

New Plymouth District Council (Waitara Lands) Bill

Local Bill

As reported from the Māori Affairs Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the New Plymouth District Council (Waitara Lands) Bill and recommends by majority that it be passed with the amendments shown.

Historical context of Waitara

Waitara is a town in Taranaki, located about 15 kilometres northeast of New Plymouth. The town has a population of about 6,500. New Plymouth District Council (NPDC) is the district council, and Taranaki Regional Council (TRC) is the regional council.

In the last census, 39.9 percent of Waitara residents identified as Māori. Te Atiawa is the local iwi, and Waitara is home to Manukorihi and Otaraua hapū.

During our consideration of this bill, we were particularly aware of the importance of Waitara's history. This context is discussed in the bill's Explanatory note.

We encourage readers to bear the context of Waitara's history in mind when considering our recommended amendments to the bill.

Intention of the bill as introduced

The New Plymouth District Council (Waitara Lands) Bill is a local bill promoted by NPDC. The member in charge is Jonathan Young, the member of Parliament for New Plymouth. As introduced, the bill seeks to give effect to the Heads of Agreement between NPDC and Te Kotahitanga o Te Atiawa Trust (the Trust). Overall, the bill as introduced would allow:

- the co-management of endowment lands between NPDC and the Trust
- transfer of some lands to Te Atiawa
- the removal of restrictions on how income derived from the Waitara Endowment Land can be used
- the right for leaseholders of Waitara Endowment Land to freehold titles.

Different categories of land

The bill is concerned with several different parcels of council-owned land in and around Waitara, which differ in their uses and histories, and the obligations they carry. The legal descriptions of the land are set out in Schedule 3 of the bill.

There are four main categories of land:

- Brown Road Land, which consists of about 13 hectares of land on Brown Road, Waitara.
- Waitara Endowment Land, which includes an endowment for the maintenance of the Waitara Public Library, land held for town improvements, mixed endowment land, portfolio land, and land vested in NPDC under the Waitara Harbour Act 1940.
- Right of First Refusal (RFR) Land, including parts of Ranfurly Park and the Waitara Golf Club.

- Transfer Land, consisting of about 23 hectares of the West Beach, 0.6 hectares of the East Beach, and about 6 hectares of Clifton Park.

Our process in considering this bill

The submissions process raised substantial issues with the bill, so we directed our advisers to engage in extensive negotiations with several stakeholders after we heard submissions. As a result of this process, we are recommending substantial amendments to the bill.

We note that there are ongoing discussions between the Waitara hapū, the Trust, and our advisers. The Waitara hapū are yet to finalise their position, but support the bill to the second reading.

We would like to thank our advisers for their excellent work negotiating with the various stakeholders involved in this bill. This work is the basis for many of our recommended changes, and without it the progress of this bill would not have been possible. We would also like to acknowledge the promoter of the bill, New Plymouth District Council, for its positive and open-minded perspective throughout negotiations.

Negotiations not covered by this bill

We note that NPDC and Waitara hapū have been engaging positively, outside of the context of this bill. NPDC is offering its property expertise to the hapū, and the groups are working together to see some land returned to the hapū of Waitara.

We support these negotiations, and commend the council's commitment to improving its relationship with the hapū.

Proposed amendments

This commentary covers the main amendments we recommend to the bill. It does not discuss minor or technical amendments.

Changes to Preamble and Purpose clause

We note that the bill includes a Preamble, intended to give context to the provisions of the bill. We recommend that this section be redrafted to clearly acknowledge Waitara's role in the New Zealand Land Wars. We recommend that Manukorihi and Otaraua hapū are specifically acknowledged as having interests in Waitara and its land.

We recommend changes to the bill's Purpose clause. These changes are intended to reflect the changes we have made to the bill.

Definitions of “Waitara hapū”, “Waitara hapū entity”, and “Waitara River”

As introduced, the bill does not define who Waitara hapū are or what the Waitara River is. In light of our other proposed changes, we recommend adding definitions for these and related terms.

We recommend defining “Waitara hapū” as Manukorihi hapū and Otaraua hapū. We use this definition for the purposes of this commentary.

