



Report 10.492
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Committee Council
Author Riki Ellison, Manager Maori Relations

Ngāti Toa Rangatira Treaty Settlement

1. Purpose

To recommend the Council agree in principle to establish a joint management body with Ngāti Toa Rangatira for Whitireia Park, replacing the existing Whitireia Park Board, and that Council supports the vesting in Ngāti Toa Rangatira of a 1.5 hectare site within Queen Elizabeth Park as a recreation reserve.

2. Significance of the decision

The matters for decision in this report **do not** trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

3. Background

Ngāti Toa Rangatira are in the final stages of negotiation with the Crown regarding settlement of their Treaty of Waitangi claims. They expect to finalise a Deed of Settlement in October this year. Two aspects of the proposed settlement have implications for Greater Wellington Regional Council:

- establishment of a joint management board between Ngāti Toa Rangatira and Greater Wellington for Whitireia Park; and
- the vesting in Ngāti Toa Rangatira of a 1.5 hectare area of Queen Elizabeth Park currently managed by Greater Wellington.

Whitireia Park overlooks the entrance to Porirua harbour, covering approximately 180 hectares, and is currently managed by the Whitireia Park Board as a recreation reserve under the Reserves Act 1977.

The replacement of the existing Whitireia Park Board with a joint management board comprising equal numbers of representatives nominated by Greater Wellington and Ngāti Toa Rangatira to control the ongoing management of Whitireia Park has been proposed for a number of years.

4. Whitireia Park

4.1 Land to be vested in Ngāti Toa Rangatira

Ngāti Toa Rangatira expect to initial their Deed of Settlement with the Crown in October this year. This will include the return of six hectares of land at Onehunga Bay, and a further one hectare block for use by Ngāti Toa Rangatira as an urupa (cemetery), within the existing park. These areas will be held as historic reserves, while the main area of the park will continue to be managed as a recreational reserve.

Attachment 1 shows the areas to be vested in Ngāti Toa Rangatira.

4.2 Proposed Whitireia Park management body

Several options have been considered for establishing a joint management body for the park through the Ngāti Toa Rangatira settlement legislation:

Option 1: Section 28 Reserves Act 1977

Under this option, the Ngāti Toa Rangatira settlement legislation would provide for Greater Wellington to be appointed as the administering body of the Whitireia Park as if under s28 of the Reserves Act 1977. The Council would then enter into a Memorandum of Understanding or similar relationship agreement with Ngāti Toa Rangatira regarding the future management of the Park.

Ngāti Toa Rangatira does not support this proposal as it does not provide the certainty and durability they are seeking. Their concerns include the Memorandum of Understanding not being legally binding, and consequently its provisions could be disregarded by either party at some point in the future. There are also concerns regarding the durability of any joint committee set up solely by a Memorandum of Understanding.

Option 2: Section 30 Reserves Act 1977

Under this proposal a joint management board would be established by the Ngāti Toa Settlement legislation as if under section 30 of the Reserves Act 1977. Section 30 allows the Minister of Conservation to appoint a board to control and manage a reserve for the purpose of its classification and in accordance with the provisions of the Reserves Act 1977.

Similar provisions were used to establish the joint management arrangements between the Department of Conservation and the Port Nicholson Block Settlement Trust for the Harbour Islands Kaitiaki Board. This joint management board consists of three Iwi appointed representatives and 3 Department of Conservation appointed representatives and was established through the Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009. The Harbour Islands Kaitiaki Board provides governance for the three island reserves within the Wellington Harbour: Matiu, Makaro, and Mokopuna.

The Settlement legislation establishing the Harbour Islands Kaitiaki Board also includes additional provisions amending the standard provisions of the Reserves Act. These include a requirement that the Board prepare and submit a management plan within 24 months of the Board being appointed (standard provision requires this within five years). Procedural issues such as voting rights and annual meeting requirements are also provided through the settlement legislation.

Option 3: Clause 30(1) Schedule 7 Local Government Act 2002

The third option is to establish a Whitireia Park Governance Committee through the Ngāti Toa Rangatira settlement legislation as if under Clause 30(1) of Schedule 7 to the Local Government Act 2002. The settlement legislation could also provide that this is a permanent committee that can only be discharged with the agreement of both parties.

The Te Arawa Lakes Settlement Act 2006 used this provision to establish the Rotorua Lakes Strategy Group. This is a joint governance group for the Rotorua Lakes comprising representatives of Rotorua District Council, Bay of Plenty Regional Council and the Te Arawa Lakes Trust. The Te Arawa Lakes Settlement Act also includes specific administrative amendments to the Local Government Act provisions to reflect the unique nature of the Rotorua Lakes Strategy Group, eg, specific quorum requirements, standing orders, membership of the committee, remuneration of members, etc.

