



te kaunihera ā-rohe o
matamata-piako
district council



Plan Change 54 – Papakāinga

Section 42A Report



SECTION 42A REPORT

Plan Change 54: Papakāinga

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Attachment A: Summary of Submissions

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1 Executive Summary

1. Matamata-Piako notified Plan Change 54 ("PC54") on 21 December 2022¹. The primary purpose of PC54 is to enable Papakāinga to meet the needs, desires and values of tangata whenua, while also managing potential adverse effects on the environment.
2. Fifty-three original submissions and three further submissions were received on PC54². In summary, 19 original submissions indicated general support for the provisions, 23 submissions indicated support in part, with changes requested, whilst eight submissions opposed the plan change and three submissions were unsure.
3. The submissions have been categorised into several key themes, including:
 - Spatial extent of the Māori Purpose zone, or broadening the application of the Māori Purpose zone provisions
 - General objectives
 - Management structures and whānau ownership in perpetuity
 - Subdivision of land containing Papakāinga
 - Highly productive land
 - Rural character and amenity
 - Reverse sensitivity and "planned rural character"
 - Services and rates
 - Natural hazards and climate change
 - Traffic, access and parking
 - Matamata aerodrome
 - Papakāinga development plan
 - Density, bulk and location standards (maximum density, building coverage, yards / setbacks, height in relation to boundary, solid waste)
 - Relocatable buildings
 - Commercial activity and home business

¹ The Plan Change was originally notified in November 2022 but was withdrawn due to a clerical error.

² Submission 40 was included in submission 17 and submission 46 was included in submission 11 and therefore no longer considered as separate submissions.

- Marae and papakāinga in urban areas
- Community, education and healthcare facilities
- Solid waste
- Earthworks
- Miscellaneous

This report has been prepared in accordance with Section 42A of the Resource Management Act ("RMA") and outlines recommendations in response to the issues raised in submissions. This report is intended to assist the Hearings Panel to make decisions on the submissions and further submissions on PC54, to provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.

The key changes recommended in this report relate to:

- Amendments to objectives to enable Māori to maintain and enhance their relationship with their ancestral lands, to refer to water, sites, wāhi tapu and other taonga, to achieve better alignment with Section 6(e) RMA.
- Refinements to the definition of Papakāinga to clarify that tangata whenua is not limited to iwi or hapū organisations, and includes development by individuals or whānau who are part of iwi or hapū who are tangata whenua.
- Amendments to the information requirements for a Papakāinga Development Plan, to specifically include reference to a site suitability report (in accordance with existing District Plan Rule 1.2.2(vii)).
- Add a new matter of discretion to assess whether the site suitability report demonstrates that the land is suitable for the proposed activities, including building areas free from flooding or inundation, instability, erosion, subsidence or thermal ground.
- Amendments to several provisions (policies, rule, performance standard, assessment matters) to broaden the application of the enabling provisions to land where it can be demonstrated that the land will remain in 'iwi, hapū or whānau ownership in perpetuity' (not limited to "whānau ownership in perpetuity").
- Removing land on the eastern side of Waiti Road, near Waiti Marae (specifically Māori land blocks RT318271 and part of RT315700 where it occupies the eastern side of Waiti Road) from the proposed Māori Purpose zoning, so the land remains Rural Zone (due to flood risk).
- Reducing the minimum dimension requirement (10 m² area) for solid waste storage areas associated with kāinga (residential unit(s)) and inserting a new definition of 'service area'.

- Amend standards for earthworks, and to clarify their intent (protection of scheduled items and sites).
- Minor amendments to assessment matters for Papakāinga (1.4.30) to clarify their intent, including assessment matter 1.4.30(ii) regarding management structures for papakāinga (a possible method to maintain quality and amenity of the environment), and
- Minor edits for consistency and clarity.

2 Introduction

2.1 Author and Qualifications

4. My full name is Jaimee Cannon and I am a Consultant Planner at Boffa Miskell Limited.
5. I hold the qualification of Master of Planning from University of Otago, and Bachelor of Arts (major in Geography) from the University of Otago. I am a full member of the New Zealand Planning Institute.
6. I have 11 years' experience in planning and resource management including policy development, formation of plan changes and associated Section 32 assessments; Section 42A report preparation; and the preparation of and processing of resource consent applications, outline plans and notices of requirement.
7. I have worked in planning at local authorities and consultancies (including Boffa Miskell between 2014 and 2019). In 2019, while employed at Boffa Miskell, I was involved in the initial stages of plan-making for PC54 for Matamata-Piako District Council (MPDC), including facilitating initial workshops involving Elected Members, establishing the Iwi Working Group, preparing the Issues and Options Paper (September 2019), and preparing very early draft provisions and Section 32 Report. In October 2019, I took a Senior Planner position at Auckland International Airport. My Boffa Miskell planning colleagues (Charlotte MacDonald, Alia Cederman and Dave Moule) continued to assist MPDC with PC54 preparation, notification, and the summary of submissions.
8. I returned to Boffa Miskell in September 2021 and became involved in PC54 in January 2024.
9. I have similar experience assisting other Councils with their tangata whenua provisions (for Papakāinga, Māori Purpose Zones, and/or sites and areas of Significance to Māori) including South Taranaki District Council, Far North District Council and most recently, New Plymouth District Council.

2.2 Code of Conduct

10. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of

expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

11. I am authorised to give this evidence on the Council's behalf to the hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

12. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - assist the Hearings Panel in making their decisions on the submissions and further submissions on PC54;
 - provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
13. This report responds to submissions on PC54, Papakāinga.
14. Wherever possible, I have provided a recommendation to assist the Hearing Panel.

3.1.1 Use of Tohuto/Macrons and Double Vowels

15. Throughout the report, Māori words and names are used and cited.
16. MPDC has adopted a Ko te Kaupapahere Reo Māori/Māori language policy which directs the use of macrons to symbolise a long vowel in its documents.
17. In writing this report, I have used the practice of using macrons over the vowels in text rather than double vowel, which we know, and respect, is tikanga for some iwi, including Waikato-Tainui and Ngaati Whanaunga. When information has been drawn and in-text cited from sources that have adopted double vowels tikanga, we have retained the use of the double vowel.

4 Background

4.1 Overview of Plan Change

18. The primary purpose of PC54 is to enable Papakāinga to meet the needs, desires and values of tangata whenua, while also managing potential adverse effects on the environment. PC54 seeks to update the current papakāinga provisions of the District Plan to make them more enabling.
19. One of the key aspects of PC54 is the creation of a new zone called the Māori Purpose Zone. The Māori Purpose Zone is proposed to have two separate precincts.

Precinct 1 – Papakāinga Tahi (MPZ-PREC1)

20. Sites that are proposed to be re-zoned as Papakāinga Tahi (MPZ-PREC1) have existing marae and directly adjoin Māori freehold blocks. The MPZ-PREC1 will provide the most enabling provisions for papakāinga by:
- Increasing housing density in comparison to rural zoning by proposing one residential unit per 5000 m² of site area, up to a maximum of 10 residential units as a Permitted activity; and
 - Enabling establishment of home businesses and small-scale community facilities, education facilities, healthcare facilities, urupā, relocatable buildings and accessory buildings as Permitted activities.

Precinct 2 – Papakāinga Rua (MPZ-PREC2)

21. Sites that are proposed to be rezoned as Papakāinga Rua (MPZ-PREC2) have existing papakāinga. These sites are connected to Council reticulated services (water supply, wastewater) and therefore have the ability to provide for further housing, subject to maintaining appropriate standards of amenity.
22. On these sites one house per 500 m² of site area could be built as a Permitted activity, if:
- The site is Māori Freehold land; or
 - A legal mechanism is put in place to ensure the land will be maintained in whānau ownership in perpetuity.
23. Table 1 below summarises the MPZ rules and standards for buildings and development in each precinct as notified.

Table 1 Summary of Māori Purpose Zone rules and standards for buildings and development in each precinct as notified

	Māori Purpose Zone – Precinct 1 (MPZ-PREC1)	Māori Purpose Zone – Precinct 2 (MPZ-PREC2)
<i>Criteria (for re-zoning to MPZ)</i>	<i>Existing marae and directly adjoining Māori freehold blocks</i>	<i>Sites with existing Papakāinga</i>
Permitted density	1 kāinga per 5000 m ² of site area, up to 10 kāinga per site	1 kāinga per 500 m ² of site area ³
Maximum building height	10 m	10 m
Height in relation to boundary	3 m + distance to site boundary	3 m + distance to site boundary

³ Provided that; the site is Māori Freehold land; or a legal mechanism is put in place to ensure the land will be maintained in whānau ownership in perpetuity.

