



Plan Change 54 – Papakāinga

Issues and Options Paper for discussion



November 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
<p>1. Growing Māori population and a shortage of quality affordable housing / inability to live on ancestral land</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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)
<p>2. Inadequate recognition of kaupapa and mātauranga Māori in resource management planning and decision-making</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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
	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Support / resources from other government agencies (e.g. Māori Land Court and Te Puni Kōkiri) to build capacity and capability, and assist

Key Issue	Comment(s)	Potential Response
associated challenges	<p>can be challenging with multiple owners (especially for Māori Freehold and Māori Customary Land)</p> <ul style="list-style-type: none"> • 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 	<p>tangata whenua to plan for and develop papakāinga</p> <ul style="list-style-type: none"> • 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, Department of Internal Affairs funding streams for marae development, social housing funding through the Ministry of Housing and Urban Development)
4. Limited resources, capacity or capability to navigate process to develop Papakāinga	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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.
5. Lack of servicing and other infrastructure	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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
	<p>burden on those who are first to develop their papakāinga).</p>	<ul style="list-style-type: none"> • Explore opportunities to collaborate with Council with regard to capital works / joint applications for grants from other agencies.
<p>6. The Operative District Plan is not as efficient or enabling as it could be.</p>	<ul style="list-style-type: none"> • Iwi housing and marae are permitted in some zones, subject to preparation of an Iwi Housing and Marae Development Plan, which is a Discretionary activity. Therefore, papakāinga would always be a Discretionary Activity. These rules are quite confusing and difficult to navigate. • The performance standards in 4.4.1 only allow development on allotments on or adjoining a marae. This only benefits those who are affiliated with and own land adjacent to marae, and limits flexibility. The maximum density is one dwelling per 2,000m² which is generally unsupported by mana whenua and limits flexibility. • There is no objective and policy framework to support papakāinga development. 	<ul style="list-style-type: none"> • Plan Change 54 aims to enable the development of papakāinga within a more permissive and expedient planning framework • Simple, concise and easy to understand plan provisions. • Plan provisions that are flexible and enable the development of a range of papakāinga models.

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.

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 / issue	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.	<ul style="list-style-type: none"> 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.	<ul style="list-style-type: none"> 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'	<p>'Māori Land' is defined by Te Ture Whenua Māori Act 1993 as either 'Maori Customary Land' or 'Maori Freehold Land'.</p> <p>'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.</p> <p>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</p>	<ul style="list-style-type: none"> 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.
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² Section 129 (Status of Land)

4. Stakeholder Engagement

In addition to consultation with mana whenua and Councillors, further engagement was undertaken in September and October 2019 with several stakeholders that were considered to have an interest in the proposed plan change greater than the general public. The identified stakeholders were:

1. Federated Farmers
2. New Zealand Transport Agency
3. Te Kooti Whenua Māori (Māori Land Court)
4. Waikato Regional Council
5. Horticulture NZ (HortNZ)

Engagement with the above stakeholders served the purpose of informing the organisations of the intent and purpose of the plan change and identifying how they might be affected by or in support and involved with the plan change and papakāinga development.

All of the stakeholders were supportive of the plan change and appreciative of the opportunity the plan change provides in enabling Māori to return to their whenua and live in healthy, affordable homes. The plan change is also seen as an opportunity to support iwi participation in the local and regional economy, contributing to economic growth in terms of capital investment and boosting labour supply for primary industries. The main concerns raised by stakeholders are summarised in Table 3 below.

Table 3. The main concerns of stakeholders with regard to papakāinga establishing in the Rural Zone.

Stakeholder organisation	Issues raised
Federated Farmers	<ul style="list-style-type: none"> • The effects of reverse sensitivity on activities typically found in the Rural Zone such as dairy farming, sheep and beef farming and commercial cropping. • Effects on three waters infrastructure and the capacity of the network. • The effects on water and nutrient allocations. • The effects on new types of rural activities that have not previously been established in the Rural Zone within the Matamata-Piako District.
NZ Transport Agency	<ul style="list-style-type: none"> • Proximity of accesses to the State Highway network. • Effects on the roading network and capacity during large events where a papakāinga is established alongside or in close proximity to a marae.
Te Kooti Whenua Māori	<ul style="list-style-type: none"> • Ensuring that the provisions recognise the various types of Māori Land tenure and understanding that Māori land falls under the jurisdiction of Te Kooti Whenua Māori.
Waikato Regional Council	<ul style="list-style-type: none"> • The impact on regional assets and infrastructure such as flooding and drainage infrastructure. • Provision and servicing of three waters infrastructure. • Effects on water and nutrient allocations. • The functioning of existing town centres is maintained or not detracted from through the establishment of papakāinga in the Rural Zone.

