
Western Bay of Plenty District Council

Strategy and Policy Committee

Panepane Point Reserve Management Plan

Purpose and Summary

To seek the Committee's direction and approval for the preparation of a "Draft" Reserve Management Plan for Panepane Point which would be reported to the relevant Committees post 2013 Triennium Local Government elections, for approval prior to undertaking public consultation.

Note that there have been discussions held with Tauranga Moana Iwi Collective and Matakana Island representatives regarding the future ownership of the land. Their clear preference is that the Council should resolve in this decision to transfer the land to Ngai Te Rangi entity two years after the Reserve Management Plan is adopted.

Recommendation

- 1. *THAT the Reserves and Facilities Manager's report dated 28 August 2013 and titled "Panepane Point Reserve Management Plan" be received.***
- 2. *THAT the report relates to an issue that is not considered significant in terms of Council's policy on Significance.***
- 3. *THAT the Strategy and Policy Committee agree to the preparation of a Reserve Management Plan for the Panepane and Purakau Blocks on Matakana Island.***
- 4. *THAT staff work with Tangata Whenua and other stakeholders on the preparation of a Draft Reserve Management Plan that will be brought back to the relevant Committee for approval prior to release for public consultation.***
- 5. *THAT the following key points be included in the Draft Reserve Management Plan:***
 - *Public access to the land;***
 - *Right of Way access agreement requirements***

- ***Council's current generic Reserve Policies included in other Reserve Management Plans;***
 - ***Any new site specific policies;***
 - ***Consideration of cultural and archaeological issues associated with the land;***
 - ***Context within the whole of Matakana Island Plan;***
 - ***Port of Tauranga navigational assets;***
 - ***A Concept Development Plan identifying recreational facilities and services e.g. Public amenities, walkways;***
 - ***Conservation and protection protocols for the flora and fauna;***
 - ***Changing to a Reserves Act Classification under the Reserves Act 1977***
 - ***Consideration of future ownership, governance and management options for the land;***
 - ***Funding options for capital works and operations;***
 - ***Forestry Management.***
 - ***Merits of Sub Regional Park.***
- 6. *THAT the Reserve Management Plan consultation process follow the format prescribed under the Reserves Act 1977.***
- 7. *THAT it be recommended to the incoming Mayor that a Hearings Sub-Committee be established with both Council and appropriate Iwi/Tangata Whenua representation to hear submissions and recommends adoption to Council.***



Peter Watson
Reserves and Facilities Manager

Date
Subject

28 August 2013
Panepane Point Reserve Management Plan

Open Session



Approved

Gary Allis
Group Manager Engineering Services

Minute Action Sheet	Position Code
For Action	RFM
For Info	GM1
For Info	
For Info	

1. Background

Council has had representation from Iwi wishing to have some Council land "returned or transferred to them" as part of the Treaty Settlement process.

It was determined that any such land would not be part of the Treaty Settlement process, but instead be considered through a separate discussion between Iwi and Council.

Panepane Point, the subject of this report, is of significant cultural importance to Ngai Te Rangi and Matakana Island Hapu who view areas of the land as Waahi Tapu.

Land History

The land is made up of two separate titles, being Panepane (Lot 13 Parish of Katikati) and Purakau (Lot 11B Parish of Katikati). Ngai Te Rangi's customary ownership of Panepane Point was extinguished by declaration of the Tauranga District under the New Zealand Settlements Act 1863, as a confiscated district by order in Council. The Tauranga District Lands Acts of 1867 and 1868 (The Acts) validated the original confiscation proclamation.

For the purposes of this report, the Panepane title and the Purakau title are collectively referred to as "Panepane Point".

Panepane

Panepane was vested by Crown Grant to 5 tupuna in 1877, by the Tauranga Lands Commissioner. It was subsequently compulsory acquired in 1923, under the Public Works Act 1908, and vested in the Tauranga Harbour Board for "Harbour Works" purposes (80.7 hectares).

Purakau

Title was created for Purakau in 1912, and it was awarded to 12 tupuna via the Native Land Court. It was subsequently surveyed and compulsory acquired under the Public Works Act 1908, and vested in Tauranga Harbour Board for "Harbour Works" purposes (92.4 hectares).

Council Ownership

In 1989, Local Government re-organisation took place and all Harbour Boards were disestablished. As a result, Panepane and Purakau titles transferred from the disestablished Tauranga Harbour Board to the Western Bay of Plenty District Council at no cost.