Some of our proposed changes rely on an entity representing both Manukorihi and Otaraua hapū. We recommend adding a definition of “Waitara hapū entity”. The Waitara hapū entity would be the entity that is recognised by the Trustees as representing the Waitara hapū for the purposes of this bill.

Further, we recommend defining “Waitara River” as:

the body of water known as the Waitara River that flows continuously or intermittently from its headwaters to the

mouth of the Waitara River on the Tasman Sea and is located within the Waitara River catchment.

It would also include all tributaries and streams that are parts of the catchment, as well as any lakes and wetlands connected with the Waitara River.

We are advised that there will likely be a Supplementary Order Paper introduced later in the progress of the bill, which would add a reference to the Survey Office plan of the river and its catchments to the bill.

Land to be vested in the Waitara hapū

In the bill as introduced, the Brown Road Land and the Transfer Land would be vested in the Trust's Trustees (the Trustees).

We recommend amending the bill (principally clauses 6 and 9) to allow the Trustees to give their consent for the Transfer Land and the Brown Road Land to be vested in the Waitara hapū entity.

We recommend adding new clause 9A to specify the provisions around this vesting. This new clause would set out that the Trustees and the Waitara hapū entity may give NPDC's chief executive written notice that they consent to the Transfer Land and Brown Road Land being vested in the Waitara hapū entity. We recommend that this written notice must be supplied by the Trustees within 40 working days of the bill's Royal assent.

We note that the commencement clause specifies that the legislation would not come into force until 3 months after it receives Royal assent. We recommend that new clause 2(1) be added, to make an exception that new clause 9A would come into force on the day after the date of Royal assent.

Further, we recommend subclause (2)(b) in new clause 9A, to make it clear that if the Waitara hapū entity is a trust, the notice of consent must include the names of the trustees.

Transferring the fee simple estate

We note that there may be circumstances where the Trustees or the Waitara hapū entity needs to transfer a piece of the Transfer Land. Clause 7 sets out the unique reserve status of transfer land. This includes stating the fact that proprietors cannot mortgage or give a security interest in the Transfer Land.

We recommend changes to subclause (4) and adding new subclause (4A) to allow for situations where the Transfer Land is transferred again.

Our amended subclause 4 would set out how the land could be transferred if the Trustees were the proprietor. We propose that the fee simple estate could only be transferred in two circumstances. It could be transferred to the Waitara hapū entity. Alternatively, the land could be transferred if either: a new trustee has been appointed to the Trust, or an existing trustee has ceased to be a trustee. In these cases, the instrument to transfer the reserve land would be accompanied by a certificate verifying the above situation.

New subclause 4A would set out the provisions for when the Waitara hapū entity was the proprietor who wanted to transfer the Transfer Land. We propose that the land could only be transferred if the proprietor is a trust and there is a change of trustees. As with subclause 4, we recommend that the instrument to transfer the reserve land would need to be accompanied by a certificate to verify the changes described above.

Leaseholders may purchase freehold title

Under Part 3 of the bill as introduced, people who have a registered lease over certain Waitara Endowment Land would have the right to purchase the fee simple estate in that land.

We recommend the following changes to this Part.

Special conditions for lessees who want to purchase promptly

Clause 20(2) sets out special conditions for a lessee who gives notice within a certain timeframe that they intend to purchase the land. As introduced, this clause would apply to lessees who give notice within 12 months of the legislation's commencement. We recommend amending this to within 15 months of clause 20's commencement. This change would grant lessees slightly more time to take advantage of subclause (2).

Subclause (2) provides that the price to be paid by the lessee would be the unimproved value of the land on the day the bill received Royal assent. This assumes that land values will rise, and therefore benefits lessees who notify promptly. We note that the change of valuation day will result in the price freeze date moving forward by three months.

We note that there is no guarantee that land values will continue to rise, and that this clause could therefore become detrimental to lessees.

We recommend adding subclause (2A) to allow for circumstances where land values decrease. Subclause (2A) would allow the lessee to choose whether subclause (2) would apply.

Additional terms and conditions

Further, we recommend inserting clause 20(5) to specify some additional terms and conditions. These are that the lessee might have to pay:

- any rent that is owing
- any costs incurred by NPDC as a result of the lessee breaching the lease.

