

Indigenous Developments: Looking back to move forward

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ABSTRACT

“Kuiwai e! Haungaroa e! Ka riro au i te Tonga. Tukuna mai te ahi!”

(O Kuiwai, O Haungaroa, I am seized by the cold wind to the south, send me fire!)

When Ngatoroirangi called from the summit of Mt Tongariro to his sisters in Hawaiki for warmth, his sisters sent the siblings Te Hoata and Te Pupu who brought forth the embers of Ruamoko and geothermal fluid to Aotearoa New Zealand. This legend speaks to a symbiotic relationship between Maori and the geothermal resource that still exists today. For centuries Maori have used the natural geothermal springs for healing, warmth and cooking. In the 21st century Maori, led in many cases by dynamic Maori women, continue to define their role in the development of geothermal in New Zealand. Roles which are both cultural and environmental kaitiaki as well as commercial guardians for the economic betterment of current and future generations.

The paper will consider the different forms and commercial structures of geothermal development Maori have chosen and are participating in. As well as the lessons which can be learnt when working for or negotiating with indigenous peoples, from the Maori experience. It will also consider the role of Maori women in those developments and the definition of sustainable developments from an indigenous perspective.

1. INTRODUCTION

Maori have lived symbiotically with geothermal fluid and heat since they arrived on Aotearoa New Zealand. From White Island, to Rotorua to the Taupo Volcanic Zone in the North Island of New Zealand. Since the early 1900s access to Maori land has been sought for geothermal power generation. Maori and their organisations have participated in such developments either as landlords or more recently as equity owners. One of those organisations is the Maori Incorporation “The Proprietors of Taheke 8C & Adjoining Blocks Incorporation” (Taheke 8C). This paper explores the challenges and opportunities of indigenous development using the Taheke 8C example and the manner that these challenges have been met.

2. KORERO

Ngatoroirangi was a tohunga prominent during the settling of Aotearoa by Maori. It is told that Ngatoroirangi was descended from the people of the gods – Ngati Ohomairangi. And in our tradition Ngatoroirangi was responsible for bringing the thermal waters to Aotearoa when he stood and faced Hawaiki and called to his sisters Kuiwai and Haungaroa who had the mana to create the mauri of the hot water to bring the waters to him at Tongariro where he was suffering because of the cold: “E kui ma, e-ei! Haria mai he ahi mooku. Ka mate au i te maaeke”.

His sisters heard his call and answered travelling across the surface of the water only taking a breath at White Island where the fires of the kuia still burn. Then it spread across this land the kuia coming to him and bearing the fire for him.

Now there are varying accounts of the in-land route travelled by the kuia on their way to their brother on Tongariro. The one I will share with you today is the account of the Ngati Manawa people of Murupara.

According to Ngati Manawa the kuia came to what is now called Murupara and travelled a long straight course named Kuhawaea by the old people of Ngati Manawa, which means “the long strides of the sisters of Ngatoroirangi”. They arrived at the Whirinaki River where they decided to catch some eels to eat. They used a long stick with flax fibre tied at the end and threaded worms on to the flax as bait for the eels. When the eels took the bait and they jerked the stick the stick broke. The name of that place is Matire Whati which means “The long stick that broke”. They crossed the Whirinaki River at that place and today a bridge spans the space and the crossing is still known as Matire Whati. They continued their journey and came to the Rangitaiki River which they crossed and continued up into the Kaingaroa Plains.

Along the way the kuia came to a swamp area that they had to cross. It was here that the dried kumara they carried in their kete dropped out of the kete and into the swamp and they had to feel around in the swamp to recover the kumara. They named that place Wairapu Kao. Kao is the dried kumara and Wairapu means to feel around in swampy water.

From there they travelled to where their brother Ngatoroirangi was waiting.

Te Arawa call these waters waiariki, “chiefly waters” because the thermal water was called here by the high chief and arrived and spread here. That is why we call it chiefly waters and not hot water. And that is why we, Ngati Hinekura, view the geothermal resource as taonga¹. And that is why we got up at daybreak when the drilling first started to whakanoa² the well sites so that all who work on the drilling platforms, remain safe (Taheke, 2010).

3. MAORI PERCEPTION OF OWNERSHIP OF GEOTHERMAL IN NEW ZEALAND

The Taupo Volcanic Zone (TVZ) is an active volcanic zone created by the collision of two earth crustal blocks and the subduction of the Pacific plate in relation to the Indo Australian plate. The TVZ extends from White Island offshore in the Bay of plenty, through the Rotorua and Taupo lakes to Tongariro and Ruapehu.

There are approximately 17 major geothermal fields within the TVZ. New Zealand law provides that geothermal fluid and resources flow with the ownership of the land. Through successive pieces of legislation and governments have claimed to extinguish Maori customary title to geothermal resources. This has been argued in the Waitangi Tribunal. The Waitangi Tribunal is a permanent commission of inquiry established under the Treaty of Waitangi Act 1975. It is charged with investigating and making recommendations on claims brought by Māori relating to actions or omissions of the Crown, since 1840, that breach the Treaty of Waitangi.

The Waitangi Tribunal has made a number of observations in successive inquiries of relevance to this paper. The Ngawha tribunal had this to say:

A final observation may be made regarding the unitary character of the geothermal resource. Since the springs themselves lay within the territory over which Ngapuhi had always exercised unchallenged their rangatiratanga, it follows that in their view such rangatiratanga would have extended over the entire resource equally above and below the surface of the land and throughout the extent of its manifestation. This, we believe, was the position in 1840 and, the claimants say, it is still the case today. On all major counts, then, the Ngawha springs and the underground resource are a taonga for Ngapuhi. (Wai 304,1993)

In their Preliminary Te Arawa Geothermal Report, which found that the geothermal manifestations of Whakarewarewa, Rotokawa Baths, and Rotoma Waitangi Soda Springs were taonga. That tribunal extended the definition of that view of ownership:

It would be invidious for this tribunal to attempt a comparative evaluation of the value to the three groups of claimants of their respective taonga. We would again stress that the value attached to such taonga is essentially for those having rangatiratanga³ and exercising kaitiakitanga⁴ over them to determine. But such value is not confined to, or restricted by, traditional uses of the taonga. It will include present day usage and such potential usage as may be thought appropriate by those with rangatiratanga over the taonga. (Wai 153, 1993)

In the Te Maunga Rongo Report it was found that geothermal resources which Maori claim as taonga comprise three aspects:

- a. The geothermal surface features.
- b. The geothermal water or fluids, and geothermal heat and energy, located in the geothermal fields.
- c. The subterranean resource which is the TVZ.

The Report went on to state that geothermal activity was central to Central North Island Maori and their ways of life. They provided two maps of relevance. The first of these, prepared by DSIR⁵ scientists M A Mongillo and L Clelland, shows the TVZ and the geothermal systems, hot springs and volcanoes (see Figure 1). The second is a map, drafted for the New Zealand Historical Atlas, which shows marae in relation to geothermal fields (map Figure 2). The close physical relationship between Maori settlement patterns and geothermal features is clear.

