

Chairperson and Community Board Members
WAIKANAE COMMUNITY BOARD

26 JUNE 2012

Meeting Status: **Public**

Purpose of Report: For Decision

WAIKANAE PARK MANAGEMENT PLAN AMENDMENTS

PURPOSE OF REPORT

- 1 This report suggests changes to the Waikanae Park Management Plan to adapt it to changing circumstances, and seeks a recommendation from the Waikanae Community Board that Council adopt these changes.

SIGNIFICANCE OF DECISION

- 2 Council's significance policy is not triggered by this report.

BACKGROUND

- 3 Waikanae Park covers 33.92 hectares of land. It is zoned as Recreation Reserve under the Reserves Act 1977.
- 4 The Park caters for a wide range of events and activities. A large area is utilised for equestrian activity, rugby, football, cricket, wrestling, the skateboard park and a croquet club. The Waikanae Swimming Pool is also within the Park area, as is a children's playground and car parking on the eastern and southern sides.
- 5 Waikanae Park is managed under a management plan, included as Appendix 2, that was adopted in 2000. The objectives outlined in section 7 of the management plan are still relevant.
- 6 Since the plan's adoption, the Waikanae landfill has been closed and some of the area is being used for a green waste recycling centre, with a proposed retail area for composting products. An equestrian dressage area was completed in 2008 and public toilets installed in the equestrian area in 2009. The playground has been upgraded and a concrete skate park has been installed.
- 7 Within the plan, long term commercial activity is permitted at the swimming pool complex and the recreation centre complex.
- 8 A market operates within the Park from the Park Avenue entry, near the playground.

- 9 The Waikanae Park Management Plan has proved to be robust with the exception of three areas:
- The rights of a commercial market operation;
 - the mature pine trees throughout the Park; and
 - the landfill.

CONSIDERATIONS

Saturday Market

- 10 The market, which operates from the grass area off Park Avenue, near the playground, uses the playground car park occasionally in wet conditions.
- 11 The market has operated for a number of years with the approval of the Leisure and Open Space Asset Manager. However, there is no formal agreement in place. The market was operated by an incorporated society, but this is no longer the case. The ‘representative’ for the market is currently the grocery stall operator, who has ensured that those with stalls keep the area clean and tidy.
- 12 There has been discussion at the Waikanae Community Board regarding the legality of the market operating in the park.
- 13 The plan’s policy statements associated with these issues are:
- 29.i *“Short term commercial use shall be permitted provided that it contributes to the public use and enjoyment of the park, and does not damage the park. Such uses shall be subject to prior written approval of the Parks and Recreation Manager.”*
- And
- 29.iii *“Special events of a recreational nature or of value to the community such as fetes, festivals, concerts or sports competitions shall be encouraged provided that they do not damage the park, excessively conflict with recreational use or cause unreasonable disturbance to local residents.”*
- 14 Feedback from those attending the market on a Saturday morning is that the activity contributes to the use and enjoyment of the Park. The market does not damage the park, although on wet days it can have short term effects¹ if the sealed car park is not used. There have been a few complaints from residents when it is set up in the children’s playground car park, as it restricts public access to that area.
- 15 Section 29.iii allows for special events that add value to the community, and the provision of a market is seen by those that use it as adding value. However it is difficult to describe a market that runs every weekend as a ‘special’ event and so

¹ Short term effects include minor damage to the turf around the playground equipment which is of little consequence and needs no attention.

only Section 29.i should be considered as applicable to permit or not permit the market to operate from the Park.

