

Appendix II Primary Evidence of Hoturoa Barclay-Kerr, 23 January 2024

**BEFORE AN INDEPENDENT HEARINGS PANEL APPOINTED BY WAIKATO
REGIONAL COUNCIL**

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

IN THE MATTER of applications by Taharoa Ironsands Limited for all necessary regional resource consents to continue to operate Taharoa Mine at Taharoa C Block, Taharoa Road, Waikato (application APP142035).

**STATEMENT OF EVIDENCE OF HOTUROA BARCLAY-KERR FOR
TAHAROA IRONSANDS LIMITED**

CULTURAL

DATED 23 JANUARY 2024

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MAY IT PLEASE THE COMMISSIONERS

INTRODUCTION

1. My full name is Hoturoa Barclay-Kerr.
2. I am descended directly from Hoturoa, the ancestral commander of the Tainui waka.
3. I am the Chairman of the Proprietors of Taharoa C Block Incorporated (**Taharoa C**), who own the land on which the Taharoa Ironsand Mine (**Mine**) is located. I have held my position as Chairman for almost 10 years.
4. My father was the first chairman of Taharoa C Incorporation when it was established in the 1970s and I have spent much of my childhood in Taharoa.
5. I have a Bachelor of Arts in Humanities from the University of Auckland and a Masters Degree in Māori studies from the University of Waikato.
6. Following my studies, I taught at the Te Pua Wānanga ki te Ao, Faculty of Māori and Indigenous Studies at Waikato University for 19 years. I have also been an adjunct lecturer for Open Polytechnic.
7. More recently I have been involved in education and leadership programmes that use waka as a platform for learning and development, including working with former youth offenders to help them transform their lives, and I co-authored a book called Wayfinding Leadership: Ground-breaking Wisdom for Developing Leaders.
8. In 2020, I was appointed a Companion of the New Zealand Order of Merit for services to Māori and heritage commemoration.
9. I provide this evidence in support of TIL's Application to replace its existing resource consents and continue mining operations at the Mine in relation to the Central and Southern Blocks (**Application**).
10. In addition to preparing this evidence, I also provided a letter setting out the cultural background to the Application, which was provided to Waikato Regional Council.

11. In preparing this statement of evidence I have considered the following documents:

- (a) TIL's Application; and
- (b) The submissions made by the following individuals and groups in relation to the Application:
 - (i) Taituwha King and Ngahuia Hernagi on behalf of Te Kooraha Marae Trustees;
 - (ii) Shirley Tuteao;
 - (iii) The Kana Whanau; and
 - (iv) Melaina Huaki on behalf of Te Rūnanga o Ngāti Mahuta ki te hauauru.

SCOPE OF MY EVIDENCE

12. In my evidence I will discuss the following:

- (a) Tāngata whenua of the Project area;
- (b) The importance of the Taharoa Mine to Tangata Whenua;
- (c) Consultation with tāngata whenua;
- (d) Consideration of cultural effects;
- (e) Proposed mitigation measures; and
- (f) My response to submissions received on the Application.

TANGATA WHENUA OF THE PROJECT AREA MINE

The role of Ngāti Mahuta as tangata whenua

13. The hapū with mana whenua within this rohe (Taharoa area) is Ngāti Mahuta ki Tai.

14. The ancestors of Ngāti Mahuta arrived in Aotearoa on the Tainui waka and made first landfall on the east coast before reaching the Kāwhia Harbour.
15. Ngāti Mahuta is the largest hapu of Waikato Tainui, comprising Ngāti Mahuta ki Uta (inland) and Ngāti Mahuta ki Tai (of the coast). While Ngāti Mahuta is formally recognised as a hapu of Waikato-Tainui, some hapu members hold genealogical links to Ngāti Maniapoto who have also had a historic influence in the Taharoa area, as do Ngāti Toa.
16. The Taharoa area has significant meaning to Ngāti Mahuta as tāngata whenua. Māori tribal connections with Taharoa and the Taharoa Mine are founded on relationships formed out of occupation, settlement and use of the ancestral landscape over hundreds of years. Over approximately two months in 1822 the dunes of Taharoa were a battle ground where the Waikato iwi and Ngāti Toa under Te Rauparaha clashed and retreated southwards from Kāwhia Harbour in 1822. Following this, a Waikato group with descendants of Kiwi and part of the Ngāti Mahuta subtribe, settled in the valleys and fished in the lakes, streams and inlets away from the Taharoa mine site.
17. The lands at Taharoa have never been subject to confiscation (raupatu) by the Crown. Hapu members have had uninterrupted ownership of the whenua, and ability to exercise customary practices upon it and in the waterways and lakes in the Taharoa area, since they originally settled in the wider area, mostly around Kāwhia in 1826.
18. The lakes at Taharoa (including Lake Taharoa) and the Wainui Stream that connects Lake Taharoa to the ocean were and remain an important resource to tangata whenua. The lake was relied upon as a food source, with tuna (eel) and various fish species (including grey mullet) present in the lake. People still catch eels and other fish in the lakes and waterways. The lake was also used as a source of fresh water for drinking, bathing and cultural ceremonies.