In recent times, Council has negotiated an agreement for the establishment of a Right of Way across its land in order to provide access for various land owners to access the barge ramp. The cutting rights for the current crop of pine trees on the land have also been extinguished, however, the final removal of 70% of the trees by the forest owners is yet to occur.

The agreement has resulted in Council receiving a significant sum of funding for the provision of public amenities for Panepane and Purakau.

Whilst appreciating the discussions to date on possible future, ownership, governance, co-governance and co-management options associated with the land, staff are of the view that, with the removal of cutting rights for the pine plantation, the timing is now right for Council to prepare a Reserve Management Plan for the land and plan ahead for the development of public amenities and put in place specific policies to address issues associated with the land.

Key issues to be addressed in a Reserve Management Plan (RMP) include, but are not limited to, the following:

- Public access to the land. (Note that to date, access is only permissible by permit from the forestry managers. This arrangement is similar to what occurs at TECT All Terrain Park on the cutting right areas);
- Right of Way access agreement requirements
- Council's current generic Reserve Policies included in other Reserve Management Plans be included;
- Any new site specific policies;
- Consideration of cultural and archaeological issues associated with the land;
- TMIC have a clear view that the decision to transfer ownership to a Ngai Te Rangi entity two years after the adoption of the RMP should be included in this decision as a direction to staff and the hearings committee in the preparation of the RMP;
- Context within the whole of Matakana Island Plan;
- Port of Tauranga navigational assets;
- A Concept Development Plan identifying recreational facilities and services e.g. Public amenities, walkways;
- Conservation and protection protocols for the flora and fauna;
- Changing to a Reserves Act Classification under the Reserves Act 1977
- Consideration of future ownership, governance and management options for the land;
- Funding options for capital works and operations;
- Forestry Management.
- Merits of Sub Regional Park.

The two fundamental issues to be addressed through a Reserve Management Plan are public access to the land, now and in the event that a change of ownership was to occur sometime in the future.

The other issue being the request for ownership to be returned to an Iwi Trust that would be established.

The Trust would need to have the following characteristics:

- The Trust would be representative of all Matakana Hapu;
- The Trustees would be democratically appointed as a result of a hui a hapu (Hapu meetings);
- The Trust would hold Panepane Point for the benefit of those beneficiaries that whakapapa to the original owners noted on the certificates of title / crown grant at the time that the land was taken (in order to satisfy all descendants of the original owners that their interest is recorded). That said, the terms of the Trust Deed would guarantee that the Trust would allow public access across Panepane Point in accordance with any Reserve Management Plan;
- The Trust Deed would record the background to any transfer, for example:
 - Western Bay of Plenty District Council returned Panepane Point to the Trust to foster its relationship with Iwi, and as a gesture of good faith;
 - It would be agreed between the Trust and Western Bay of Plenty District Council that Panepane Point is to be held as a recreation and/or historic reserve under the Reserves Act (this guarantees public access);
 - The Trust would undertake to work collaboratively with Western Bay of Plenty in the governance and management of Panepane Point and would appoint three Trustees to sit on a Joint Administering Board (with three appointees from Western Bay of Plenty District Council (the detail would be subject to further discussions and agreement with Council)).
- The Trust would intend to be the final destination for Panepane Point. However, for any unforeseeable reason that a Trust may need to be disestablished, Western Bay of Plenty District Council's interests (i.e. ensuring that public access remains and security of tenure) must also be provided for in any provisions regarding the winding up of the Trust; and
- Western Bay of Plenty District Council would be able to comment on the terms and conditions of the Trust.

Below is a report recently presented to Te Komiti Maori which provides further background to the Reserve Management Plan approach.

Discussions regarding Ownership, Governance and Future Management of Panepane Point

Stemming from many years of dialogue between Matakana representatives and Council, Matakana representatives approached Council in early 2012 to discuss the future management and ownership of Panepane Point. Since early 2012 discussions have taken place and have reached a point whereby Matakana Hapu and Ngai Te Rangi Iwi have identified their preferred option, from a matrix of options jointly developed and discussed over the past 12 months and more. That is for the full return of title, subject to the guarantee of public access and joint management with Western Bay of Plenty District Council, via a Reserve Management Plan.

A presentation to a strategic issues workshop of council was made by Council staff and members of Ngai Te Rangi Iwi and Matakana Hapu representatives on 5 June 2013. Whilst the presentation was well received by Councillors, there was some concern around the governance structure that might receive the title, also some unfamiliarity of how management would occur under a Reserve Management Plan. At this point in time a governance structure and Reserve Management Plan have not been prepared, therefore there is an information gap on how any transfer of ownership and management might occur.

