

# TAHEKE 8C & ADJOINING BLOCKS (Inc)



**Submission to the  
Bay of Plenty Regional Council  
on the  
Proposed Bay of Plenty  
Regional Policy Statement**

*"Toitu te whenua he oranga whakatupuranga"  
Land in tact benefits generations*

**To:** Chief Executive  
Bay of Plenty Regional Council  
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The Proprietors of Taheke 8C & Adjoining Blocks (Inc) ("Taheke 8C") wishes to be heard in support of this submission.

Taheke 8C gives notice that the presentation of the definitions section of this submission will be delivered in te reo rangatira.

## **1.0 INTRODUCTION**

The Proprietors of Taheke 8C and Adjoining Blocks (Inc) ("Taheke 8C") was incorporated in 1954 by Order of Incorporation issued by the Maori Land Court pursuant to Rule 81 of the Maori Land Act 1931.

Taheke 8C is located approximately 20-minutes north east of Rotorua on State Highway 33. The area is known as Okere Falls and our lands lie adjacent to the Okere/Kaituna River. The total land administered by the incorporation is approximately 1193ha and the legal description is "The Proprietors of Taheke 8C & Adjoining Blocks (Inc)".

The incorporation maintains a register of shareholders names and their shares in accordance with the requirements of the Maori Land Court. There are currently 1066 shareholders holding 50,611 shares in total.

Up until 2007/2009, the activities on Taheke 8C land comprised sheep and beef farming and forestry (pre-1990). The incorporation had plans to expand its position in regard to its farming operation; however the impact of climate change legislation, 2-3 years of drought, and the property boom which led to an increase in lease rental rates together

with the ongoing global financial crisis and recession resulted in changes to our farming operations. In addition to this change the committee discussed available options for alternate land use and development of the resources on and under Taheke 8C land. One such option was the development of the geothermal resource underlying our land that had been discussed by previous committees and neighbouring land holding entities in the 1980s – 1990s.

## **2.0 PROPOSED REGIONAL POLICY STATEMENT (“PRPS”)**

This is the first time Taheke 8C has participated in the PRPS submission process. Hence we take this opportunity to comment on:

- the definitions ascribed to certain fundamental concepts in Section 2.6; and
- matters of national, regional and local significance - the protection of significant geothermal surface features

## **3.0 SECTION 2.6 – Iwi Resource Management**

Taheke 8C accepts the identification of the atua named in the Maori Environmental Resource Management System (“MERMS”). However we make comment regarding:

- iwi, hapu and iwi authorities;
- Iwi/hapu management plans
- tino rangatiratanga
- kaitiakitanga;
- mauri;
- the development of Maori freehold land; and
- the invisibility of the actual land holding trusts and incorporations that hold mana whenua over their land

### **3.1 Iwi, Hapu and Iwi Authorities**

3.1.1 Paragraph 1 of section 2.6 refers to iwi authorities, iwi and hapu. Taheke 8C agrees that Maori have the wider groups of iwi (tribe), hapu (sub-tribe) however neither of these wider groups can claim mana whenua of all land within their rohe as not all members of the iwi or hapu are owners/shareholders in every Maori land holding trusts/incorporations within the rohe.

3.1.2 For example: Taheke 8C is Te Arawa/Ngati Pikiiao/Ngati Hinerangi/Ngati Hinekura yet not all members of those wider groups are owners in Taheke 8C today. This is common to all Maori land holding entities and it is those entities that hold mana whenua over their land as representatives of all their shareholders whatever their iwi affiliation, not the wider iwi (tribe) or hapu (sub-tribe).

3.1.3 On this point Taheke 8C is disappointed that no mention or importance has been attached to the land holding trusts and incorporations that hold mana whenua over their lands and are responsible to meet all legal obligations pertaining to the land.

