30 October 2019

To: Freshwater Reform
Ministry for the Environment
PO Box 10362
Wellington 6143

Name of Submitter: The Proprietors of Taheke 8C & Adjoining Blocks Incorporation

Contact Person: Personal

Address for Service: The Proprietors of Taheke 8C & Adjoining Blocks Incorporation 170

Personal details
Rotorua Mail Centre 3046
Rotorua

Personal details

The Proprietors of Taheke 8C & Adjoining Blocks Incorporation wishes to be heard in support of this submission.

1. Introduction

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

1.2. Taheke is located approximately 20 minutes north east of Rotorua on State Highway 33. The area is known as Okere Falls and Incorporation's lands lie adjacent to Te Awa Okere also known as the Upper Catchment of the Kaituna River. The total land administered by Taheke is approximately 1214ha and the legal description is "The Proprietors of Taheke 8C & Adjoining Blocks Incorporation".

1.3. Taheke maintains a register of shareholders names and their shares in accordance with the requirements of Te Ture Whenua Maori Act 1993 and the Maori Land Court. There are currently 1328 shareholders holding 50,611 shares in total.

1.4. From 1954-2017 the primary activity of Taheke was sheep and beef dry stock farming. Following a 6-year review the Taheke determined it was economically unsustainable to continue farming and in December 2017 the Committee made the decision to terminate its farming operation and entered into a Forestry Lease in January 2018. In addition, Taheke has been investigating the geothermal resource under their land. With partners Taheke will be developing a range of geothermal related activities on their land. All will involve renewable energy development and use.

1.5. Since (2010/2011) Taheke has and continues to be actively involved in both local and national government processes in terms of submitting on all relevant national government legislative reviews and consultations as well as local government consultations in regard to their long-term plans and the like. Additionally, since 2010 Taheke has been and continues to actively develop its
land and renewable resources. In order to facilitate these developments Taheke engaged with both Regional and District Councils to negotiate/mediate a Taheke 8C Development Plan. Following mediation, the Plan was accepted and entered into the Rotorua Lakes Council District Plan.

2. Executive Summary

2.1. Prior to proceeding further, Taheke makes the following points:

- As stated above, The Proprietors of Taheke 8C & Adjoining Blocks Incorporation was formed in 1954, i.e., prior to the Tapuika Settlement and the formation of the “co-governance” body for the “Kaituna River” - Te Maru o Kaituna.
- The Tapuika Settlement artificially extended the tribal boundary of Tapuika from the Hururu Stream to the control gates at Lake Rotoiti thus bringing Te Awa Okere under the purview of Te Maru o Kaituna.
- Prior to incorporation, the land blocks owned by Taheke were managed by the owners of the land blocks.
- Post incorporation after five years of hui the Proprietors of Taheke SC & Adjoining Blocks and neighbouring Okere Incorporation were created. There were reasons for this step not least of all was to protect the land from confiscation pursuant to the Thermal Springs Act 1881, and the Scenery Preservation Act 1953 underpinned by the Fenton Agreement 10 owner only rule. Taheke still lives with the legacy of those pieces of legislation.
- Today in the 21st century Taheke 8C land is Private Maori Freehold land governed by a Committee of Management that has met all cultural and legal requirements. In our situation as with the many other Maori land holding entities Taheke has both the rights and obligations that sit hand in glove with private land ownership whether Private Maori Freehold land or otherwise.
- Taheke 8C and its beneficial owners are Ahi Ka - Kaitiaki - Manawhenua.