We note that NPDC would be able to sell the fee simple estate of Waitara Endowment Land to people other than the leaseholders. However, this would not affect the leaseholders' rights in relation

to purchasing the leasehold. We consider it essential that, in these situations, NPDC considers the views of Waitara hapū alongside those of the lessee, the Trustees, and TRC. We recommend amending clause 23(1) so that the views of Manukorihi hapū and Otaraua hapū must also be considered.

Distributing income to the councils

Clause 24 deals with the distribution of accumulated and future income from the Waitara Endowment Land. At present the total fund generated by this land, after deductions, is about \$4 million. Annual net rental income is about \$1.08 million. It is estimated that, if all lessees exercised their freeholding rights, the net proceeds of the sales could exceed \$60 million.

Currently, this money is shared between NPDC and TRC but for purposes that are no longer relevant. TRC is entitled to this surplus income through the Waitara Harbour Act 1940.

How these funds would be distributed and spent was a prominent issue throughout submissions. In an effort to balance the views expressed, we are recommending extensive changes to Part 4 of the bill. It is our intention that these changes represent a compromise between the various stakeholders.

We do not recommend any substantive changes to clause 24, other than changes to make its meaning clearer.

How TRC must spend income from the Waitara Endowment Land

Under the bill as introduced, TRC would first be required to spend its funds:

only in the performance of its responsibilities and exercise of its powers in accordance with its funding and financial policies adopted under the Local Government Act 2002

within Waitara or for the benefit of the Waitara community or any part of the Waitara community.

We note ongoing interest in TRC's accountability and transparency in regards to its share.

We were advised that TRC has relatively restricted options for how it is able to spend its funds in Waitara. One of these is to fulfil its responsibilities for the sustainable management of freshwater.

We propose significant changes to how TRC can spend its funds, based on this responsibility for Waitara's freshwater.

We recommend that it be TRC's duty to spend its income from the Waitara Endowment Land on the "restoration, protection, and enhancement of the environmental, cultural, and spiritual health and well-being of the Waitara River".

To achieve this goal, we propose that TRC establish a Waitara River Committee and that this committee establish a subcommittee. The joint committee would oversee all of the TRC proceeds. Of these proceeds, 30 percent would be ring-fenced to be spent on the lower Waitara Catchment or Waitara community, and the remaining 70 percent would be spent on the whole river.

We recommend inserting new Subpart 1A in Part 4 of the bill to set out our proposed plan for TRC's expenditure. We also recommend substantially amending clause 25 to reflect the changes discussed above.

Establishing the Waitara River Committee

We recommend adding new clause 25A to require TRC to establish a standing committee called the Waitara River Committee.

We recommend inserting new clause 25 to require that the funds that TRC receives through clause 24 would be allocated according to determinations made by the Waitara River Committee.

Membership

The committee would comprise an equal number of members: half nominated by TRC, and half nominated by the Waitara River Authorities.

Clause 25A(13) would define “Waitara River Authority” as an iwi authority that exercises historical and continuing mana whenua in an area within the Waitara River catchment. Further, the authority would need to be one or more of the following:

- a mandated iwi organisation within the meaning of section 5 of the Māori Fisheries Act 2004
- a body that has been the subject of a settlement of Treaty of Waitangi claims
- a body that has been confirmed by the Crown as holding a mandate for the purpose of negotiating Treaty of Waitangi claims and that is negotiating those claims with the Crown.

We note that this definition is wider than just Te Atiawa or Waitara hapū. This is deliberate, because it is more effective to begin river restoration and protection efforts upstream, and the length of Waitara River spans several rohe. We have not named the river authorities who will sit on the committee, as this is for the appropriate parties to work out. It is therefore important for all Waitara River Authorities and TRC to collaborate.

We understand the need for Te Atiawa to have a consistent voice in the Waitara River Committee. We therefore recommend that at least one of the nominated members allocated to the Waitara River Authorities must be nominated by the Trustees.

We note that neither Te Atiawa nor Waitara hapū would have direct control of any Waitara River funds.

Stakeholder agreement

TRC would be required to take all reasonable steps to enter into an agreement with the Waitara River Authorities. This agreement

would provide administrative, strategic, and procedural guidance for the Waitara River Committee, as detailed in clause 25A(6). This subclause also includes the right for the committee to re-name itself. This is provided for under clause 25A(7).

