

## **Appendix JJ      Supplementary Statement of Evidence of Hoturoa Barclay-Kerr, 27 June 2024**

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**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).

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

**CULTURAL**

**DATED 27 JUNE 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 Taharoa C Block, 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 when it was established in the 1970s and I have spent much of my childhood in Taharoa.
5. My background, qualifications and relevant experience are set out in my Primary Statement of Evidence dated 23 January 2024 (**Primary Statement of Evidence**).
6. I have prepared this Supplementary Statement of Evidence on behalf of Taharoa Ironsands Limited (**TIL**) in relation to its application to continue mining the Central and Southern areas of Taharoa C Block (**Application**).
7. In preparing this Supplementary Statement of Evidence I have considered Mr Taituwhata King, dated 17 June 2024. I have also had regard to TIL's proposed conditions of consent, the latest version being attached to Mr Grant Eccles Statement of Rebuttal Evidence, dated 6 June 2024.
8. As I have already provided evidence on cultural matters, I primarily address matters raised in Mr King's Statement of Evidence in this statement.

### NGĀTI MAHUTA AS TANGATA WHENUA

9. In my Primary Statement of Evidence, I set out the history Ngāti Mahuta ki Tai – the hapu with mana whenua within this rohe (Taharoa area).
10. I am largely in agreement with Mr King's statements regarding Ngāti Mahuta ki te hauāuru and its rich history.

11. I agree with Mr King that Ngāti Mahuta ki Tai's mana whenua is held exclusively by the three Ngāti Mahuta Marae at Taharoa, being Aruka Marae, Te Kooraha Marae and Maketu Marae in Kawhia.<sup>1</sup> The people who make up the communities connected to these marae are all related and are often the same people.
12. Mr King states that he was appointed by representative groups across the different whanau groups and trusts including the Tahaaroa Lakes Trust, Aaruka Marae and Te Rūnanga o Ngāti Mahuta ki te hauāuru to be the cultural expert and representative of Ngāti Mahuta ki te hauāuru. "Together they represent the tangata whenua and (human) kaitiaki of the land affected by the sand mining activities at Taharoa."<sup>2</sup> Mr King states that no other group represents or speaks on behalf of Ngāti Mahuta.<sup>3</sup>
13. Mr King has clearly stated that he has been appointed as a representative and spokesperson for Ngāti Mahuta. I have no issue with this because of his genealogical connection to the land and the fact that his family owns land neighbouring Taharoa C Block. It must be understood however that many of the Taharoa C shareholders who are Ngāti Mahuta tribal members may not be aware of that he is speaking on behalf of all of these groups.
14. While the Marae have mana whenua, in my view, it is important for the Panel to understand that I am providing this statement on behalf of a large group of Ngāti Mahuta ki te hauāuru, being the group of more than 2000 shareholders who are descendants and beneficiaries of the original people who owned the land now known as Taharoa C Block (which is Māori freehold land). No raupatu has ever occurred on Taharoa C Block. Hapu members (being the shareholders) have had uninterrupted ownership of this whenua, and the ability to exercise customary practices upon it since it was settled in the early 1800's. We have kaitiaki responsibility in relation to our land and we will decide what happens to it in the future when it is no longer used for mining.
15. I also note that 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 including Mr Keepa's

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<sup>1</sup> As noted in paragraph [19] of my Primary Statement of Evidence.

<sup>2</sup> At paragraph 1.2 of Mr King's statement of evidence.

<sup>3</sup> At paragraph 1.3 of Mr King's statement of evidence.

family, the Wetini family, the Puketapu Trust and Mr King's family. While Mr King is able to speak on behalf of Ngāti Mahuta ki te hauāuru, some of these beneficiaries may not share his views – this reflects the interconnected nature of our community.

16. Mr King also makes some comments in relation to Taharoa C, and my authority to explain cultural matters:

- (a) Mr King states that while some members of Ngāti Mahuta ki te hauāuru are employed by TIL, their tribal representation and significance within TIL remains minimal.<sup>4</sup>
- (b) Mr King states that the Taharoa C governing board represents only its shareholders, and that they do not speak to Ngāti Mahuta ki te hauāuru tribal collective.<sup>5</sup>

17. As I noted in my primary evidence, Taharoa C does not speak on behalf of the Ngāti Mahuta ki te hauāuru tribal collective. However, there are some important points of view that do need to be recognised:

- (a) Taharoa C's shareholders are members of Ngāti Mahuta ki te hauāuru and the majority are connected to the local marae.
- (b) I respectfully consider that Mr King is understating the value of TIL to Ngāti Mahuta ki te hauāuru and vice versa. I have explained in my primary brief that 80% of TIL's employees are Ngāti Mahuta. There are more Ngāti Mahuta tribal members in managerial and supervisory roles in the TIL operations than any time in the past under the management of overseas mining interests. The number of Ngāti Mahuta workers who are employed by TIL is not insignificant and because of the responsibilities many of them hold, certainly not minimal. It is because of the positions that are held by our tribal members within the management structures of TIL that I am confident of how the operations will be carried out and absolutely confident that when the time comes to rehabilitate the lands these hapu members will be there to ensure it is done appropriately.