2.2. We make the following recommendations with respect to the Freshwater Consultation Documents:

- It be explicitly clarified in respect of each of the proposed reforms, that the term “Māori” encompasses Māori land-owning trusts and incorporations for the purposes of consultation, consideration of advice and recommendations, and other Māori involvement provided for in these proposed reforms.
- Kahui Wai Maori considers and adopts an appropriate and culturally safe descriptor for water that protects tikanga and cultural identity from redefinition and marginalisation.
- Kahui Wai Maori engage with Iwi, Hapu and Maori land holding entities such as Maori Incorporations or Trusts to discuss the appropriateness and cultural safety of such definitions and manner of use and implementation of fundamental cultural concepts as prescribed in the discussion document.
- Taheke vehemently opposes any attempt to insert the text of Te Tiriti in whole or in part into any government policy document or legislation WITHOUT any form of protection against redefinition, marginalisation or re-interpretation of such text.
- The text of Te Tiriti o Waitangi shall not be inserted into any government policy document or legislation without any form of protection against redefinition, marginalisation or re-interpretation of such text.
- To avoid conflict with the National Policy Statement on Renewable Energy, that Geothermal electricity generation as a matter of national significance is included as an exception in the NPS-FM.
- Councils are allowed the time required to complete further assessment of the implications involved in maintaining or improving water quality and ecosystem health.
- Councils must be adequately resourced to carry out the work necessary to achieve
government expectations.
• That local level entities such as whanau, marae, Maori land-holding entities, shall be consulted prior to the proposals mooted in the Action for healthy waterways discussion document are imposed for implementation on the land.
• That local government resource manawhenua and manamoana to participate in all environmental planning, implementation and management processes.
• That government entities do not default to post settlement governance entities for engagement/consultation input or feedback to the detriment of manawhenua and manamoana.

2.3. Finally, we advise due to the volume and complexity of the reports that inform the discussion document and the condensed timeframe for such a fundamental kaupapa Taheke focusses on issues that impact the Incorporation.

3. Taheke 8C's Freshwater Interests

3.1. Environment Bay of Plenty Regional Council and Rotorua Lakes Council are aware of the work that Taheke has undertaken in order to develop our land including the geothermal resource on and under Taheke land. Fundamental to this development is the ability to take water from te Awa Okere. Hence the proposals presented in the "Action for healthy waterways" discussion document ("the discussion document"), the information contained in the supporting reports and the National Policy Statement for Freshwater Management are key in regard to the future development of Taheke land and resources.

3.2. Over and beyond the commercial value of these natural resources, the shareholders and tangata whenua that comprise Taheke 8C have long held, and will continue to hold, manawhenua in these lands and waters. Taheke is committed to preserving these taonga, and continuing to exercise their tino rangatiratanga and kaitiaki responsibilities in this regard. The Government's proposed reform in the discussion document directly affects Taheke 8C's ability to carry out these responsibilities. It is on this basis that Taheke 8C makes this submission.

3.3. Maori land-owning trusts and incorporations such as Taheke 8C provide ideal vehicles for Maori Shareholders to exercise their tino rangatiratanga and kaitiaki responsibilities in respect of their taonga - including their land and freshwater. This is not to the exclusion of iwi and Hapu interests but are innate in their own right and deserve recognition as Maori operating practically in the freshwater landscape. Their voice must be heard too.

3.4. Accordingly, Taheke 8C would like it recognised in the discussion document's proposed reforms, that for the purposes of consultation, consideration of advice and recommendations, and other Maori involvement provided for in these proposed reforms; the term "Maori" encompasses Maori land-owning trusts and incorporations.

3.5. Taheke 8C therefore recommends that:

i) It be explicitly clarified in respect of each of the proposed reforms, that the term "Maori" encompasses Maori land-owning trusts and incorporations for the purposes of consultation, consideration of advice and recommendations, and other Maori involvement provided for in these proposed reforms.

4. DISCUSSION DOCUMENT:
Part 1 - Overview including the National Policy Statement

4.1. Definitions
4.2. *Te Mana o te Wai* - for the purposes of the National Policy Statement for Freshwater ("NPS-FW") is defined as: the fundamental value of water and the importance of prioritising the health and wellbeing of water before providing for human needs and wants. It expresses New Zealanders special connection with freshwater.