3.1.4 Taheke 8C recommends that the: ***Regional Policy Statement is amended to recognise Maori land holding trusts and incorporations as the duly elected representatives of the owner/shareholders and that such entities hold mana whenua status over their lands.***

## 3.2 Iwi/Hapu Management Plans

3.2.1 Taheke 8C submits that the fact that Maori land holding trusts and incorporations hold mana whenua over their respective lands is fundamental when discussing iwi management plans.

3.2.2 While Taheke 8C is aware that attempts have been made in the past to develop an iwi management plan for Ngati Pikiao, the incorporation did not participate in such attempt and to the best of our knowledge there is no iwi management plan in place today. Similarly Taheke 8C is not aware of the existence of a hapu management plan. Be that as it may however Taheke 8C is presently undertaking a comprehensive review of its operations in order to determine the best way forward in terms of land use for the incorporation and our owners/shareholders.

3.2.3 Taheke 8C notes that no mention is made or recognition given, either in the legislation or the PRPS, to any such plans that may be submitted by Maori land holding entities. Given this, Taheke 8C therefore recommends that the: ***“Regional Policy Statement recognise Land Management plans submitted by Maori land holding entities that hold mana whenua over their lands and that these planning documents will be considered in resource management decision making processes.”***

## 3.3 Recognition of Te Tino Rangatiratanga

3.3.1 Taheke 8C notes that rangatiratanga has been narrowed to “self management or autonomy” while tino rangatiratanga has been attributed to “the *right of iwi* to retain control over the tribal resources and taonga”. Taheke 8C challenges the statement regarding tino rangatiratanga in the PRPS. Taheke 8C states that it is the Maori land holding entities that have the *right* to retain control of their resources and taonga **not** the iwi. Such land holding entities, the duly elected representatives of the owners, have earned this right by virtue of the fact that they have managed and held the land for generations **not** the iwi or the hapu for that matter.

3.3.3 For example: In the report completed in April 1990 by Paora Maxwell for the Waitangi Tribunal “*The Maori use of Geothermal Energy*” (“Maxwell Report”) Ken Eru the then chairperson of the incorporation made the following Statement of Ownership in regard to Taheke 8C:

- “The people have always assumed ownership of the resource and acted accordingly. Ownership is based on the occupation of the lands, their development and consequent productivity. Ken Eru the chairman of the block maintains that the below surface resource belongs also to them. The water is used for bathing, the sulphur manifests itself on the surface but has its origin below and everything that grows has sustenance from below the surface.”

3.3.3 Taheke 8C therefore recommends that the: ***“Regional Policy Statement is amended to recognise that tino rangatiratanga is not the sole domain of iwi and that Maori land holding entities exercise tino rangatiratanga and have the “right to retain control over their resources and taonga”.***

### 3.4 Kaitiakitanga

3.4.1 Taheke 8C questions the appropriateness of the word kaitiakitanga. In our view kaitiakitanga is a convenient word that attempts to describe the obligations attached to kaitiaki.

3.4.2 In the case of Taheke 8C, the CoM of Taheke 8C was duly appointed by the owners and has been accepted by the Maori Land Court (“MLC”). As such, the CoM is the *kaitiaki tuturu* of Taheke 8C, the absolute kaitiaki. And integral to that are the duties and obligations that come with that status.

3.4.3 Taheke 8C recommends that the: ***“Regional Policy Statement is amended to include the phrase kaitiaki tuturu recognising that the Maori land holding entity is the kaitiaki tuturu of their lands, resources and taonga”.***

### 3.5 Mauri

3.5.1 Taheke 8C has a definition of mauri that does not include life or life force. Taheke 8C advises that a mauri can be set for a specific purpose and in the case of a waterway multiple mauri can be set for different purposes along the same waterway. For example: to attract fish as was done by the sisters of Ngatoroirangi when they brought the fire to him on Tongariro or to prepare warriors for battle and cleanse the warriors after battle, or when the whareniui on Pounamunui Marae was completed and the mauri was set to protect the marae and those who use it.