Internal hapu relationship

19. Ngāti Mahuta ki Tai's mana whenua is held exclusively by the two Ngāti Mahuta Marae at Taharoa, being Aruka Marae, Te Kooraha Marae and thirdly Maketu Marae in Kawhia. The people who make up the communities

connected to these marae are all related and are often the same people. A large majority of Taharoa C shareholders are Ngāti Mahuta members and are connected to all three marae. Taharoa C does not speak on behalf these marae but understands the connection between shareholders and these marae.

20. For completeness, I note that these three Marae are members of Te Whakakitenga o Waikato and are formally recognised as a hapū of Waikato-Tainui. However, for clarification, Waikato-Tainui acknowledge that Ngāti Mahuta hold "mana whenua" status in the Taharoa area.

THE IMPORTANCE OF THE TAHAROA MINE TO TANGATA WHENUA

The importance of the mine site in the community

21. In 1958, Taharoa Village was comprised of fourteen homes (about 30 people) which were divided into two settlements. Each settlement had its own marae, Aruka, and Te Koraha. Taharoa village was isolated from other settlements due to the terrain and lack of roading infrastructure with access to Kāwhia, the main settlement, being by boat or horseback.
22. By the 1970s, Ngāti Mahuta had significant mana in the area.
23. By far the largest scale event in the areas 200-year history occurred during the last 50 years. In 1970 ironsand mining commenced together with the establishment of the third largest port by bulk tonnage in New Zealand. The mine site itself is virtually uninhabitable because it is exposed to extreme winds and salt so there are no other productive uses that could occur on the land.
24. From just 30 local inhabitants the area expanded rapidly in terms of population and economic activity. From the outset the area was responsible for the largest economic transformation for Māori in any area of New Zealand.
25. Locals benefit from very high wage packets, royalties and generous support for local habitation. In 2023, TIL directly employed 176 people approximately

80% of which are Ngati Mahuta. The following statistics indicate the benefit for local employment since TMIL acquired the mining business.

	2017	2023
Total Employees	136	178
Ngati Mahuta	113	141  25%
Total of site	83%	79%
Total site income	\$12,932,212.60	\$17,146,462.85  33%
Ngati Mahuta Income	\$9,335,000.31	\$14,123,805.41  51%
As a percentage	72%	82.50%
Ngati Mahuta in skilled roles	16	44  175%
Income of Ngati Mahuta in skilled roles	\$1,234,575.79	\$5,240,471.00  324%
As a percentage of total skilled roles	40%	63%  58%
Income as a percentage of total skilled	28%	74%

26. Since the mines' inception, in today's dollars, payments of over \$150 million have been paid to the landowners. Annually, wages and payments to the local and regional contractors currently totals over \$100 million.
27. TIL also provides other important support and benefits to the community:
 - (a) TIL attends to waste, wastewater, drinking water and rubbish collection free of charge;
 - (b) incidental maintenance, including lawn mowing, are funded by TIL;
 - (c) community facilities are donated by the company including the community hall, shop, kohanga reo, school and sporting facilities;
 - (d) TIL provides subsidised medical, life and disability schemes;
 - (e) TIL provides an annual leave allowance of over 8 weeks per year, including one shopping day per month; and
 - (f) TIL provides a bus service so villages can shop in town and provides subsidised freight services for the village store.
28. Without the mine, a number of tangata whenua would have moved away and lost their connection to the land. We are proud that the mine is no longer overseas owned. As a result of hard work, it is difficult to describe the Taharoa iron sand mining story in any other words but a resounding and

spectacular economic success for local people. I have further explained this below as part of my assessment of the cultural impacts of the mining activity.