- 16 The main commercially orientated stalls (and the ones that attract the most patrons) are a grocer and a bread stall. The others are more along the lines of craft or market type stalls, selling low cost or second hand items and vary in numbers from week to week.
- 17 Currently the Council receives no income from the market activity, though the intent when initially set up was for profits from the market made through stall holder fees to be returned to the local community. The fees being paid by stall holders are unknown.
- 18 For those running commercial activities through the market there is no known cost for holding a stall at the market. This can be perceived to put other similar commercial ratepayers in the Waikanae area at a disadvantage. However no complaints have been made to Council regarding this issue.
- 19 The Community Board can recommend to Council to alter the Waikanae Park Management Plan to clarify whether activities such as the current Saturday market should or should not be allowed. Two options to change the text in S 29.i of the Plan are provided for consideration. The first would reinforce that commercial activities must be in support of other special public events, rather than a stand-alone event. The second would allow the market and similar activities to continue.
- 20 If the Community Board consider the market should continue, then there needs to be clarification on whether stall holders should be charged a fee or not. There should also be a method of controlling the market operators as the market operates on Council owned land. If the market continues then it is recommended that the market be self-managing but monitored by Council. A license agreement should have suitable conditions to ensure that it continues to have a low impact on Waikanae Park and that the fees the stall holders pay are provided back to the local community (as in the case of the Ōtaki market).
- 21 Policy statements to replace S 29.i that would clarify whether the market is or is not permitted to operate in Waikanae Park are:

21.1 Option one, to not allow markets to operate in Waikanae Park:

“Short term commercial use shall be permitted provided that it is in conjunction with a special event and contributes to the public use and enjoyment of the park and does not damage the park. Short term is defined as any event that is not more than five consecutive days. Such use shall be subject to prior written approval of the Leisure and Open Space Asset Manager and will incur a fee, unless use is by a not for profit organisation. Council retains the rights to withdraw permission without notice.”

Or

21.2 Option two, to allow markets to occur:

“Commercial use in conjunction with special events or regular market activities (when it does not conflict with requirements for recreational

activities such as shows, sports days, etc and managed by a separate Market Management Agreement), shall be permitted provided that it contributes to the public use and enjoyment of the park and does not damage the park. Such uses shall be subject to prior written approval of the Leisure and Open Space Asset Manager or a formal license agreement and will incur a fee, unless use is by a not for profit organisation. Council retains the rights to withdraw permission without notice.”

Option two is the recommended option.

- 22 In comparison to the Waikanae Market, the Ōtaki Market is run by the Ōtaki Women’s Community Club and is held on a site adjacent to State Highway 1. There is a coordinator on site for every market day to deal with the day to day issues, work with new stall holders, ensure standards are maintained and collect fees. The Ōtaki Market is runs every week during summer months and twice a month during winter months. It has around 60 stalls, thus providing the group with revenue of around \$600 per week. This revenue is returned to the local community through grants. Clubs and organisations write to the Ōtaki Women’s Community Club requesting donations with explanation of what the donation will be used for. The Ōtaki Women’s Community Club then meets once a month to vote for or against requests.
- 23 If the Community Board wishes to allow the market to continue, this should be done through a formal written agreement. The agreement should be with a suitable legal entity (such as an incorporated society or one of the businesses who attend) to coordinate the market day. This would give the Council confidence that the management structure for the market will be sustainable and transparent in its operation. This agreement would cover issues such as :
- When the market can be run (including over the statutory holiday periods).
 - Who manages the market (a community group, individual or committee).
 - The area of the park that can be used.
 - How new stall holders apply for stalls.
 - What range of retailing would be permitted (or not permitted).
 - What stalls incur fees, how these are collected and audit requirements.
 - Must become a participating market in accordance with KCDC Approval of Food Stall Policy.
 - Resource consent.
 - Responsibility for any advertising/promotion of the market (mainly who pays and how).
 - What the profits from the market may be used for within the Waikanae community and how this will be administered.
 - Dispute resolution between stall holders.
- 24 Expression of interest can be advertised to see if any non-for-profit organisation or volunteer wishes to take on the role of market manager. If there are no expressions of interest, Council will then seek one of the attending businesses to take on the role of market manager.

- 25 As arrangements do not exist, continuation of the current arrangement would be required in the interim. Should the Management Plan not be changed and a Market Management Agreement not be entered into, it is recommended that the permission for the market to operate on Waikanae Park be withdrawn.