Preferred Option

Ngāti Toa Rangatira's preference is for Option 2: establishing the joint management board under section 30 of the Reserves Act 1977. This option is also supported by Council officers.

The park has recreational and historical value to both Ngāti Toa Rangatira and Greater Wellington and establishing a joint management arrangement between Ngāti Toa Rangatira and Greater Wellington would reflect both parties' respective interests in this area, and the Treaty partnership between Ngāti Toa Rangatira and Greater Wellington.

Greater Wellington already undertakes a degree of management within the park and establishing a joint management board will also more closely reflect our existing activities and management responsibilities in relation to the park.

Subject to Council approving this proposal, the proposed joint management body will be referenced in Ngāti Toa Rangatira's Deed of Settlement. This would then be subsequently provided for through the Ngāti Toa Rangatira settlement legislation at some later time.

4.3 Timeframe for establishing a joint management board

Ngāti Toa Rangatira and the Department of Conservation have both indicated a willingness to progress the establishment of a joint management body prior to the enactment of the settlement legislation to avoid further delays.

An interim joint management board giving effect to the principles of the proposed future arrangements could be established under the existing Reserves Act provisions by replacing the current members of the Whitireia Park Board with representatives of Greater Wellington and Ngāti Toa Rangatira. The operation of this interim Board could be governed by a Memorandum of Understanding established between Greater Wellington and Ngāti Toa Rangatira.

Council officers believe the establishment of an interim arrangement will enable a smooth transition and support the Treaty partnership between Greater Wellington and Ngāti Toa Rangatira. As outlined above, this would also recognise the existing effective management arrangements.

The Ngātai Toa Rangatira settlement legislation could then subsequently ratify these arrangements, including any necessary rules and regulations regarding the operation and mandate of the board, and the management of Ngāti Toa's land within the park.

Once agreed, the Deed of Settlement will be presented to the members of Ngāti Toa Rangatira for ratification, and pending their agreement, settlement legislation will be drafted. The time from Deed of Settlement to enactment of settlement legislation has varied considerably with previous Treaty Settlements but is generally between one and three years.

4.4 Memorandum of Understanding

If the joint management board is established through the preferred option outlined above, further operational details will need to be created through a Memorandum of Understanding or similar agreement. A draft Memorandum of Understanding has been prepared setting out some of the administrative detail that would apply to the proposed joint management board. A copy of this is in **Attachment 2**. Several details within the draft Memorandum of Understanding still need to be confirmed in negotiation with Ngāti Toa Rangatira.

Council officers recommend final approval of this Memorandum of Understanding on behalf of the Council be delegated to the Chair of Greater Wellington.

4.5 Management of Ngati Toa Rangatira land within the park

Under their settlement, Ngāti Toa Rangatira will receive ownership of six hectares at Onehunga Bay, and an additional one hectare site to be utilised as an urupa (cemetery) at some later time (refer **Attachment 1**). These areas will be classified and managed as historic reserves (the remainder of the park is classified and managed as a recreation reserve).

Ngāti Toa Rangatira have initially consented to the management of these sites being governed by the joint management board, but emphasise the importance of the management arrangements reflecting their ownership of these sites.

To provide for this it is proposed that, where management decisions relate to either of the Ngāti Toa Rangatira sites, the Ngāti Toa Rangatira representatives

have a casting vote. For the remainder of the park, the GW appointed representatives will have a casting vote.

Ngāti Toa Rangatira have also indicated their expectation that the management arrangements will allow them to remove either, or both, of these sites from the governance of the management body. They consider this will be particularly important for the urupa site once they are in a position to start using it for that purpose.

4.6 Operational management of the park

Under the proposed joint management board Greater Wellington will have responsibility for the day to day operational management of the park. This will need to be undertaken consistent with the Memorandum of Understanding and the management plan developed by the board.

Greater Wellington will provide any park ranger services and other personnel as required for the operation of the park, consistent with the management plan and subject to Council funding decisions.

4.7 Funding

Any Greater Wellington funding for the management of the park will be approved as part of the Council's Annual Plan and Long Term Council Community Plan processes.

Additional funding may be received from commercial leases, including grazing, and the long term lease to the golf club. Under the Reserves Act any revenue received from the reserve is required to be applied towards the purpose of the reserve.

The opportunity also exists for the joint management board to seek funding from other agencies and funding sources.

