

12 April 2024

Matamata-Piako District Council

PKaumoana@mpdc.govt.nz

Tēnā koe

Māori Trustee submission on Proposed Plan Change 54 Papakāinga

Please find attached, the Māori Trustee's evidence for the Proposed Plan Change 54 Papakāinga Hearing.

Introduction

1. Nicholas Cooper will appear on behalf of the Māori Trustee, Dr Charlotte Severne.
2. Dr Severne thanks the Hearing Panel for the opportunity to speak to the Māori Trustee's submission on the proposed Plan Change 54 Papakāinga provisions (PC54).
3. The Māori Trustee wishes to first acknowledge Ngāti Hako, Ngāti Hauā, Ngāti Hinerangi, Ngāti Korokī Kahukura, Ngāti Maru, Ngāti Pāoa, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngāti Whanaunga, Raukawa, and Waikato Tainui as the mana whenua of this rohe.
4. The focus of the Māori Trustee's submission has been on ensuring the appropriate recognition of owners of Māori freehold land whilst acknowledging the mana whenua of this rohe.
5. The Māori Trustee's position in reviewing the recommendation of the PC54 Section 42A Officers Report (S42A Report) is that the advisory note proposed to clarify the definition of 'papakāinga' should be amended to include the words '*owners of Māori freehold land*,' as detailed below. This will reduce ambiguity and ensure Māori freehold landowners who whakapapa to the land are expressly provided for.

Advisory note:

"for the avoidance of doubt, tangata whenua is not limited to iwi or hapū organisations and includes *owners of Māori freehold land*, individuals and whānau who are part of iwi or hapū who are tangata whenua."

6. The Māori Trustee also suggests that it would be beneficial to Council, to ensure appropriate implementation of the advisory note, to state the types of evidence that could be used to confirm whakapapa or tangata whenua status. The Māori Land Court has a centralised list of all owners of Māori Land, now available through their online tool Pātaka Whenua, which council officers could easily check, if needed to confirm the whakapapa status of Māori freehold landowners. Tangata whenua should also be provided with the opportunity to recommend their own evidential sources.

Background on the Māori Trustee and the Office of the Māori Trustee

7. An outline on the role of the Māori Trustee and the lands she administers was provided in the Māori Trustee's original submission dated 9 February 2023.



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8. The Māori Trustee administers, as trustee or agent, approximately 82,000 hectares of Māori freehold land on behalf of about 100,000 individual Māori landowners. Te Tumu Paeroa - the Office of the Māori Trustee, is the organisation that supports the Māori Trustee to carry out her statutory and other legal functions, roles and responsibilities. Additional information regarding the Māori Trustee and Te Tumu Paeroa can be found on Te Tumu Paeroa's website www.tetumupaeroa.co.nz.
 9. Given the sheer scale and varied nature of the land assets within this portfolio, the views of the Māori Trustee may not always be shared by all owners of whenua she administers.
 10. The Māori Trustee administers, as Responsible Trustee, 147.3 hectares of Māori freehold land in the Matamata-Piako District.

Background to Māori Freehold Land

11. Section 129(2)(b) of Te Ture Whenua Māori Act 1993 defines Māori freehold land as "...land, the beneficial ownership of which has been determined by the Maori Land Court by freehold order"¹.
12. The Māori Land Court has been involved in determining land as Māori freehold land since as far back as 1865. This occurs through evidence inquiry within Court proceedings where the Court considers who the original Māori owners of the land are and recognises their whakapapa connection to the land. The Court must keep an ownership list of the current owners of Māori freehold land and, when owners die, their descendants or closest relatives succeed to their interests in the land. Generally only blood relatives of owners can succeed to interests in Māori freehold land, in recognition of the whakapapa connection of owners. Only the Māori Land Court can vest interests in successors, once it is satisfied that the succession abides by those limits.

Te Ture Whenua Māori Act 1993 Considerations

13. The right of owners of Māori freehold land and owners of other Māori land to occupy develop and utilise their land for the benefit of its owners, their whānau, and their hapū is protected by Te Ture Whenua Māori Act 1993.
14. The English version to the Preamble to the Act reads:

Whereas the Treaty of Waitangi established the special relationship between the Maori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Maori people and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whanau, and their hapu: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Maori people to achieve the implementation of these principles.

RMA considerations

Part 2 Matters – Section 6(e)

15. The RMA requires that territorial authorities change their plans in accordance with the Part 2 provisions². Part 2 requires territorial authorities to recognise and provide for "**the relationship of Maori and their culture and traditions with their ancestral lands**, water, sites, waahi tapu, and other taonga" [emphasis added] as a matter of national importance. Therefore, PC54 must recognise and provide for the relationship between Māori and their ancestral lands. The Māori Trustee considers that this includes owners of Māori freehold land who have had their whakapapa connection to their

¹ This wording is the same as provided for *Māori Freehold Land* on page 47 of the PC54 Attachment B – Officer's Recommended Amendments.

