













Plan Change 54 – Papakāinga

DRAFT Issues and Options Paper for discussion



September 2019

1. Introduction – Purpose of Document and Process

The Matamata-Piako District Council is in the early stages of preparing Plan Change 54 (PC54) to the District Plan, which seeks to update the District Plan provisions (issues, objectives, policies, rules and standards) for papakāinga development, to ensure that they support and provide an enabling framework for quality papakāinga development that supports the social, cultural and economic wellbeing of tangata whenua.

A 'project launch' hui for PC54 was held on 27 May 2019 at Kai a Te Mata Marae, which involved Matamata-Piako District Council elected members, planning staff, Boffa Miskell consultants and representatives from various iwi authorities, including Ngāti Hauā, Ngāti Paoa, Ngāti Hinerangi, Ngāti Korokī Kahukura, Raukawa and Rangitaa Turner from Te Puni Kōkiri. The discussions at the project launch hui generally covered the below matters:

- Introduction on PC54 and its context within the Resource Management Act 1991 framework;
- The issues and challenges facing tangata whenua regarding the development of their land; and
- In general terms, the aspirations of tangata whenua to develop their land in the Matamata-Piako District and outcomes sought from PC54.

The purpose of this document is to outline the key issues, challenges, aspirations and outcomes that were identified and discussed at the hui and to set out some high-level options to begin to address these issues. It is intended that this document will be used as the foundation to generate thought and discussion for further engagement with tangata whenua for PC54 and the early development of the Plan Change.

2. Key Issues and Challenges

A number of issues and challenges faced by tangata whenua regarding the use and development of their land in the Matamata-Piako District have been identified, with regard to papakāinga specifically. These issues are summarised, in no particular order of priority, in **Table 1.**

Table 1 Key Issues and Challenges,

Key Issue	Comment(s)	Potential Response
1. Growing Māori population and a shortage of quality affordable housing / inability to live on ancestral land	 Whanau – many of whom are skilled workers – are keen to return home and live on whānau / ancestral land The Māori population in the District grew by 15.6% between 2006 – 2013, and is expected to continue to grow. Growth in young Māori population. A large proportion of Maori in the District are aged under 20 years. With a shortage of quality and affordable housing options, many Māori are living in rental accommodation. Rental accommodation can be difficult to secure for large whanau and thus overcrowded, which has implications on wellbeing. Currently papakāinga development can take a considerable amount of time from concept design to implementation. 	 Plan Change 54 to enable the development of papakāinga within a more permissive and expedient planning framework Associated non-regulatory support / resources from other government agencies (e.g. Māori Land Court and Te Puni Kōkiri) to assist tangata whenua to plan for and develop papakāinga)
2. Inadequate recognition of kaupapa and mātauranga Māori in resource management planning and decision-making	• Māori have a holistic and interconnected relationship with natural and physical resources. In recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, it should be recognised that there are clear links between healthy ecosystems (with greater life-supporting capacity) and people's cultural and spiritual wellbeing (i.e. the environment needs to be healthy before tangata whenua can live there). The plan change should consider housing from the Māori worldview.	 A collaborative process to develop PC54 with tangata whenua so that provisions are fit for purpose and meets the needs, aspirations and outcomes sought by tangata whenua in terms of recognising kaupapa Māori and tikanga. Simple, concise and easy to understand plan provisions. Building capability / capacity of council officers understanding of kaupapa Māori and also building a greater understanding of planning provisions with tangata whenua