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<sup>4</sup> At paragraph 3.27.

<sup>5</sup> At paragraph 3.28.

## **TIL'S CONSIDERATION OF CULTURAL EFFECTS AND PROPOSED MITIGATION**

18. At the outset I would like to explain that I agree to a large extent with Mr King's explanation of the Ngāti Mahuta ki te hauāuru's culture and traditions and relationship with our ancestral lands, water sites, wahi tapu and taonga. The land is a physical representation of who we are and the history of Ngāti Mahuta. The importance of the relationship and connection to the land can be derived from the pages of "Te Tahaaroa o Ruaputahanga" the thesis written by my father in accordance with the University of Auckland requirements for a Master of Arts degree. Not only is this a source of information and understanding about Taharoa, its history and that of the mine, it is also a wealth of knowledge that Mr King and others have used in their own quests for knowledge.
19. I am aware of the potential effects of TIL's activities and in my role as Chairman of the landowner, I must do what is required to ensure that the rights of the shareholders and landowners are considered and decisions are made to benefit those people. the majority of whom are Ngāti Mahuta descendants.
20. Mr King seeks for TIL to "take far greater care and attention in protecting the cultural values of the tribe including the Tahaaroa area and its people". We are aligned in relation to TIL's responsibility to protect this whenua and "ensure that the legacy of mining does not harm the cultural and ecological wealth of the area."<sup>6</sup> This is not the intent of the Mine or the lease that we have with TIL.
21. However, we have different views about how the land will be mined and what the final rehabilitation process may look like. I believe without a doubt that TIL is committed to ensuring that the land will be rehabilitated to a condition better than most people might expect. Because mining has such an impact on the surface of the land it is difficult for some to see past the actual physical appearance of the mine today to what it may look like in the future. People who were born before the mine started remember that the area

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<sup>6</sup> At paragraph 7.13 of Mr King's Statement of Evidence.

owned by Taharoa C was a vast dune system that was not forest or anything else.

22. Mr King's key comments about the application relate to:

- (a) monitoring of important signs and indicators relating to the environment;
- (b) regular communication of the findings;
- (c) better rehabilitation plans; and
- (d) returning the land to its natural state;

23. Mr King recommends that the conditions of consent require TIL to:<sup>7</sup>

- (a) Monitor mining impacts on flora and fauna with a focus on native species;
- (b) Actively reduce light and noise pollution by creating native green corridors with the intention to not mine those areas;
- (c) Actively restore native habitats;
- (d) Actively engage with and involve mana whenua in environmental management; and
- (e) Actively support environmental education both inside and outside the company.

24. There is no disagreement that TIL has a responsibility to manage and reduce its environmental and cultural effects. Many of the cultural measures and protocols adopted when the Mine started 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. Cultural practices associated with discovery of koiwi were established which recognised the fact that koiwi may be disturbed not just by the Mine but through weather erosion and animal activity. TIL has acknowledged that more can be done to improve the migration of different fish species and other

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<sup>7</sup> At paragraph 29.29 of his Statement of Evidence.

fauna to allow traditional fishing practices to continue and improve the health of these species and their waterways.

25. In addition to the existing measures and protocols, TIL has proposed new conditions of consent as part of its application. These proposed conditions include the following proposals which address the recommendations that Mr King has made:
  - (a) TIL has proposed to prepare an overall Environmental Management Plan (**EMP**) for the Mine. The objective of the EMP is to avoid, remedy or mitigate the actual and potential adverse effects of operational activities associated with mining at the site and once mining has concluded. It will also set out the practices and procedures to be adopted to address the potential adverse effects of mining on ecological and indigenous biodiversity values.<sup>8</sup>
  - (b) The results of monthly and annual monitoring will be available to mana whenua on a website.<sup>9</sup>
  - (c) There will be a 30m buffer area around natural inland wetlands at the Mine. There is also proposed to be a Wainui Stream Enhancement Plan to improve the indigenous biodiversity values associated with the lower Wainui Stream.<sup>10</sup>
  - (d) The buffer area around natural wetlands will be planted with native and other plants. I understand that staff will be trained on the basic methodology of identifying wetlands too.<sup>11</sup>
  - (e) This creation of planting areas will be kept free from pests as well for the purposes of ecological enhancement.<sup>12</sup>
  - (f) These buffer areas around natural wetlands will create the native green corridors Mr King proposes. The EMP will also include a Bat Management Plan which will include best practice lighting to minimise

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<sup>8</sup> EMP condition 1(i) and (ii).