Taharoa C Incorporation

29. By the 1950's the land at Taharoa where ironsand mining now occurs was held in 80 different titles, all owned by Ngāti Mahuta hapu members.
30. That decision prompted the creation of the 1328ha title legally described as the Taharoa C Block. In 2009 the Māori Land Court determined the status of the Taharoa C Block to be Māori freehold land under the Te Ture Whenua Māori Act 1993. The Taharoa C Block is owned by The Proprietors of Taharoa C Block Incorporated.
31. The Taharoa C Incorporation was established in 1970 – the same year that ironsand mining (including the construction and use of the offshore pipeline and associated buoy) began at Taharoa. The beneficiaries (i.e. The Proprietors) of the Taharoa C Incorporation are entirely comprised of Ngāti Mahuta hapu members, being the enduring owners of the Taharoa C Block land upon which the mining activities take place. Many of the beneficiary whanau have established family Trusts in their own right, and a number of those trusts also own other land at Taharoa adjoining and adjacent to the Taharoa C Block.
32. Until 2017, ironsand mining at the site was undertaken by New Zealand Steel Mining Limited, which held a mining lease with The Proprietors of Taharoa C.
33. In 2016, the foreign owned New Zealand Steel Mining Ltd (**NZSML**) announced that it intended to sell the mine or otherwise close it. Bluescope, the Australian owners of NZSML at the time, publicly indicated they were not prepared to make the necessary investment for the Mine to continue operating. Just a few years earlier Bluescope had also announced the sale of NZSML to another foreign buyer which collapsed publicly with court action ensuing. Through this period of uncertainty, the community felt vulnerable and unsettled, wary that the Mine would close. This threatened the economic collapse of the Taharoa community and its village. In an audacious move the mine was purchased by TIL which is partly owned by Taharoa Mining Investments Limited (**TMIL**). However, Taharoa C Block Incorporation is the majority shareholder of TMIL.

34. Although many said it couldn't work, the Ngāti Mahuta based consortium has proven the detractors wrong. The mine needed to expand to a sustainable level, being enough production to at least support the long-term commitments to three dedicated Taharoa slurry vessels. Without that production the mining business would not be viable, and the mine would close.
35. During the last nearly 6 years this has been achieved. In turn it has required transformative technology. The funding for this has been made by the consortium with very large-scale investments. In the last year, approximately \$100 million has been invested in new capital equipment. In turn, Taharoa C has encouraged and supported that investment because it greatly extends the working life of the mine and of course earns royalties, dividends and incomes, all put aside for future generations. The lease from Taharoa C extends until 2062.
36. With a majority Ngāti Mahuta shareholding, there has been a deliberate policy under the new owners and management since 2017 to promote local skills, valuing long-term local knowledge and experience. It has been an aim for people locally to see the mine site and company as a career.

CONSULTATION WITH TANGATA WHENUA

37. Over the years Taharoa C has had meetings with the Taharoa Lakes Trust and different collectives made up of various interest groups and stakeholders. These meetings have been at Taharoa or on our own premises. The Rūnanga o Ngāti Mahuta has been our main point of contact lately as they have informed us that they are the group that can effectively bring concerns to Taharoa C. We have established a working party made up Taharoa C Board members and Runanga appointees to assist the consultation process.
38. Prior to the lodgement of the Application in 2020, I noted that TIL sought the views of those who had made an application for recognition of customary marine title or applied to enter negotiations in accordance with section 103 of the Marine and Coastal Area (Takutai Moana) Act as required by s62(3) of that Act. No responses were received.