² Section 74.



ancestral lands confirmed by Māori Land Court order when they became owners of Māori freehold land.

Higher Order RMA Instruments Include Broad Definition of Papakāinga

16. The Māori Trustee notes that, while neither the RMA nor the National Planning Standards define papakāinga, higher order RMA instruments point towards a broad definition of papakāinga.
17. For instance, the National Coastal Policy Statement defines a Papakāinga Development as a “Development of a communal nature on ancestral land owned by Māori”. Similarly, the National Policy Statement for Indigenous Biodiversity in clause 3.18 discusses papakāinga in the context of ‘specified Māori Land’ which is defined to include Māori customary land and Māori freehold land. Finally, the National Environmental Standards for Plantation Forestry define papakāinga as:
a traditional layout of residential accommodation where dwellings are erected to exclusively house members of a whānau, hapū, or iwi, on land that is owned by the whānau, hapū, or iwi, and is Maori land within the meaning of section 4 of Te Ture Whenua Maori Act 1993 (including Māori customary land and Māori freehold land)
18. The definition of papakāinga in higher order RMA instruments is therefore broad and includes Māori freehold landowners. PC54 should be consistent with this national direction as it is the best way to achieve the aims of Part 2 of the RMA. This emphasises the need for a definition of papakāinga that includes Māori freehold landowners.

Māori Trustee concerns in relation to Section 42A Report

19. The Māori Trustee considers that the definition of ‘papakāinga’ needs to be clarified in PC54 to ensure owners of Māori freehold land who may not be registered with an iwi or hapū organisation have the same consenting pathways as those that are.
20. The Māori Trustee’s original submission requested an amendment be made to the Papakāinga definition through the addition of ‘*and Māori landowners*’ after ‘*tangata whenua*’.
21. The Māori Trustee agrees with the S42A Report that papakāinga are a type of “development” on ancestral lands that acknowledges the particular connection of the people who will reside there with the land on which it is located.
22. The Māori Trustee does not agree that her submission is related to “*broadening it to include all Māori landowners who may not be tangata whenua*” as stated by the S42A Report.
23. The intention of her submission was to clarify that there are Māori who whakapapa to and own Māori freehold land within the Matamata-Piako District who will almost certainly affiliate to but may not be formally registered with an iwi or hapū. These landowners should still be considered tangata whenua and be entitled to the same consent pathways to develop papakāinga on their lands.
24. The Māori Trustee wishes to acknowledge that, on reflection, the intention behind the original submission could have been expressed in a clearer manner.
25. In relation to the definition of Papakāinga the current wording of the proposed advisory note³ recommended in the S42A Report is **not** sufficient. The Māori Trustee recommends that the proposed advisory note should be amended to include the words ‘*owners of Māori freehold land,*’ as detailed below. This will reduce ambiguity and ensure Māori freehold landowners who whakapapa to the land are provided for regardless of whether they are registered iwi or hapū members.

³ “*for the avoidance of doubt, tangata whenua is not limited to iwi or hapū organisations and includes individuals and whānau who are part of iwi or hapū who are tangata whenua*”



Advisory note:

“for the avoidance of doubt, tangata whenua is not limited to iwi or hapū organisations and includes *owners of Māori freehold land*, individuals and whānau who are part of iwi or hapū who are tangata whenua.”

26. The Māori Trustee notes that *Māori freehold land* is already defined in the District Wide Provisions (page 47 of the PC54 Attachment B – Officer’s Recommended Amendments) as:

“Māori Freehold Land: Land where the beneficial ownership has been determined by the Māori Land Court by freehold order. See section 129, Te Ture Whenua Māori Act 1993.”

27. The Māori Trustee also suggests that it would be beneficial to Council, to ensure appropriate implementation of the advisory note, to state the types of evidence that could be used to confirm whakapapa or tangata whenua status. The Māori Land Court has a centralised list of all owners of Māori Land, now available through their online tool Pātaka Whenua, which council officers could easily check, if needed to confirm the whakapapa status of Māori freehold landowners. Tangata whenua should also be provided with the opportunity to recommend their own evidential sources.

28. The Māori Trustee does not have any other concerns with other recommendations of the S42A Report in relation to her submission.

29. We hope you find this information helpful and would be happy to clarify any questions or queries you may have. Please feel free to contact us by email at resource.management@tetumupaeroa.co.nz.

Ngā manaakitanga,

A handwritten signature in blue ink, appearing to read 'pp', located to the right of the text 'pp'.

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Dr Charlotte Severne
Māori Trustee