

240A Bethells Beach, Te Henga - Kāinga Whakahirahira

File No.: CP2018/09102

Te take mō te pūrongo / Purpose of the report

1. To propose that the Minister of Conservation considers revocation of the reserve classification of 240A Bethells Road, Te Henga to enable Te Kawerau ā Maki to develop a marae and papakāinga.

Whakarāpopototanga matua / Executive summary

2. To inform Committee decision-making on options to facilitate the development of a marae and papakāinga by Te Kawerau ā Maki at Te Henga.
3. Staff recommend that the Environment and Community Committee support the revocation of the classification of 240A Bethells Road, Te Henga under the Reserves Act 1977.
4. Revocation of the Local Purpose (marae papakāinga) Reserve status would remove compliance costs and enable Te Kawerau ā Maki to obtain commercial funding, if needed. Without this step it is unlikely that Te Kawerau ā Maki will be able to develop a marae and papakāinga at Te Henga.
5. There is no legislative requirement to consult the public on the proposed revocation of the reserve status. The main risk to manage is public expectations about ongoing access. Te Kawerau ā Maki have previously expressed a willingness to make the marae facilities available to community when not in use by the iwi.
6. Staff will prepare a report to the 19 June 2018 Finance and Performance Committee to consider disposal of the land to Te Kawerau ā Maki, subject to completion of the required statutory processes.

Ngā tūtohunga / Recommendation/s

That the Environment and Community Committee:

- a) recommend to the Minister of Conservation the revocation of the classification of 240A Bethells Road, Te Henga, identified as Section 1 SO 427404 comprising 2.6836 hectares and contained in CFR538253, as a Local Purpose (marae papakāinga) Reserve under the Reserves Act 1977.
- b) note that there is no legislative requirement to consult the public on the proposed revocation of the classification of 240A Bethells Road, Te Henga, as a Local Purpose (marae papakāinga) Reserve, in accordance with section 24(7) of the Reserves Act 1977 and council's Significance and Engagement Policy.

Horopaki / Context

7. Waitākere City Council and Te Kawerau ā Maki were in discussions over the development of a marae within the traditional heartland of the iwi and in the vicinity of their ancestral village at Waiti since the mid-1990s.
8. The following is a summary of key developments:
 - Waitākere City Council and Te Kawerau ā Maki investigated three possible sites in 1994 and 1995, before Te Henga was identified as the preferred site for a marae

- Waitākere City Council allocated \$30,000 in the 1995/96 Annual Plan to assist Te Kawerau ā Maki to purchase 240A Bethells Road¹ This site was also zoned as 'Marae Special Area' in the District Plan
 - in 1998, Waitākere City Council and Te Kawerau ā Maki entered into a memorandum of partnership, which includes an objective to establish a marae
 - staff investigated the potential to acquire 240A Bethells Road under the Public Works Act 1981 and re-commence negotiations with the landowner. Budget for the acquisition was allocated in 2008/09. There is also a proposal to vest the land with Te Kawerau ā Maki under the Te Ture Whenua Māori Act 1993
 - in 2009, Waitākere City Council purchased the 2.6836 hectares site at 240A Bethells Road, Te Henga for 'community development purposes'
 - Waitākere City Council proposed to classify the land as a Local Purpose (marae papakāinga) Reserve under the Reserves Act 1977
 - the consultation process on the proposed classification generated 104 public submissions and two Ministerial representations
 - in 2010, the classification was approved by an independent commissioner on condition that: 'the council provide in the proposed Deed of Lease, or any agreement entered into with Te Kawerau ā Maki for the use of the reserve, provision for the community to have the opportunity for effective input into the type and scale of the facilities to be built on site'
 - on 27 January 2011, approval was granted by the Minister of Conservation for permanent personal accommodation on the reserve (Case No. 2010/11 51) to provide for papakāinga housing.
9. Te Kawerau ā Maki have previously been offered a ground lease over the land at Te Henga. This option was actively considered, however, to-date the iwi have declined to enter into a leasing arrangement with council.
10. There are compliance costs associated with the reserve status, including the requirement to develop and consult on a reserve management plan. The reserve status may also limit the ability to obtain commercial funding.
11. Te Kawerau ā Maki have indicated a preference for the land to be general freehold land in Fee Simple before they develop their marae and papakāinga. In the view of the iwi this would recognise their mana and align with what they hold to be the undertakings given by the former Waitākere City Council.

Tātaritanga me ngā tohutohu / Analysis and advice

12. Auckland Council is considering a range of options to enable Te Kawerau ā Maki to develop a marae and papakāinga at Te Henga. These options include:

- **Option 1:** To negotiate a long-term ground lease with Te Kawerau ā Maki in accordance with the classification of the land as a Local Purpose (marae and papakāinga) Reserve.
- **Option 2:** To revoke the reserve status on the land and transfer the land to Te Kawerau ā Maki as general freehold land in Fee Simple.
- **Option 3:** To revoke the reserve status on the land and to dispose of the land by way of sale to Te Kawerau ā Maki.