¹ Taonga is an object or natural resource which is highly prized

² Whakanoa is to settle a space and make it safe – to use kai or karakia or waiata to settle our minds and or wairua after it has been changed

³ Rangatiratanga translated as ‘self-determination or sovereignty’

⁴ Kaitiakitanga means guardianship and protection

⁵ Department of Scientific and Industrial Research (New Zealand)

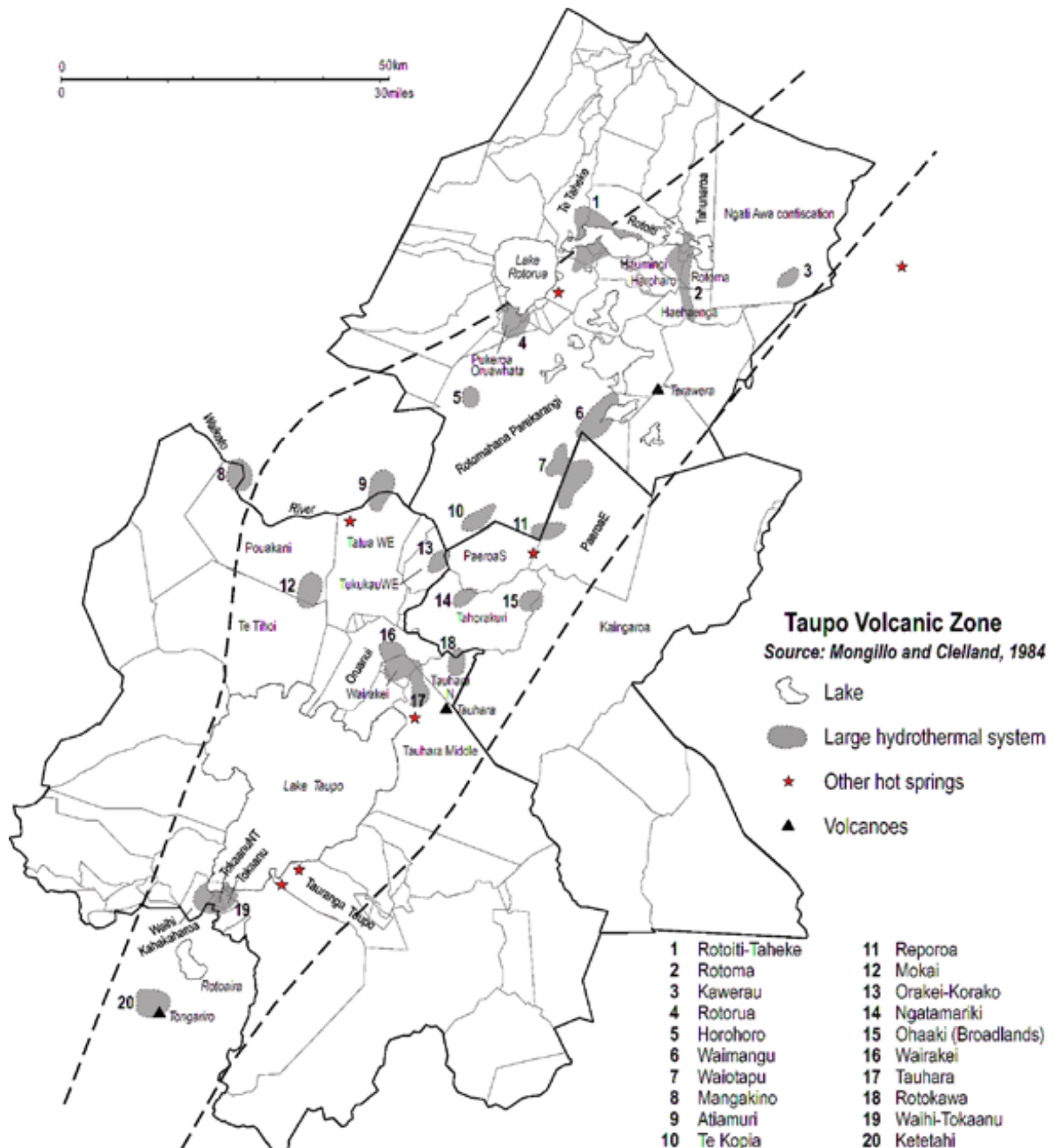


Figure 1. The Taupo Volcanic Zone [Source: Mongillo and Clelland, 1984, reproduced in Evelyn Stokes, *The Legacy of Ngatoroirangi: Maori Customary Use of Geothermal Resources* (Hamilton: University of Waikato, 2000

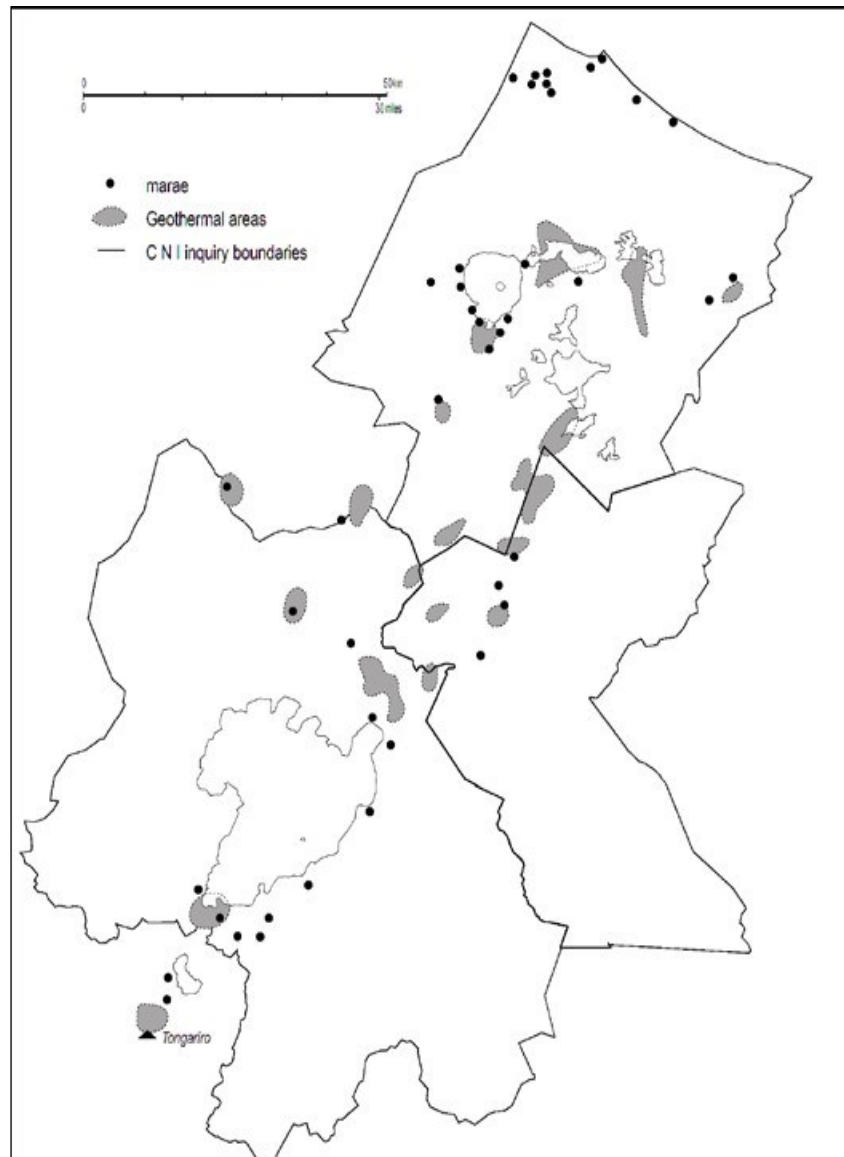


Figure 2. Marae in relation to principal geothermal fields [Source: Evelyn Stokes, *The Legacy of Ngatoroirangi: Maori Customary Use of Geothermal Resources* (Hamilton: University of Waikato, 2000), (doc A56), figure 4, p 9, and New Zealand Historical Atlas, plate 92]

The Tribunal considered in the Te Maunga Rongo Inquiry that:

"...at the time of colonisation, Central North Island Maori understanding of the geothermal resource through day-to-day observation and use, on top of knowledge inherited over generations, was likely to have been considerably in advance of that of most newly arrived settlers and politicians. Maori depended on the heat, energy, and water of their geothermal resource to sustain their way of life in a climate that was quite different from that of their pacific homelands. This is what they claim as their taonga and – while other components of a geothermal system may influence the nature of the geothermal fluid or water, the temperature of a field or the number of surface manifestations – it is the water, the heat, and the energy that mattered most to Maori. That was their taonga, and where it emerged they lived or gathered; and when it moved, they moved. This is the point that Maori of the Central North Island understood through their stories of Ngatoroirangi." (Wai 1200, 2008)

While the Waitangi Tribunal's recommendations are non-binding on the New Zealand government, such statements are compelling during the determination of assets available for iwi Treaty settlements. An example is the settlement of Ngati Tuwharetoa ki Kawerau which included transfer of land in the local geothermal field and access to Crown geothermal assets including wells. The iwi in that instance used those rights and assets to build a number of developments with partners and in their own right.