	Māori Purpose Zone – Precinct 1 (MPZ-PREC1)	Māori Purpose Zone – Precinct 2 (MPZ-PREC2)
Front yard	25 m	5 m (or 15 m for sites adjoining a state highway)
Side and rear yard	20 m	3 m
Max building coverage	10% of net site area	35% of net site area
Minimum service area requirements	<p>Kāinga : Minimum area of 10 m², with a minimum dimension of 3 m; readily accessible; screened from public road and places; and set back 10 m from boundaries.</p> <p>Marae, community facility, healthcare and/or education facility: Minimum area of 10 m², with a minimum dimension of 3 m; in the case a service area is combined the minimum area is 20 m², with a minimum dimension of 3 m; readily accessible; screened from public road and places; and set back 10 m from boundaries.</p>	<p>Kāinga : Minimum area of 10 m², with a minimum dimension of 3 m; readily accessible; screened from public road and places; and set back 10 m.</p>

24. PC54 also provides for a range of land use activities as permitted within the MPZ-PREC1, subject to standards:

- relocatable buildings
- accessory buildings
- home businesses
- small-scale community facilities
- education facilities
- healthcare facilities
- Urupā

District Wide Provisions

25. For sites that are not included in the new Māori Purpose Zone, PC54 includes provisions that will enable papakāinga development on Māori Freehold Land, General Land owned by Māori (if it can be demonstrated there is an ancestral connection and a legal mechanism in place to ensure the land is maintained in whānau ownership in perpetuity), and Treaty Settlement Land in the Rural and Rural-Residential Zones.
26. Table 2 below summarises the district-wide rules and standards for papakāinga in each zone as notified.

Table 2 Summary of District-Wide Rules and Standards for Papakāinga in each zone as notified

Standard	Qualifying criteria	Rural Zone	Rural-Residential Zone
Permitted density	Māori Freehold land at or before 21 December 2022	1 kāinga per hectare, up to a maximum of five kāinga per site.	1 kāinga per hectare, up to a maximum of five kāinga per site.
	General Land owned by Māori, Treaty Settlement Land, or land converted to Māori Freehold Land after 21 December 2022	1 kāinga per site	1 kāinga per site
Maximum building height		10 m	10 m
Height in relation to boundary		3 m + distance to site boundary	3 m + distance to site boundary
Front yard		25 m	10 m
Side yards		20 m	20 m
Rear yards		20 m	20 m
Maximum building coverage		10% of the net site area	10% of the net site area
Minimum service area requirements		<ul style="list-style-type: none"> Minimum area of 10 m² Minimum dimension of 3 m Setback 10 m from property boundary 	

27. PC54 also permits marae and home businesses within the Rural and Rural-Residential Zones, subject to compliance with standards.

4.2 Plan Change Development, Engagement and Consultation

28. The Section 32 Report, which was prepared when PC54 was notified, contains details of the plan change and an assessment of the costs and benefits of various options that were considered as part of the plan review process.

29. PC54 was developed in collaboration with iwi. Council established an Iwi Working Group ("IWG") comprising of representatives from Iwi authorities in the District to provide input on the plan change. The IWG was also supported by representatives from the Māori Land Court ("MLC"), Te Puni Kōkiri ("TPK") and Waikato Regional Council ("WRC"), and MPDC staff.
30. Council engaged directly with each of the marae in the district, with key stakeholders, and with the wider public on the draft plan change provisions.
31. The formal submissions and further submissions process also provides further opportunity for community and stakeholder input into the Plan Change process.

4.3 Papakāinga Toolkit

32. MPDC has prepared a Papakāinga Toolkit, to be read on conjunction with Te Puni Kōkiri's Papakāinga Toolkit. The purpose of the MPDC's Papakāinga Toolkit is to help Māori landowners understand the District Plan rules and navigate the process for undertaking Papakāinga development on their ancestral lands. It provides a simple outline of the steps involved to get a Papakāinga approved and ready for construction.
33. A key step is engaging a design professional to translate the vision for the whenua into a Papakāinga Development Plan, including demonstrating how the proposal meets the District Plan requirements and how development will be integrated.
34. It is intended that MPDC's Papakāinga Toolkit will be a 'living' document that can be updated over time.
35. The next step with the Papakāinga Toolkit is to take the draft toolkit to the IWG for feedback, after the PC54 hearing, prior to making it publicly available.

5 Statutory Requirements

5.1 Statutory documents

36. Section 2 of the Section 32 Report provides a detailed record of the relevant statutory considerations applicable to PC54.
37. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
38. However, it is important to highlight the higher order documents, which have been subject to change since notification of PC54, to which effect must be given and which are relevant to the Plan change provisions.

5.1.1 National Policy Statements

5.1.1.1 National Policy Statement for Highly Productive Land (2022)

39. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022, just before PC54 was notified for public submissions (8 November 2022 and re-notified 21 December 2022). As district plans must be “prepared in accordance with”⁴ and “give effect to”⁵ an NPS, the implications of the NPS-HPL for the Plan Change must be considered. As part of its guidance on the implementation of the NPS-HPL the Ministry for the Environment has issued information sheets specific to implications for Māori land⁶ and rezoning land to a Māori Purpose Zone⁷.
40. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.
41. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, and subdivision of highly productive land and requirements to protect highly productive land from inappropriate use and development.
42. Clause 3.3 requires active involvement of tangata whenua (to the extent they wish to be involved) in plan-making to give effect to NPS-HPL.
43. The term ‘highly productive land’ is defined as meaning land mapped by the regional council and included in an operative regional policy statement (as required by clause 3.5). However, because this mapping process will take several years, in the interim highly productive land is defined in clause 3.5(7):

Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

⁴ Section 74(1)(ea) of the Resource Management Act 1991

⁵ Section 75(3)(a) of the Resource Management Act 1991

⁶ Ministry for the Environment, *National Policy Statement for Highly Productive Land: Information on what it means for Māori and Māori land*. Retrieved from <https://environment.govt.nz/publications/national-policy-statement-for-highly-productive-land-information-on-what-it-means-for-maori-and-maori-land/>

⁷ Ministry for the Environment, *National Policy Statement for Highly Productive Land: Information on changing the status of Māori land and rezoning land to Māori purpose zone*. Retrieved from <https://environment.govt.nz/assets/publications/NPS-HPL-information-on-changing-the-status-of-Maori-land-and-rezoning-and-to-Maori-purpose-zone.pdf>

(a) is

(i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) is not:

(i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

44. Although the Waikato Regional Council has yet to update the regional policy statement with maps of highly productive land, existing land use capability (LUC) classification maps show that much of the Matamata-Piako District is made up of LUC Class 1, 2, or 3 land⁸.

45. Clause 3.8 (avoiding subdivision of highly productive land) and clause 3.9 (protecting highly productive land from inappropriate use and development) contain exclusions for subdivision and use on specified Māori land, which is defined in the NPS-HPL⁹ as land that is any of the following:

(a) Māori customary land or Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):

(b) land vested in the Māori Trustee that—

(i) is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955; and

(ii) remains subject to that Act:

(c) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:

(d) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):

(e) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(f) land held by or on behalf of an iwi or hapū if the land was transferred from the Crown, a Crown body, or a local authority

⁸ Refer MPDC's GIS viewer, LRIS 2002 Land Use Capability (Soil Class) layers.

⁹ Clause 1.3 pf NPS-HPL

with the intention of returning the land to the holders of the mana whenua over the land

46. The rezoning of land (Māori Freehold land and land set aside as Māori Reservation) from Rural to Māori Purpose Zone (PREC-1) in PC54 is not classed as 'urban rezoning' in the NPS-HPL¹⁰ therefore Policy 5 and clause 3.6 restricting urban rezoning of highly productive land do not apply. In addition, clause 3.8 (avoiding subdivision of highly productive land) and 3.9 (protecting highly productive land from inappropriate use and development) do not apply to specified Māori land (i.e. Māori Purpose Zone PREC-1 land in PC54).
47. The land proposed to be zoned Māori Purpose Zone-PREC2 is general land so the specified Māori land exclusion does not apply. The sites within this zone are small lots¹¹ with existing residential development and are not suitable for primary production. As noted above, clause 3.6 does not apply as rezoning to Māori Purpose Zone is not classed as 'urban rezoning', but this land would fall within the exemption in clause 3.10 (exemption for highly productive land subject to permanent or long-term constraints). In addition, to develop one kāinga per 500 m² of site area within MPZ-PREC2 as a Permitted activity would require the land to have Māori Freehold land status or a legal mechanism in place to ensure the land will be maintained in whānau ownership in perpetuity.
48. For the above reasons the proposed re-zoning to Māori Purpose Zone of any land that falls within the definition of highly productive land is not inconsistent with the NPS-HPL.
49. Under clause 3.5(6) if highly productive land is the subject of an approved plan change to rezone the land so that it is no longer general rural or rural production zone, the land ceases to be highly productive land from the date the plan change becomes operative.
50. The Plan Change also provides for papakāinga as a Permitted activity on Māori Freehold Land within the Rural Zone and Rural Residential zones. As this land falls within the definition of specified Māori land in the NPS-HPL the potential development of papakāinga or marae as a Permitted activity on Māori Freehold Land that is highly productive land would not be inconsistent with the NPS-HPL.
51. General land owned by Māori and Treaty Settlement Land (returned as general land) within the Rural Zone and Rural Residential zones does not fall under the specified Māori land exemptions of the NPS-HPL. The Proposed Plan Change provisions require resource consent as a Discretionary activity for papakāinga on such land. At the time of applying for a resource consent, the applicant would need to make an assessment as to whether the land meets the definition of highly productive land under the NPS-HPL and if so, would need to undertake an assessment of

¹⁰ Clause 1.3 definitions of 'urban' and 'urban rezoning'

¹¹ These sites range in size from 809 m² – 2,898 m². Although located rurally, they are connected to Council's water and wastewater services and there is capacity in these networks to provide for further housing

effects and an assessment against the NPS-HPL. The Discretionary activity status allows Council full discretion to consider the effects of development on highly productive land. Therefore, the Plan Change provisions do not conflict with the directions of the NPS-HPL.