4.3. While Taheke understands the desire to elevate the status of water by endowing it with Mana, Taheke questions whether the use of Mana in this context is correct, appropriate and culturally safe. Taheke states that using Mana in the manner prescribed is not culturally safe. We argue that using a traditionally fundamental concept such as Mana in the manner prescribed could very well result in the redefinition and marginalisation of tikanga and cultural identity.

4.1.1. Taheke therefore recommends that:

   i) Kahui Wai Maori considers and adopts an appropriate and culturally safe descriptor for water that protects tikanga and cultural identity from redefinition and marginalisation.

4.4. *Ki uta ki tai* ("from the mountains to the sea") - as used in the context of the NPS-FM is defined as: a holistic and integrated approach to freshwater management.

4.5. *Ki uto ki tai* is a traditional concept that does not necessarily mean the same thing to every iwi or Hapu. For example, in regard to Ngai Tahu tikanga, ki uta ki tai represents kaitiakitanga from the mountains and lakes, down the rivers to the estuaries and to the sea. Kaitiakitanga reflects the special relationship a tribe like Ngai Tahu has with its environmental heritage. Ki uta ki tai is fundamental to the culture and identity of Ngai Tahu iwi. Whereas for Ngati Pikiao the korero shared at different hui is "We do not accept the term ki uto ki tai. We are Ngati Pikiao regardless of whether we live near the coast or inland. We are Ngati Pikiao.

4.6. Taheke agrees that water bodies are connected and as such the integrated approach to freshwater management is appropriate. And while Taheke recognises efforts to reach out to the wider community of Aotearoa we argue that fundamental concepts such as Mana and ki uto ki tai are not mere words that can be used in isolation of the culture and tikanga that informs them ostensibly to satisfy the kaupapa of the government of the day. Moreover, Taheke argues that to define ki uto ki tai in the manner proposed cuts across tribal boundaries and assumes that nga iwi katoa agree with and support this definition as applied in the NPS-FM.

4.7. Taheke therefore recommends that:

   i) Kahui Wai Maori engage with iwi, Hapu and Maori land holding entities such as Maori Incorporations or Trusts to discuss the appropriateness and cultural safety of such definitions and manner of use and implementation of fundamental cultural concepts as prescribed in the discussion document.

4.8. With reference to paragraph 1.5 of the draft National Policy Statement regarding Te Tiriti o Waitangi, Taheke believes that Te Tiriti o Waitangi is the underlying foundation of the Crown and Maori relationship. Yet Taheke goes a step further and asserts that despite the many breaches Te Tiriti o Waitangi is the founding document of Aotearoa/New Zealand. It is on this
basis that:

\textit{ii) Taheke vehemently opposes any attempt to insert the text of Te Tiriti in whole or in part into any government policy document or legislation WITHOUT any form of protection against redefinition, marginalisation or re-interpretation of such text.}

4.9. Therefore, Taheke recommends that:

\textit{iii) The text of Te Tiriti o Waitangi shall not be inserted into any government policy document or legislation without any form of protection against redefinition, marginalisation or re-interpretation of such text.}

5. Geothermal Power and Renewable Energy

5.1. While reviewing the NPS-FM and in particular Subpart 4 - Exceptions, we note that geothermal electricity generation is not included as an exception. We refer to the comments made in paragraphs 3, 5 and 6 of the Preamble to the National Policy Statement for Renewable Electricity Generation 2011 (“NPS-REG 2011”) and that geothermal is included in the definition of renewable electricity generation. We also note pursuant to Matters of National Significance at Page 4 of the NPS-REG 2011:

a. the need to develop, operate, maintain and upgrade renewal electricity generation activities throughout New Zealand; and

b. the benefits of renewable electricity generation are identified. However, we note that

c. geothermal electricity generation is not an exception in the NPS-FM. This is an explicit conflict between the two national policy statements that should be rectified.