CONSIDERATION OF CULTURAL EFFECTS

39. The resources and values that are important to Ngāti Mahuta come from the principles below. The land, the water, the sea and all its inhabitants, wāhi tapu, the people, the culture, traditions and language are all important.
40. The following principles underpin the relationship of Māori with natural resources and their use and management:
 - (a) Whakapapa – genealogy or lineage linking the animate and inanimate.
 - (b) Kaitiakitanga – guardianship and stewardship by tangata whenua
 - (c) Manawhenua – territorial right from generational occupation of land
 - (d) Rangatiratanga – leadership, identity, and self-determination
 - (e) Taonga – treasured or valued items (whether tangible or intangible)
 - (f) Mauri – essence or life force
 - (g) Wairuatanga – embedded emotion or spirit
 - (h) Whanaungatanga – kinship/membership and participation
 - (i) Manaakitanga – hospitality, respect and security
 - (j) Kotahitanga – cohesion and collaboration
 - (k) Ahi kā - long lasting burning fires of occupation, title to land
 - (l) Ki uta ki tai - 'From the mountains to the sea,' holistic understanding of natural environment
41. Mining and mineral extraction is not an offensive activity to Māori, who have long understood the value of extracting non-renewable resources. Māori quarried rock for tools, weapons, trade, demarcation of boundaries, gardening and ornamentation. Minerals such as ironsand were used in the preparation of kokowai, the red-brown pigment that was mixed with oil and used to paint faces, buildings and waka.

42. In the Māori worldview, there is no division between people and the environment. Thus, the view of the Taharoa C tangata whenua beneficiaries are that ongoing mining of the ironsand resource is appropriate.
43. The potential effects on the environment that are of particular interest to tangata whenua are:
 - (a) Mining activities affecting the lake and waterway health; and
 - (b) Disturbance or modification of traditional and ancestral sites (being sites of significance to Māori) and the discovery of koiwi.
44. The following section of my evidence explains these matters as they pertain to the customary activities and their role as kaitiaki.

Lake and waterway health

45. The establishment of the dam in the Wainui Stream in the early 1970's interrupted the natural flow of water from Lake Taharoa to the ocean. In doing so an impediment to the passage of fish to and from the lake was created, and the available fish resource in the lake decreased. The mauri and wairua of those waterbodies were affected accordingly.
46. However, in the early 2000's a fish pass was installed at the dam that allowed for juvenile grey mullet and other species to be able to navigate upstream past the dam. The fish pass has proven to be effective and should be kept and appropriately maintained. Surveys, records and inspections by experts have all shown healthy numbers and trends, which are supported by extensive local reports of healthy fish stock.
47. As to lake levels, they are generally within a consistent range, and to my knowledge, the minimum lake level has never been exceeded and valuable wetland habitat has formed around the lake margins. The minimum lake operating level conditions currently in place should remain. Conditions requiring mining setbacks from the lake and the Wainui Stream and natural wetland habitats are also supported and mitigate effects on the mauri and wairua of these resources.
48. Past incidents at the mine have very infrequently caused regrettable cultural effects. An example under the current owners is one incident five years ago

resulted in an extremely small amount of diesel contaminants temporarily entering the Wainui Stream which adversely affected the mauri and wairua of the stream. This incident should be put into perspective of the full 50-year record of a site surrounded and dissected by lakes and streams. New operational fuel storage tanks have now also been built and moved into the middle of the Central Block, which is as far away from waterways as possible on site. While this incident and any others have been isolated, the day to day management of the mine since TIL assumed ownership and operation has ensured that equipment and procedures have been put in place to reduce as far as practicable the potential for such incidents to occur.

Discovery of Koiwi

49. The discovery of Koiwi at Taharoa occurs more commonly than might occur in inland areas due to the mining activities.
50. As a result, Ngāti Mahuta observe tikanga at the mine site derived from many years of interacting with discoveries of Koiwi and taonga in the Taharoa dune system.
51. Legally and physically defined urupa exist within the dune system where Koiwi discovered in the mine site are interred. From my experience, appropriate tikanga is observed during these discoveries.
52. No mining activity is undertaken within or in close proximity to the urupa. There is observance and clear demarcation of wahi tapu areas. These practices should and will continue if the consents are granted.

Positive benefits

53. Although there are potential cultural effects, which I have explained above, there are also considerable positive effects. Cultural benefits will accrue through allowing tāngata whenua to continue to exercise kaitiakitanga over their ancestral lands and waters through ongoing oversight of mining activity and rehabilitation, and by ensuring Ngāti Mahuta tikanga is observed at times of accidental discovery of taonga and koiwi. In addition, the socio-economic benefits of the mine allow for a stable, marae-based community at Taharoa.