52. It is also noted that the status of general land owned by Māori may be changed to Māori freehold land under the Te Ture Whenua Māori Act and could then be covered by the definition of specified Māori land¹² and the applicable exclusions.
53. At the time of writing, the current Government has noted that it is considering amendments to the NPS-HPL in light of needing to enable housing growth and removing consenting barriers, specifically whether amendments to the definition of 'Highly Productive Land' are necessary to enable more flexibility.

5.1.1.2 National Policy Statement for Indigenous Biodiversity (2023)

54. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023, after PC54 was notified for public submissions (8 November 2022 and re-notified 21 December 2022). The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe. Part 3 of the NPS-IB sets out what must be done to give effect to the objective and policies.
55. On 14 March 2024, the Government announced that it has agreed to suspend the requirement for councils to comply with the Significant Natural Areas (SNA) provisions of the National Policy Statement for Indigenous Biodiversity for three years, while it works on replacement legislation for the RMA. The Government will be focusing on amendments to the NPS-IB and has indicated that the replacement Resource Management legislation will further address this matter.
56. Depending on the details of the legislative changes, Council may need to consider the extent to which changes are required to the District Plan to give effect to the NPS-IB. These considerations are outside the scope PC54 and will be undertaken as a separate process. In the meantime, the NPS-IB will be relevant to activities being undertaken on land to develop papakāinga but nothing in PC54 is fundamentally inconsistent with the NPS-IB. The presence of indigenous vegetation and habitats will be another matter that is necessary to consider when planning for development on a site.

5.1.1.3 Proposed National Policy Statement for Natural-Hazard Decision-making (2023)

¹² Ministry for the Environment, *National Policy Statement for Highly Productive Land: Information on changing the status of Māori land and rezoning land to Māori purpose zone*. Retrieved from <https://environment.govt.nz/assets/publications/NPS-HPL-information-on-changing-the-status-of-Maori-land-and-rezoning-and-to-Maori-purpose-zone.pdf>

57. The Proposed National Policy Statement for Natural Hazard Decision-making (NPS-NHD) was released for public consultation from 18 September to 20 November 2023. The Proposed NPS-NHD does not have legal effect until it is gazetted. The objective of the Proposed NPS-NHD is that the risks from natural hazards to people, the environment, property and infrastructure, and on the ability of communities to quickly recover after natural hazard events, are minimised. The objective is supported by seven policies. These include policies that require decision makers to determine the level of natural hazard risk and policy 7 relating to the recognition of Māori and their tangata whenua values, interests and aspirations.
58. Clause 3.2 requires active involvement with tangata whenua to give effect to the objective and policies of the NPS-NHD.
59. At the time of writing, the current Government has not provided any further direction on the progress of the NPS-NHD. MPDC proposes to implement a future plan change for Natural Hazards, as part of its rolling review. If the NPS-NHD is gazetted the Natural Hazards Plan change will need to give effect to the NPS-NHD.

5.1.2 Treaty Settlements

60. Section 3.4 of the Section 32 Report for PC54 summarises the status of Treaty Settlements within Matamata-Piako District. The Pare Hauraki Collective Deed of Settlement was signed 2 August 2018.
61. Since notification of PC54 on 21 December 2022 there have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Matamata-Piako District.

5.1.3 Iwi Management Plans – Update

62. Iwi Environmental Management Plans are summarised in Section 7.6 of the Section 32 report for PC54. The iwi with rohe in the Matamata-Piako District who have prepared Iwi Environmental Management Plans are Ngāti Hauā, Raukawa and Waikato-Tainui. Ngaati Whanaunga also has a Strategic Management Plan (2019) which contains elements of environmental management.
63. There have been no changes to the status of Iwi Management Plans in the Matamata-Piako District, since the notification of PC54.

5.2 Section 32AA Evaluation

64. This report uses 'key themes' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where applicable, the recommended decisions have been evaluated using Section 32AA of the RMA.
65. The Section 32AA further evaluation for each key theme considers:

- Whether the amended objectives are the most appropriate way to achieve the purpose of the RMA.
- The reasonably practicable options for achieving those objectives.
- The environmental, social, economic and cultural benefits and costs of the amended provisions.
- The efficiency and effectiveness of the provisions for achieving the objectives.
- The risk of acting or not acting where there is uncertain or insufficient information about the provisions.

66. The Section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

5.3 Procedural matters

5.3.1 Informal Pre-hearing Meetings / Discussions

67. Council has held several informal pre-hearing meetings or discussions with submitters to clarify matters raised in their submissions. These are summarised in Table 3 below.

Table 3 Pre-hearing informal correspondence with Submitters

Submitter	Type of engagement	Date	Summary of Discussion
Waikato Regional Council (S26)	Meetings and email correspondence	4 July 2023 7 August 2023	Discussions were held with representatives from Waikato Regional Council to better understand the nature of the defended area and potential flooding issues in the vicinity of the Waiti Marae.
Waiti Marae	Meeting	10 September 2023	Subsequent to the Waikato Regional Council meeting (above), a meeting was held with representatives of Waiti Marae to discuss flooding issues and zoning of the land east of Waiti Road. Council also sent letters to the Marae representatives and landowners/trustees explaining f
Leo Whaiapu (S50)	Meetings and email correspondence	8 August 2023	Discussion with Mr Whaiapu to clarify relief sought in submission.
Kāinga Ora (S54)	Discussions and email correspondence	10 August 2023	Discussion with representatives of Kāinga Ora to clarify some points raised in their submission.

Submitter	Type of engagement	Date	Summary of Discussion
Ian Robert Young, Dana Sheree Lewis and Ian Young Family Trust (S49)	Meeting and email correspondence	15 August 2023	Discussions with representatives of the submitter to discuss and understand the legal instruments affecting the driveway.
Ray Kett	Letter	06 September 2023	Council offered to meet with Mr Kett. Subsequently, Council's Māori Ward representative, Gary Thompson, met with Mr Kett to discuss and clarify some points raised in Mr Kett's submission. Council also sent a letter to Ray Kett addressing/answering the questions raised in relation to the Iwi Working Group and the plan change consultation process.

68. I was not involved or present at any of the abovementioned meetings or discussions because they occurred prior to my re-joining the Council project team. However, I have reviewed the correspondence and summary information where available and considered the outcomes of these discussions in my recommendations.
69. A copy of pre-hearing correspondence, where relevant, is provided in **Attachment D** to this Report. The correspondence and outcomes of these informal discussions are further explained in the evaluation for the relevant submission (Section 6.2 of this Report).

5.3.2 Withdrawal of Submission Point(s)

70. Following the meeting with Kāinga Ora (S54) referred to in Table 3 above, Kāinga Ora requested to withdraw submission point S54.61 in relation to the definition of 'Treaty Settlement Land'. Submission point S54.61 sought to amend the definition to remove the note regarding Right of First Refusal lands. On reflection, Kāinga Ora realised that the definition of 'Treaty Settlement Land' would exclude those within the note (i.e. 'Treaty Settlement Land' does not include land returned through Right of First Refusal or Investment lands). No further submissions were received on S54.61. As a result, S54.61 has been withdrawn and has not been evaluated in Section 6.2 of this Report.

5.3.3 Late Submission

71. Matamata Soaring Centre's (S55) submission was received on 14 February, one day past the closing time/date for submissions (4:30pm, Monday 13 February 2023). The reason provided by Matamata Soaring Centre for the late submission was responding to significant weather events.

72. The Hearing Panel (on behalf of Council) has the ability to waive or extend a time limit for Schedule 1 processes under Section 37 and 37A of the RMA, taking into account:
- (a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
 - (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
 - (c) its duty under section 21 to avoid unreasonable delay*
73. Taking into account the matters set out in Section 37A(I) of the RMA, it is recommended that the Hearing panel accept Matamata Soaring Centre's (S55) late submission as a submission, allowing the matters raised to be addressed through the hearing process because:
- The submission was received no more than 24 hours past the closing time/date for submissions and will not result in unreasonable delay.
 - The submitter raises matters that are within the scope of the plan change. The submission supports the intent of the plan change but seeks explicit reference to the airport protection zone, and seeks noise mitigation measures to avoid reverse sensitivity issues from the Matamata/Waharoa aerodrome. It is important that these matters are considered, addressed and tested through the schedule 1 process along with all other matters raised in submissions.
 - There is no prejudice to any person directly affected by the Hearings Panel accepting the late submissions, as the submission was made available as part of the Summary of Decisions requested and everyone has had the opportunity to view the submission and make a further submission (provided they meet the requirements in Clause 8(I) of Schedule 1 of the RMA).
74. Matamata Soaring Centre's submission has been evaluated in Key Theme 9 (Section 6.2.13) of this Report.