3.5.2 Karakia is fundamental to the process of setting the mauri. A karakia is offered seeking permission from the respective atua as identified in the MERMS, once the mauri is set, then follows the karakia for protection. This practice often involved the burying of a talisman to set the mauri.

3.5.3 In regard to the statement that “The mauri of each waterway is a separate entity and cannot be mixed with the mauri of another”, Taheke 8C suggests this ignores the natural mixing of waterways as streams flow into rivers and rivers eventually flow into the sea.

3.5.4 For example: In the case of waterways on and adjacent to Taheke 8C, we have the Okere River (which is mistakenly referred to as the Kaituna River) – the Okere River does not become the Kaituna River until it reaches the place known as Kohangakaeaea and there is a waiata that records the change of name. Similarly the geothermal area located on Taheke 8C is based around the Onepu Stream. The stream is a warm water stream, the surface water is cold, but the water is warmed by fumeroles from below. This stream eventually drains into the Okere River. As well most if not all rivers eventually drain into the sea as the Kaituna River drains into the sea at Maketu.

3.5.5 Hence to say that the “mauri” of each waterway cannot be mixed with the “mauri” of another [waterway] ignores the reality that mixing of waterways (and of course their “mauri”) is a natural process no matter which view you take – i.e., Maori or non-Maori.

3.5.6 Degradation of “Mauri”: Aside from the comments above, Taheke 8C agrees that the health/quality of the environment has been negatively impacted by the activities of humanity (including Maori) and steps must be taken to mitigate such consequences.

3.5.7 In making the points set out above, Taheke 8C has no desire to takahi on the mana of those who took the time to provide the definitions discussed. In the view of Taheke 8C the exercise highlights the difficulty faced when attempting to provide English definitions for Maori concepts. Quite simply the English language is inadequate for the task and the danger for Maori is that one by one the concepts inherent in te reo are being redefined, narrowed and marginalised.

3.5.8 Additionally the PRPS makes no mention of the fundamental concepts of *rahui* or *ahi ka* in connection with the land and resources. For example:

- One example of rahui is the prohibition placed on the use of a particular waterway in the case of a drowning. This is associated with the concepts of tapu and noa.
- Another is the use of rahui to preserve and protect a food source or to warn off trespassers. This is associated with the concepts of tino rangatiratanga and kaitiaki.

3.5.9 In the case of *ahi ka*, this is more than just returning home. *Ahi ka* attaches to the actions of the haukainga(home people) in maintaining and holding the land. This is also associated with the concepts of tino rangatiratanga and kaitiaki. To illustrate this point we use the example of Taheke 8C:

- Taheke 8C was established with a residual debt from earlier development work undertaken prior to its inception. Because of this, the incorporation was subject to oversight by the Department of Maori Affairs.

- Development of Taheke 8C could only be undertaken in stages based on available developmental finance. These amounts were dependent upon the loan repayment capability of the incorporation which in turn was dependent upon the income generating capacity of the incorporation from farming activities. It was a long, difficult and slow process.
- In the 1980s facing threat of take-over by Te Tira Ahu Iwi (now known as Te Puni Kokiri), the incumbent committee, after several unsuccessful requests for financial assistance from other sources, decided to allocate the undeveloped areas of the land to forestry and taking up the option of capitalised rentals. The committee of the day also entered into a mining agreement for sulphur in 1986.
- The funds received from the reorganisation of the farming operation together with the forestry rentals were applied to repay the residual debt to the Department of Maori Affairs and in 1994 Taheke 8C was released from departmental supervision.

3.5.10 Taheke 8C worked slowly and diligently to repay the debt. They did so always with the protection of the land and prudent and appropriate stewardship in mind. Taheke 8C contends that without holding tino rangatiratanga over the land and resources of the incorporation the previous committees would not have had the authority to act to protect hold and manage our land. Similarly if such committees were not the kaitiaki tuturu of the land and resources of Taheke 8C they would not have had the authority to act to protect, hold and manage the land for the benefit of the owners/shareholders of the incorporation.