However, the Waitangi Tribunal report did not change the presumption and longstanding Crown view that the geothermal fluid and resource flows with the land. This remains and ensures that land ownership and then the regulation of resource management in New Zealand is the basis for any geothermal development.

Now most of the remaining untapped or under utilised fields and potential developments are under the control of Maori land owners and Maori organisations. It is to Maori that developers must go if they want to develop geothermal based opportunities in New Zealand.

4. MAORI LAND GOVERNANCE

"Maori land has several cultural connotations for us. It provides us with a sense of identity, belonging, and continuity. It is proof of our continued existence not only as people, but as tangata whenua of this country. It is proof of our tribal and kin group ties....It is proof of our link with the ancestors of our past, and with the generation yet to come. It is an assurance that we shall forever exist as a people, for as long as the land shall last." (Legislative Review Committee 1980)

4.1 Maori Organisations

As stated above many of the land blocks within the TVZ are designated as Maori land. Maori land is subject to Te Ture Whenua Maori Act 1994 (TTWMA) and the jurisdiction of the Maori Land Court. We give an overview of their legislative framework below.

Types

There are several governance options available if the asset which is being administered is Maori land or shares in Maori land.

- Maori Incorporations - are conceptually similar to companies and were originally designed to facilitate the commercial development and utilisation of the subject Maori Freehold Land. However, a Maori Incorporation holds land vested in it on trust for the owners who retain a beneficial interest (and thus a link to the ancestral land). Each owner holds a defined number of shares.
- Ahu Whenua Trust - the equivalent of the old section 438 Trusts, these promote land use and administration. Ahu Whenua Trusts are designed to allow trustees to conduct business in relation to the Maori Freehold Land held by the Trust while also meeting the beneficial owners' cultural needs.
- Whenua Topu Trust - this is an iwi or hapu⁶ based trust. It is designed to facilitate the use and administration of the land in the interest of the iwi or hapu. This type of trust is used for receiving Crown land as part of any settlement.¹³
- Whanau Trust - this is a whanau oriented trust. It allows the whanau to bring together their Maori land interests for the benefit of the whanau and their descendants.
- Piitea Trust - allows the owners of small and uneconomical interests to pool their interests together.¹⁴
- Kaitiaki Trust - A kaitiaki trust relates solely to an individual who is a minor or has a disability and is unable to manage their affairs. This trust can include all of an individual's assets.

4.2 Management

Most geothermal developments involving Maori are undertaken by Maori Incorporations and Ahu Whenua Trusts or Maori Trusts as they are often called.

In the case of trusts established under the TTWMA, the trustees are the legal owners of the trust property which they hold on behalf of the beneficial owners.

TTWMA imposes a range of generic obligations on trustees to act on behalf of the beneficial owners and to account to the beneficial owners. Further obligations specific to each trust are then established by trust orders made by the Maori Land Court. These trust orders are similar to trust deeds in terms of the matters that they cover, although they are rarely, if ever, as detailed as the types of trust deed that are now common when dealing with governance entities established to represent iwi or hapu groups. Trust orders are also based on regional court templates, which means that there is considerable uniformity as to the terms upon which trusts in the different Maori Land Court districts operate.

Included in these trust orders are a series of specific provisions designed to promote accountability to the beneficial owners such as:

- provide for a trustee or beneficial owner to refer trustee decisions to either a meeting of owners or to the court;
- require the trustees to call an annual general meeting;
- require any trustee to file a written report and make himself or herself available for questioning if required by the court;
- require the trustees to prepare an annual report and annual audited financial statements and to file that report and the financial statements with the court within six months of the trust's balance date; and
- require the trustees to apply to the court for a review of the trust within a specified period.

⁶ Hapu is a group of a Maori people or community connected by whakapapa (genealogy). Hapu sometimes are sub sets of iwi (tribes) and in other instances they are self determining groups in their own right.

One area not covered in the template trust orders is the election of trustees. The reason for this is that even if the trust order were to provide a process for the election of trustees, the court retains the ultimate discretion to determine trustee appointments. The result of any election or appointment process is only treated as evidence of the level of support that potential trustees have amongst the beneficial owners.

As stated above, Maori Incorporations are designed to operate in a manner similar to companies and also hold shares in the incorporation in proportion to the extent of their interests in the land.

The Maori Incorporation is required to keep proper accounts, prepare and publish to its shareholders a set of annual financial statements and hold an annual general meeting. An Incorporation must also have a constitution, the form of which is prescribed by the Maori Incorporation Constitutions Regulations 1994. The constitution set out in the Regulations deals largely with process and administrative matters concerning the incorporation. It also makes further reference to the requirement to hold an annual general meeting and sets out the process for election of the committee of management of the incorporation. Maori Incorporations with the approval of their shareholders can vary the template constitution to meet its specific needs. This is common place where those incorporations move beyond the standard activities of farming and forestry, including commercial activities utilising geothermal.

4.3 The Courts Jurisdiction

Responsibility for the administration of Maori Trusts and Maori Incorporations under TTWMA rests with the Maori Land Court. In respect of Maori Trusts in particular there have been a number of cases that have served to emphasize the broad powers and guardianship function of the court in respect of trusts (Court of Appeal 1999). This power includes the general discretion on the part of the court in relation to the appointment and removal of trustees. Consistent with its wide powers, the court has the discretion to undertake investigations into the activities of Maori land trusts.

Beneficial owners and shareholders have the ability to seek the intervention of the Maori Land Court. Through TTWMA the options available to the beneficial owners and shareholders include applying for:

- a review of the trust by the court (s 231);
- the trustees of the trust to file a written report on any matter relating to the administration of the trust and the performance by the trustees of their obligations (s 238(1));
- enforcement of the trust obligations (s 238(2)); and
- removal of trustees (s 240).

Conversely, with respect to Maori Incorporations the Māori Appellate Court set out the powers and operations of Incorporations as introduced by TTWMA, stating:

“There is no doubt that part of the kaupapa⁷ of the Act is to facilitate and promote the retention, use, development and control of Māori land by the owners. The preamble to the Act refers to these objectives and also to the establishment of “mechanisms to assist the Māori people to achieve the implementation of these principles.” In the provisions relating to trusts and incorporations the Act has established two such mechanisms conferring management of lands by owners in accordance with the kaupapa. The provisions of the Act and Māori Incorporations Regulations constitute a code regulating the administration and management of incorporations.

Under the 1993 Act the powers and operations of incorporations are considerably extended from those held previously. Any new incorporation that is formed has under Section 250 all the powers of a body corporate. Section 253 confers on any existing incorporation, subject to any limitation or restrictions expressed in the order of incorporation, the right to carry on or undertake any business or activity, do any act, or enter into any transaction. Under Section 270 an incorporation acts through its Committee of Management.