6 Consideration of submissions received

6.1 Overview of submissions received

75. A total of fifty-three original submissions and three further submissions were received on PC54¹³. In summary, 19 original submissions indicated

¹³ Submission 40 was included in submission 17 and submission 46 was included in submission 11 and therefore no longer considered as a separate submissions:

- Grant and Annette Cranfield (S17 and S40) made two submissions addressing similar issues and the same opposing view, therefore, submission 40 was included into submission 17.
- Robyn Roa (S11 and S46) made two duplicate submissions fully supporting the Proposed Plan Change, therefore, submission 46 was included into submission 11.

general support for the provisions, 23 submissions indicated support in part, with changes requested, whilst eight submissions opposed the plan change and three submissions were unsure.

76. The submissions on PC54 came from:

- Ngāti Hauā Iwi Trust (“NHIT” / S4) who support the plan change but seek to make amendments to wording and extend the MPZ provisions to the district wide provisions.
- Te Puawaitanga o Ngati Hinerangi (“TPNH” / S5) who support the plan change but seek new provisions in the MPZs relating to density and site coverage and extending the spatial extent of the MPZ by rezoning the urupā block at Te Ohaki Marae to MPZ. TPNH also seek amendments to several District Wide Provisions.
- Te Tumu Paeroa – The Office of the Māori Trustee (S6) who support the provisions but seek to make amendments to the definition of Papakāinga.
- Waikato Regional Council (S26) who supports the plan change but seeks amendments to include “other natural and physical resources” to MPZ-O1 and Papakāinga-O1, include additional water, energy and climate resilience objectives and policies, flood risk controls, and consideration of flooding risk to Waiti Marae.
- Kāinga Ora (S54) who supports the plan change but seeks to make amendments to several provisions to generally make them more enabling and apply them to all land, not just Māori freehold land or land where it can be demonstrated that land will remain in whānau ownership.
- Matamata Soaring Centre (S55) which support the intent of the plan change but seeks explicit reference to the airport protection zone, and seeks noise mitigation measures to avoid reverse sensitivity issues from the Matamata/Waharoa aerodrome.
- Matamata Aeroclub (S34) which expressed concerns about the potential future complaints about aircraft noise by future residents near the Matamata Aerodrome and propose that Council establish a noise contour plan for the area around Matamata Aerodrome.
- Several landowners and community members, who either:
 - generally support the plan change in principle, because of the social, cultural, economic benefits it provides to the community and the opportunity for Māori to return home.
 - expressed concerns about rural character and amenity, traffic safety, servicing and/or unfairness (i.e. requests that the same ‘development rights’ should be applied to other landowners in the District).

- request amendments to density standards (either to provide for greater or lesser density of kāinga).

77. A large number of submission points (42 submission points from 26 submitters in total)¹⁴ indicated general support for the plan change and policy direction, for a number of key reasons, including:

- PC54 is an enabling policy that empowers the local Māori with the opportunity to develop and deliver sustainable housing.
- Opportunity to return to ancestral land to build a home for children, grandchildren and future generations in a safe environment that values Te Reo and traditional/ancestral values.
- Papakāinga will allow whānau to live collectively as their ancestors did.
- Support for the opportunity for greater involvement in social, educational and economic aspects of hapū, iwi and marae.
- The potential to improve the lives of local iwi, kaumatua and kuia through support from younger iwi members.

78. These submission points in support of PC54 are acknowledged.

79. The submission points, in particular those seeking changes, have been grouped into several key themes. In some circumstances, where a submission point is related to more than one theme, the different aspects of the submission point are address in each theme. The key themes identified in this report are set out below:

- Key Theme 1: Definitions
- Key Theme 2: Spatial Extent of Māori Purpose Zone
- Key Theme 3: General Objectives
- Key Theme 4: Management Structures and Whānau ownership in perpetuity
- Key Theme 5: Subdivision of land occupied by Papakāinga
- Key Theme 6: Broadening Application of Māori Purpose Zone provisions
- Key Theme 7: Highly Productive Land
- Key Theme 8: Rural Character and Amenity
- Key Theme 9: Reverse Sensitivity and "Planned Rural Character"

¹⁴ S3.1-3.2, S4.1-4.2, S6.1-6.3, S9.1, S11.1, S11.3-5, S12.1-2, S13.2-3, S14.1-3, S15.1, S16.1, S18.1, S20.2-20.4, S21.1, S22.1, S23.1, S27.1, S32.1, S32.2, S35.1, S36.1, S39.1, S43.1, S45.1, S47.1-3, S48.1 S50.1, S51.1.

- Key Theme 10: Services and Rates
- Key Theme 11: Natural Hazards and Climate Change
- Key Theme 12: Traffic, Access and Parking
- Key Theme 13: Matamata Aerodrome
- Key Theme 14: Papakāinga Development Plan
- Key Theme 15: Maximum Density
- Key Theme 16: Maximum Building Coverage
- Key Theme 17: Yards / Setbacks
- Key Theme 18: Height in Relation to Boundary
- Key Theme 19: Relocatable buildings
- Key Theme 20: Commercial Activity and Home Business
- Key Theme 21: Communal Living Arrangement
- Key Theme 22: Marae and Papakāinga in Urban Zones
- Key Theme 23: Community, Education and Healthcare Facilities
- Key Theme 24: Solid Waste
- Key Theme 25: Earthworks
- Key Theme 26: Miscellaneous

80. Some points in submissions are outside of the scope of PC54 in that they raise concern about matters outside the scope of the RMA or beyond what can be achieved through amendments to the District Plan or PC54 provisions. Section 5.4 does not address these concerns. These matters include:

- Concerns regarding added police/security presence with an increased population in rural areas and dog control to protect stock safety (Rachel and Norm Salisbury (S2)).
- Request from Ngāti Hauā Iwi Trust (S4.5) that Council takes action in the RM reform to ensure the consent process is changed so that allocations and provisions are reflective of use of wai tapu.
- Request from Charlie and June Paki Whānau Trust (S8.1) requesting discussion with beneficiaries of Charlie and June Paki Whānau Trust.
- Issues relating to the authority of Council to control use of Māori land and resource use, including water (Mapuna Turner (53.1))

- Request for information on funding to aid rapid development (Samuel and Leah O'Connor (S7.2))
- The use of letters to notify residents of the Plan Change, Councils process in organising consultation with shareholders and correcting reference to Waiti Marae (to not include reference to Waiora) (Raymond Kett (S38.1-3)).
- Concerns regarding added police/security presence with an increased population in rural areas and dog control to protect stock safety (Rachel and Norm Salisbury (S2)).
- Ensuring housing tenure that offers occupants security and signed agreements that establish rights and responsibilities, and measures are put in place to ensure Council Indemnity (Thomas Bougher (S28.1)).
- Querying the potential to subsidise land or development that has already been subsidised in light of Three Waters reform (John and Irene Harris (25.4)).

81. Section 6.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key themes. This thematic response assists in providing a concise response to, and recommended decision on, similar submission points.

6.2 Officer Recommendations

82. A summary of submissions and further submissions on PC54 is contained in **Attachment A – Summary of Submissions** to this report. A full copy of each submission is available on the Council website ([PC54 webpage](#)).
83. A copy of the recommended plan provisions for PC54 is provided in **Appendix B – Recommended Provisions** to this report.
84. Additional information can also be obtained from the notified version of provisions, Summary of Submissions, the [Section 32 Teport and associated maps](#).

6.2.1 Key Theme 1: Definitions

Summary of Submissions

Table 4 Submissions on Definitions

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
6.4	Te Tumu Paeroa – Office of the Māori Trustee	Definition of Papakāinga	Amend	<ul style="list-style-type: none"> Amend 'Papakāinga' definition to provide for 'Māori landowners'. 	Accept in part
54.61	Kāinga Ora	Definition of Kāinga / Residential Unit	Amend	<ul style="list-style-type: none"> Amend definition so it is not restricted to the use of a building for one household only 	Reject

Analysis – Definition of Papakāinga

85. The proposed definition of papakāinga is:

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

86. In their submission (6.4) the Māori Trustee considered that the definition of 'papakāinga' needs to be amended to expressly provide for Māori landowners (in addition to tangata whenua) to ensure that all Māori landowners benefit from papakāinga provisions and are enabled develop and occupy their whenua.

87. The Māori Trustee requested the following amendments to the Papakāinga definition:

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

88. The term "tangata whenua" and "mana whenua" are defined in Section 2 of the RMA as follows:

Tangata whenua: in relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area.

Mana whenua means customary authority exercised by an iwi or hapū in an identified area

89. Although the definition of papakāinga refers to tangata whenua, it is not intended to be limited to only iwi or hapū groups or organisations that hold mana whenua over the area. The intention is that the reference to tangata whenua includes iwi, hapū, or individuals or whānau who are part of the iwi or hapū who are tangata whenua. The intent is clear when reviewing the proposed provisions, which seek to enable Papakāinga development where, for example, it can be demonstrated that the land will be maintained in **whānau** ownership in perpetuity (my emphasis added).
90. I agree that there is a risk that the definition could be interpreted narrowly, which could undermine the intent of the provisions. The intent could be clarified with amendments to the definition. However, the amendments suggested by the Māori Trustee (broadening it to include all Māori landowners who may not be tangata whenua) may have unintended consequences, for example could perversely result in Māori landowners who are not tangata whenua, who do not have ancestral connections using the provisions to develop land within Matamata-Piako District. In the amendments sought by the submitter, the second and third references to "and Māori landowners" are not followed by "on ancestral lands in their traditional rohe" and could widen the scope beyond what is intended by the Plan Change. I understand that the definition of 'Papakāinga' was developed collaboratively with tangata whenua through the IWG. The IWG sought to ensure that the Papakāinga was to meet the needs of tangata whenua, with ancestral connections to the land (rather than all Māori).