3.5.11 Taheke 8C therefore recommends that:

- ***“The Regional Policy Statement recognises the fact that as te reo rangatira is a conceptual language more than one definition can attach to a single word.”***
- ***“The Regional Policy Statement includes a glossary that provides alternate definitions for all Maori words and phrases incorporated into the document.”***
- ***“EBoP establishes and funds a task force to undertake such work and that such task force examines all concepts that relate to the land.”***

### **3.6 Development of multiple owned Maori lands**

3.6.1 Taheke 8C agrees that multiple owned Maori lands are more difficult to develop than land in general title. Indeed in the view of Taheke 8C the multiple accountabilities faced by Maori who wish to develop their land and resources are onerous.

3.6.2 Paragraph 2 states: “Facilitating the “appropriate” development of multiple owned Maori land will promote the sustainable management of land ...” Taheke 8C asks: What is meant by “appropriate” development and who decides what that “appropriate” development is? Additionally what will happen if the relevant Maori land holding entity

does not agree with the assessment of what is or is not the “appropriate” development for their land?

3.6.3 Paragraph 2 also states: “This involves the integrated, holistic and orderly management of the effects of development and redevelopment”. Again, what does this mean in practice?

3.6.4 In our view both the ambiguity and its associated cost (of process to reach clarity) would meet resistance if subjected to general land. Why should the PRPS make Maori freehold land like the land owned by Taheke 8C inherently more difficult to consent than say Carter Holt Harvey’s land in Kawerau for example? Is this consistent with the Principles of the Treaty of Waitangi?

3.6.4 Taheke 8C therefore recommends that: ***EBoP recognises and implements the principle that the Regional Policy Statement shall not burden or inhibit the development of Maori Freehold Land relative to General Land.***

#### **4.0 Matters of National, Regional and Local Importance – Significant Geothermal Features**

4.1 The PRPS promotes a Geothermal Classification system based upon:

- Vulnerability of Significant Geothermal Surface features to extractive uses;
- Existing use;
- System temperature

4.2 Pursuant to this classification system the Taheke Geothermal Field (“TGF”) together with the Tikitere/Ruahine, Rotokawa/Mokoia Island and Rotoma/Tikorangi fields have been classified as Geothermal Management Group 3 fields.

4.3 Taheke 8C has serious concerns regarding the:

- classification of the TGF;
- comments made at point 7.5 of the updated assessment of geothermal vegetation (“Landcare Report”) and the
- apparent desire to restrict Maori to traditional use of the geothermal resource

4.4 Taheke 8C denied Landcare access to Taheke 8C lands while they were compiling the report. They have no capacity to refer or analyse meaningfully, the state or otherwise of the features on Taheke 8C land.

4.5 Further, Taheke 8C understands that the Landcare Report is based on a report undertaken by Wildland Consultants in 2005. This report provided an assessment of the TGF on the basis of aerial photographs and a field assessment. Taheke is unaware of any consent being obtained or given by the relevant Committee of Management for access to the land in order to undertake this field assessment. Unless Wildland can demonstrate that written consent was validly obtained, Taheke 8C considers that the



findings of this report should be dismissed (and omitted from any reports commissioned by Environment Bay of Plenty) as either reflecting aerial data only or as tainted information gained via illegal entry.

4.6 Taheke 8C contends that the classification of the TGF as a Group 3 field does not take into account the previous use of the resource, the present day condition of such features, or the aspirations of the relevant Maori land holding entities over laying the resource, specifically in our case, Taheke 8C.

4.7 Taheke 8C has a long held policy to develop its land and resources to their fullest capacity in order to advance the socio/economic standing of its owners/shareholders and successive committees have consistently sought out opportunities to do so. Taheke 8C cannot speak for other Maori land holding entities however we have no doubt those entities have similar aspirations for their lands and owners.