We propose stipulating that the agreement could not be inconsistent with any enactment that applies to TRC or a Waitara River Authority (clause 25A(8)).

The committee could not be discharged unless TRC and all Waitara River Authorities who entered the agreement were satisfied that this was appropriate (clause 25A(13)).

Powers

Our new clause 25A(9) would require TRC to delegate all the powers necessary for the Waitara River Committee to perform its functions.

Procedure

We recommend adding new subclauses (10) to (12) to explain that Schedule 2 of the bill would apply to the Waitara River Committee, with any necessary modifications.

Functions and responsibilities of the Waitara River Committee

We recommend adding new clause 25B to establish the functions of the Waitara River Committee.

Determinations

As mentioned earlier, the funds received by TRC under clause 24 would be allocated according to determinations by the Waitara River Committee. One of the committee's key functions, therefore, would be to determine how this income would be allocated, and for what purposes. This is set out in clause 25B(1).

Clause 25B(1)(a) would require that 70 percent of the income received by TRC should be used for the restoration, protection, and enhancement of the environmental, cultural, and spiritual health and well-being of the Waitara River.

Clause 25B(1)(b) would require that 30 percent of the income received by TRC should be used for any matter in Waitara or in the lower catchment of the Waitara River that is within the role and responsibilities of TRC under the Local Government Act 2002. We provide some examples of these matters in new subclause (6).

When it is impractical to spend money on the Waitara River

We note that there may be circumstances where it is impractical for the committee to allocate funds to the Waitara River. We consider it important to provide for these circumstances. Regardless of where the money is spent, we consider it essential that the Waitara community ultimately benefits in some way from the money generated by the Waitara Lands. Our proposed changes reflect this priority.

We therefore recommend new clause 25B(2). This would allow the committee several options for how to use the money in other ways.

First, we propose an option that would allow the committee to accumulate the funds until such time as a purpose arises.

Alternatively, the committee could apply the funds to a flood control scheme for the Waitara River.

If this second option were impractical, the committee could then allocate the funds to a purpose that benefits all or part of the Waitara community, as long as this fell within the role and responsibilities of TRC under the Local Government Act.

Finally, if the third option were also impractical, the committee may then allocate the funds to any non-commercial purpose that would benefit the Taranaki community generally, including the Waitara community.

Establishing and engaging with the subcommittee

As discussed, new clause 25C would require the Waitara River Committee to establish a subcommittee.

Under new clause 25B the committee would need to engage with the subcommittee and to have particular regard to its recommendations in relation to some activities.

Before spending any of the 30 percent income allocated to “any matter in Waitara”, the committee must give particular regard to the recommendations of the subcommittee. To ensure that the subcommittee is properly engaged with, we recommend inserting new subclause (4). This would set out that the Waitara River Committee must:

- notify the subcommittee, in writing, of its proposed determination and the reasons for this determination
- invite the subcommittee to make an oral or written submission in response
- consider any submission the subcommittee makes
- make a determination
- notify the subcommittee, in writing, of the determination and the reasons for this determination.

We recommend inserting new subclause (5) to provide guidance for voting on determinations about the 30 percent funding for “any matter in Waitara”. This guidance would set out that the only members of the Waitara River Committee who may consider or vote on these determinations would be:

- any members nominated by the Waitara River Authorities who entered into the stakeholders’ agreement and exercise mana whenua in Taranaki
- an equal number of members nominated by TRC.

Establishing the Waitara River Subcommittee

We recommend inserting clause 25C to provide that the Waitara River Committee must establish a subcommittee. This subcommittee would comprise two members representing Manukohiri hapū, and two members representing Otaraua hapū.

Recommendations to the Waitara River Committee

As discussed above, the subcommittee's role would be to make recommendations to the Waitara River Committee about the 30 percent of funds that it allocates to "any matter in Waitara". This function would be formalised in new subclause (4).

Administration and powers

As with the Waitara River Committee, we recommend that the subcommittee follow Schedule 2's provisions. These set out some administrative matters for the subcommittee. Any matter not addressed in Schedule 2 could be determined by the subcommittee.

We recommend inserting clause 25C(6) to provide that, despite clause 4(3) of Schedule 2, the subcommittee cannot perform its functions with a membership vacancy. This subclause would ensure that the two Waitara hapū are always equally represented on the subcommittee.