Recommendation - Definition of Papakāinga

91. I recommend that submission 6.4 is accepted in part. To achieve the relief sought, in a manner that is efficient and effective, I recommend a new advice note is added to the definition of papakāinga, to clarify the intent, as follows:

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

Note: 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.

Analysis – Definition of Kāinga / Residential Unit

92. The proposed definition of kāinga / residential unit is:

Kāinga / Residential unit (in the Māori Purpose Zone): means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.

93. Kāinga Ora (S54.61) sought to amend the definition of kāinga so it is not restricted to the use of a building for one household only. Kāinga Ora submitted that kāinga should be recognised for their intergenerational and communal use as per Māori cultural norms.

94. The definition of “household” is variously defined as:

- The inhabitants of a house considered collectively; a group of people (especially a family) living together as a unit (Oxford English Dictionary);
- All the people in a family or group who live together in a house (Collins Dictionary);
- A group of people, often a family, who live together (Cambridge Dictionary).

95. These definitions suggest that, although a household is commonly comprised of ‘family’, it is not necessarily confined to immediate family and can be a group of people, or extended family, living together. Therefore, it is considered that the definition already would allow for intergenerational households.

96. In terms of communal uses PC54 separately defines “communal living arrangements”. The definition of ‘communal living arrangement’ is “living accommodation which is served by one or more communal living areas, including kitchens and provides for more than one immediate family unit. For example: a communal kitchen and bathroom which services individual cabins / bedrooms”. A communal living arrangement is a Discretionary activity in the MPZ-PREC1¹⁵ and on Māori Freehold Land, General Land owned by Māori and Treaty Settlement land in the Rural, Rural-Residential and Residential Zones¹⁶. This does not place a limit on the scale e.g. number of buildings and therefore a resource consent process enables an assessment of the nature and scale of the activity to ensure it is appropriate for the context.

¹⁵ Rule MPZ-PREC1-R(3)(d)(Communal living arrangement)

¹⁶ Rule 2.2 Activity Table 6.1.5, 6.2.3

Recommendation – Definition of Kāinga / Residential Unit

97. For the reasons stated above, I recommend that Kāinga Ora's submission S54.61 is rejected and the definition of Kāinga / Residential Unit is retained as notified.

Section 32AA Evaluation

98. No section 32AA evaluation is required because the recommended amendment to the definition of Papakāinga clarifies the original intent, and no change to the definition of Kāinga / Residential Unit is recommended.

6.2.2 Key Theme 2: Site-Specific Requests / Spatial Extent of Māori Purpose Zone

6.2.2.1 Ngarua urupā block, near Te Ohāki Marae

Summary of Submission

Table 5 Submission on Ngarua Urupā Block

Sub #	Submitter name	Plan provisions	Position	Summary of submission / decision requested	Summary recommendation
5.5	Te Puawaitanga o Ngāti Hinerangi	Zoning	Support in part	<ul style="list-style-type: none"> Te Ohaki Marae Planning Map to include urupā block 	Reject

Analysis

99. Te Puawaitanga o Ngāti Hinerangi (5.5) sought to amend the Te Ohāki Planning map to include a spot zoning over the Te Ohaki Marae **Ngarua** urupā block near Te Ohaki Marae, Douglas Road, Okauia. The reason given was to ensure that the urupā and its surrounds are appropriately identified on the District Plan, and the urupā and surrounding land is protected from any potential development or inappropriate use.
100. The urupā site is 0.4 ha in area, Māori Freehold Land (held in title 415264 and legally described as Ngarua Urupā Block). The urupā block site is identified as a Wāhi tapu site in the District Plan (ID: 25). It is located approximately 230 m east of the Māori Purpose Zoned land at Douglas Road and separated by the Mangapiko Stream. The urupā site and surrounds are currently zoned Rural (refer to **Figure 1, Attachment C**).
101. I consider that the current zoning and associated zone provisions for this land is the most appropriate because:

- Ngarua urupā block is already identified in the District Plan (wāhi tapu site ID: 25) and protected from inappropriate development or use. Resource consent is required as:
 - A Discretionary activity for any modification to the natural landform (Rule 10.1.5(a)).
 - A Non-Complying activity for excavation, damage or alteration, reconstruction or destruction to any scheduled resource (Rule 10.1.5(d)).
- Due to the rural nature of the surrounds, currently used primarily for farming activities, there is limited development pressure on land adjacent to the urupā block (i.e. low risk of inappropriate activities occurring in close proximity to the urupā).
- The surrounding Rural Zone provides some protection to the urupā block because it only permits a limited range of activities (e.g. one dwelling per property, 10 m setbacks from boundaries).
- The Māori purpose zone has been applied to Māori Freehold land that directly adjoins a marae, has access to a road (i.e. not land locked) and is large enough so that papakāinga could be a permitted activity. The purpose is to enable papakāinga development on these sites. The Ngarua urupā block does not meet this criteria because it is limited in size (only 0.4 ha), may not be suitable for additional development, does not directly adjoin the marae, and is land locked, without direct access to a road.
- Te Puawaitanga o Ngāti Hinerangi can rely on existing use rights to utilise the urupā (Section 10, RMA).

Recommendation

102. For the above reasons, I recommend that Te Puawaitanga o Ngāti Hinerangi's submission S5.5 is rejected and the Ngarua urupā block remains in the Rural Zone (i.e. is not rezoned to Māori Purpose Zone).

Section 32AA Evaluation

103. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.2.2 Okauia Blocks near Te Omeka Marae

Summary of Submission

Table 6 Submission on Okauia Blocks

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
50.1	Leo George Whaiapu	Zoning	Unclear	<ul style="list-style-type: none"> Request for specific blocks (Okauia 2e.3b-2b.1b, Wāhiti Kuranui 6a.1b.3b.2b) to get through 	Reject

Analysis

104. Leo George Whaiapu (S50.1) requested specific blocks (Okauia 2e.3b-2b.1b, Whaiti Kuranui 6a.1b.3b.2b) be included. A meeting was held with Mr Whaiapu to clarify what was meant by the submission. This meeting clarified that Mr Whaiapu supported the proposed MPZ-PREC1 zoning of Te Ūkaipō Marae as per the notified Plan Change. Okauia 2B1B is also already included in the proposed MPZ-PREC1 zoning around Te Omeka Marae (on the eastern side of the road). Mr Whaiapu would like to see Okauia 2E3B Block around Te Omeka Marae rezoned from Rural Zone to MPZ-PREC1. This land block is immediately north-west of the junction between State Highway 24 and State Highway 29 as shown in **Figure 4, Attachment C**.
105. Accepting Leo George Whaiapu's submission could raise fairness issues because the submission was broad in nature and did not expressly, or specifically, identify the Okauia 2E3B Block request to be re-zoned (i.e. by way of address or image depicting the location, so that other submitters could reasonably understand what was being sought). As a result, affected neighbouring landowners may not have had a reasonable opportunity to make further submissions on the proposal.
106. In addition, although the Okauia 2E3B Block is Māori land and is large enough so that Papakāinga could be developed as a Permitted activity (7.8ha), it does not directly adjoin the marae (one of the key criteria to be included in MPZ-PREC1). It also has several site constraints including:
- a river / stream and possible wetlands through the northern portion of the site
 - potential incompatibility issues with a stock effluent disposal and weighbridge located adjacent to the site (on the road reserve), and
 - possible traffic safety concerns given its proximity to the intersection between State Highway 24 and State Highway 29.

Recommendation

107. For the reasons explained in paragraphs 105 to 106 above, I recommend that Leo George Whaiapu's submission (50.1) is rejected. I note that up to five kāinga could be developed as a Permitted activity on the Okauia 2E3B Block under the District-Wide provisions.

Section 32AA Evaluation

108. No change to the provisions is recommended in response to submission 50.1. As such, no Section 32AA Evaluation is required.

6.2.2.3 Te Hanga Blocks, Kakahu Road

Table 7 Submission on Te Hanga Blocks

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
37.1	Te Hanga South Trust	District Wide Provisions	Amend	<ul style="list-style-type: none"> Trustees request that two specific land blocks be set aside in the District Plan under the District Wide provisions 	Accept in part insofar as the district wide provisions already apply

Analysis

109. Te Hanga South Trust (S37) requested that two specific land blocks on Kakahu Road (PT TE HANGA A8 BLK XII TAPAPA SD BLK II TAPAPA EAST SD and PT TE HANGA A9 BLKS XII XVI TAPAPA SD BLK II TAPAPA EAST SD) be set aside in the District Plan under the district wide provisions. Part Te Hanga A9 Block and Part Te Hanga A8 Block are Māori Freehold Land and the district wide papakāinga provisions would apply accordingly.