Conversely the Act and Regulations provide a series of counterchecks and balances for the owners. The Committee of Management must account to the shareholders at Annual General Meeting each year. The owners can under Section 253A by resolution passed at Annual General Meeting impose limitations or restrictions on the constitution or on the powers conferred by Section 253. Under Section 270(6) the Committee of Management must comply with the terms and conditions of any resolution passed at general meeting relating to the powers and functions of the incorporation”. (Rotoma 1996)

Given the emphasis on corporate activities and shareholder powers caselaw is clear that the Court cannot intervene in incorporation processes as of right as it does not have inherent jurisdiction to do so. The Court can only therefore investigate the activities of a Maori Incorporation where an application is made by shareholders holding not less than 10% of the shares in the incorporation (Firmin 2016).

Understanding as a developer what Maori organization you are engaging with is a first step to understanding their purposes, powers and capacity to participate in the development of geothermal under their land. Understanding their respective obligations to their shareholders and beneficiaries and ultimately to the Maori Land Court is also important.

5. MAORI LAND GOVERNANCE

A number of Maori organisations have either Maori women as governors or in management. Understanding where we come from and our history helps when engaging with us. We provide a short overview of the background to the evolution of Maori women from leaders, to the silenced and back to the renaissance that has come in recent decades.

⁷ Kaupapa means principles and ideas which act as a base or foundation for action

Pre colonization Maori women were not forced into the molds of their European counterparts. Evidence suggests that they were leaders and liberated. They were not regarded as chattels or possessions and retained their own names and identities upon marriage. Their children could identify with the kinship group of either parents.

Kuia Kuni Jenkins stated:

“In her cultural role the Maori woman was part of a community. The home unit was part of the whole kainga. Grandmothers, aunts and other female and male elders were responsible for rearing the children of the kainga. The natural parents were not the sole care-givers. The routines of the whanau were such that couples could not be isolated to lead independent lifestyles. Their communal living required constant contact and interaction with other members of the tribe in concerted effort to keep the affairs of the group buoyant and operational” (Mikaere 1994)

Following colonization, however, Maori women faced a dramatic change of role and perception. As Ani says, *“the concept of women as leaders and spokespersons for their whanau, hapu and iwi would have been beyond the comprehension of the settlers or the Crown representatives who were sent to negotiate the Treaty of Waitangi.”* Subsequent dismantling of the collectivism which was Maori society by the Native Land Court to access Maori land ultimately lead to alienation and urbanization with Maori whanau forced to break into nuclear units to move and search for work.

Little, sadly, was done to remedy this situation in subsequent years. Maori women remained largely absent from input into even those matters of importance to Maori. Many Maori women were forced to work both outside and, in the home, others were not able to find work at all. Those that didn't would often still take voluntary roles within the community and where possible the Marae was the hub for Maori communities in both rural and urban areas.

Evidence of the high degree of involvement in community organisations by Maori can be seen in an analysis of information from the 2001 census. This showed that 65,151 Maori adults stated they undertake unpaid voluntary work for 'any organization, group or marae'. Many of these voluntary workers were Maori women (58%), as can be seen in the following table:

Age range	15-24 years	25-34 years	35-44 years	45-54 years	55-64 years	65+ years
Maori males	5,526	6,126	7,209	4,737	2,514	1,314
Maori females	6,639	9,933	10,626	5,835	3,159	1,530
Total	12,165	16,059	17,835	10,572	5,673	2,844

Source: Statistics New Zealand

Figure 3. Other helping or voluntary work for or through any organization, group or marae

Since 2001, however, more Maori women have sought change. By 2007 the number of Maori women undertaking tertiary study had increased by over 200% since 2001 (TPK 2006). That rate has been maintained over subsequent years. However, this additional education has not necessarily lead to more Maori women in governance positions in mainstream situations. The improvement in educational status has not extended to greater governance roles. A 2015 report on diversity on company boards in New Zealand found that of all the boards on our NZ Stock Exchange in total only 22% of seats were held by women. Of that only one was a Maori woman (Institute of Directors 2015).

The New Zealand Government has however committed to increasing women's participation to 50 percent on state sector boards and committees. As at 20 December 2017, 45.7 percent of ministerial appointees to state sector boards were women. However, it is unknown how many of those appointments are Maori women (Ministry of Women's Affairs, 2018). The percentage of Maori women working full time in management roles in the Public Service has however been identified and it has risen from 8.6% in 2008 to 9.7% in 2018. In 2006, there were 4,881 Maori women in the science field, and 5,268 in 2013 (NZ Statistics Census 2006 & 2013). Therefore, notwithstanding the lack of roles at higher governance Maori are finding the pathways to increase their participation and to lead in their fields.

Further, Maori women as they did in pre-colonial days are taking up the role of management and support at the local level for their communities and for their people. They are using their tertiary training to develop Maori resources for the betterment of generations both current and future. In the geothermal field Maori women have been at the forefront of pursuing development. Taheke 8C is an example of this with Maori women in governance and management roles and acting as their legal advisor and co negotiator. There are lessons to be learnt from those women and their experiences. We discuss those lessons more at the end of the paper.

6. CASE STUDY: THE PROPRIETORS OF TAHEKE 8C & ADJOINING BLOCKS INCORPORATED (“TAHEKE8C”)

6.1 Taheke 8C

Taheke 8C is a Maori incorporation in New Zealand. It has a large land holding all of which is over the Taheke Geothermal field. We provide a case study of their experience as they have sought to develop their resources including their geothermal resources for the betterment of their shareholders, all of whom are Maori and most are members of local iwi (tribe) Ngati Pikiao.

6.2 The Taheke Geothermal System

The Taheke geothermal system is a large geothermal system in the TVZ. The system has an aerial extent defined by its 30 Ω -m resistivity boundary of approximately 16 km² on the northern shores of Lake Rotoiti. The system is very likely to extend to the south and east under the Lake and into Tikitere (Taheke 2016). It is considered a brown field with some investigation.

The Taheke geothermal field is approximately 18 km northeast of Rotorua City. It is classified by the Bay of Plenty Regional Council as a discrete “system” suitable for intermediate or limited development.

Past studies document that the surface thermal features at Taheke are not unique, with the areal extent of the features and surrounding thermally-influenced vegetation being a small percentage of regional (~4%) and national (~1.4%) totals. The combined natural heat flow is estimated to be 10 – 13 MWh (thermal) relative to ambient temperature of 12°C. While the measured natural thermal (steam only) output is approximately 120 MWh under Tikitere (Taheke, 2016).

A number of past geophysical surveys incorporate data for the Taheke area, including DC resistivity surveys undertaken in the 1970s by Department of Scientific and Industrial Research, DC and shallow MT resistivity surveys by GNS Science in the 1990s, as well as MT Surveys for Contact Energy Ltd in 2010 and 2011. A gravity survey of the Taheke area was carried out by ScanTec in 2010. Taheke was partially covered by 1985 – 1996 and 1949 – 1952 regional airborne magnetic surveys.

The Taheke-Tikitere geothermal systems both have steam heated natural features (steam vents, mud pools, acid pools and sulphur deposits) with no reported discharge of liquid (chloride fluid) at the ground surface. This is a signature of a vapour-dominated geothermal system, which makes this a unique system in the TVZ (Taheke 2016).

Taheke 8C’s land is in the central part of the field.