Clause 25C(7) would require TRC to delegate all the powers necessary for the subcommittee to perform its functions.

Reporting on Waitara River expenditure

We recommend inserting clause 25D, to make it clear that TRC must report publicly about how it spends income from Waitara Endowment Land.

New clause 25D specifies that the council's annual and long-term plans must include a statement showing:

- how much money is held by TRC under clause 24

- forecast distributions for the periods covered by the plans
- forecast income for relevant periods
- administrative and operating costs incurred by TRC and the Waitara River Committee under Part 4, Subpart 2, and forecast costs for the periods covered by the plans
- any other costs required by Part 4, Subpart 2.

How NPDC must spend its Waitara Lands income

Under the bill as introduced, NPDC’s share of the Waitara Lands income, and any accumulations derived from that income, would be held in a fund to be established by clause 26. Clause 26 would also set out an investment policy for the Fund. The Fund would be used for the “benefit of the Waitara Community or a part of the Waitara community”. The bill as introduced gives examples of what this could include:

- community or environmental health
- sports or recreation
- development or presentation of arts, culture, heritage, or community identity
- community self-reliance, capacity building, and stability.

As a result of the submissions process and negotiations by our advisers, we recommend substantial changes to how NPDC would be able to spend the Fund. The most significant change is the creation of two new funds within the overall NPDC fund: the Hapū Land Fund and the Waitara Community Fund.

We recommend adding new clause 31A, which would require NPDC to establish these two funds.

We note that, as introduced, this part of the bill—Subpart 2 of Part 4—is titled “Fund and Board”. We recommend renaming it as

“Council expenditure”. This would more clearly describe its subject-matter.

Establishing the Board

Clause 27 would establish a Board, and provides for it to choose, or change, its own name and that of the Fund. We recommend adding subclause (3A) to make it clear that any reference to the Board or the Fund would be treated as a reference to the Board or the Fund under its new name.

Functions and powers of the Board

Clause 28 would establish the functions and powers of the Board. We recommend several changes to this clause.

In clause 28(1), we recommend requiring the Board to make recommendations to NPDC about its investment policy for the Waitara Community Fund, as well as its policy for determining the amount of Annual Releases from the Waitara Community Fund.

We propose adding a requirement that the Board must make distributions from our proposed new Hapū Land Fund, based on recommendations made by our proposed Hapū Land Fund Committee.

Further, we recommend changing clause 28(1)(b). These changes would make it the Board’s function to determine who the recipients would be from the Waitara Community Fund from each financial year’s Annual Release.

Finally, we recommend a change to clause 28(2), to make it clear that the Board must provide NPDC with its determinations of how much will go to each recipient, and what this will be for. This information should be given within 9 months of the end of each financial year.

Membership of the Board when appointments are not made on time

Clause 29 provides for the membership of the Board. We recommend inserting clause 29A, to provide for circumstances when Board member appointments are not made on time.

This new clause would provide that, if either the Trustees or NPDC do not make appointments within 3 months, the other party may make the outstanding appointment.

We emphasise that, even if a board member was appointed under this new clause, the normal provisions relating to the Board as set out in Schedule 2 would still apply.

Managing the Board

Schedule 2 covers administrative and procedural matters for the Board.

Clause 5 deals with the chairperson of the Board. We recommend amending clause 5(1) so that the Board would appoint the chairperson, rather than NPDC having this power. Under the bill as introduced, each chairperson would hold the role for one year, and could not be reappointed unless all members of the Board agreed. We recommend adding a further provision, that a chairperson who is reappointed may not hold the role for more than 3 years.

Clause 8 relates to decision-making processes for the Board. We recommend amending clause 8(2) so that the chairperson would not have a casting vote in the event of a tied vote. Under the bill as introduced, the chairperson would have both a casting vote and a deliberative vote.

It is our intention that these changes would make the Board more independent of NPDC.

Clause 31 also deals with the administration and operation of the Board. We recommend inserting clause 31(1)(g) to add a requirement that NPDC and the Trustees' terms of reference for the

Board must include “how the Board will engage with the Hapū Land Fund Committee”.