Mature Pine Trees

- 26 Policy 20.i in the Management Plan states:

“The mature pines and macrocarpa in the park are a significant landscape feature and shall be protected and maintained for good health.”

- 27 The plan discusses that as the pine trees age they will be inter-planted with more pines to retain the tree height, with benefits of shelter, enclosure and continued protection of the former sea cliff landform feature.
- 28 This did not take into account the impact large pine trees have on the surrounding buildings, which includes drainage issues to the club room facilities and playing fields. There needs to be more flexibility within the management plan to enable removal of trees as well as replanting. While providing some shelter and stability to the old sea cliff, the pine trees do create maintenance issues and could be replaced with more appropriate plant species.
- 29 It is recommended that instead of maintaining a row of pine trees by the car park that these are replaced over time with native plants that provide a similar level of shelter, provide habitats for birds, are in keeping with other plantings in the park and do not create maintenance issues for the Park.
- 30 The Waikanae Recreation Centre Management Committee fully supports the removal of the pine trees by their building and along the former sea cliff.
- 31 The following changes to the Plan are recommended:

- a. The text in section 20 be altered as follows:

“As the mature pines in the park begin to create maintenance issues for the surrounding buildings and infrastructure, they will be replaced by suitable native species.

- *West end. It should be noted that most of the pines that provide a visual backdrop at the west end are on private land so their future is uncertain. However, the Council intends to remove the pines on the terrace edge at the south end of the landfill when the landfill is closed, and revegetate the terrace with native species.*
- *East end. As the pines along the former sea cliff age, they will be replaced with suitable native species that add the benefits of shelter, enclosure and continued protection of the former sea cliff landform feature.*

The long term planting strategy aims to establish a strong simple framework of native vegetation, using species appropriate for the environment.

Scattering of non native species through the park is to be avoided unless in appropriate special feature areas.”

b. Policy 20i. be altered as follows:

“The mature pines and macrocarpa in the park shall be maintained in good health until they create issues for general park management or safety in which case they will be removed and replaced with suitable native species.”

c. Action policy 20iv be removed as it is outdated:

“A planting strategy and vegetation management programme shall be devised in the course of preparing a comprehensive landscape development plan for the park.”

Playground

32 While reviewing these two sections it became apparent that Section 11 referring to the playground and a skate ramp should also be updated.

33 Action policy 11. vii states:

“The playground shall be relocated away from the vicinity of the kohekohe remnant when the equipment is replaced in 2004. Appropriate alternative siting shall be addressed in the proposed landscape development plan, in consultation with playground users and the local community.”

34 The playground has been replaced and the kohekohe remnant has been fenced for protection. The location of the playground no longer has a negative effect on the kohekohe remnant.

35 It is recommended action policy 11. vii should be removed.

36 Section 11.2 refers to the possible future development of a concrete skate park.

37 As the skate park has now been built, it is recommended that all of section 11.2 and action policy 11. vii should be removed.

“Alternative sites to Waikanae Park for the siting of a specially designed skateboarding course in the Waikanae community shall be investigated in consultation with local skateboarders, youth groups, interested community groups and the local community”.

38 The following policies should be amended to include the skate park as follows:

a. Policy 11 i:

“The playground equipment and skate park shall be maintained to a high standard of safety and repair to conform with the requirements of the current New Zealand Playground Standard.”

b. Policy 11 iii:

“The playground equipment and skate park shall be inspected regularly and thoroughly for damage and faults and any necessary remedial work carried out promptly.”

The Landfill

39 While reviewing the management plan, section 21, The Landfill should be updated as well.

40 The landfill has been closed and the area is now being used as a green waste recycling centre with a proposed retail area for composting products.

41 It is recommended that all of Section 21 be replaced with:

“The landfill has closed and some of that land is now used as a green waste recycling centre. The green waste recycling centre is managed by a separate operative contract. Should the green waste recycling centre be closed, the land will be returned for recreation use.”