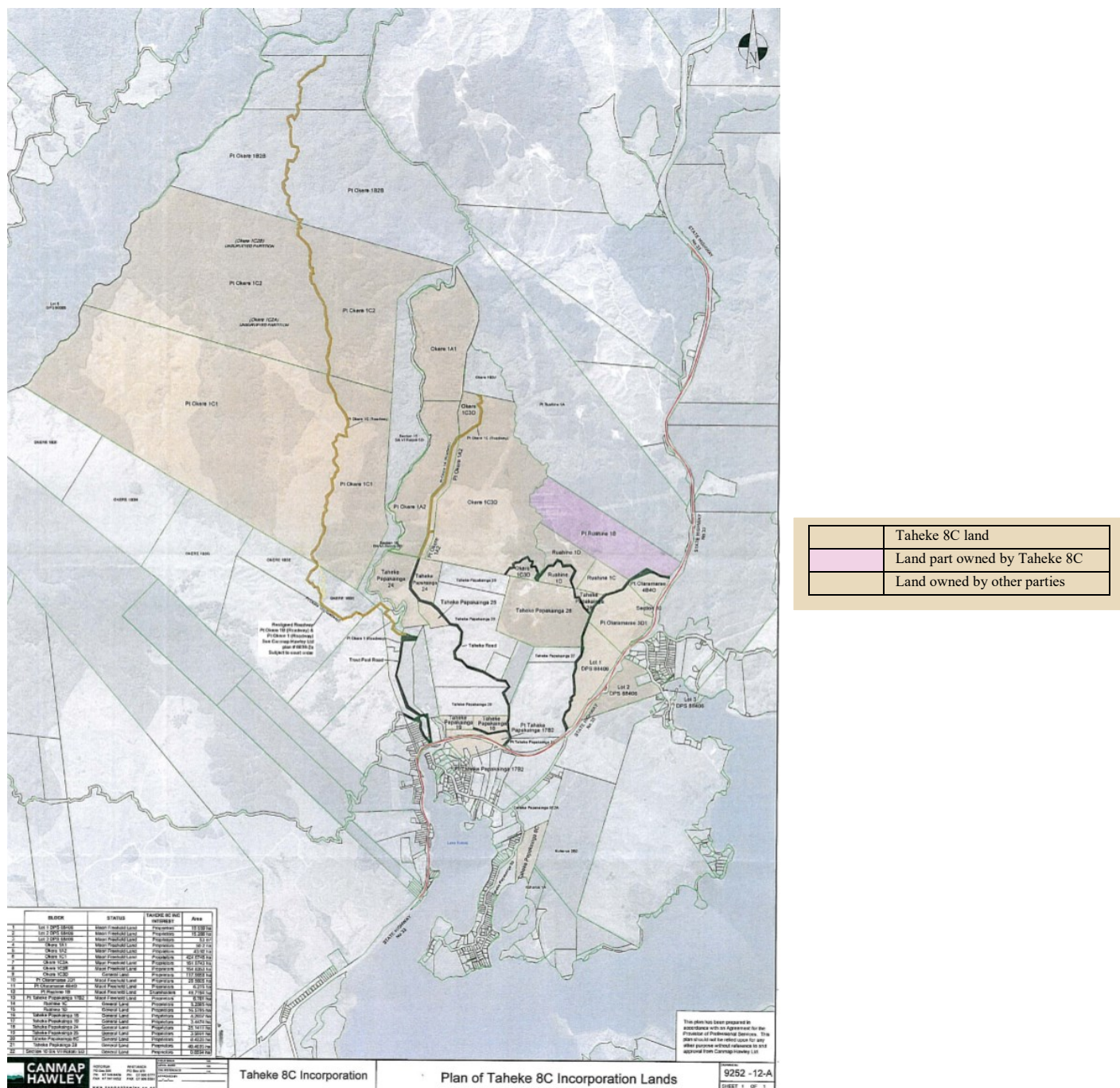


Figure 4. Taheke 8C land interest

Taheke 8C is made up of 1,181.9094 hectares of land incorporating farming, forestry and geothermal interests primarily. Much of the land is available for the geothermal development. The remainder is utilised for forestry and or is available for other opportunities. Sub surface easements can provide for access to fluid under the non-geothermal lands. Current forestry licenses allow for access to forestry land and retaking of land if required for the purposes of the geothermal project.

6.3 Taheke 8C Organisation and Governance

Taheke 8C was established by the Māori Land Court in 1954, following the winding up of Taheke 3D Incorporation. Taheke 8C and its neighbour The Proprietors of Okere 1B No.3C, No.3 and Adjoining Blocks (Inc.) received the lands available from the old incorporation and land released from the then Department of Māori Affairs.

From 1954 to 2010 Taheke operated under the common structure within Rotorua, with day-to-day control held by a Secretary/Accountant, and agricultural activities on the land. For much of that time Taheke 8Cs income came from Farming and Forestry. By 2010 however the Forestry Lease expired so harvesting operations were due to commence. It was also at this time that the NZ Emissions Trading Scheme came into being which meant that the forestry had to be replanted within four years of harvesting. At that time with a new General Manager in place in Sandra Eru, Taheke 8C started the process of exploring opportunities to diversify and this included developing their geothermal resources. In 2010 Taheke 8C successfully negotiated the Project Development Agreement to develop our geothermal resource with one of the largest national developers and distributors of geothermal electricity generation Contact Energy Limited. This is discussed further below.

In the present day, the governance of Taheke 8C is undertaken through the Committee of Management in accordance with its constitution and the TTWMA. Taheke 8C's constitution is based upon that of Schedule 1 of the Māori Incorporations Constitution Regulations 1993. It was amended by resolution of shareholders on 12 December 2009 and filed with the Māori Land Court on 17 December 2009. The Committee of Management has the following powers:

The Committee of Management has full capacity in the discharge of the obligations of the incorporation in the best interests of the shareholders, to carry on or undertake any business or activity, do any act, or enter into any transaction and for these purposes full rights powers and privileges.

The Vision, Mission and Values of Taheke 8C are:

Guiding Principle

Toitu te whenua he ora nga whakatipuranga – Land in tact benefits generations

Vision

To be a top performing Māori Land Incorporation.

Mission

To maintain a sustainable and profitable environment for existing and future owners.

Values

Mana Whenua – *We are a voice for Papatūānuku we accept our responsibility to act with authority over the whenua.*

Kaitiaki – *Papatūānuku has an identity and her own mana and mauri. We accept our obligation as guardians.*

Accountability – *We are accountable for our performance and conduct.*

Consultation – *Decision making is underpinned by consultation.*

Transparency – *All business systems and processes are robust and transparent.*

Fiduciary Obligations – *We have a duty of care to Papatūānuku, our shareholders and future generations.*

Continuous Improvement – *We will always strive to do better.*

The Committee comprises – Chairperson: Tawhiri Morehu, Committee Members: Carol Hackett, Bill Vercoe, Associate Committee Members: Wairangi Whata and John Vercoe.

Taheke 8C has approximately 1024 registered shareholders. Taheke 8C also retains a General Manager and one administration staff member.

Shareholders receive regular updates of the activities occurring utilizing Taheke 8C resources. This occurs through the Taheke website and through the comprehensive information provided at the Taheke 8C Annual General Meeting. The Shareholders as with the Committee are resolved to develop the assets of Taheke 8C. Mandate has been given and is annually renewed to undertake the development of activities and projects. The Committee's approach as stated in the Taheke 8C values is to be accountable, consultative and transparent in its dealing with shareholders and with the community.

6.4 The Taheke/Contact Geothermal Partnership

In 2009 Taheke 8C undertook an international tender process to identify a preferred partner to join them in the development of the geothermal resource under their land. In 2010 Taheke 8C signed a Project development Agreement with national power generator Contact.

Over the following 6 years Taheke 8C and Contact:

- Drilled 4 wells on the land. Those wells have confirmed the resource and the potential for a 30-50MW first stage development utilizing Taheke land and neighbouring land owned by the Whangamoia Trust.
- Agreed a royalty agreement with Whangamoia Trust.
- Obtained from the “BOPRC” the water consent to take water for the purposes of drilling and geothermal power generation. That consent is for 10 years with the ability to reapply and provided a level of priority for the holder.
- Obtained resource consents to take geothermal fluid for well exploration. That consent expires in 2020 but can be extended.
- Gained preferential resource consent status for a geothermal development through the Taheke Development Plan which is now an approved plan under the new Rotorua District Plan.