13. Option 1, outlined directly above, represents the status quo.
14. Whereas, Option 2 appears to accord with the resolutions of the former Waitākere City Council and the Waitākere Local Board [WTK/2018/47] refers].

¹ Negotiations between the landowner and Te Kawerau ā Maki were unsuccessful

15. Option 3, however, has largely been discarded because it does not align with the decisions of the former Waitākere City Council.
16. This report seeks support for the revocation of the classification under the Reserves Act 1977. This would provide a first step towards implementation of options two and three outlined above, but is not dependent on any decisions regarding the disposal of 240A Bethells Road.

There are several factors for the Committee to consider, including alignment with the Auckland Plan, legislation and the Unitary Plan

17. There is clear evidence of the longstanding intent of the Waitākere City Council to support, and then acquire land, to enable the development of the marae.
18. Auckland Plan directives 'support marae development to achieve social, economic and cultural development' (Directive 2.4). Directive 2.1 is to 'investigate and implement a suite of options to support papakāinga development on both traditional Māori land and general land'.
19. Provision of land for a marae for Te Kawerau ā Maki appears to be aligned with the Waitākere Ranges Heritage Area Act (2008).
20. Section 29(1) of the Act acknowledges Te Kawerau ā Maki (alongside Ngāti Whātua) as tangata whenua of the heritage area, with a particular historical, traditional, cultural, or spiritual relationship with any land in the heritage area.
21. Any deed of acknowledgement developed under section 29 "must identify any specific opportunities for contribution by the tangata whenua to whom the deed relates to the management of the land by the Crown or the Council" [section 29(5)(d) refers].
22. The Minister of Conservation has previously given approval in accordance with the Reserves Act 1977 for permanent personal accommodation on the reserve (Case No. 2010/11 51) to provide for papakāinga housing.
23. The objectives, policies and rules of the Unitary Plan: Special Purpose Zone – Māori Purpose enable marae, papakāinga and other activities on the site.

There is ample provision of open space provision in Bethells Beach

24. Potential disposals of open space, such as a transfer, are assessed against the criteria in the Parks and Open Space Acquisition Policy and the Open Space Provision Policy.
25. There is ample provision of open space provision within this area. Local residents and the wider community have access to Te Henga Park, Te Henga Recreation Reserve and Lake Wainamu Scenic Reserve within a 400 metre radius of 240A Bethells Road.
26. The parcel of land has a very narrow access (approximately 5.8 metres wide and 395 metres long), which limits the utility of the open space and poor crime prevention through environmental design outcomes.
27. A range of other factors need to be considered prior to disposal, including the possible future development of the area and the potential for increased demand for parks and open space.
28. Given that Te Henga is situated within the Waitākere Ranges Heritage Area there is limited growth and potential for future development.
29. Community views and preferences are another consideration. Local residents of Bethells Beach attended the 24 May 2018 meeting of the Waitākere Ranges Local Board and spoke during Public Input in support of efforts to facilitate the development of a marae and papakāinga by Te Kawerau ā Maki at Te Henga.
30. A summary of the disposal assessment is provided in Table 1 below.

Table 1: Assessment of proposed disposal of land in Bethells

Park type: Open space	Number of lots: 125 (within one km catchment)	
Density: Low	Number of residents ² : 375	
Unitary plan zone: Special Purpose Zone – Māori Purpose	Proposed size of disposal: 26,836m ²	
General valuation: \$650,000 – 2017	Settlement: To be determined	
		
Potential future use:	 <i>Cultural</i>	 <i>Nature / Ecological</i>
Disposal Criteria	Comment	Overall Rating
Meeting community needs, now and in the future	Not a priority: <ul style="list-style-type: none"> the land does not contribute to the provision targets in the Open Space Provision Policy. 	<i>Disposal recommended</i>
Connecting parks and open spaces	Not a priority: <ul style="list-style-type: none"> the land does not connect to any existing open space. 	
Protecting and restoring Auckland's unique features and meanings	Not a priority: <ul style="list-style-type: none"> the land does have identified landscape values, its value as public open space is negligible. 	
Improving the parks and open spaces we already have	Not a priority: <ul style="list-style-type: none"> the land does not improve the functionality of existing open space. 	

Assessment conclusion

31. Staff recommend that the Committee support the revocation of the reserve status. It aligns with the wider strategic objectives of Auckland Council and there is ample provision of open space within this area.

There is no legislative requirement to consult the public on the proposed revocation of the classification

32. There is no requirement to consult on the revocation of Local Purposes Reserves in accordance with section 24(7) of the Reserves Act 1977.

33. There is also no requirement to consult in accordance with council's Significance and Engagement Policy, developed under the Local Government Act 2002.

34. Whether council needs to engage with the community depends on:

- i) the extent to which the council already knows the current views and preferences of the people who may have an interest in the decision
- ii) the nature and significance of the decision

² Based on the average household size of 3.0 in Auckland at Census 2013.