HortNZ	<ul style="list-style-type: none"> • Effects of reverse sensitivity on horticultural activities. • Allocation impact on freshwater supply. • That the proposed National Policy Statement for Highly Productive Land is taken into consideration and development that compromises highly productive land is avoided.
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Examples of Rural Zone papakāinga provisions were provided to Federated Farmers and HortNZ for feedback to help guide the drafting of the provisions. Policy frameworks from the Proposed Waikato District Plan and Proposed South Taranaki District Plan were provided to demonstrate different approaches to managing papakāinga development.

Both Federated Farmers and HortNZ indicate that a strong rule framework and resource consenting process is the preferred regulatory approach to managing reverse sensitivity effects. The implementation of setbacks or separation distances was suggested by both organisations however, the extent of the setback could not be quantified because there are a number of site-specific qualities that must be taken into consideration when assessing an application. Rather separation distances between rural land uses and sensitive land uses, such as papakāinga, should be developed on a case by case basis during the assessment of a resource consent application.

In their feedback, Federated Farmers also noted that the policy framework should recognise that some effects of normal farming activities, such as odour and noise and light at night, are unavoidable due to the nature of farming businesses and external factors such as weather. Therefore, it is Federated Farmers recommendation that the plan change should try to avoid creating unreasonable expectations of the amenity of the Rural Zone and perpetuating reverse sensitivity issues with people that are unaccustomed to the rural environment and complaining about normal farming activities.

5. 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.

Table 4 High Level Options for Consideration and Discussion

High-Level Option (for consideration / discussion)	Potential Benefits (for discussion)	Potential Costs / Limitations (for discussion)
<p>Option A: General District-Wide provisions (with rules that are structured with Māori land tenure)</p> <ul style="list-style-type: none"> Retain existing zoning throughout the District Permitted activity for Papakāinga development on <i>Maori Freehold Land</i> or <i>Maori Customary land</i>, where: <ul style="list-style-type: none"> 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) 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 <i>General Land owned by Maori</i> provided that: <ul style="list-style-type: none"> 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. <p><i>Associated matters of discretion:</i></p> <ul style="list-style-type: none"> 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. <p><i>Note:</i> 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 <i>General Land owned by Maori</i> to a controlled activity status (which is more enabling) and also consider whether subdivision provisions need to be amended.</p> Discretionary activity for Papakāinga development on all other land (with potential for Non-Complying activity status within the Kaitiaki (Conservation) Zone) <p>Councils that use this method or similar: Waikato District Council, Whangarei District Council, Hastings District Council.</p>	<ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> 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)
<p>Option B: District-Wide provisions (with cascade activity status based on number of houses)</p> <ul style="list-style-type: none"> Retain existing zoning throughout the District Permitted activity for papakāinga development on <i>Maori Freehold Land</i> or <i>Maori Customary Land</i> up to a maximum of five dwellings where: <ul style="list-style-type: none"> a Papakāinga site plan is provided (including confirmation that land can be serviced for proposed activities in accordance with Council’s Infrastructure Standards); and 	<p>Similar to Option A except that, in addition:</p> <ul style="list-style-type: none"> Greater control of the scale of papakainga that can occur as a permitted or controlled activity. 	<p>Similar to Option A except that, in addition:</p> <ul style="list-style-type: none"> 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 Economic costs associated with preparing a resource consent application for large-scale papakainga development

High-Level Option (for consideration / discussion)	Potential Benefits (for discussion)	Potential Costs / Limitations (for discussion)
<ul style="list-style-type: none"> - compliance with other bulk and location standards is achieved. • Controlled activity for papakāinga development <i>Maori Freehold Land</i> or <i>Maori Customary Land</i> up to a maximum of 10 dwellings where: <ul style="list-style-type: none"> - 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 and location standards is achieved. • Restricted discretionary activity for papakāinga development <i>Maori Freehold Land</i> or <i>Maori Customary Land</i> between 11 and 30 dwellings where: <ul style="list-style-type: none"> - 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 and location standards is achieved. • Discretionary activity for papakāinga development on all other land (with potential for Non-Complying activity status within the Kaitiaki (Conservation) Zone) <p><i>Councils that use this method or similar: Western Bay of Plenty District Plan</i></p>		<ul style="list-style-type: none"> • 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).
<p>Option C: Special Purpose – Maori Purpose Zone</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> - 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 <p><i>Councils that use this method or similar: Waipa District Council, Christchurch City Council, Auckland Council</i></p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • Potentially less flexibility as the enabling framework is confined to areas identified as Special Purpose – Maori Purpose Zone. It may not be representative of 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 (fair 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
<p>Option D: Special Purpose – Maori Purpose Zone and General District-Wide provisions</p> <ul style="list-style-type: none"> • 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) <p>AND</p> <ul style="list-style-type: none"> • General District Wide provisions for other areas (e.g. options similar to Options A or B above) 	<p>Combined benefits for Option C and Option A or B.</p>	<p>Similar to costs/limitations Option C and Option A or B.</p>