5.2. We also note that KWM and FLG oppose exemptions on the grounds set out at page 38 of the discussion document. The second priority in the hierarchy of obligations is “providing for essential human needs” such as drinking water- obviously! But surely there are other examples of “essential human needs” including the Labour government policy requiring heat and warmth and healthy homes. Environmentally safe, sustainable and reasonably priced geothermal electricity provides the heat for warmth especially for the elderly OR providing electricity in life saving situations? Taheke asks - How is essential human needs defined? Surely "surety of supply" of electricity is more than a matter of national importance? Geothermal electricity will replace thermal sources of electricity as consistent baseload. Unlike hydro or wind power geothermal does not require rain or wind to create power. It is sustainably renewable and should be exempt.

5.3. Taheke therefore respectfully requests and recommends that:

\textit{i) Geothermal electricity generation as a matter of national significance is included as an exception in the NPS-FM.}

Questions

Q. Do you think the proposals set out in the document will stop further degradation of New Zealand's freshwater resources, with water quality materially improving within five years?

A. Taheke seriously doubts that water quality will materially improve within five years.
We are not scientists however we will comment on the water quality of Lake Rotorua.

Up until the construction of the Wastewater Treatment Plant in 1973, i.e., at least 40-years prior to construction, our lake was the repository for Rotorua raw sewage. The Rotorua Rubbish Dump was also located in the general location as the site proposed for the treatment plant.

On 30 January 1978 a claim was lodged with the Waitangi Tribunal (Wai 4) by Te Arawa Ngati Pikiao kaumatua requesting that the proposal for a nutrient pipeline to the Kaituna River not proceed.

The claimants stated that for the last 20 years or more concern has been expressed at the deteriorating condition of Lake Rotorua. Weed growth had flourished from time to time, scum made up of colonies of algae had disfigured the surface of the water, sedimentation has caused deposits of mud to build up on the lake-bed and the water has become more clouded to a noticeable degree than it used to be 30 years ago.

The inter-connectedness of the water bodies was also addressed. Following evidence, the Tribunal concluded that Lake Rotorua cannot be looked upon in isolation. Regard must also be had to the rest of the water system because if Lake Rotorua deteriorates so will Rotoiti, the Kaituna and Maketu. The Tribunal stated that anyone who doubts this finding need look no further than to the evidence of Dr Edward White, leader of the Freshwater Section of the Dept of Scientific and Industrial Research who stated in no uncertain terms that scientific study on Lake Rotoiti shows that the "... change in dissolved oxygen status over 26 years represents massive and rapid deterioration for a lake as large as Rotoiti.

The Tribunal saw no prospect of either arresting this deterioration, or of restoring the lake, without reducing the quantity of nutrients entering Lake Rotorua.

40-years before the construction of the Rotorua Wastewater Treatment Plant in 1973 raw sewage was discharged into Lake Rotorua. The Wai 4 Claim was lodged in 1978 and at that time Te Arawa had observed and expressed concern at the deteriorating condition of Lake Rotorua 20-years before the claim was lodged. Similarly, massive and rapid deterioration of the water quality was observed in Lake Rotoiti. It is now 2019 approximately 86-years on from when Te Arawa not only observed but expressed concern at the deteriorating condition of Lake Rotorua.

Taheke cannot speak on the condition of other water bodies in Aotearoa but in regard to the Te Arawa water bodies we rest on the observations and kōrero provided by Te Arawa Ngati Pikiao kaumatua and evidence in support, to the Waitangi Tribunal during the hearing of the Wai 4 Claim.

In our view generations of deterioration caused by human activity has brought us to where we are today. Taheke states that without significant investment in scientific and technological development it will take longer than five-years to observe any material improvement in the water quality of Te Arawa waterways.

Q. Do you think the proposals will bring New Zealand's freshwater resources, waterways and ecosystems to a healthy state within a
Given that the deterioration of Te Arawa waterways has continued apace for generations, Taheke reiterates that without significant investment in scientific and technological development it will take longer than a generation to bring Aotearoa/New Zealand's freshwater resources, waterways and ecosystems to a healthy state.