Contact underwent a major shareholding change with Australian generator and developer Origin Energy Ltd selling down their majority interest. Shareholding was shared between small and institutional shareholders. Contact also consented the extension of one of their existing plants by 240MW. That plant has replaced aging mid-merit gas production and supports their new demand.

As part of a review of its entire portfolio of generation development opportunities, Contact determined that the Taheke project was not economically viable for them at that time. This was based upon the current market, their projections, their costs to date and their required return on investment. Contact preferred to defer the project until the market and economics met their preferred threshold.

Taheke 8C however preferred to move forward with the project reflecting among other things:

- the significant work completed thus far and the desire to maintain momentum;
- the resource consents retained, their expiry dates and the need to utilise the water take consent in particular within 5 years;
- the commercial advantage retained by the Taheke Geothermal Project on the field currently as the sole driller thus far; and
- the perspective that the Project might be a better fit with another developer or investors than that of Contact now.

On that basis, Contact and Taheke 8C agreed that it was appropriate for their partnership to end on 30 June 2016. All Project assets were transferred to Taheke 8C.

Taheke 8C having undertaken investigations of the Taheke 8C geothermal field moved forward to the next stage of a self-owned development.

The investment objectives of Taheke 8C include:

- A long-term partnership with consistently minded partners;
- The sustainable development in accordance with good environmental values of Taheke land for the benefit of its shareholders;
- The protection of indigenous values including waahi tapu and respect for cultural matters and processes intended to facilitate that protection;
- An equity share in the project (rather than a royalty) which reflects the value and assets Taheke 8C will bring to the Project;
- Taheke 8C have participated as equal partners in both decision making and management up to this point. Any future development would need to reflect that Taheke 8C wish to retain their right to meaningfully participate in any development on their land;
- An acknowledgement that Taheke 8Cs land will always remain in its ownership and only a long-term lease is offered in accordance with TTWMA; and
- Training opportunities for shareholders of Taheke.

Acknowledging those objectives and the values that are the basis of the management and utilization of their land the Committee of Management of Taheke 8C undertook an international tender in 2017 seeking an appropriately skilled partner to work with them to develop a geothermal power development with them. Overlaid over the investment objectives were the weighting criteria Taheke 8C set for the assessment of any partner as part of the tender process. They were:

- a. Partnership and fit. Taheke 8C took the perspective that fit and partnership based on mutual respect was paramount. The developers proposal was required to demonstrate how a developers organization does and would reflect this principle;
- b. Innovation. To reflect a practical long term partnership Taheke 8Cs investment objectives and their intended legal structure Taheke considered that the developer had to be innovative in their thinking and ideas. The developer was required to provide examples of this thinking and explanations of why they considered they could meet this criterion; and

- a. Commercial and economic viability. The developer should set out the bases for the development of the project and indicative timeframes. Taheke 8C wanted certainty that the developer had the expertise and capability to meet their obligations in a timely manner. However, as you can see this was not the highest weighting.

This approach reflected that Taheke 8C as with other Maori organisations were not purely commercial. They could not be because they had one key obstacle; they could not sell up and leave if the partnership failed. They could not and would not sell the land. So even were they to be landlords only they would still be forced to engage with any party on their land. This caused a focus on relationships and mutual respect as a fundamental driver.

Following the tender process Taheke 8C commenced confidential negotiations with a preferred tenderer. As at the date of this paper those negotiations are due to complete shortly. Following this, Taheke 8C intend to move forward with a second stage to identify other projects to utilize geothermal resources including direct use producing power for tourism and other developments, investigation of the resource and minerals for medicinal purposes and indirect developments using geothermal power, heat or silica.

7. A GREATER GOAL

The Incorporation's contemporary structure is:

Committee of Management – Governance

Corporate – Management

Supported by Advisors as required

Our current operating unit is Forestry. Following a six-year review to assess the economic/financial sustainability of the Farm unit, the hard decision was made by the Committee to terminate the farming operation and plant as much of the pasture into forestry and concentrate on developing the projects identified. The first project was the further development of our geothermal resource for electricity and also direct and indirect use opportunities. The second project was the development of a high-end Eco Tourism complex to capitalize on our location, which is a stone's throw from Lake Rotoiti a popular fishing spot. The project includes the development of a Health & Wellbeing center on the shores of Lake Rotoiti and the development of holiday cabins on a site close to the Okere/Kaituna River.

Since 2010 we have taken the time to look at the land to determine what developments would work on our land specifically to take advantage of our unique location adjacent to the Kaituna River, the Department of Conservation reserve across the river that has Kiwi and King Ferns and the land on the shores of Lake Rotoiti. 2010 was actually a watershed year for Taheke.

Traditionally, Taheke carried out farming and operations. However, in 2017 they moved away from farming and entered into a Forestry Lease. This was a brave and decisive decision to move forward and investigate and develop new opportunities based on our culture, location and resources, such as our geothermal resource.

In order to make our developments easier, we took the time to engage with both Regional and District Councils to negotiate a Development Plan which details the activities planned on the Taheke land block(s). The intent was to ensure that many of the barriers to development caused through regulation and the resource consent process were as much as possible overcome in advance. Our Development Plan is now included in the Rotorua District Plan as an Approved Development Plan.

Regarding the development of our geothermal resource, we aim to have a geothermal power station commissioned and producing electricity to the grid. Additionally, we are also identifying and investigating opportunities for both direct and indirect use of geothermal heat and fluid for commercial purposes, including for bathing and the provision of heat for hothouses and aquaculture. Where appropriate, Taheke have geothermal wells available for use in these developments.

As previously stated, Taheke 8C land sits over the Tikitere/Taheke Geothermal Field. To facilitate this development, the Incorporation entered into an agreement with our neighbours Whangamoa Trust (also our relations) for that trust to participate in this development. The Whangamoa Trust land also sits over the field. Our land is also adjacent to the Kaituna River from which we have resource consent to draw water for drilling and the electricity grid lines run over our land – essentially everything is located on our land.

In addition to commercial activities, Taheke 8C has also completed a feasibility study for an Eco Tourism venture incorporating Exclusive Lodges. The land available for this venture is alongside the Kaituna River providing stunning views and access to many outdoor activities.

Taheke 8C propose an all-encompassing experience including:

- Green energy used throughout the property including geothermal, hydro, solar and wind energy to power activities;
- Cultural experience including visits to local marae;
- Use of geothermal heat and energy within the resort to grow vegetables and herbs and possibly aquaculture (native scampi and eel);
- Use of heated pools; and
- Outdoor activities on the land (renowned rafting and fishing) and access to the many activities available in the Rotorua and Taupo districts.

New Zealand Trade and Enterprise recognised that Aotearoa/New Zealand's natural resource landscapes, cultural influences and variety of outdoor activities lends it to infrastructure development and investment in the health and wellness industries.

Taheke 8C is without doubt (in our view) a jewel that offers multiple opportunities for investment. Taheke 8Cs objectives of all ventures on our land are to:

- Increase financial return for Taheke and our Shareholders;
- Preserve our land;
- Cultural enhancement;
- Educate our own; and
- Train our own.

For interested developers for the many activities proposed on the land, there are considerable opportunities too.