A follow up meeting on 24 June between the Mayor, CEO and Ngai Te Rangi representatives confirmed Councillor feedback, particularly the importance of establishing the governance structure prior to any potential decision being made to return Panepane.

At a meeting between Council staff, Ngai Te Rangi and Matakana Island representatives on 25 June it was discussed and resolved that a staged approach would be adopted starting with a joint governance/management approach via a Reserve Management Plan (no ownership transfer at this stage), with the hearings process for the Plan to include joint representatives of Iwi and council on the panel.

This would require Council approval before proceeding, however the approach was seen as a good way forward given it would allow further relationship building and provide Councillors the opportunity to familiarise themselves with the direction being taken and progress arrangements at a pace they are comfortable with.

The plan going forward is to develop a Draft Reserves Management Plan by December 2013, which includes reference to Panepane Point's future ownership (subject to on-going discussion amongst Council staff and Ngai Te Rangi, and noting that a Reserve Management Plan is required regardless of ownership options), for adoption by the new Council in early 2014. Any transfer in ownership will require a process of public consultation, and this will influence the direction that Councillors take in respect of ownership. Council has signalled the most appropriate time for this to occur is as part of the Annual Plan process for 2014/15.

This will allow sufficient time for the respective parties to complete the necessary actions regarding the governance structure and reserve management plan.

Legal opinions are being sought on a number of matters including transfer of powers to adopt the Reserves Management Plan including the Joint Administrative Body, legal access and the Trust structure.

2. Statutory Compliance

Legislation and Legal Issues

Act/Legal Issue	Relevant Detail
Reserves Act 1977	Section 41 (1) and (3) Preparation of Management Plan. Section 46 (6) Consultation of Management Plan.

Relevant Plans and Policy Assessment

Current Council Plan/Policy/Bylaw	Relevant Detail
Matakana Island plan	Implementation strategies/actions 9. Opportunities for ownership transfer, co-governance and management are explored, for example at Panepane. (ref. page 11) Council is committed to the building of relationships around the future management of Panepane.(ref. page 31)
Long Term Plan 2012 - 2022	Chapter 3 – Building Communities Recreation and Leisure Outcome Reserve Management / Plans.

Funding/Budget Implications

Budget Funding Information	Relevant Detail
	Funding for the preparation of a Reserve Management Plan is available in the Panepane budget from the Right of Way agreement and existing operational budgets.

Significance Assessment

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

Significant / Not Significant	Reason
Not Significant	This item does not trigger Council's policy on significance.

3. Issues and Options Assessment

Option A	
<i>That the Strategy and Policy Committee agree to the preparation of a Reserve Management Plan for the Panepane and Purakau Blocks on Matakana Island.</i>	
Benefits in terms of the present and future interests of the District taking a sustainable development approach	<p>The intentions of the Matakana Island Plan are met.</p> <p>Public access to Panepane point is managed in the future.</p> <p>Recreation users needs will be planned and managed into the future.</p> <p>Public aspirations and needs clearly defined for possible future owners and joint management options.</p>
Costs (including present and future costs, direct, indirect and contingent costs)	<p>Funding for any capital works are available through the funding derived from the Right of Way agreement.</p> <p>Revenue will also be generated through forestry and potential concessions.</p> <p>Sub Regional Park implications will be assessed.</p>
Assessment of cost effectiveness for households and businesses	N/A.
Other financial implications	Operational costs will be minimal and would be covered under existing maintenance budgets.
Other	N/A.

Option B	
Status Quo - Land remains as a pine forest.	
Benefits in terms of the present and future interests of the District taking a sustainable development approach	<p>There would be no benefits for the public as amenities would not be provided, eg. toilets, walking/cycling tracks.</p> <p>Access to the land would be subject to agreement due to forestry operations by a third party.</p> <p>Land remains as a pine forest and Recreation user's and wider public needs would not be met</p> <p>The intentions of the Matakana Island Plan would not be met.</p>

Costs (including present and future costs, direct, indirect and contingent costs)	There would be no clear plan on what the ROW agreement funding would be spent on
Assessment of cost effectiveness for households and businesses	N/A
Other financial implications	N/A
Other	N/A

4. Consultation and Communication

Interested/Affected Parties	Completed/Planned Consultation/Communication	Notes
Name of interested parties (if req.)	Port of Tauranga regarding navigational assets and access to them. Parties associated with the right of way agreement.	
Tangata Whenua	Would be involved in the preparation of a draft Management Plan.	
General Public	Would be consulted through the public consultation phase	
Internal Staff	Draft preparation.	

Figure: 1 - Aerial plan showing both Purakau and Panepane blocks