Q. What difference do you think these proposals would make to your local waterways and your contact with them?

A. In regard to Te Arawa waterways without significant investment in science and technology development it will take more than restricting Resource Consents and monitoring to make a difference.

Q. What actions do you think you, your business, or your organisation would take in response to the proposed measures?

A. As stated in the introduction Taheke have already taken action. They went out of farming in 2017 and into forestry in 2018. Additionally, the long-term goal of the Incorporation is to power all operations utilising green energy sources available to Taheke.

Q. What support or information could the Government provide to help you, your business or your organisation to implement the proposals?

A. Taheke will seek support or information as required during the development of the projects identified in the Taheke 8C Development Plan. Allowing geothermal electricity development to be exempt would also assist.

Q. Can you think of any unintended consequences from these policies that would get in the way of protection and/or restoration of ecosystem health?

A. Unintended consequences may be:
   i) Compliance costs will prove prohibitive i.e., the cost to ordinary householders especially rural householders in terms of connection to new wastewater treatment systems and increased rates ostensibly to meet or contribute to maintenance of such infrastructure; OR the possibility that landlords will further increase rentals to meet any increased compliance costs; OR the possible costs related to climate change.
   ii) The consequence that Te Kahui Wai Maori ("KWM") will become a barrier between government and both Maori and non-Maori.

Q. Do you think it would be a good idea to have an independent national body to provide oversight of freshwater management implementation as recommended by KWM and the Freshwater Leaders Group ("FLG")?

A. Taheke has read the roles of the recommended new independent national body Te Mana o te Wai Commission that is proposed to oversee freshwater management implementation and comments as follows:
   i) Taheke accepts that the present system needs strengthening especially in terms of allocation however we do not agree the system is broken to the point where a new organisation is required - in effect resulting in yet another layer of bureaucracy.
   ii) We are also concerned that a nationalised body will not be as effective as one implementing local solutions for local problems.
iii) Taheke cannot support the establishment of a new independent national body without further and more detailed information regarding the suggested roles, for example:

A. what will its terms of reference be;
B. how these roles will be implemented and
C. how this body will be funded and the source of the funding.

iv) Will this body have a role or control over water consents existing and future?

v) How will it engage and interact with bodies operating under the Resource Management Act ("RMA") and Local Body Government Act 2002?

vi) Will this new body be a Pan-Maori entity established under the proposed new Water Act legislation?

vii) Will the members of the Commission be elected or appointed?

viii) Taheke also expects that this proposed national body will not replace the requirement for government to consult with Maori including Maori land holding entities.

6. DISCUSSION DOCUMENT;
Part 2 - Implementing improvements through the RMA

6.1. Point 2.3 - Iwi and hapu demonstrating leadership - The "co-governance/management" body established pursuant to the Tapuika Settlement is known as Te Maru o Kaituna. The Proprietors of Taheke 8C & Adjoining Blocks Incorporation was founded in 1954 decades before the Tapuika claim was settled. Additionally, before the Tapuika Settlement the Kaituna River Claim (Wai 4) was heard by the Waitangi Tribunal.

6.2. Unfortunately, because the claim was not based on ownership of the river the recommendations of the Tribunal did not refer to ownership of the river. However, addressing the issues, the report stated that - In 1940 the Kaituna River was owned and had been owned for many generations by Ngati Pikiao sub-tribe and the Te Arawa. Additionally, it was stated that

-These traditional rights of ownership carried with them the free and uninterrupted right to fish the river, the estuary and the sea, together with the use and enjoyment of the flora adjacent to it. Finally, the Tribunal stated that these traditional rights have continued uninterrupted to this day.

6.3. Be that as it may the observations made by the Tribunal have not been accepted or recognised by successive governments since 1984. Hence Te Awa Okere, courtesy of the so-called framework area set up by the settlement, has come under the purview of Te Maru o Kaituna. The position of Taheke as Ahi Ka, Kaitiaki and manawhenua of Taheke lands and waters was made very clear in our submission on the River Document. Our position has not changed.