Key Issue	Comment(s)	Potential Response
	 Inadequate recognition of tangata whenua values, interests and relationship with marae, urupā and ancestral lands in planning documents. As such, restrictions and controls often do not recognise kaupapa Māori and tikanga and can unfairly disadvantage the ability to use and develop underutilised Māori land (e.g. minimum setbacks between boundaries and buildings does not enable Māori to pursue a quality of life consistent with their traditional and cultural values and customs, e.g. use of shared space, grouping and orienting of whare together) Time, costs, resources and associated uncertainty with in resource consent processes (e.g. notification, opposition from neighbours or community, hearings processes). Plan provisions are complex, difficult to interpret, navigate and apply Frustrations regarding a need to repeatedly explain how kaupapa Māori works (e.g. to council officers during processing of resource consent applications). District planning provisions are perceived as being applied inequitably across different types of development. For example, despite a hotel or motel with multiple units being a discretionary activity in all zones throughout the Matamata-Piako District, it would be easier to consent or better provided for in the planning rules than papakāinga. 	 Use of guidance documents Understanding that each hapū and/or marae have a different whakaaro and ensuring the provisions are sufficiently flexible to cover these differences. Plan provisions that are flexible and enable the development of a range of papakāinga models.
3. Multiple ownership of land and	 Additional legislative requirements and controls under Te Ture Whenua Maori Act 1993 Lack of ability to finance and/or access funding for development. Obtaining finance for development 	 Support / resources from other government agencies (e.g. Māori Land Court and Te Puni Kōkiri) to build capacity and capability, and assist

Key Issu	ie	Comment(s)	Potential Response
associ challe	enges	 can be challenging with multiple owners (especially for Māori Freehold and Māori Customary Land) Decision-making and cooperation between multiple landowners and trustees to agree on a shared vision. Uncertainty or ambiguity around the definition of Māori owned land 	tangata whenua to plan for and develop papakāinga • Encourage trustees to attend papakāinga workshops facilitated by Te Puni Kōkiri, and explore funding options available (hapū partitions, kainga ora / Te Puni Kōkiri funding process,
naviga proces develo	rces, lity or bility to ate ss to	 The processes / stages to develop papakāinga involve whanau planning, workshops/research, project feasibility, due diligence, consents, project/building management and housing operations. These processes are complex, time-consuming and difficult to navigate 	Department of Internal Affairs funding streams for marae development, social housing funding through the Ministry of Housing and Urban Development) • Engage with Māori Land Court and Te Puni Kōkiri during the plan change preparation • Plan Change provisions that support / encourage integrated and coordinated papakāinga development • Clear definition of Maori owned land (or other land) to be covered by the Papakāinga plan provisions.
other	ing and	 Infrastructure and service provision is limited (e.g. wastewater, water, stormwater systems, electricity and telecommunications connections) especially when land is located in rural areas (e.g. most of the marae) Future papakāinga developments may need to be self-serviced Opportunities for innovative infrastructure solutions, but the costs can be high and would need to be evenly shared (so to not place an unfair 	 Support / resources from other government agencies (e.g. Māori Land Court and Te Puni Kōkiri), including potential for infrastructure grants, and assist tangata whenua to plan for integrated infrastructure provision Plan Change provisions that support / encourage integrated and coordinated infrastructure provision for papakāinga development

Key Issue	Comment(s)	Potential Response	
	burden on those who are first to develop their papakāinga).	 Explore opportunities to collaborate with Council with regard to capital works / joint applications for grants from other agencies. 	

A number of the issues identified in **Table 1** have wider strategic importance (i.e. are broader than PC54 for papakāinga). Not all of these issues can be addressed through an update to the District Plan provisions alone, and can be addressed through a joint regulatory and non-regulatory approach. The District Council is responsible for the plans and policies to enable papakāinga, whereas other agencies including the Māori Land Court, and government agencies can provide support, advice and funding.

Questions...

- 1. Have we accurately captured the key issues and challenges facing tangata whenua regarding the development of land?
- 2. Are there any other issues and challenges (and/or potential responses to those issues) that we should be recording and considering?

3. Aspirations and Outcomes Sought

In principle, it was agreed at the project launch hui that there is a strong desire for whānau to live on and/or develop ancestral lands to enhance to social, economic and cultural well-being of Māori people. It was also agreed in principle that many areas of multiple-owned Māori land in the District are underutilised, meaning that the potential of this land to support and enhance the social, cultural and economic wellbeing of tangata whenua is yet to be unlocked. The general objectives of Plan Change 54 are to update the District Plan to:

- Recognise the desire for Māori to maintain and enhance their traditional and cultural relationship with their ancestral land and to enhance their social, economic and cultural wellbeing.
- Enable Māori to establish and maintain traditional settlement patterns, activities and development opportunities to meet their needs.
- Provide for quality and more timely papakāinga development and marae on ancestral land in a manner which is sensitive to tikanga Māori and the sustainable management of the land resource.
- Allow maximum flexibility for Māori to develop their ancestral lands, while ensuring that:
 - appropriate health, safety and amenity standards are met; and
 - potential adverse effects on the environment are managed.