Recommendation

110. I recommend that S37.1 is accepted insofar as the District Wide provisions for Papakāinga already apply to the Part Te Hanga A9 Block and Part Te Hanga A8 Block. No amendments to the PC54 maps or provisions are necessary to achieve the relief sought.

Section 32AA evaluation

111. No change to the provisions or planning maps are recommended, therefore a Section 32AA evaluation is not required.

6.2.3 Key Theme 3: General Objectives (MPZ-O1 and Papakāinga-O1)

Table 8 Submissions on General Objectives

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
26.1	Waikato Regional Council	Objective MPZ-O1 Objective Papakāinga-O1	Amend	<ul style="list-style-type: none"> Amend objectives MPZ-O1 and Papakāinga-O1 to refer to other natural and physical resources 	Accept in part
54.1	Kāinga Ora	MPZ-O1	Amend	<ul style="list-style-type: none"> Amend MPZ-O1 to refer to papakāinga, marae and associated commercial activities 	Reject
54.29	Kāinga Ora	Papakāinga-O1	Amend	<ul style="list-style-type: none"> Amend Papakāinga-O1 to refer to papakāinga, marae and associated commercial activities 	Reject
54.2	Kāinga Ora	MPZ-O2	Support	<ul style="list-style-type: none"> Retain objective MPZ-O2 	Accept
54.30	Kāinga Ora	Papakāinga-O2	Support	<ul style="list-style-type: none"> Retain Papakāinga-O2 	Accept

Analysis

112. Waikato Regional Council (WRC) requested an amendment to MPZ-O1 and Papakāinga-O1 to include reference to other natural and physical resources:

*Enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land **and other natural and physical resources** and to enhance their social, economic and cultural wellbeing.*

113. WRC have not provided a clear rationale for this change in their submission however I note that matter of national importance s6(e) requires Council to recognise and provide for:

*the relationship of Māori and their culture and traditions with their ancestral lands, **water, sites, waahi tapu, and other taonga** (my emphasis added).*

114. I understand that Māori have strong spiritual bonds to the land, and regard land, soil and water as taonga (treasures). Māori are the kaitiaki

(guardians) of these taonga, which provide a source of unity and identity for tangata whenua (local people).

115. To recognise matauranga Māori (the unique Māori way of viewing the world), and achieve improved horizontal integration of Section 6(e) into the objectives, I consider that it would be appropriate to amend the objective to refer to “water, sites, wāhi tapu and other taonga”, in addition to ancestral lands.
116. Kāinga Ora also sought to amend Objective MPZ-O1 and Papakāinga-O1 requesting the addition of reference to “papakāinga, marae and associated commercial activities”:

*Enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land **through the establishment of papakāinga, marae and associated commercial activities so as and** to enhance their social, economic and cultural wellbeing.*

117. I do not support the change to wording requested by Kāinga Ora because it is worded like a policy in that the words set out the intended course of action, to enable Māori to maintain and enhance their relationship with their ancestral lands. The purpose of objectives is to set out the outcome. In addition, I consider that the proposed policies (in particular MPZ-P1) already provides the direction in terms of how objectives will be achieved:

To provide for marae and papakāinga on ancestral land, including residential activities, and ancillary social, cultural, economic, conservation and recreation activities.

118. Accepting Kāinga Ora’s suggested wording would create duplication which is not efficient.

Recommendation

119. For the reasons set out above, I recommend that:
 - Kāinga Ora’s submission 54.1 is rejected, and 54.2 is accepted, with MPZ-O1 and MPZ-O2 retained as notified (except MPZ-O1 as amended below)
 - WRC’s submission 26.1 is accepted in part, and objectives MPZ-O1 and Papakāinga-O1 are amended as follows:

*Enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral lands, **water, sites, waahi tapu, and other taonga** and to enhance their social, economic and cultural wellbeing.*

Section 32AA Evaluation

120. The changes to objectives MPZ-O1 and Papakāinga-O1 are appropriate to achieve alignment with S6(e) RMA and recognise that water, sites, waahi tapu and other taonga are important parts of environment with

which Māori have a relationship in addition to ancestral lands. The ability for tangata whenua to live close to these taonga enhances their social, economic and cultural wellbeing.

6.2.4 Key Theme 4: Management Structures and Whānau Ownership in Perpetuity

Summary of Submissions

Table 9 Submissions on Management Structures and Whānau ownership in perpetuity

1	Submitter	Provision	Position	Summary of Decision Requested	Officer recommendation
54.4	Kāinga Ora	MPZ-P2	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-P2 to support provision of papakāinga on all land, not just land in Māori title or where land is held in whānau ownership in perpetuity. 	Accept in part
54.20	Kāinga Ora	MPZ-PREC2-R(1)(b)(one kāinga per 500 m ² of site area)	Oppose	<ul style="list-style-type: none"> Delete MPZ-PREC2-R(1)(b) one kāinga per 500 m² site area in its entirety (and rely on MPZ-PREC2-R(1)(a) as requested to be amended by another submission point) 	Accept in part
54.37	Kāinga Ora	Papakāinga-P8	Oppose in part	<ul style="list-style-type: none"> Amend Papakāinga-P8 to delete reference to demonstrating the papakāinga will remain in whānau ownership in perpetuity 	Accept in part
54.53	Kāinga Ora	4.4.2	Oppose	<ul style="list-style-type: none"> Delete Performance Standards 4.4.2 	Accept in part
5.6	Te Puawaitanga o Ngāti Hinerangi	Policy Papakāinga-P2	Support in part	<ul style="list-style-type: none"> Amend Policy Papakāinga-P2(b) to include hapū and/or iwi ownership in perpetuity 	Accept in part
5.7	Te Puawaitanga o Ngāti Hinerangi	Part B 1.4.30(ii) Papakāinga	Oppose	<ul style="list-style-type: none"> Remove requirement 1.4.30(ii) Providing information on management structures for the papakāinga. 	Accept in part
54.39	Kāinga Ora	Part B 1.4.30(ii) Papakāinga	Oppose	<ul style="list-style-type: none"> Remove requirement 1.4.30(ii) providing information on management 	Accept in part

1	Submitter	Provision	Position	Summary of Decision Requested	Officer recommendation
				structures for papakāinga.	

Background and Context

121. Before evaluating the submissions received relating to management structures and whānau ownership in perpetuity, I have summarised the background and context of this issue for PC54.
122. PC54 introduced a Permitted activity rule for one kāinga per 500 m² of site area in MPZ-PREC2¹⁷ provided that the land has Māori Freehold land status or there is a legal mechanism in place to ensure the land will be maintained in Whānau ownership in perpetuity.
123. PC54 also introduced District-Wide provisions, which require resource consent (as a Discretionary activity¹⁸) for Papakāinga development (involving two or more residential units) on General Land owned by Māori or Treaty Settlement Land, where it can be demonstrated that:
- (a) The land is ancestral Māori land; and
 - (b) **The land will be maintained in whānau ownership in perpetuity** (my emphasis added); and
 - (c) The scale of the development is compatible with the character of the existing environment.
124. General Land owned by Māori is defined as: "*Land which is an estate in fee simple which is beneficially owned by a Māori or by a group of persons of whom a majority are Māori*"¹⁹
125. Treaty Settlement Land is defined in PC54 provisions, as:

Land that has been acquired by a post settlement governance entity through treaty settlement legislation.

Reference:

Raukawa Claims Settlement Act 2014

Ngāti Hauā Claims Settlement Act 2014

Ngāti Korokī Kahukura Settlements Act 2014

Ngāti Hinerangi Claims Settlement Act 2021

¹⁷ Rule MPZ-PREC2-R (1)(b)(One kāinga per 500 m² of site area)

¹⁹ Section 129, *Te Ture Whenua Māori Act 1993*.

Note: Does not include land returned through Right of First Refusal or Investment lands

126. The approach of demonstrating that Papakāinga will remain in whānau ownership in perpetuity is reflected in:
 - the district-wide and Māori Purpose Zone policy framework (policies Papakāinga-P2, Papakāinga-P8, MPZ-P2, MPZ-P8)
 - District-wide performance standards for Papakāinga²⁰ (4.4.2(1)) and subdivision of Papakāinga (6.3.13); and
 - assessment matters for Papakāinga (1.4.30) and subdivision of Papakāinga (6.3.13(g)).
127. Any application seeking consent for papakāinga on General Land owned by Māori, Treaty Settlement Land or land converted to Māori Freehold Land after 21 December 2022, which fails to demonstrate that the land is ancestral land or that the land will be maintained in whānau ownership in perpetuity defaults to a Non-Complying activity status, where the “gateway test”²¹ applies.
128. The assessment matters (as notified) for Papakāinga (1.4.30(i) and (ii)) also include:
 - (i) *How the papakāinga will be retained in whānau ownership in perpetuity.*
 - (ii) *Whether any management structure exists for the papakāinga and how this management will retain the quality and amenity of the existing environment.*
129. I understand that the key reason Council took this approach (to require that whānau land ownership in perpetuity is demonstrated by way of legal mechanisms) was because Council recognises that Māori land is a taonga which is handed from generation to generation, therefore it was considered appropriate that any future development enabled on General Land owned by Māori, Treaty Settlement Land or within MPZ-PREC2 should be for the benefit of the hapū/whānau that whakapapa to the land, and not sold outside of the whānau / hapū. Secondly it seeks to ensure the enabling Papakāinga provisions are not used perversely by private developers, non-Māori (e.g. rural subdivision), or others who do not have ancestral connections to the whenua.
130. The proposed approach, demonstrating appropriate mechanisms to secure long-term Māori ownership of the land title, is similar to the District-wide approach taken for Papakāinga provisions in District Plans

²⁰ On General Land owned by Māori, Treaty Settlement Land or land converted to Māori Freehold Land after plan notification date.