6.4. Point 2.4 - Communities and water users taking action - It is not only towns and cities that will be "investing millions" to upgrade systems to reduce sewage and other pollution getting into rivers, lakes and estuaries. Taheke notes the comment made in Part 3 Context - "New Zealanders care about freshwater. Recent research shows 85 per cent think it is the responsibility of all New Zealanders to improve water quality and 60 percent agree everyone needs to share the cost". In terms of sharing the cost for one particular rural community within our rohe this means these rural householders may be paying connection costs of between $14,000 - $15,000 and ongoing maintenance costs that will add $400 - $500 increase in their rates demands! Taheke has no doubts that New Zealanders care about freshwater however when faced with actual costs and the very real
possibility that costs such as rates will continue to increase one can only question the ongoing impact on families of such costs.

6.5. For Taheke water is a taonga that must be protected. However, Taheke argues that this cannot be allowed to become effectively an open ticket for Councils to increase their rates above and beyond what is economically sustainable for all New Zealanders. Just as we the people must be accountable to our whanau and government entities such as Inland Revenue so councils must be accountable to the communities they are elected to represent. Yet while Taheke agrees that fresh clean water is essential to all life, we also remember: *He aha te mea nui? He tangata, he tangata, he tangata.*

6.6. Therefore, before this document and the proposals within it rushes their way to the finish line, i.e., incorporation into legislation and both national and local government policy documents, plans and budgets, a comprehensive social and economic impact study must be completed. We note that such study has not been completed or included in the information available. In regard to the notion of integrated management Taheke states that this cannot be effectively introduced without fully considering the social and economic impacts on people.

6.7. Point 2.6 - Interactions with other regulations - We note that there are pieces of legislation and that have not been referred to such as the Health & Safety at work Act 2015, Property Law Act 2019, Te Ture Whenua Maori Act 1993 and related Maori Land Court case law. Taheke suggests that these Acts and case law are relevant.

6.8. Point 2.7 - Interactions with Treaty settlement obligations - Taheke like many other Maori Incorporations and Trusts is a Maori land holding entity. The Incorporation has been present on the ground since 1954 and has been responsible for meeting all obligations and holding the land secure for future generations. Yes, both the Taheke committee members and shareholders are Te Arawa Iwi, Ngati Pikiao hapu. However not every hapu member is a shareholder in Taheke and while we do not speak for other Maori land holding entities, we venture to say this would be typical of most if not all Maori Land Incorporations and Trusts. It is on this basis that we object to the focus on Iwi/Hapu to the exclusion of Maori land holding entities throughout the document.

6.9. Maori Land holding Incorporations and Trusts are the entities on the ground, they are the entities responsible for meeting all legislative requirements relevant to the land and they are the entities responsible for holding the land for their beneficial owners/shareholders. Maori land holding Incorporations and Trusts are the entities that make grants to their owners/shareholders in regard to education, health and our kaumatua/kuia. These grants are not made by the Hapu or Iwi. These grants are funded through income generated by Incorporations and Trusts from utilisation of the land. We are Ahi Ka, we are Kaitiaki, we are Manawhenua and as such we demand recognition in this document.

7. DISCUSSION DOCUMENT:
   Part 4 - Setting and clarifying policy direction

7.1. Point 4.3 - Strengthening Maori values - Mahinga Kai

7.2. Mahinga kai values have been defined in the NPS-FM as: *kai are safe to harvest and eat* and *kei te ora te mauri - the mauri of the place is intact.*

   i) Who determines whether the kai is safe to harvest and eat?
   ii) Who determines that the mauri of the place is intact?
Who is liable if the kai is contaminated and causes illness when eaten?

We note that mahinga kai also refers to the places those species are found and to the act of catching them. From this reference Taheke assumes that this value refers not only to freshwater species caught/trapped but also to for example pigs acquired via hunting on the land.