- iii) the costs and benefits of any consultation process or procedure
- iv) whether there are statutory exemptions negating the requirement to engage with the community.

Factors to consider	Assessment
i Views and preferences of interested parties	<ul style="list-style-type: none"> • Aucklanders were consulted over an 11-week period in 2013 during the development of the Unitary Plan, including the Special Purpose – Maori Purpose Zone. • The Waitākere Ranges Local Board has considered reports and passed several resolutions to enable the development of a marae and papakāinga at Te Henga. • The proposal is consistent with the Local Purpose (marae papakāinga) Reserve status, which was previously subject to public consultation. • Members of the local community have publically supported the proposal.
ii Significance of the decision	<ul style="list-style-type: none"> • Council's threshold for determining 'significance' includes transferring the ownership or control of strategic assets, however, this only applies to the network of 3571 local parks not a single asset
iii Costs and benefits	<ul style="list-style-type: none"> • The costs of consultation are estimated to be \$20,000 including developing collateral and staff time. This does not appear justifiable given previous engagement and recent public input.
iv Statutory exemption	<ul style="list-style-type: none"> • There is no requirement to consult on the revocation of Local Purposes Reserves in accordance with section 24(7) of the Reserves Act 1977.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views

35. The Waitākere Ranges Local Board has sought to enable the development of a marae and papakāinga at Te Henga.
36. In May 2013, the Local Board recommended that staff enter into formal discussions with Te Kawerau ā Maki Iwi Authority to develop a ground lease over the land at Bethells Beach [WTK/2013/93 refers].
37. In October 2014, the Local Board recommended a four step process by which the land at 240A Bethells Road, Te Henga, could be transferred to Te Kawerau ā Maki for the purposes of a marae and papakāinga [WTK/2014/161 refers].
38. The Local Board, at its meeting of 24 May 2018 resolved that it:
 - supports the possible revocation of the classification of 240A Bethells Road, Te Henga, identified as Section 1 SO 427404 comprising 2.6836 hectares and contained in CFR538253, as a Local Purpose (marae papakāinga) Reserve under the Reserves Act 1977.
 - supports the possible transfer of the 240A Bethells Road, Te Henga, identified as Section 1 SO 427404 comprising 2.6836 hectares and contained in CFR538253, to Te Kawerau ā Maki as general freehold land in Fee Simple for the purpose of constructing a marae and papakāinga.
39. Local residents of Bethells Beach attended the 24 May 2018 meeting of the Local Board and spoke during Public Input in support of efforts to facilitate the development of a marae and papakāinga by Te Kawerau ā Maki at Te Henga.

Tauākī whakaaweawe Māori / Māori impact statement

40. Te Kawerau ā Maki have clearly stated their aspirations to establish a marae within their traditional heartland and in the vicinity of their ancestral village at Waiti. They have also noted that they are the only mana whenua group without an iwi-based marae.
41. Te Kawerau ā Maki have indicated a preference for the land to be general freehold land in Fee Simple before they develop their marae and papakāinga.
42. Revocation of the Reserves Act 1977 classification would be a step towards iwi achieving this objective.
43. On 10 May 2018, the Chairpersons of the Environment and Community Committee, Councillor Penny Hulse, and the Finance and Performance Committee, Councillors Ross Clow, wrote to Te Kawerau ā Maki. The purpose of this letter was to outline the steps that council proposes to undertake to enable the development of the marae and papakāinga at Te Henga.
44. A formal response from Te Kawerau ā Maki will be provided at the Committee meeting to inform decision-making.

Ngā ritenga ā-pūtea / Financial implications

45. 240A Bethells Road was acquired for \$935,000 (inclusive of GST) in 2009.
46. An indicative valuation, based on council's geographic information system data, records a rateable value of \$650,000. This valuation reflects the zoning of the land as a Special Purpose Zone – Māori Purpose and Outstanding Natural Features and Landscape Overlays, as well as the Waitākere Ranges Heritage Area Overlay.

Ngā raru tūpono / Risks

47. The main risk is to manage is public expectations about future access. Te Kawerau ā Maki have previously expressed a willingness to make the marae facilities available to community when not in use by the iwi.
48. The independent commissioner hearing submissions to the reserve classification process set a condition that the local community should have an input to the type and scale of the facilities to be built on the marae site. This condition has been met as part of the consultation process to develop the Unitary Plan. The policies and rules of the Special Purpose Zone – Māori Purpose control the type and scale of buildings and activities that can be undertaken on the site.

Ngā koringa ā-muri / Next steps

49. Staff will prepare a report for the Finance and Performance Committee on 19 June 2018, seeking a decision on the possible disposal of the land to Te Kawerau ā Maki.
50. Implementation will be subject to the completion of required statutory processes and a decision by the Minister of Conservation. Council is not able to guarantee these outcomes.

Ngā tāpirihanga / Attachments

There are no attachments for this report.

Ngā kaihaina / Signatories

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