42 Policies 21.i and 21.ii and action policy 21.iv should be removed.

43 Policy 29.ii refers to long term commercial activity

“Long term commercial activity shall be permitted within the swimming pool and recreation centre complexes, provided that the activities contribute to the sporting or recreational use and enjoyment of the facilities. Such uses shall be subject to conditions in the relevant license, lease or contract agreements relevant to the operation of the recreation centre or swimming pool.”

44 Policy 29.ii should be revised to:

“Long term commercial activity shall be permitted within Waikanae Park, provided that the activities contribute to the sporting or recreational use and enjoyment of the facilities, and in the green waste recycling centre located on the top terrace adjacent to the equestrian area. Such uses shall be subject to conditions in the relevant license, lease or contract and the operative contract for the green waste recycling centre.”

Financial Considerations

45 The method by which profits raised by the market are distributed within the Waikanae community should be stated in a Market Management Agreement.

46 Removal of the pine trees and replanting will be accommodated within the existing Leisure and Open Spaces budget.

Legal Considerations

- 47 The recommended alterations to the Park Management Plan are considered to be within the scope of the Reserves Act 1977, Part 3, Section 41 (4) which states “*the administering body of any reserve shall keep its management plan under continuous review, so that, subject to subsection (3), the plan is adapted to changing circumstances...*” and will remove ambiguity, strengthen the Management Plan and will make the plan current.

Delegation

- 48 The Waikanae Community Board can recommend these changes to Council within its delegated authority within the Governance Structure:

10.17 “*Authority to make recommendations to Council after reviewing existing, or considering new draft Reserve Management Plans for local public parks and reserves within its area.*”

Consultation

- 49 These changes do not require consultation with the community as set out in the Reserves Management Act 1977, as they do not amount to a comprehensive review of the plan. The Act states in Part 3, section 41

“*Where in terms of responsibilities under this Act the administering body of any reserve resolves to undertake a comprehensive review of its management plan, the administering body shall follow the procedure specified in subsections (5) and (6) as if the review were the preparation of the management.*”

The Reserves Act 1977, Part 3, section 41 is attached in Appendix 1.

Policy Implications

- 50 This report recommends a number of changes to the Waikanae Park Management Plan. If adopted, the amended Plan will become the new policy for the management of Waikanae Park.

Tāngata Whenua Considerations

- 51 There are no iwi or Treaty of Waitangi issues raised in this report.

Publicity Considerations

- 52 A communications plan will be required regarding the future of the Waikanae market.

CONCLUSION

- 53 The Waikanae Community Board needs to decide and recommend to Council either to continue to allow, or not allow, the Saturday Market at Waikanae Park. The Board must also recommend or not recommend to Council to adopt new wording regarding the mature pines in Waikanae Park and the updated wording suggestions for the Waikanae Park Management Plan in this report.

RECOMMENDATIONS

- 54 The Waikanae Community Board recommends to Council that the Waikanae Park Management Plan be altered as follows:

- a. Section 29.i:

“Commercial use in conjunction with special events or regular market activities (when it does not conflict with requirements for recreational activities such as shows, sports days, etc and managed by a separate Market Management Agreement), shall be permitted provided that it contributes to the public use and enjoyment of the park and does not damage the park. Such uses shall be subject to prior written approval of the Leisure and Open Space Asset Manager or a formal license agreement and will incur a fee, unless use is by a not for profit organisation. Council retains the rights to withdraw permission without notice.”

- b. Policy 29.ii be altered to:

“Long term commercial activity shall be permitted within Waikanae Park, provided that the activities contribute to the sporting or recreational use and enjoyment of the facilities, and in the green waste recycling centre located on the top terrace adjacent to the equestrian area. Such uses shall be subject to conditions in the relevant license, lease or contract and the operative contract for the green waste recycling centre.”

- c. The text in section 20 be altered as follows:

“As the mature pines in the park begin to create maintenance issues for the surrounding buildings and infrastructure, they will be replaced by suitable native species.