Both the definition of Mahinga kai and placement imply that if there is mahinga kai then it will be accessible to Maori. Access raises significant issues for bodies such as Taheke that own land adjacent to rivers and lakes and undertake activities abutting, in and on the river itself. The NPS-FM must also acknowledge that in some areas the proposed activities are not practically feasible and in other instances the legal obligations owed by landowners such as Taheke SC will restrict or prevent access to the adjacent land or the river.

Specifically, notwithstanding oversight and policies in place in the absence of indemnification from those groups accessing the land to access Mahinga Kai (and possibly not even then) Taheke would be liable for any adverse conduct or hazard caused by a person accessing the river and or their land under the Health and Safety at Work Act 2015 and for any damage caused by a person to the interests or assets of any company legally entitled to be on our land.

Therefore, we ask:

i) Who approves access on to the land in these cases?

ii) Who is liable should an accident occur in terms of the Health & Safety at Work Act 2015?

iii) What rights do Maori land holding entities have as landowners to exclude persons attempting to gather mahinga kai in contravention of Taheke 8C’s rights and the law?

In regard to Taheke we cannot support either proposal until the Incorporation receives legally binding assurances regarding liability issues.

Questions

Te Mana o te Wai

Q. Do you support the Te Mana o te Wai hierarchy of obligations, that the first priority is the health of the water, the second priority is providing for essential human health needs, such as drinking water, and third is other consumption and use?

A. In regard to the second priority we ask - how is essential human health needs defined? Taheke states that it relates to more than drinking water - surely it would also refer to provision of the means by which electricity is generated to keep those who rely on oxygen machines or dialysis machines alive? Taheke states that essential human health needs are multi-faceted and these needs cannot and should not be prioritised as 1, 2, or 3 in any hierarchy of obligations. He aha te mea nui? He tangata- he tangata- he tangata.

New Maori Value - Mahinga Kai

Q. Do you think either or both proposals will be effective in improving the incorporation of Maori values in freshwater planning?

A. No - see answers below.

Q. Do you foresee any implementation issues associated with either approach?

A. Yes, these issues stem from the fact that "freshwater values would be determined by iwi and hapu and supported by regional council". Maori landholding entities are invisible in this process notwithstanding the places where these values would apply
are not only confined to the water but included in such values are the "places" from where the activity occurs, e.g., fishing from the banks of rivers on private land owned by the landholding entity. By inference Mahinga kai also refers to land-based activities such as hunting. Taheke states that the implementation of these values raises:

i) very real liability issues for entities like Taheke
ii) potential conflict between the governing bodies of Maori landholding entities and beneficial shareholders
iii) conflict with other legislation such as the Health & Safety at work Act 2015, Property Law Act 2019, Te Ture Whenua Maori Act 1993 and related Maori Land Court case law.

Q. What are the benefits and impacts of either of these approaches?
A. From the Incorporation's point of view Council, iwi and hapu will benefit from these approaches because tangata whenua freshwater values are determined by entities that are not involved with the land hence the issues raised in Point 5.2.3 will not impact them. In our view the governance bodies of Maori landholding entities will carry 100% of the impacts/consequences caused by these approaches.

Q. What implementation support will need to be provided?
A. In regard to Taheke implementation support required will be inter alia:
   i) A legally binding exception regarding potential liability issues pursuant to the Health & Safety at work Act 2015 especially given that Taheke may be viewed as "providing for such activity" in which case Taheke will be responsible for managing risks associated with such activity so far as is reasonably practicable.
   ii) Access to a non-contestable fund to provide any safety equipment, infrastructure, training and personnel that may be necessary.

8. Part 5: Raising the bar on ecosystem health

8.1 Point 5.2 - Focus on holistic ecosystem health - te hauora o te wai.

8.1.1. In regard to the paragraph regarding land-use change in particular the reference to "more intensive land uses must change to a lower intensity land use, which land uses must reduce, by how much, and over what time period." Taheke asks:

i) Aside from agricultural farming, what other land uses will fit into this category?
ii) Given that farming has been and still is the backbone of New Zealand's economy:

   A. what assistance will be provided to farmers affected by such a fundamental change in terms of compensation for loss of production
   B. what assistance will be provided to farmers to meet implementation/compliance costs
   C. how will the New Zealand government replace the $14.8billion approximately, earned from agricultural exports

iii) Does this mean that industrial farming operations will remain and smaller farming operations such as those operated by Maori will be subject to an enforced land change?

