

**Speaking points for Barbara McKerrow, Chief Executive, New Plymouth
District Council, on the New Plymouth District Council (Waitara Lands) Bill to
the Māori Affairs Committee, 18 November 2016**

Greeting

He mihi atu ki a koutou, e te iwi o Te Atiawa, me ngā hapū o te rohe nei, tēnā koutou.

Ka mihi mahana e ngā rangatira o te kawanatanga, nau mai, haere mai.

Tēnā koutou anō, e ngā hoa mahi o nga kaunihera, tēnā koutou.

Nō reira tēnā koutou, tēnā koutou, tēnā tātou katoa.

Opening remarks

I have been the Chief Executive of the New Plymouth District Council for eight years and was a member of the senior management team at the Council, for a decade prior.

I have with me today a supporting team representing the New Plymouth District Council and the Taranaki Regional Council to help answer your questions.

I have personally been involved with the processes that have led to this Bill for decades.

It's the culmination of many years of work and it has the wellbeing of the future of Waitara at its heart.

It's a balanced way forward consisting of multiple, interlocking parts, after careful thought and many discussions.

We ask that you support it.

Acknowledging the past

Firstly today, we want to acknowledge the history of Waitara and the hapū of Te Atiawa as mana whenua.

We recognise the painful past and are very mindful of this history; that the land was confiscated from Te Atiawa by the Crown and it vested some of the confiscated land in our predecessors as a way of funding public facilities.

For these reasons, the New Plymouth District Council has worked for over a decade to support both Te Atiawa and the Crown through the Treaty settlement process.

In 2004, after two years of intensive consultation, this Council made a decision to offer the Waitara leasehold land to the Crown in exchange for fair market value while protecting leaseholders rights. We asked that it be included in its offer to settle Te Atiawa's historical claims.

The decision reflected three rounds of consultation and aimed to meet the council's fiduciary and legal obligations, under the Local Government Act 2002, achieving a fiscally neutral outcome. In other words, at no cost to the ratepayers of the New Plymouth District.

This decision was almost immediately challenged by the Waitara Leaseholders' Association who did not wish the Council to transfer its ownership. From 2004 to 2010, the Council had to defend this decision expending considerable resource and cost, before it was free to proceed.

Any variation to the decision made in 2004 would have exposed the council to a high risk of further litigation.

In 2010 the Council entered into a conditional sale and purchase agreement with the Crown, reflecting all aspects of the 2004 decision, for this land to be part of the Te Atiawa settlement.

An independent valuation confirmed its worth at NZ\$23 million. While questions have since been raised about either gifting the land or transferring it back to the Crown at a price below fair market value, these are not options open to the council because of the legal and fiduciary obligations already explained.

We note it was the Crown's decision the NZ\$23 million dollars would be the value of the land in the settlement.

This was a major focus of the settlement negotiations and ultimately Te Atiawa voted to accept financial redress, rather than the transfer of the lands.

The Crown has now concluded a full and final Deed of Settlement with Te Atiawa.

Following the decision to not include the leasehold lands in the Deed of Settlement, we entered into further discussions with Te Atiawa.

Indeed, the whole basis for this Bill was initiated by a Heads of Agreement with the trustees of Te Kotahitanga o Te Atiawa Trust. Every part of it is consistent with the terms of this Agreement.

We value our partnership with Te Atiawa and look forward to the future together.

A complex Bill

We want to point out the very complex nature of the competing interests in this land.

Te Atiawa, the leaseholders and the community of Waitara hold long standing views that are historical, cultural, emotional and financial.

Some in Te Atiawa say the land should be transferred to them as it was confiscated by the Crown.

The leaseholders have long wanted security and certainty over their homes and future livelihoods.

The District council and its predecessors have been asked to address this for half a century.

The Council continues to have legal obligations that require us to manage the leases and use the proceeds for very specific purposes.

We believe this Bill presents a once in a generation chance to connect all of these interests, acknowledge the past, but most importantly move forward as a prosperous and united community.

The Bill's composition

The Bill addresses more than 160 hectares of land currently subject to statutory restrictions and splits it into several new categories.

Firstly, 76 hectares of land – or 45 per cent of the total land – is vested or available to Te Atiawa's post-settlement governance entity through different means. This is made up of:

- 13 hectares of residentially zoned land on Brown Road given to Te Atiawa to develop as they see fit. For example, this land can accommodate approximately 130 homes
- A further 32 hectares will be available via a right of first refusal once existing recreational leases over the land expire
- A further 31 hectares will also be vested as co-governance reserve land.

Secondly, leaseholders will receive a right to freehold. This allows them to determine whether they wish to freehold and when.

If they choose to freehold they will pay the fair market value at that time – calculated by a registered valuer - on the basis of the '*unimproved*' land value. In other words they can buy their section whenever it suits.

Even if a leaseholder does not wish to freehold, the saleability of their leasehold increases, through gaining the right to freehold.

Enhancing Waitara

The current rateable land value for the Waitara leasehold lands is approximately NZ\$86 million.

In the long term through a perpetual fund dedicated to Waitara, there is potential for tens of millions of dollars to be reinvested back into this community without the tight restrictions currently placed on lease income.

The Taranaki Regional Council is the successor of the New Plymouth and Taranaki Harbour Boards and approximately 80% of the leasehold land is governed by the Waitara Harbour Act 1940.

For that reason, the New Plymouth District and Taranaki Regional Councils are working together on this Bill. The funds will be split between the two councils and the Taranaki Regional Council will also prioritise funds to benefit Waitara.

Te Atiawa and New Plymouth District Council would establish a co-governance partnership Board with 50/50 representation. Together we would then determine how the New Plymouth District Council's share of the funds will be distributed in Waitara.

As the new Board will be an independent entity, I cannot speak for what the fund will be used for. However, the purposes provided for in the Bill cover

social, cultural, environmental and economic issues. Or, in other words, all aspects of community well-being.

For example, the Board could use the annual release from the fund to help build community capacity by providing support to groups such as: youth development initiatives, health and wellbeing education, environmental programmes, aged support services, university scholarships and cultural development programmes.

The collective and collaborative approach we are taking will be a New Zealand first which is wholly appropriate given the significance of Waitara in Taranaki and New Zealand's history.

Other local authorities selling their leasehold estate usually do so to fund a major capital project such as a wharf extension, road improvements or other infrastructure.

Reflecting the history of Waitara, we do not believe it is appropriate that the Council uses these funds for its core infrastructural purposes. Rather we are using it to build the future of the Waitara community in partnership with Te Atiawa.

Conclusion

This Bill strives to acknowledge our past by encouraging a new partnership, in the spirit of the Treaty of Waitangi.

If it does not pass, then the status quo exists.

Let me finish by repeating, we believe this Bill is a once in a generation chance to connect all of these interests, acknowledge the past and move forward as a united community.

I ask that you support the New Plymouth District Council Waitara Lands Bill.

The team and I are now available to answer any questions you may have.