The ultimate outcome sought is a plan change that achieves the above objectives and is supported by and achieves the outcomes sought by tangata whenua.

It is understood that a large proportion of existing 'Māori land' ¹in the District is concentrated in the Rural Zone and around / in close proximity to the existing marae. At the hui, we did not explore areas where iwi and hapū want to develop papakāinga in future, however some land titles on Roache Road (near Morrinsville), Wairere Road and Wardville Road (near Waharoa) were mentioned as possible locations.

Other key matters raised by tangata whenua in relation to the aspirations and outcomes sought are set out in **Table 2.**

¹ Based on a review of indicative LINZ data

Table 2 Summary of outcomes sought from Plan Change 54

Theme /	Comment	Potential response / outcome sought
Concept of 'Papakāinga'	Papakāinga is a concept that can encapsulate a range of development on land owned by Māori, and its meaning and understanding can vary between iwi, hapū and whānau. Papakāinga developments may not solely focus on housing, and include activities which support the social, cultural and economic wellbeing of tangata whenua (e.g. kōhanga reo, kura kaupapa, horticulture or agriculture, recreational facilities or areas, urupā and heritage sites), all of which are directly associated with the communal nature and function of the Papakāinga. Wireru Peria is viewed as a model example of a papakāinga in that it includes commercial activities next to residential activities, was developed by whanau for whanau and is entirely self-sufficient.	The definition of 'papakāinga' used in the plan change shall be developed in collaboration with tangata whenua so that it encapsulates the activities that tangata whenua aspire to develop in future, and provides sufficient flexibility to meet the needs of tangata whenua.
Needs and aspirations of each iwi, hapū and whanau will vary	The housing and social, cultural and economic needs of each iwi, hapū or whānau are different. The purpose and use of papakāinga to validate mātauranga around tūrangawaewae (belonging), including to support inclusive and inter-generational living will vary depending on the specific needs.	There is a need to provide flexibility in plan provisions to recognise these differences and accommodate the different housing, social and economic needs of each iwi, hapū or whānau.
The plan change should not be limited to 'Māori Land'	'Māori Land' is defined by Te Ture Whenua Māori Act 1993 as either 'Maori Customary Land' or 'Maori Freehold Land'. 'General land owned by Maori' means general land that is owned for a beneficial estate in fee simple by a Maori or a group of persons of whom a majority are Māori. Tangata whenua do not want to be constrained by provisions that only enable development on 'Māori land' (meaning Māori Freehold or Customary Land). This is primarily due to complex land ownership structures and associated difficulties to secure finance for use and development of 'Māori Land'. There is a desire to have flexibility and opportunities to develop papakāinga on land with different	 To maintain flexibility, the plan change should consider and enable development on land with different statuses under the Te Ture Whenua Māori Act 1993 (not just 'Maori land') The definition of 'papakāinga' was discussed at the 2nd project hui on the 14th of August, with input from the Māori Land Court. The objectives and policies of the plan change should encourage the establishment or use of management structures, such as Ahu Whenua Trusts to ensure that land is developed by those that have the

statuses under the Te Ture Whenua Maori Act 1993 ² including General land
owned by Maori, and potentially General Land or Crown land reserved for Māori.

necessary mandate or permission from their whanau. This can be implemented through information requirements.

Questions...

- 1. Have we accurately summarised the needs, aspirations and objectives / outcomes sought?
- 2. Are there any specific land titles, or areas where your iwi or hapū is interested in developing papakāinga?
- 3. What types of activities should be included within a general definition of papakāinga?

The Waikato Regional Policy Statement defines papakāinga broadly as:

the idea of a homestead, an area or local vicinity that holds close kinship ties. Often used to describe housing in association with a marae or pa, or otherwise on Māori land.

As a starting point, a potential definition of papakāinga for the Matamata-Piako District could be:

a development by tangata whenua on ancestral lands in their traditional rohe and established to be primarily occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the social, cultural and economic wellbeing of tangata whenua.