- *West end. It should be noted that most of the pines that provide a visual backdrop at the west end are on private land so their future is uncertain. However, the Council intends to remove the pines on the*

terrace edge at the south end of the landfill when the landfill is closed, and revegetate the terrace with native species.

- *East end. As the pines along the former sea cliff age, they will be replaced with suitable native species that add the benefits of shelter, enclosure and continued protection of the former sea cliff landform feature.*

The long term planting strategy aims to establish a strong simple framework of native vegetation, using species appropriate for the environment. Scattering of non native species through the park is to be avoided unless in appropriate special feature areas.”

- d. Policy 20i. be altered as follows:

“The mature pines and macrocarpa in the park shall be maintained in good health until they create issues for general park management or safety in which case they will be removed and replaced with suitable native species.”

- e. Action policy 20iv be removed as it is outdated:

“A planting strategy and vegetation management programme shall be devised in the course of preparing a comprehensive landscape development plan for the park.”

- f. Section 21 be replaced with:

“The landfill has closed and some of that land is now used as a green waste recycling centre. The green waste recycling centre is managed by a separate operative contract. Should the green waste recycling centre be closed, the land will be returned for recreation use.”

- g. To remove action policy 11. vii:

“The playground shall be relocated away from the vicinity of the kohekohe remnant when the equipment is replaced in 2004. Appropriate alternative siting shall be addressed in the proposed landscape development plan, in consultation with playground users and the local community.”

- h. To remove all of section 11.2 and action policy 11. vii

“Alternative sites to Waikanae Park for the siting of a specially designed skateboarding course in the Waikanae community shall be investigated in consultation with local skateboarders, youth groups, interested community groups and the local community”.

- i. To amend the following policies to include the skate park as follows:

- i. Policy 11 i:

“The playground equipment and skate park shall be maintained to a high standard of safety and repair to conform with the requirements of the current New Zealand Playground Standard.”

ii. Policy 11 iii:

“The playground equipment and skate park shall be inspected regularly and thoroughly for damage and faults and any necessary remedial work carried out promptly.”

Report prepared by:

Approved for submission by:

Lex Bartlett

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Manager**

ATTACHMENTS:

Appendix 1: Reserves Act 1977 Part 3, Section 41

Appendix 2: Waikanae Park Management Plan 2000

Reserves Act 1977, Part 3**41 Management plans**

(1) The administering body shall, within 5 years after the date of its appointment or within 5 years after the commencement of this Act, whichever is the later, prepare and submit to the Minister for his approval a management plan for the reserve under its control, management, or administration.

(2) The Minister may extend the time within which an administering body is required to submit its management plan to him for approval, where he is satisfied with the progress the administering body has made with the preparation of its management plan.

(3) The management plan shall provide for and ensure the use, enjoyment, maintenance, protection, and preservation, as the case may require, and, to the extent that the administering body's resources permit, the development, as appropriate, of the reserve for the purposes for which it is classified, and shall incorporate and ensure compliance with the principles set out in section 17, section 18, section 19, section 20, section 21, section 22, or section 23, as the case may be, for a reserve of that classification.

(4) The administering body of any reserve shall keep its management plan under continuous review, so that, subject to subsection (3), the plan is adapted to changing circumstances or in accordance with increased knowledge; and the Minister may from time to time require the administering body to review its management plan, whether or not the plan requires the approval of the Minister under this section.

(5) Before preparing a management plan for any 1 or more reserves under its control, the administering body shall—

- (a) give public notice of its intention to do so; and
- (b) in that notice, invite persons and organisations interested to send to the administering body at its office written suggestions on the proposed plan within a time specified in the notice; and
- (c) in preparing that management plan, give full consideration to any such comments received.

(5A) Nothing in subsection (5) shall apply in any case where the administering body has, by resolution, determined that written suggestions on the proposed plan would not materially assist in its preparation.