8. LESSONS LEARNT FOR THE FUTURE OF MAORI ORGANISATIONS

Ehara taku toa, he takitahi, he toa takitini

My success should not be bestowed onto me alone, as it was not individual success but success of a collective

There are many lessons to learn from the experiences of Taheke 8C. We discuss some of the key lessons here:

1. Look to the future
2. Understand your land regulation
3. Consider the best development options
4. Maintain communication with stakeholders
5. Consider Economies of Scale for Sustainable Development
6. Consider succession

Look to the Future

First, scanning and interpreting the horizon will be increasingly important. Technological change, demographic trends, potential trade opportunities in New Zealand and abroad, and Maori aspirations for the future will all be important aspects of forward-thinking governance. Taheke 8C have and are focused upon the domestic and global perspective of the use of geothermal resource – both direct and indirect use. They have always considered what is happening in the market and the focus of our governments (and globally) on renewables.

Understand Your Land Regulation

Second, securing the estate is a necessary precondition. Security means making certain that the entity under which the estate is to be managed, and the taxation options, will be the most appropriate for the situation and will place the resource out of risk of alienation. Taheke 8C have spent much of their time getting their house in order: checking that our land blocks had proper title because if you want to develop your land or enter into leases you must have proper title to your land. There were a couple of land blocks within the geothermal development area that needed tidying up. This meant the blocks had to be surveyed and plans submitted. Of course, this also results in survey costs. Nothing comes free in this world. It also required that shareholders register to be updated and Maori authority tax status confirmed. But this also extends to governance, training and capacity. All of which are important factors when engaging with third parties. It is essential that the trustees or committee of management are prepared for the process: identification of partners, negotiations and partnership.

Consider the Best Development Options

A third consideration is about developing the estate. An increase in the size of the Maori population and the number of people who might benefit, means that the estate must expand in parallel to the expanding beneficiary roll, otherwise it will have lost per capita value. It is important to work towards improvement not just sit and do little more than passively collect rent. For Taheke 8C it is essential to be considering how the land can be effectively used for the betterment of its shareholders. This has included both considering the feasibility of the diverse uses for all of the land they retain and building relationships with neighbor trusts to develop wider and larger developments.

Maintain Communication with Stakeholders

Maintaining faith with beneficiaries and shareholders is a fourth consideration. They are the current successors to the estate; their efforts, aspirations, and plans are immediate and cannot be ignored. But balancing long term development against the wishes of current beneficiaries will always be challenging since it may require postponing instant gains in favour of benefits for future generations. In this respect the Maori estate differs significantly from conventional shareholding companies where investors might expect the best possible dividends in the shortest period of time. A conundrum for trustees and committees of management is how to exercise their roles for future generations as well as for current members. For Taheke 8C the key has been communication.

Communicating what the intent and goals of development are. Being clear and ensuring that the shareholders confirm their aspirations and participate in determining the direction of the committee of management of Taheke 8C will take on their behalf.

A good example of the importance of this engagement and communication was when the decision was made to move away from farming. Given that Taheke had a history of and therefore strong links to farming news of the *change* from Farming to Forestry and the reasons for the change had to be carefully managed and shared with the shareholders. And while the majority were disappointed, they understood why the change was necessary; a small group were not so supportive. The Committee could have ignored their concerns and just ploughed on ahead, but they chose not to. Instead, additional time was taken to meet to hear their concerns and once again set out the reasons why the change was necessary. At the end of the meeting, while there was some grumbling, they accepted that the change was going to happen. Taking the extra time to meet facilitated a smooth transition out of farming and into forestry – this happened in December 2017 and into forestry in January 2018.

One could say that because there is already a whanau (family) connection with our shareholders the Committee doesn't have to worry about the relationship issue. Well those people would be wrong! Taheke has approximately 1000 shareholders and we are all related but don't let that lull you into a false sense of security. We don't all see things the same way and sometimes any animosity is historical rather than ideological. But if we don't work to understand and address those issues in today's reality nothing will change, and everybody will suffer.

Wouldn't it be great to just throw money at it and whatever the issue it will all go away? However, it doesn't work that way - it may in the short term but whether it sticks in the long term is debatable.

Consider Economies of Scale for Sustainable Development

The fifth consideration for governors and managers is about aggregating resources. Economies of scale will assume increasing importance; sustainability is reduced when estates are too small to guarantee survival. Larger estates are more likely to survive and bring both economic and cultural benefits. Taheke 8C has recognized this and has sought to build both relationships in tikanga and in commercial terms. The strongest relationships however will always be based in tikanga – common membership, common values and common strength of bargaining power, as is the case with Taheke 8Cs relationship with Whangamoa Trust.

Consider Succession Issues

Sixth, identifying and determining succession will be an important function. Decisions need be made about the rationale for entitlement and how communication will be maintained with beneficiaries so that they can have an active role in decision-making. A related 'seventh task will be ensuring that the transmission of the estate between generations can be sufficiently explicit to avoid confusion and to provide the best possible option for sustainability. Both relate to clear policy, procedure and communication. Taheke 8C have considered it essential that they provide a clear communication process with their shareholders and develop succession policies for governorship.

Finally having the matters above in hand governors must then consider how they engage with the world and prepare the pathway for development. In Aotearoa/New Zealand through the Treaty of Waitangi and thanks to all the efforts of those who went before us the Treaty is at the forefront of all things Maori and the relationship they have with the Crown, (the New Zealand government) and when it comes to Maori Land we have the TTWMA administered by the Maori Land Court. This does not mean that when developing our land, we do not have to meet any other legal obligations such as the Resource Management Act 1994, the Health & Safety at Work Act 2015, to name a few – and of course these obligations always come with compliance costs attached.

New Zealand legislation is subject to ongoing review and usually the Consultation Document comes out just before Christmas and submissions need to be in within three months of the document's publication – so no Christmas break for Taheke. This is necessary because if you don't engage an opportunity could be lost or a simple change to a clause could have unintended or intended consequences further down the track that could make development of our land very difficult. Note I am not saying impossible because there is always a way forward, we just have to find it. Avoiding issues through constant monitoring of the regulatory framework nationally or locally is just a price of pursuing development.

As well as engaging with bureaucrats there are other groups that need to be consulted especially when one is applying for resource consents, concessions, licenses, leases – the list goes on. Here again, relationship building and clear honest communication is key. Adopting an adversarial approach will not and does not work except in a negative way. Once these relationships and development building blocks are in place however a Maori organization is well placed to move forward with a development with greater confidence.

9. LESSONS WHEN WORKING WITH MAORI

Whatungarongaro te tangata toitū te whenua

As man disappears from sight, the land remains

The first piece of advice we would give to a developer is do your homework, be prepared and have the right advisors to assist you as you engage with Maori. Doing so will help a developer to communicate effectively and to ascertain who they should be speaking to. Showing that you have taken the time to at least ascertain and understand even the most basic of information about the Maori and Maori organisations with whom you wish to speak to will be respected. The right advisors can walk you through the appropriate cultural processes and can access relationships that ensure you are meeting the right people for your purposes. The right advisors will also be able to ensure you have the full picture without any window dressing.

Thereafter recognize that it does not have to be hard to work with Maori or any indigenous group. Respect them and the value they bring to any development. Choose to understand that for them the land is both fundamental to their economic wellbeing but also more importantly a tie to their tupuna. Their choices will be guided by this paradigm.

To build a relationship with Maori requires a level of acceptance that it may not be 'business as usual'. There are lessons to be learnt.