5. Queen Elizabeth Park site

Ngāti Toa Rangatira are also negotiating the return of a 1.5 hectare site within the Queen Elizabeth Park, adjacent to the existing Wainui Urupa. This area is shown on the map in **Attachment 3**. This area is proposed to be held as a recreational reserve under the Reserves Act 1977.

This land is owned by the Department of Conservation and managed by Greater Wellington, and includes some existing recreational walking/cycling tracks maintained by Greater Wellington.

Officers recommend Council supports the vesting of the identified area in Ngāti Toa Rangatira.

6. Battle Hill Statutory Acknowledgement

Ngāti Toa Rangatira are also negotiating with the Crown for a Statutory Acknowledgement over a 65 hectare area at Battle Hill as part of their Treaty Settlement.

Statutory acknowledgements are a common tool used in Treaty Settlements to recognise the historical and ongoing importance of an area to the Iwi without creating any ownership rights in the land. The statutory acknowledgment over the area at Battle Hill will require Ngāti Toa Rangatira to be consulted in respect of any resource consent applications, or particular management issues regarding the relevant area.

The Crown does not generally seek the agreement of the relevant local authorities on the granting of statutory acknowledgments. The statutory acknowledgment effectively recognises Ngāti Toa Rangatira's traditional association with this area and ensures they will be considered as an affected party for any applications under the Resource Management Act (eg, resource consent applications) or the Historic Places Act (eg, applications to disturb an archaeological site) relating to this site. Greater Wellington would already undertake any consultation required by the statutory acknowledgment as part of existing processes so the statutory acknowledgment will not require any additional action by Greater Wellington.

A map showing the area of the proposed statutory acknowledgment is attached as **Attachment 4**.

7. Conclusion

The establishment of a joint management board between Ngāti Toa Rangatira and Greater Wellington for Whitireia Park is consistent with previous discussions Council has had on the future management arrangements for the park. Establishing the board through the Ngāti Toa Rangatira settlement legislation, as if it was a Board established under section 30 of the Reserves Act 1977, will provide the certainty Ngāti Toa Rangatira is seeking for the ongoing management of the park, and is not dissimilar to the current joint management arrangements.

The establishment of an interim joint management board by replacing the existing Whitireia Park Board with a board comprising equal numbers of representatives nominated by Ngāti Toa Rangatira and Greater Wellington Regional Council, will enable Greater Wellington and Ngāti Toa to progress the future management of the park without further delay.

The vesting in Ngāti Toa Rangatira of the 1.5ha area in Queen Elizabeth Park will not significantly impact on our management of the park, subject to agreement between Greater Wellington and Ngāti Toa Rangatira regarding continued access to the existing tracks in this area for recreational use and ongoing maintenance.

8. Recommendations

That the Council:

1. **Receives** the report.
2. **Notes** the content of the report.
3. **Agrees** to the proposal to establish a joint management board for Whitireia Park under the Ngāti Toa Rangatira settlement legislation as if it was a committee established under section 30 of the Reserves Act 1977.
4. **Agrees** to establish an interim joint Whitireia Park management board with Ngāti Toa Rangatira that will be formalised by the settlement legislation, as highlighted above in recommendation 3.
5. **Agrees** to delegate the signing of the Memorandum of Understanding, or similar mechanism, setting out the governance arrangements for the joint Whitireia Park management board, including standing orders, quorum requirements, and the relative roles of each of the parties, to the Chair of Greater Wellington.
6. **Notes** that Ngāti Toa Rangatira has agreed the six hectare area at Onehunga Bay and the one hectare urupa site vested in them will initially be managed as part of the wider Whitireia Park.
7. **Agrees** that the land owned by Ngāti Toa Rangatira within Whitireia Park, particularly the urupa, may be removed from the general management regime at some time in the future.
8. **Agrees** to support the vesting of a 1.5 hectare site adjacent to the Wainui Urupa in Queen Elizabeth Park in Ngāti Toa Rangatira.
9. **Agrees** to support the granting of a statutory acknowledgement over a 65ha area at Battle Hill.
10. **Notes** the statutory acknowledgement will not have any adverse implications for Greater Wellington.

Report prepared by:
Riki Ellison
Manager, Māori Relations

Report approved by:
Jane Davis,
General Manager, Strategy
and Community Engagement

Report approved by:
Murray Kennedy,
General Manager, Utilities
and Services

- Attachment 1: Areas of Whitireia Park to be vested in Ngati Toa Rangitira
- Attachment 2: Draft Whitireia Park Memorandum of Understanding
- Attachment 3: Queen Elizabeth II Park site proposed to be vested in Ngati Toa Rangitira
- Attachment 4: Proposed Statutory Acknowledgement area, Battle Hill