²¹ Section 104D of the RMA, where Council can only grant an application if the adverse effects of the activity on the environment will be minor or the activity will not be contrary to the objectives and policies of the relevant plan and any relevant proposed plan.

by other councils including Hastings District Council, Whangarei District Council, Kapiti Coast District Council and Porirua District Council.

131. The landowners essentially have the option to convert the land to Māori Freehold land or demonstrate that land will be held in perpetuity by legal mechanism, which becomes an encumbrance on the property title, that is acceptable to the Council.

Analysis of Submissions

132. Taking into account this background and context, Kāinga Ora (S54) has sought deletion of “a legal mechanism is in place to ensure the land will be held in whānau ownership in perpetuity” in the provisions referenced in paragraph 126 in its entirety. Kāinga Ora also seeks to amend policy MPZ-P2 for MPZ-PREC2 as follows:

To recognise existing papakāinga in the district and to enable further development of housing on these sites, ~~only~~ where there is a whakapapa connection between the owner of the land and the land, as determined by mana whenua hapū.

~~a) The land is and will continue to be Māori Freehold land in perpetuity; or~~

~~b) A legal mechanism is in place to ensure the land will be maintained in whānau ownership in perpetuity~~

133. Kāinga Ora (S54) has also raised concerns regarding the requirement to hold land in whānau ownership in perpetuity, because:

- this approach restricts Māori unnecessarily;
- land ownership structures are a Māori Land Court matter; and
- it is “not for Council to determine if and how land will be maintained in whānau ownership in perpetuity”.

134. Te Puawaitanga o Ngāti Hinerangi’s submission (S5) raised similar concerns, seeking to:

- Policy Papakāinga – P2 b) to include **hapū and/or iwi** ownership in perpetuity (not just whānau ownership in perpetuity).
- remove the requirement to provide information on management structures for papakāinga.

135. The reasons provided in Te Puawaitanga o Ngāti Hinerangi’s submission are that:

- The whānau can be considered a narrower term than that of hapū and iwi;
- the approach appears to extend beyond the scope of the RMA and Council’s role; and

- it undermines the ability of Māori to manage their papakāinga as culturally appropriate, by requiring another “stop gate”.

Recommendation – Ownership in Perpetuity

136. I consider that the general approach (demonstrating how land will remain in long-term Māori ownership) should remain. The key reasons that this approach was introduced is to ensure the land being developed for papakāinga remains in the ownership of those who whakapapa to the land which is appropriate to achieve the objectives of PC54. This approach was also supported by the IWG during development of the plan change provisions.
137. However, I agree that ‘whānau’ lacks certainty and may be interpreted narrowly (meaning immediate family members), creating uncertainty in scenarios where landowners are non-immediate family members or descendants of whānau (especially over time, as the number of landowners (descendants) increases). Further, limiting ownership to whānau does not recognise that Treaty Settlement Land is initially returned to the iwi authority (post-governance settlement entity) rather than individual whānau or hapū groups.

Recommendation – Management Structures

138. With respect to management structures, I acknowledge the points raised, however consider that management structures can be a useful method to maintain quality and amenity of the environment. Maintaining amenity and quality of the environment is a Council responsibility under the RMA.
139. Papakāinga on General land owned by Māori and Treaty Settlement Land requires resource consent as a Discretionary activity (which enables a case-by-case assessment of the proposal). The assessment matter 1.4.30(ii) signals to plan users that they can propose a management structure, as an appropriate tool to provide certainty to Council that the amenity and quality of the environment will be maintained. I consider the assessment matter is appropriate but could be amended to clarify the intent.

Recommendation

140. For the above reasons, I recommend that submissions 54.4, 54.20, 54.37, 54.53, 5.6, 5.7 and 54.39 are accepted in part. I recommend amendments to provisions (and consequential amendments for consistency), to
- Amend assessment matter 1.4.30 (ii) (provision of information on management structures) to clarify the intent.
 - Broaden the application from ‘whānau ownership in perpetuity’ to ‘iwi, hapū or whānau ownership in perpetuity’; and
141. Recommended amendments are shown in Table 10.

Table 10 Recommended Amendments

Provision	Recommended amendment
Policy Papakāinga-P2	<p>To provide for papakāinga on general land owned by Māori and Treaty Settlement Land, only where it can be demonstrated that:</p> <ul style="list-style-type: none"> a) The land is ancestral Māori land; and b) The land will <u>remain</u> be maintained in <u>either Iwi, hapū or whānau</u> ownership in perpetuity; and c) The scale of the development is compatible with the character of the existing environment.
Policy Papakāinga-P8	<p>Subdivision of papakāinga shall only occur where:</p> <ul style="list-style-type: none"> a) It can be demonstrated that the papakāinga will remain in <u>either Iwi, hapū or whānau</u> ownership in perpetuity; and b) The subdivision will not compromise the functionality of the papakāinga; and c) Infrastructure services are provided for each lot. Some of these services may be communal (for example: a shared wastewater system).
Performance Standard 4.4.2(1)	<p>Papakāinga on General Land owned by Māori, Treaty Settlement Land, or land converted to Māori Freehold Land after (date of plan notification), must comply with the following standards:</p> <p>The land must be ancestral Māori land; and</p> <p>An appropriate legal mechanism(s) must be in place to ensure that the land is maintained <u>remains</u> in <u>either iwi, hapū or whānau</u> ownership in perpetuity.</p> <p>Activities that fail to comply with Rule 4.4.2(1) will require resource consent for a Non-Complying activity.</p>
Assessment matters 1.4.30(i and ii) Papakāinga	<p>In assessing any resource consent application for Papakāinga, Council shall have regard to the following matters (in addition to those matters as required as part of the Papakāinga Development Plan). However, for Discretionary and Non-Complying activities, there is no limit or restriction on the matters or effects that may be assessed.</p> <ul style="list-style-type: none"> (i) How the papakāinga will be retained <u>remain</u> in <u>either iwi, hapū or whānau</u> ownership in perpetuity. (ii) <u>Any proposed</u> Whether any management structure exists for the papakāinga and how this management will retain to manage the quality and amenity of the existing environment.
Policy MPZ-P2	<p>For MPZ-PREC2-Papakāinga Rua</p> <p>To recognise existing papakāinga in the district and to enable further development of housing on these sites, only where:</p> <ul style="list-style-type: none"> (a) The land is and will continue to be Māori Freehold land in perpetuity; or (b) A legal mechanism is in place to ensure the land will be maintained <u>remain</u> in <u>either iwi, hapū or</u> whānau ownership in perpetuity.
Policy MPZ-P8	<p>Subdivision of papakāinga shall only occur where:</p> <ul style="list-style-type: none"> (a) It can be demonstrated that the papakāinga will remain in <u>iwi, hapū</u> or whānau ownership in perpetuity; and (b) The subdivision will not compromise the functionality of the papakāinga; and (c) Infrastructure services are provided for each lot. Some of these services may be communal (for example: a shared wastewater system).

Provision	Recommended amendment
6.3.13 (i) Subdivision of Papakāinga	Additional performance standards Subdivision of Papakāinga shall meet the following standards: (a) A mechanism must be put in place to ensure the lots remain in <u>iwi, hapū</u> <u>or</u> whānau ownership in perpetuity.
Rule MPZ- PREC2-R(1) (b) Permitted activities	Permitted activities within MPZ-PREC2: One kāinga per 500 m ² of site area This rule only applies for sites in MPZ-PREC2 that either: (i) Have Māori Freehold land status; or (ii) Have a legal mechanism in place to ensure the land will <u>be maintained</u> <u>remain</u> in <u>either iwi, hapū or</u> whānau ownership in perpetuity.

Section 32AA Evaluation

144. The Section 32AA evaluation for the deletion of Assessment Matter 1.4.30(ii) is contained within paragraph 138 above.
145. A Section 32AA evaluation for the proposed amendments to refer to 'iwi, hapū or whānau ownership' is provided below:

Effectiveness and efficiency

- The recommended approach is more effective and efficient than the proposed approach as it does not limit the enabling provisions to land owned by whānau in perpetuity, and broadens the application of the enabling provisions to land owned by hapū or iwi. It also improves usability of the plan by reducing ambiguity or uncertainty. The appropriateness of the changes is further set out in paragraph 129 above.