8.2. Point 5.2 - Reporting on ecosystem health

8.2.1. Taheke supports the comments made by the Regional Sector Water Subgroup ("RSWS"): RSWS supports the need to maintain or improve water quality and ecosystem health, but seeks further assessment of the implications. In catchments where water quality
improvements are required, implementation and changing current practice will take time.

8.2.2. Taheke therefore recommends that:

\[ \text{i)} \text{Councils are allowed the time required to complete further assessment of the implications involved in maintaining or improving water quality and ecosystem health.} \]

8.3. Point 5.3 - Ecosystem health - new attributes and new management approach

8.3.1. The discussion document proposes that councils are required to measure and manage a broader range of ecosystem health attributes, and some of these will require a different, adaptive management approach. Taheke supports the adaptive management approach proposed.

8.3.2. Taheke supports this proposal and therefore recommends that:

\[ \text{i)} \text{Councils must be adequately resourced to carry out the work necessary to achieve government expectations.} \]

8.4. Point 5.4 - Aquatic life - Improving protection for threatened indigenous species

8.4.1. Please see responses at Point 5.2.2 - 5.2.5 Mahinga kai in regard to this point.

8.5. Point 5.11-Water quantity-clarifying requirements for minimum flows

8.5.1. Taheke supports the Advisory groups' comments regarding water volume and flow as a very important issue, requiring further work to understand what level of water flow and flow regime is required for ecosystem health. Taheke accepts that the full effect of limits will take time to achieve, as it requires review of existing resource consents, either at the time they are renewed or sooner.

8.5.2. Taheke therefore recommends that:

\[ \text{i)} \text{Councils are allowed the time and resources required to complete the tasks required to meet this objective.} \]

8.6. Point 5.12 - Water quantity- real time reporting of water use

8.6.1 Taheke supports the comments of the RSWS.

9. Part 6: Supporting the delivery of safe drinking water

9.1 Taheke supports and recognises the importance of safe drinking water and will make submissions on this topic following consultations in mid-2020.

9. Part 7: Better managing storm water and waste water

9.1. Taheke will make submissions on this topic following consultations in mid-2020.

10. Part 8: Improving farm practices

As advised at Point 1.4 Taheke terminated its farming operation in 2017. Aside from the comments made at Point 6.1.2 Taheke has nothing further to add.

11. Impacts for Maori
11.1. We note the comments at page 97 of the discussion document that the impacts for Maori at a local level described as whanau, marae, hapu, "Maori-owned businesses" presumably Maori land-holding entities such as Incorporations and Trusts, have not been specifically modelled.

11.2. We advise that the comments and submissions of Taheke are made from the perspective of a Maori land incorporation that has been present on the land since 1954. As stipulated, we are Ahi Ka - we are Kaitiaki - we are Manawhenua. The Incorporation will be responsible for implementing policies mooted in this discussion document on Taheke land as will other "local level" entities. Therefore, it is critical that the voices of such local level groups are heard.

11.3. To this end Taheke recommends:

   i) That local level entities such as whanau, marae, Maori land-holding entities, shall be consulted prior to the proposals mooted in the Action for healthy waterways discussion document are imposed for implementation on the land.

   ii) That local government resource manawhenua and manamoana to participate in all environmental planning, implementation and management processes.

   iii) That government entities do not default to post settlement governance entities for engagement/consultation input or feedback to the detriment of manawhenua and manamoana.

"Anei nga korero a nga kaitiaki tuturu o te Taheke 8C tiakina te whenua tiakina hold nga rawa hei oranga me te hunga e whai panga ana i tenei whenua."