grievances that are sought to be remedied through the return of lands in treaty settlements. As such there is an effects basis for the differential treatment of these different types of land.</p> <p>The proposed restricted discretionary rule is not</p>

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	<p><u>Waikato Regional Council restricts its discretion over the following matters:</u></p> <ul style="list-style-type: none"> i. <u>Relationship of tāngata whenua with their ancestral lands.</u> ii. <u>The exercise of kaitiakitanga.</u> iii. <u>The creation of positive economic, social and cultural benefits for tāngata whenua now and into the future.</u> iv. <u>The use of best management practice actions for nitrogen, phosphorus, sediment and microbial pathogens for the new type of land use.</u> v. <u>The suitability of the land for development into the proposed new type of land use.</u> vi. <u>The short term targets in Objective 3.</u> vii. <u>Cumulative effects on water quality of the catchment of the Waikato and Waipa Rivers.</u> viii. <u>The diffuse discharge of nitrogen, phosphorus, sediment and microbial pathogens.</u> ix. <u>The need for and the content of a Farm Environment Plan.</u> x. <u>The term of the resource consent.</u> xi. <u>The monitoring, record keeping, reporting and information provision requirements for the holder of the resource consent.</u> xii. <u>The time frame and circumstances under which the consent conditions may be reviewed.</u> xiii. <u>The matters addressed by Schedules A, B and C.</u> 	<p>inconsistent with giving effect to the Vision and Strategy. No discharge is allocated by the rule. Council may decline any application that would give rise to undue effects on the rivers. The matters of discretion derived from policy 16 provide robust criteria against which to consider applications for change in use.</p> <p>There is no legal or technical impediment to the proposed restricted discretionary rule.</p> <p>Critically, the modelling undertaken by WRC shows that allowing for flexibility of use of Tangata Whenua Ancestral Land does not affect the meeting of scenario 1 targets. Therefore, there is no rational reason to not provide appropriate flexibility for change in use of Tangata Whenua Ancestral Land in accordance with Council's obligations under part 2 RMA.</p>
Rule 3.11.5.8	<p>Amendment of Non-Complying Activity Rule as Rule 3.11.5.8 as a consequence of the Restricted Discretionary Activity Rule:</p> <p>3.11.5.7 <u>3.11.5.8</u> Non-Complying Activity Rule – Land Use Change/Te Ture mō ngā mahi kāore e whai i ngā ture – Te Panonitanga ā-Whakamahinga Whenua</p>	<p>These consequential changes are necessary as a result of insertion of the restricted discretionary rule addressed above.</p>

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	<p>Rule 3.11.5.78 - Non-Complying Activity Rule – Land Use Change</p> <p>Except as provided for in Rule 3.11.5.7 Notwithstanding any other rule in this Plan, any of the following changes in the use of land from that which was occurring at 22 October 2016 within a property or enterprise located in the Waikato and Waipa catchments, where prior to 1 July 2026 the change exceeds a total of 4.1 hectares:</p> <ol style="list-style-type: none"> 1. Woody vegetation to farming activities; or 2. Any livestock grazing other than dairy farming to dairy farming; or 3. Arable cropping to dairy farming; or 4. Any land use to commercial vegetable production except as provided for under standard and term g. of Rule 3.11.5.5 <p>is a non-complying activity (requiring resource consent) until 1 July 2026.</p>	
Definition - Tangata whenua ancestral lands	<p>Amend definition of Tangata Whenua Ancestral Land:</p> <p>Tangata whenua ancestral lands: means land that has been returned through settlement processes between the Crown and tangata whenua of the catchment, or is, as at the date of notification, Māori freehold land <u>(including general land)</u> under the jurisdiction of Te Ture Whenua Maori Act 1993.</p>	These changes improve the accuracy and clarity of the definition
2. Matters of significance to Maori	<p>Inclusion of paragraph relating to Hauraki iwi's interest in the catchment and redress legislation to the consequential amendments Chapter 2 of the operative Regional Plan:</p> <p><u>Hauraki iwi are recognised as having an interest in an area extending over the Waikato River catchment. The Pare</u></p>	These consequential changes are necessary as a result of proper inclusion of recognition of Pare Hauraki interests in the Proposal.

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	<p><u>Hauraki collective redress legislation provides for Hauraki iwi to be involved in the governance and management of the catchment within their rohe.</u></p>	
3.1 water Resources	<p>Inclusion of paragraph relating to Hauraki iwi's interest in the catchment and redress legislation to the consequential amendments Chapter 2 of the operative Regional Plan. Add new sentences as third para in section "Tangata Whenua":</p> <p><u>Hauraki iwi are recognised as having an interest in an area extending over the Waikato River catchment. The Pare Hauraki collective redress legislation provides for Hauraki iwi to be involved in the governance and management of the catchment within their rohe.</u></p>	<p>These consequential changes are necessary as a result of proper inclusion of recognition of Pare Hauraki interests in the Proposal.</p>