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² Section 129 (Status of Land)

4. Potential (High-Level) Options

In considering the above context we have outlined some potential high-level options for the District Plan enabling framework to help address the above-mentioned key issues and which could achieve the objectives. These options are set out in **Table 3.**

It is recognised that the preferred option may be a different approach (identified through further engagement) or could be a combination of these options.

These options are regulatory methods (District Plan provisions) which would need to be supported by non-regulatory methods.

High-Level Option (for consideration / discussion)	Potential Benefits (for discussion)	Potential Costs / Limitations (for discussion)	
Option A: General District-Wide provisions (with rules that are structured with Māorī land tenure) Retain existing zoning throughout the District Permitted activity for Papakāinga development on Maori Freehold Land or Maori Customary land, where: a Papakāinga Development Plan is provided the land can be serviced for the proposed activities in accordance with Council's infrastructure standards (as confirmed by a suitably qualified engineer) maximum density standards are complied with (e.g. 1 house per 2,500m² of net site area in Rural Zones); and any commercial or industrial activities are established in conjunction with and are directly related with residential activities of the Papakāinga, are set back 100m from existing residential units on a separate title, and do not cumulatively exceed standards to manage their scale (e.g. maximum 500m² in GFA) compliance with other general bulk and location standards is achieved. Restricted Discretionary activity for Papakāinga development on General Land owned by Maori provided that: the development would otherwise comply with the permitted activity controls; and an ancestral link to the land has been identified OR the land is the subject of proceedings before the Maori Land Court to convert the land to Maori freehold land. Associated matters of discretion: Explanation as to the historical reasons why the land was transferred to general title Evidence as to why the land is ancestral Māori land Where relevant, explanation as to why the land has not been converted to Maori freehold land pursuant to Te Ture Whenua Māori Act 1993 Where relevant, demonstration of appropriate legal mechanisms to ensure the land is maintained in whanau or hapū ownership. Note: if there is appetite, with this option, and subject to further discussions with tangata whenua and the Maori Land Court, Council could consider amending the activity status for Papakāinga development on General Land owned by Maori to a controlled activity status (which is more enabling) and also consider w	 Provides flexibility by acknowledging different land tenure scenarios Removes some barriers by enabling papakāinga on General Land owned by Maori (which reflects commercial realities and enables improved ability to secure finance). Recognises that status of Maori land tenure may change over time Regulatory hierarchy (structured with Maori land tenure) is relative to the extent of administrative oversight by the Maori Land Court e.g: permitted activity status for Papakāinga where the land tenure status is Maori land (with rules governing the ownership, status of land, formation and administration of leases and trusts) restricted discretionary activity status for General Land owned by Maori enables assessment of ancestral link and legal mechanisms (where relevant) Anticipates / provides a framework for development on General Land owned by Maori (or other land tenure statuses) where specific requirements can be met. Papakāinga Development Plan ensures that integrated development is achieved without requirement for a costly land use consent Ensures maximum intensity and scale is determined by the servicing capacity of the land Controls on maximum density, bulk and location would protect amenity for adjoining neighbours 	Economic costs associated with preparing a Papakāinga Development Plan Economic costs associated with preparing resource consent application where land is not Maori Freehold or Maori Customary Land Areas of future papakāinga development are not clearly understood or defined on planning maps Maximum flexibility has greater potential to result in adverse effects (albeit these can be managed through performance standards)	
Option B: District-Wide provisions (with cascade activity status based on number of houses) Retain existing zoning throughout the District Permitted activity for papakāinga development on Maori Freehold Land or Maori Customary Land up to a maximum of five dwellings where:	 Similar to Option A except that, in addition: Greater control of the scale of papakainga that can occur as a permitted or controlled activity. 	 Similar to Option A except that, in addition: Has potential to lead to papakāinga development that is not comprehensive or integrated (e.g. a few houses at a time) which presents difficulties for infrastructure and associated costs 	