The Hapū Land Fund and its committee

We recommend inserting clause 31B to establish the Hapū Land Fund. Its purpose would be to contribute to the return of Waitara land to the Waitara hapū.

We propose that NPDC would be required to allocate 50 percent of the money it receives from the Waitara Lands to the Hapū Land Fund.

Our proposed clause 31B(3) would make it clear that money in the Hapū Land Fund could only be used for the benefit of the Waitara hapū in relation to land in or around Waitara. It could only be used for the following purposes:

- to purchase land or interests in land
- to develop land
- to manage interests in land.

Under new clause 31B(5), NPDC could only abolish the Hapū Land Fund if it had been depleted for 2 years and no further income was expected.

Establishing the Hapū Land Fund Committee

We recommend inserting clause 31C to establish the Hapū Land Fund Committee as a committee of the Board. It would comprise two members representing Manukohiri hapū, and two members representing Otaraua hapū.

The Board would be required to delegate to the Hapū Land Fund Committee all the powers necessary for it to perform its functions.

Clause 31C(3) would provide that members of the Hapū Land Fund Committee may be members of the Board, but do not have to be. As with the Board, Schedule 2 would exclude certain candidates from being members of the Hapū Land Fund Committee.

The Hapū Land Fund Committee would end at the same time as the Hapū Land Fund.

Function and operations of the Hapū Land Fund Committee

We recommend inserting clause 31D to set out the function of the Hapū Land Fund, which would be to determine the amounts and purposes of distributions from the Hapū Land Fund.

New clause 31D(2) provides that any interest in land purchased in accordance with a recommendation of the Hapū Land Fund Committee must be registered to the Waitara hapū entity. The exception to this would be any land purchased under our proposed new clause 35A.

Our proposed new clause 31E sets out how the operational provisions in Schedule 2 would apply to the Hapū Land Fund Committee.

NPDC may buy land for benefit of Waitara hapū

Our proposed new clause 35A would enable NPDC to purchase an interest in Waitara land for the purposes of the Hapū Land Fund.

It would require that NPDC be reimbursed from the Hapū Land Fund for the price of the purchase and NPDC's net related costs. This reimbursement would need to be done before any money was distributed from the Fund for any other reason.

NPDC must include the Hapū Land Fund in its reporting documents

We consider it important that there is transparency around the Hapū Land Fund. We therefore recommend inserting clause 35B.

Under the bill as introduced, NPDC would need to include a statement in its annual and long-term plans reporting on various financial aspects of the overall Fund. New clause 35B(2A) would

require NPDC to show separately in its annual report another statement for the Hapū Land Fund that canvasses the same matters.

Waitara Community Fund

Our proposed new clause 32A requires that the Waitara Community Fund be established as a perpetual fund, with the purpose of benefitting the whole, or any other part of, the Waitara community. This would be achieved through the processes set out in clauses 33 to 35.

How much money will be released from the Waitara Community Fund each year?

As introduced, clause 33 initially addressed how NPDC would release funds from the overall Fund. We recommend amending it to address the Waitara Community Fund instead.

Examples of what the money could be spent on

Some submitters told us that they felt that the Waitara Community could learn more about its history, and in particular the history of its hapū. We support this idea, and recommend adding paragraphs (f) and (g) to clause 34(3) to add more examples to the list of possible uses for the Waitara Community Fund. Our proposed new examples would be “a greater understanding of the relationship that the Waitara hapū have with Waitara” and “a greater understanding of the role of Waitara in the New Zealand Land Wars”.

Regulation-making powers

We were advised by the Regulations Review Committee about the Henry VIII powers contained in clause 45 of the bill. Unfortunately, we were not able to address this clause during our consideration of the bill. We recommend that the House consider this issue during later stages of consideration.

Green Party of Aotearoa New Zealand minority view

The Green Party has considered this bill closely, including all the efforts which have improved it from the original draft. It does now represent a step forward from the deep unresolved issues affecting manawhenua and leaseholders in Waitara. However, we cannot support it at this time. We acknowledge that this bill is not formally a Te Tiriti Settlement Bill, but it attempts to deal with the issues of the Pekapeka Block. These cannot be separated from the breaches of Te Tiriti o Waitangi that led to war, land alienation, and poverty descending upon the manawhenua of Waitara.