<sup>9</sup> Schedule 1 condition 29.

<sup>10</sup> AUTH142035.03.01 condition 9.

<sup>11</sup> EMP condition relating to Natural Wetland Management Plan (iv).

<sup>12</sup> There is a proposed Pest Management Plan at EMP condition 3(d).

effects on bats and will be implemented within health and safety requirements.

(g) After mining has occurred on parts of the Mine it will be rehabilitated to manage dust and erosion and then rehabilitated to create natural landforms and/or undertake planting. TIL's proposed Site Rehabilitation Plan requires consultation with and input from stakeholders, including Ngāti Mahuta, Te Kooraha Marae and Aaruka Marae during the preparation of the plans.<sup>13</sup>

(h) The Site Rehabilitation Plan will guide TIL to return the land to its natural state including dunes, native and other vegetation as well as habitat suitable for pipit.

26. As set out above, TIL has taken steps already to address the concerns raised by Mr King and those he speaks for, including Ngāti Mahuta. If any of the above measures are not as effective as anticipated, there is an ability to review the conditions of consent if required.<sup>14</sup> This provides further comfort that all adverse effects will be addressed. If the spirit of collaboration and co-operation is such that good open dialogue is achievable then progress will also no doubt be made to address any issues that come to light as the resource consents are exercised. TIL has an open door.

**Mitiwai Stream**

27. Mr King describes the significance of the Mitiwai Stream. Because I am from Te Kooraha Marae, the Mitiwai stream plays a major significance in who I am and my identity as Ngāti Mahuta, for all the reasons that Mr King describes.

28. Mr King notes that TIL is seeking permission to access the Mitiwai Stream to assist with mining activities and TIL wants the ability to pipe clean mining water into the Mitiwai Stream.<sup>15</sup> If water that is pumped into the Mitiwai stream is the same quality or better than the water already flowing in the stream I have no issue with that. The issue would be polluted water being released into those waters.

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<sup>13</sup> EMP condition relating to Site Rehabilitation Plan (f).

<sup>14</sup> Schedule 1 general conditions, condition 48.

<sup>15</sup> At paragraph 27.2 of his Statement of Evidence.

29. I understand TIL will undertake dry mining and wet-mining in the vicinity of the Mitiwai Stream. A 30m buffer will be maintained from the stream itself.
30. To manage effects on stream flow from wet-mining, the stream will be augmented by other water. TIL's ecologist has suggested that monitoring measures be implemented to clearly show that the water used to augment the flows (if required) is monitored to ensure there is no reduction in water quality (including in relation to water clarity, temperature, dissolved oxygen or other contaminants).<sup>16</sup> This will mean that the qualities of the water in the stream will not change. Follow up monitoring will be used to make sure there are no ongoing effects after mining has finished.
31. If TIL ensures that the quality of water released into the stream, then there can only be positive outcomes. As it is there is run-off from farms and animals that graze along its banks. These kinds of existing activities already contribute to some degradation of water quality, however if the water quality improves as a result of this it would seem to be a positive outcome.

### **Engagement with the community**

32. Mr King mentions that he was successful getting a resolution passed where Taharoa C Shareholders agreed to an expansion of the boundaries of Te Wharangi Urupa into Taharoa C lands. I think the fact that the shareholders agreed to this resolution shows how the landowners feel about their connection to their land and their people. Agreeing to give land away is a big decision and many forget the aroha with which this decision was made. This decision allowed for people who may not be shareholders of Taharoa C land to still have a place to return to when they die.
33. It must also be remembered that Te Kooraha Marae would be inaccessible to the many tribal members who connect to that marae if Taharoa C did not agree to a road being put through their block to allow access. Access was originally through other private lands but when these Māori freehold landowners refused access, Taharoa C agreed for their lands to be used to build a road to the marae. Taharoa C has also contributed to a number of social projects at the marae. This context is highly unique and important

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<sup>16</sup>

Statement of Evidence of Keren Bennett, dated 23 January 2024, at [61].

when considering the cultural effects of TIL's application and the relationship between TIL, Taharoa C and the community.

## **CONCLUSION**

34. For the reasons set out in this evidence, I consider that the concerns raised by Mr King and the recommendations listed in his Statement of Evidence will be addressed through existing practices and the proposed conditions set out in Mr Eccles' Rebuttal Statement of Evidence.

Dated this 27<sup>th</sup> day of June 2024

**Hoturoa Barclay-Kerr**