Value Indigenous groups, choose to understand them and acknowledge their skills and attributes

- Mainstream commercial structures don't always work and often it is not money it is partnership that is paramount. As an example, the basic tenet that where a partnership is failing that all parties have the ability to walk away is not available to Maori Land-owning organisations. They cannot leave or sell the land. Therefore, knowing that your partner is sound has a greater weighting than might otherwise be the case. Often this means that financial capacity while important is secondary to the sense that as a partner a developer will practically and meaningfully work with and alongside Maori. Mechanisms for dealing with disputes are important and emphasis is placed on good faith negotiations and engagement. Partnerships that work are well thought out and mutual. They are based on both the current and future circumstances of the parties. They are often innovative and not strictly subject to the norms of commercial arrangements.
- Encourage and value Maori as partners – they can and do bring value. They will have different levels of capacity but will be passionate about the care and development of their land and assets. Consider how you can add value to them, not just take value. Consider the people who can work with you to form a valuable partnership. Consider how education and training can be provided for within your development framework for trustees, shareholders or beneficiaries. Show that you support capacity building as part of durable partnership;

Understand the indigenous paradigm

- Understanding cultural imperatives that Maori operate under but recognizing that Maori are not all one size and shape. One size does not fit all.
 - a. Their beneficiary base and therefore imperatives can be different; for example, where the base ranges from one hapu or iwi through to many. In such instances the tikanga and focus of one hapu or iwi may differ from another. Understanding where they sit with key issues will help a developer to understand any barriers to development.
 - b. Consider whether the shareholders or beneficiaries are locally based or largely reside outside of the area. Often local beneficiaries or "ahi kaa" will be focused on the use of the land they see regularly. They may be more engaged than those who reside away from home.
 - c. If you are working across land blocks and Maori Organisations understand that they will have tikanga and history between them. Understand that it is often better to let those groups ascertain how they will work with you, rather than trying to force them into a pathway that is expedient or suits you as the developer. Taking the time to understand the background to their relationships and to allow the Maori organisations to determine their engagement with each other and what they want either jointly or individually from a development will be more likely to reduce disputes in the end. Again, Maori are not all the same.

They are guardians of the environment and of their members economic wellbeing: it's not mutually exclusive

- Understand their legal structures and obligations – don't be afraid to work with them just because their land titles or legal obligations are different. Maori land is not alienable other than by long-term lease. Maori organisations have clear obligations under TTWMA, which could be compared to large corporates with significant numbers of shareholders. They must communicate and engage with their shareholders regularly. Working with Maori organisations that have clear and strong governance and governors will be a significant advantage for a developer. While it might be tempting to sidestep Maori organisations or groups who are not fully prepared, supporting Maori organisations to get to the point of sound governance as part of a development could also be a valuable mechanism for building durable partnership.
- Maori organisations are kaitiaki (guardians) of their lands, taonga and their people. They will balance a perspective of sustainability with the need to ensure ongoing economic benefit for their beneficiaries and shareholders both current and future. They will differ in their risk profiles. Some will be risk adverse and prefer lease and royalty arrangements. Others will prefer equity. Over time risk perspectives can and do change. Building in options for review within a development framework could help to future proof the project. This could include the option of staging a development so that a Maori organization can consider taking equity in a subsequent phase (where they may not have at first) should they choose;

Be upfront: Trust is everything

- Understand that the geothermal resource and the land are both taonga. Acknowledge this. Don't try to redefine it as part of bettering your negotiation position. Often, we see developers telling Maori that their "taonga", the geothermal is of little value. Don't do this and don't try to redefine the land or the resource so that it has "less value" in a negotiation. As stated by the Waitangi Tribunal the value attached to the taonga of Maori is for the kaitiaki to determine for themselves. If a Maori trust for example has valuable resource say so. You can bet that someone has told them what they have. If it is on the periphery of the field also say so. Be truthful because Taonga is not just something of importance to Maori. If they chose to work with you that taonga is a gift they are giving to you. Respect it. When developing a commercial structure consider how that value might be reflected. Again, this may require more lateral thinking, but it is not impossible to marry the two concepts effectively.

The list above is not exhaustive nor is it likely to reflect all Maori organisations, their circumstances or their goals. We say again Maori are not all the same. Don't pigeonhole them. We repeat do your homework be open to innovation and partnership. Not all Maori organisations will want the bells and whistles, some will seek simple arrangements based on their risk profile. However, others

will want more and will want to engage with developers who have both the expertise and the willingness to think outside of the box. There is no wrong or right of options they are what Maori wish them to be. A developer brave enough to engage and try will be more likely to connect with these groups and access the opportunities that are available now.

10. LESSONS WHEN WORKING WITH MAORI WOMEN

Ki te kahore he whakakitenga ka ngaro te iwi

Without foresight or vision the people will be lost

The lessons to be learnt when working with Maori can equally be extended to Maori women but they should often be considered in a more personal context. Maori women in key roles in organisations that have developed geothermal resources often have a common skill. They are diverse thinkers. Specifically, they have a different viewpoint from the norm, taking different perspectives to problems and problem solving, and viewing issues through a different lense (Chen 2018). These skills enable them to engage with their governance boards, shareholders and beneficiaries and with the wider community. Those skills help them to push themselves and their organisations to strive for the betterment of their members now and in the future.

Common stereotypes and myths

As with working with Maori organisations successfully working with Maori women (and women in general perhaps) is to understand and remove the stereotypes and biases that can occur. Acknowledging that Maori women have value they can and do bring to a successful project on Maori land. Common stereotypes we have seen include:

- As with Maori organisations putting the burden for thinking and for knowledge about women's issues or Maori on Maori women Directors, managers or staff is not effective use of their skills. Don't pigeon hole on the basis of gender or being Maori. Maori women can and do bring so much more to their roles and to a successful project;
- Treating Maori women directors, management or staff as the gender or ethnicity tick appointments to projects and not expecting them to contribute apart from adding thinking and experience about women or Maori again is to underestimate them and to any project. In this age of gender equality, it should also be about thinking what Maori women can bring as a total package, their experiences, viewpoints and passion will drive projects forward and will bring their people with them. But they can also bring skills that are reflective of their need often to think laterally and problem solve and be pragmatic;
- Imposing stereotypes that all women (and indigenous, ethnic, etc.) Directors or managers are diverse thinkers while all male Directors are not and cannot be diverse thinkers. It may sound obvious, but this is a ridiculous stereotype but is one that is heard often. We don't all have to come from Venus and Mars. Losing this assumption and looking to the skills all can bring will move a project forward.
- The failure to value and encourage diverse thinking and to challenge and to express different views. We often call this the "this is how it's always been done" approach. Maori will identify partners who have specific skills e.g. geothermal technical skills. However, having the expertise does not mean that questions won't be asked and in the context of a project innovation rather than dogma maybe required. Listening and being open to discuss and engage can and is valuable when working with Maori women in this context.

Opportunity lost

Fundamentally the examples of bias above and others only make Maori women feel underestimated, misunderstood. This can lead to them being marginalized and sidelined, compelled to prove themselves and dispel stereotypes about who they are and the value of their contribution. This is a significant failure within organisations and projects if it is allowed to perpetuate (Chen 2018).

Opportunity found

Developers should recognize the opportunity that comes when they chose to grow their own understanding of the capabilities and the potential for working with Maori and Maori women. The Maori women engaging in the geothermal and wider energy field in New Zealand have a valuable voice and can add much to any project. Listen to them and strengthen their voice.

Maori women can facilitate developments. They can guide developers and build partnerships. But sometimes they need help and to be valued.

For as the saying goes educate the woman and you will feed the whanau.

11. CONCLUSION

In New Zealand the remaining fields available for development are now largely under Maori land. Some would say that means the easy projects are done. We conclude that as Maori advisors and representatives of Maori organisations working with Maori can be worthwhile and should not be avoided. Done right it works and you avoid many of the issues that come with mainstream developments. Maori organisations won't leave, they will be there to the end and they will if given the chance build strong longstanding relationships with their partners.

E tika ana te korero i o tatou tupuna
The korero of our Tupuna is true

He aha te mea nui o te ao
What is the most important thing in the world?
He tangata, he tangata, he tangata
It is the people, it is the people, it is the people

Nau Mai Haere Mai
We come together
Hui e
Gather together
Taiki e!
As one

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