The bill has been hugely changed since the first reading and it is much improved, but it is yet to achieve full hapū support. Originally this bill enacted a Heads of Agreement between the Te Ātiawa iwi post-settlement group and the New Plymouth District Council, but it failed to resolve the land losses of the Pekapeka Block and the risk of leaseholder homes being offered for sale at market rates.

Following hearings at Te Owae Marae the bill has basically been rewritten to make the NPDC funds into an opportunity for the two hapū to have half the money for land purchases in Waitara (Hapū Land Fund) and for a Waitara Community Fund. A co-governance committee to spend the Taranaki Regional Council Fund has been set up to clean up the Waitara River.

As a result of ongoing negotiations with the officials and the Chair of the Select Committee, the two hapū have agreed to the Bill going through second reading on the understanding that they will have some time and resources for a proper process of consultation. This is not agreement to the bill as it stands but until such time as the full consultation within the hapū has taken place. The Green Party is concerned that the Bill will now be back in the House and the ability of the hapū to substantially change it or request for it to be stopped will be seriously weakened. The Green Party would have preferred that the full consultation with the wider hapū

membership and a decision from them had been completed before second reading. We cannot support the Bill until it is fully endorsed. We will however remain open to supporting the Bill following further consultation, and therefore we will reconsider our position for the Committee of the whole House and third reading.

The argument that this negotiated agreement with the New Plymouth District Council and the Taranaki Regional Council has a short life span is not a sign of good faith to resolve the underlying issues of the Pekapeka Block. After more than 150 years of hurt and land loss the Green Party supports the hapū calling for more time.

Our view after this complex process is that we should uphold hapūtanga and support their judgement on this Bill after their full consultations, while expressing considerable respect for the effort which has been made to improve this legislation. It may not be Te Tiriti bill but our position needs to be guided by a commitment to honouring Te Tiriti o Waitangi in all legislation.

New Zealand First Party minority view

This is a bill brought to the House by the Member of Parliament for New Plymouth, Mr. Jonathan Young.

NZ First recognises the bill is not a treaty settlement bill, but one of addressing the utilisation of income derived from the leased lands.

NZ First has considered the final draft of the New Plymouth District Council (Waitara Lands) Bill and notes that it is markedly different to that which was originally brought to the House. This has been the result of a concentrated effort by all parties concerned—iwi/hapū, local bodies, and Crown representatives.

While not a Treaty of Waitangi (Te Tiriti) settlement bill the history of the Pekapeka Block associated with this bill reflects some of the breaches to Te Tiriti that is evidenced by the Taranaki wars.

We note that some hapū have had limited opportunity to consider this bill in detail and we understand that they support the bill. A number of submissions were received which contributed to the latest draft of the bill.

The bill would establish a Standing Committee of the Taranaki Regional Council, the membership of which is to comprise members nominated by the Regional Council to represent the Council and iwi/hapū representation.

NZ First has some concerns if membership is to comprise non-elected members on the one hand and members of council who have been elected as part of a Local Body election. We believe that all members should be subject to the same electoral process.

We note that apart from the opportunity to apply income to the acquisition of land, including the option to purchase sections currently leased, if and when they should become available income is to be used for the environmental maintenance of the Waitara River and its catchment area.

NZ First believes that the environmental care and maintenance of the river should be the responsibility of central government and that income identified under this bill be available to the acquisition of those leasehold properties that will become available from time to time.

Appendix

Committee process

The New Plymouth District Council (Waitara Lands) Bill was referred to the committee on 21 September 2016. The closing date for submissions was 7 November 2016. We received and considered 118 submissions from interested groups and individuals. We heard oral evidence from 53 submitters at hearings in New Plymouth, Waitara, and Wellington.

We received advice from the Department of Internal Affairs. An official from the Office of Treaty Settlements acted as a special adviser for this bill. The Regulations Review Committee reported to the committee on the powers contained in clause 45.

Committee membership

Tutehounuku Korako (Chairperson)

Hon Chester Borrows

Marama Davidson

Kelvin Davis

Marama Fox

Peeni Henare

Pita Paraone

Dr Shane Reti

Catherine Delahunty, Adrian Rurawhe, and Jonathan Young also participated in the consideration of this item of business.