4.8 As previously stated external influences forced the incorporation to downsize its sheep and beef operation so that we now have less land available for this activity. And while the forestry provided the much needed funds to save the land from government take over, the pre-1990 Emissions Trading Scheme restricts the incorporation's ability to participate in any carbon farming venture.

4.9 The incorporation makes the following points with regard to the classification of the TGF:

- The Taheke Geothermal Springs reside entirely within the private Maori freehold land owned and managed by Taheke 8C therefore public access is prohibited.
- The geothermal waters are no longer used for traditional purposes, i.e., bathing and healing, indeed Taheke 8C contends that it would be dangerous to do so.
- As Taheke 8C land is private Maori freehold land, there is no tourism value attached to the features as is the case for Tikitere/Ruahine and Rotokawa/Mokoia Island.
- The site has been heavily modified by the sulphur mining activities of the 1900s, fires and conversion to pine plantation. Hence the area is less than pristine. We note that the Landcare Report (while we do not consider its findings legitimate) does at least reflect this point.

4.10 Taheke 8C notes the following comment in the Landcare Report at point 7.5 – Land Status and Protection: Freehold and Maori Land:

- “Many sites containing geothermal vegetation with significant conservation values are located on freehold or Maori land. Formal legal protection (e.g., by covenant) is warranted for sites which are nationally or regionally significant. The current management of some such sites is ecologically unsustainable and land management agencies need to consider opportunities to promote and fund

physical protection and restoration works (e.g. fencing) for geothermal features in private ownership”.

4.11 The incorporation objects to the comment in its entirety and in particular the inference that Maori management of such sites is inept or more inept than other holders of freehold title.

4.12 In the case of Taheke 8C the obligations of kaitiaki tuturu underpin all decisions made and actions taken by the committee. As kaitiaki tuturu, successive committees have held the land appropriately and in compliance with the law. They have worked the land for the benefit of the shareholders/owners for generations. This has not always been easy under the various legislative and regulatory regimes.

4.13 We also note the comment concerning “conservation values” and the suggestion that “land management agencies need to consider opportunities to promote and fund physical protection and restoration works (e.g. fencing) for geothermal features in private ownership”. While this may meet the needs of the relevant “land management agency” it does not take into account any recompense for lost economic benefit or opportunity suffered by the relevant Maori land holding entity.

4.14 As stated at point 4.7 above, successive committees of Taheke 8C have actively sought opportunities to develop our land for the benefit of the shareholders/owners and development of the geothermal resource underlying Taheke 8C is a significant opportunity for our owners/shareholders. Not only because of the significant economic benefit to the incorporation but also because of the opportunities such development presents for the owners/shareholders and their mokopuna in regard to employment, education and other benefits. In addition this development allows Taheke 8C to further participate in the Aotearoa/New Zealand economy in a very real and meaningful way.

4.15 Taheke 8C advises that before undertaking the exploratory investigation of the resource underlying our land, the committee implemented a process whereby we met the onerous obligations placed upon it by legislation and the Maori Land Court. More importantly however (in our view) we have been transparent with and accountable to our shareholders/owners and for this reason we can state categorically that we have the support of our shareholders/owners to proceed with the development of our taonga.

4.16 Taheke 8C therefore recommends that before EBoP implements any of the suggestions made in the Landcare Report EBoP should review the current classification system and while so doing EBoP must:

- ***consult with all relevant Maori land holding entities over laying the particular geothermal resource;***
- ***recognise and make allowance for any lost economic benefit or opportunity suffered by the relevant Maori land holding entity as a result of such classification; and***

- *take into consideration and support the 21<sup>st</sup> century development aspirations of relevant Maori land holding entities.*

**“Ānei ngā kōrero o ngā kaitiaki tuturu o te Taheke 8C tiakina te whenua tiakina hoki ngā rawa hei oranga mō te hunga e whai panga ana i tēnei whenua.”**

Na Sandra Eru  
General Manager