(6) Every management plan shall be prepared by the administering body in draft form in the first place, and the administering body shall—

- (a) give public notice complying with section 119 stating that the draft plan is available for inspection at a place and at times specified in the notice, and calling upon persons or organisations interested to lodge with the administering body written objections to or suggestions on the draft plan before a specified date, being not less than 2 months after the date of publication of the notice; and
- (aa) on giving notice in accordance with paragraph (a), send a copy of the draft plan to the Commissioner; and
- (b) give notice in writing, as far as practicable, to all persons and organisations who or which made suggestions to the administering body under subsection (5) stating that the draft plan has been

prepared and is available for inspection at the place and during the times specified in the notice, and requiring any such person or organisation who or which desires to object to or comment on the draft plan to lodge with the administering body a written objection or written comments before a specified date, being not less than 2 months after the date of giving of the notice; and (c) make the draft management plan available for inspection, free of charge, to all interested persons during ordinary office hours at the office of the administering body; and

(d) before approving the management plan, or, as the case may require, recommending the management plan to the Minister for his approval, give every person or organisation who or which, in lodging any objection or making any comments under paragraph (a) or paragraph (b), asked to be heard in support of his or its objection or comments, a reasonable opportunity of appearing before the administering body or a committee thereof or a person nominated by the administering body in support of his or its objection or comments; and (e) where the management plan requires the approval of the Minister, attach to the plan submitted to him for approval a summary of the objections and comments received and a statement as to the extent to which they have been allowed or accepted or disallowed or not accepted.

(7) Where under subsection (4) the Minister requires an administering body to review its management plan, he may direct that the administering body follow the procedure specified in subsections (5) and (6), and the administering body shall follow that procedure accordingly as if the review were the preparation of a management plan.

(8) Where in terms of its responsibilities under this Act the administering body of any reserve resolves to undertake a comprehensive review of its management plan, the administering body shall follow the procedure specified in subsections (5) and (6) as if the review were the preparation of a management plan.

(9) Where under subsection (4) the administering body considers any change not involving a comprehensive review to its management plan is required, it may, if it thinks fit, follow the procedure specified in subsections (5) and (6).

(10) The administering body or committee or person before which or whom any person appears at any hearing in support of any objection or comments shall determine its or his own procedure at the hearing.

(11) The administering body shall in the exercise of its functions comply with the management plan for the reserve and any amendment thereof, being, in the case of a plan or an amendment that requires the approval of the Minister, a plan or an amendment so approved.

(12) No approval by the Minister for the purposes of this section shall operate as an approval or a consent for any other purpose of this Act.

(13) Where a recreation reserve is vested in a local authority or a local authority is appointed to control and manage a recreation reserve, the local authority shall not be required to submit its management plan to the Minister for approval, unless the terms of vesting or of appointment to control and manage the reserve so require:

provided that the local authority shall make its management plan available for inspection by or on behalf of the Minister whenever so required.

(14) The Minister may, by notice to them, require the administering bodies of reserves in any locality to consult with each other in the preparation of their management plans so that the management plans are integrated for the benefit of the locality.

(15) Where under this Act the approval or consent of the Minister is required to any action by an administering body, the Minister may, at his discretion, refuse to grant his approval or consent unless and until the administering body has submitted its management plan for approval (whether or not the plan otherwise requires the approval of the Minister under this section) and the plan has been approved by him.

(16) This section shall not apply in respect of any government purpose reserve or local purpose reserve unless the reserve is vested in an administering body or an administering body is appointed to control and manage the reserve, and the Minister in the notice of vesting or notice to control and manage directs that this section is to apply in respect of the reserve.

Section 41(5A): inserted, on 1 January 1980, by section 13 of the Reserves Amendment Act 1979 (1979 No 63).

Section 41(6)(aa): inserted, on 1 January 1980, by section 14 of the Reserves Amendment Act 1979 (1979 No 63).

Section 41(16): substituted, on 27 December 1983, by section 4(1) of the Reserves Amendment Act 1983 (1983 No 43).