PROPOSED MITIGATION MEASURES

54. The conditions of consent proposed by Waikato Regional Council (**WRC**) include that:

- (a) water takes must cease if the lake level drops below 8.53m RL.
- (b) the consent holder shall make all efforts to avoid culturally significant sites.
- (c) All sites shall be managed in accordance with Taharoa Mine Site Safety & General Procedures - Discovery of Human Remains and/or Items of Cultural Significance -TM-4000.110.
- (d) In addition, in the event that any archaeological remains are discovered, the works shall immediately cease in the vicinity of the discovery and the Waikato Regional Council, iwi and the Historic Places Trust shall be notified within 48 hours. Works may recommence with the written approval of the Waikato Regional Council (**WRC**). Such approval is subject to:
 - (i) Tangata Whenua interests and values;
 - (ii) the consent holder's interests; and
 - (iii) any archaeological or scientific evidence.

55. Many of the cultural measures and protocols adopted when the mine started and continue to be in place. A lot of the cultural protocols were put in place by elders far more knowledgeable in cultural matters than myself and my position has been to follow those.

RESPONSE TO SUBMISSIONS

56. Submissions have been lodged that identify concerns about the potential effects of the Mine on Māori cultural values. I have focused my response on the concerns relating to cultural effects rather than consultation.

A description of the actual and potential effects on adjacent properties including those on the ability for tangata whenua to continue to connect to their ancestral land

57. Taituwha King and Ngahuia Herangi on behalf of Te Kooraha Marae Trustees and Shirley Tuteao and Kana Whanau requested additional information to assess the impacts of the proposal on their whenua and ability to connect to their ancestral land.
58. In my view, there is sufficient information in the bundle of application documents, and my evidence addressing the potential cultural effects (including positive effects) of the Application.

Cultural impact assessment

59. Melaina Huaki on behalf of Te Rūnanga o Ngāti Mahuta ki te hauaaru has request that the consent is put on hold until the Te Ruunganga o Ngaati Mahuta ki hauaaru Taiao plan is completed and launched in 2024. Once this plan is released, she suggests that the TIL consent can be revisited, revised and reset to align with the Taiao plan, Marine and Coastal Area, and West Coast Claims.
60. As explained in the evidence of Mr Wayne Coffey, TIL has also made significant investment in the mine and is facing closure of the mine if the consents are not granted, therefore, in light of the interests and benefits explained above, I do not consider it necessary for the consent process to be paused. Taharoa C will consider the Te Ruunganga o Ngaati Mahuta ki hauaaru Taiao plan when it is released and assess the implications and how we can help resolve any issues.
61. Ngaati Mahuta ki te hauaaru has indicated that it relies on Taharoa C Block to advocate for the people of Ngaati Mahuta ki te hauaaru based on cultural principles. The arrangement, as I understand it, is that Taharoa C is best placed to speak on behalf of the shareholders of the Taharoa Block, as has been the case in the past, and that Ngaati Mahuta ki te hauaaru are the voice of the hapū.

A bond

62. There are also submitters who seek for the existing bond to be reinstated.
63. As the enduring owners of the whenua, and a partner in the ongoing operation and management of the mine, tangata whenua will themselves be able to responsibly determine and implement how the whenua is to be left if the mine is to close. It goes without saying that tangata whenua have no interest in seeing the site left in a post-closure state that would be detrimental to the environment.
64. The current requirement for a financial bond to be provided by TIL, and thus indirectly the tangata whenua beneficiaries of Taharoa C, to WRC for environmental performance and other matters is unnecessary and, in cultural terms, represents an affront to the rangatiratanga of tangata whenua.
65. Provided that there is a condition that requires compliance with the Site Closure Plan and Rehabilitation Plan, TIL will be sufficiently liable to ensure that the site is appropriately rehabilitated at the end of the mine's life (through the Resource Management Act 1991).

CONCLUSION

66. For the reasons set out in this evidence, the cultural effects of the Application will be adequately mitigated through existing tikanga, ongoing consultation by TIL using existing channels, and the proposed conditions of consent. The cultural benefits that will be retained through the granting of the consent are enormous, and the impact of declining the consents would be devastating – it would see Ngāti Mahuta hapū, as landowners, deprived of the ability to utilise and profit from the land, and it would severely affect the Ngāti Mahuta community living in the community.

Dated this 23rd day of January 2024

Hoturoa Barclay-Kerr