High-Level Option (for consideration / discussion)	Potential Benefits (for discussion)	Potential Costs / Limitations (for discussion)
 a Papakāinga site plan is provided (including confirmation that land can be serviced for proposed activities in accordance with Council's Infrastructure Standards); and compliance with other bulk, location and density standards (e.g. 1 house per 2,500m² net site area in the Rural Zone) are achieved. Controlled activity for papakāinga development Maori Freehold Land or Maori Customary Land up to a maximum of 10 dwellings where: a Papakāinga site plan is provided (including confirmation that land can be serviced for proposed activities in accordance with Council's Infrastructure Standards); and compliance with other bulk, location and density standards (e.g. 1 house per 2,500m² net site area in the Rural Zone) are achieved. Restricted discretionary activity for papakāinga development Maori Freehold Land or Maori Customary Land between 11 and 30 dwellings where: a Papakāinga site plan is provided (including confirmation that land can be serviced for proposed activities in accordance with Council's Infrastructure Standards); and compliance with other bulk, location and density standards (e.g. 1 house per 2,500m² net site area in the Rural Zone) are achieved. Discretionary activity for papakāinga development on all other land (with potential for Non-Complying activity status within the Kaitiaki (Conservation) Zone) 		 Economic costs associated with preparing a resource consent application for large-scale papakainga development Limited flexibility as it does not anticipate / provide an enabling framework for Papakāinga development on General Land owned by Maori (or other land tenure statuses).
 Councils that use this method or similar: Western Bay of Plenty District Plan Option C: Special Purpose - Maori Purpose Zone Identify a Special Purpose - Maori Purpose Zone on planning maps (e.g. land that contains an existing marae or other areas of multiple owned land by Māori land, earmarked for future Papakāinga development and identified by tangata whenua through the plan change development) Permitted activity for papakāinga development in areas identified as Special Purpose - Maori Purpose Zone, where: the land can be appropriately serviced for the proposed activities compliance with other general bulk and location standards is achieved. Discretionary activity for Papakāinga in areas not identified as Special Purpose - Maori purpose zone Councils that use this method or similar: Waipa District Council, Christchurch City Council, Auckland Council 	 Areas for papakāinga development are clearly identified and defined on planning maps Provisions can be tailored to different areas and land parcels, including controls on maximum density, bulk and location would protect amenity for adjoining neighbours Land identified as Special Purpose – Maori Purpose zone and associated land uses may be more likely to be involved in resource consent processes for nearby activities and/or protected from effects of nearby activities. 	 Potentially less flexibility as the enabling framework is confined to areas identified as Special Purpose – Maori Purpose Zone. It may not be representative or all ancestral Māori land and only benefits those whanau who are affiliated with the Maori Purpose Zoned land parcels (may be unfair/unbalanced) Costs and time associated with a comprehensive (far and balanced) approach to identify land that is appropriate for Special Purpose – Maori Purpose Zone (plan change development will take longer and requires greater involvement of tangata whenua at the outset). Has potential to lead to papakāinga development that is not comprehensive or integrated (e.g. one house at a time) which presents difficulties for infrastructure and associated costs
Option D: Special Purpose – Maori Purpose Zone and General District-Wide provisions • Identify a Special Purpose – Maori Purpose Zone on planning maps (including land that contains an existing marae) and associated permissive provisions (as set out in Option C above) AND • General District Wide provisions for other areas (e.g. options similar to Options A or B above)	Combined benefits for Option C and Option A or B.	Similar to costs/limitations Option C and Option A or B

Questions...

- 1. What do you think of the options? Are you aware of any other options that we should consider?
- 2. Do you have a preferred option or option(s)? If so, why?

5. Where to from here?

Following your feedback, we will:

- 1. Update the Issues and Options Paper based on outcomes from further engagement, including any recommended / preferred option(s).
- 2. Present the Issues and Options Paper and the preferred option to Te Manawhenua Forum, along with the criteria to be used to develop the Plan Change provisions for feedback.
- 3. Prepare the proposed plan change based on the preferred option(s), including further engagement with tangata whenua during the development of the plan provisions.
- 4. Present the Proposed Plan Change to Council for feedback and to obtain a resolution to support the proposed Plan Change.

When the preferred option(s) are confirmed, we will be preparing the plan change provisions and getting into the details and specifics of the plan change. Engagement with mana whenua on the draft provisions will remain open to ensure that everyone has an opportunity to contribute and that individuals with specific skills valuable to the project are not exclude.