Costs/Benefits

- The benefits of the change are that the enabling provisions for papakāinga can be applied more broadly, as intended, which:
 - Recognises the commercial realities and barriers that Māori face to developing papakāinga (for example, greater flexibility for different land ownership models may improve the ability for Māori landowners to secure mortgages / funding).
 - enables Māori to achieve their aspirations.
 - assists with improving quality and affordability of housing for Māori, and associated improvements to economic, social and cultural wellbeing.
 - may reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

- The benefits are that the amendments are more likely to achieve the objectives to:
 - enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land and to enhance their social, economic and cultural wellbeing (Papakāinga-O1), and
 - enable settlement patterns, activities and development in accordance with kaupapa Māori and tikanga (Papakāinga-O2).
- There are few costs associated with the change. Potential adverse effects on character or amenity for neighbours of Papakāinga as a result of enabling provisions are limited given that the uptake for papakāinga is constrained by several other barriers, and the intensity and scale of papakāinga will be determined by the servicing capacity of the land and performance standards. In addition, the benefits of the more enabling provisions outweighs the risks and costs.

Risks of acting or not acting

- The risks of accepting the recommended amendments are low because:
 - The general intent of the provisions remains the same.
 - Papakāinga on General land owned by Māori and Treaty Settlement Land requires resource consent as a Discretionary activity (which enables a case-by-case assessment of the proposal).

Decision about the most appropriate option

- The recommended amendments are considered to be more appropriate in achieving the purpose of the RMA (in particular matter of importance 6(e)), and the District Plan objectives than the notified version of PC54.

6.2.5 Key Theme 5: Subdivision of Land Occupied by Papakāinga

Table 11 Submissions on Subdivision of land occupied by Papakāinga

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.8	Kāinga Ora	MPZ-P8	Oppose in part	<ul style="list-style-type: none"> • Amend MPZ-P8 to delete reference to demonstrating the papakāinga will remain in whānau ownership in perpetuity 	Accept in part (insofar as the policy is recommended to be amended to refer to iwi, hapū or whānau ownership in perpetuity – see Key Theme 4).

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.56	Kāinga Ora	6.3.13(i) Subdivision of Papakāinga	Oppose	<ul style="list-style-type: none"> Delete 6.3.13(i) in its entirety²² 	Reject
54.57	Kāinga Ora	6.3.13(ii) Subdivision of Papakāinga	Oppose in part	<ul style="list-style-type: none"> Amend Assessment Criteria 6.3.13(ii) 	Reject
54.55	Kāinga Ora	Types of Subdivision – 9 Subdivision of Papakāinga	Oppose	<ul style="list-style-type: none"> Amend the activity status for subdivision in the Rural, Rural Residential, Business, and Māori Purpose zones to Restricted Discretionary 	Reject
5.13	Te Puawaitanga o Ngāti Hinerangi	Part B 6 Subdivision	Amend	<ul style="list-style-type: none"> Amend Subdivision rules for Papakāinga from Discretionary to Restricted Discretionary 	Reject
54.57	Kāinga Ora	6.3.13(ii) Subdivision of Papakāinga	Oppose in part	<ul style="list-style-type: none"> Amend Assessment Criteria 6.3.13(ii) 	Reject

Analysis

146. Te Puawaitanga o Ngāti Hinerangi's (5.13) and Kāinga Ora's (S54.55) submissions considered the subdivision rules for papakāinga too onerous and questioned why the activity status is higher than other zones. Both sought to amend the activity status for subdivision in the Rural, Rural Residential, Business, and Māori Purpose zones to restricted discretionary.
147. Unlike for subdivision for other purposes in the zones, there are no minimum lot sizes set for papakāinga subdivision. Given the different potential configuration of a papakāinga development and associated subdivision lot design and layout, it is difficult to set a minimum lot size. A Discretionary activity status is considered appropriate, to allow assessment of the appropriateness of the lot design, layout and sizes in the context of the particular papakāinga proposed. In addition, a Papakāinga would be considered against the objectives and policies supporting papakāinga.
148. Kāinga Ora also requested the deletion of Rule 6.3.13 and associated assessment criteria as they consider that it is unnecessarily restrictive.

²² Note submission refers to Rule 4.4.2 but it is assumed that Kāinga Ora opposes Rule 6.3.13(i).

Rule 6.3.13 requires that subdivision of Papakāinga meets the following standards:

- (a) *A legal mechanism must be put in place to ensure the lots remain in whānau ownership in perpetuity.*
- (b) *The Record of Title for the allotment to be subdivided must have been issued prior to (date of plan notification).*
- (c) *The subdivision shall be in accordance with a Papakāinga Development Plan.*

149. Subdivision failing to comply with one or more of the above requires resource consent for a Non-Complying activity.

150. Any application for subdivision of land occupied by papakāinga would need to consider the policy context, including Policy Papakāinga-P8 which directs that subdivision of Papakāinga shall only occur where:

- (a) *It can be demonstrated that the papakāinga will remain in whānau ownership in perpetuity; and*
- (b) *The subdivision will not compromise the functionality of the papakāinga; and*
- (c) *Infrastructure services are provided for each lot. Some of these services may be communal (for example: a shared wastewater system)*

151. Kāinga Ora supports papakāinga on all land and not just on land in Māori title or where there is a requirement to hold land in whānau ownership in perpetuity. Kāinga Ora considers that the proposed approach restricts Māori unnecessarily.

152. The key reasons that Council adopted the proposed approach are explained in Key Theme 4 (specifically paragraph 129 above).

153. I have discussed this matter with Maria Graham, Principal Liaison Officer, Māori Land Court. Based on these discussions, I do not agree that the proposed approach to subdivision of Papakāinga is unnecessarily restrictive, for the following key reasons:

- Subdivision of a Papakāinga under the District Plan and RMA would only occur on General land owned by Māori or Treaty Settlement land (returned as general title). Partitioning (i.e. subdividing) of Māori freehold land is managed by the TTWMA.
- The Māori Land Court advised that barriers to finance are primarily on Māori freehold land subject to the Te Ture Whenua Māori Act (TTWMA) 1993 alienation provisions²³.

²³ Refer to definition of 'alienation' in TTWMA 1993.

- The types of entities captured by the policy setting for subdivision of Papakāinga would include Post-Governance Settlement entities, and Māori Land Court structures such as Māori Incorporations, Whenua Tōpū Trusts, Ahu Whenua Trusts and Whānau Trusts.
- There are several ways that the requirement to maintain the Papakāinga in Māori ownership can be achieved. Council would use a Consent Notice (Section 221 of the RMA) to ensure Māori ownership in perpetuity, which could also be supported by the following mechanisms:
 - If land is vested in a management structure, the structure could demonstrate the ownership in perpetuity requirement via the landowners “rules document” or their papakāinga plan; and/or
 - Sale and purchase agreements, see for example the model used at Te Pautē Papakāinga, near Pohara Marae, Maungatautari where the on selling of whānau owned individual dwelling sites, is restricted to other beneficiaries, with a right of refusal to the Ngāti Korokī Kahukua Trust (PSGE)²⁴.

154. Enabling the development of papakāinga on ancestral land held in long-term Māori ownership is likely to increase the security of tenure for tangata whenua within their communities.
155. Based on the above, the above approach is not unreasonable, nor does it place a significant burden on Māori landowners who wish to subdivide a proposed Papakāinga on General land owned by Māori, or Treaty Settlement Land. There are several different ways that this requirement can be achieved.
156. Kāinga Ora also sought several amendments to the assessment criteria for subdivision of papakāinga (6.3.13(ii)) to delete several criteria as set out below. Kāinga Ora considers that the assessment matters are unnecessarily restrictive and do not consider planned built form or change to the environment.

ii. Assessment Criteria

In assessing an application for subdivision of papakāinga, Council shall take into account the following in addition to the general assessment criteria under Section 1.4 of the District Plan:

²⁴ 11 individual lots created, one lot for each whānau, with shared communal space. Iwi retain a lifetime interest in every house and land package, through a distinctive covenant model designed and owned by the iwi and accepted by Westpac who mortgaged to each whānau at competitive interest rates.

- a) *How the lots will be serviced with three waters infrastructure, electricity and telecommunications;*
- b) *Access arrangements;*
- c) ~~*Location of communal areas;*~~
- d) *The location of any archaeological site, heritage site or waahi tapu site;*
- e) ~~*The nature and context of surrounding land use and built form;*~~
- f) ~~*Any input, advice or consents for wastewater disposal and treatment provided by the Waikato Regional Council;*~~
- g) ~~*How the development will function and be retained as a papakāinga in perpetuity*~~

157. I consider that the assessment matters, as notified, are relevant and reasonable to assess for a proposed subdivision of a papakāinga, especially within a rural context to ensure the suitability and appropriateness of the land arrangement and ownership. Therefore, no change is recommended to the matters of discretion.

Recommendation

158. For the above reasons I recommend that Kāinga Ora's submission points listed in Table 6 are rejected²⁵ and the provisions for subdivision of Papakāinga are retained as notified (with the exception of reference to 'iwi, hapū or whānau ownership in perpetuity' (as explained under Key Theme 4).

Section 32AA Evaluation

159. No Section 32AA Evaluation is required because no changes to the provisions are recommended.

6.2.6 Key Theme 6: Broader Application of Papakāinga Enabling Provisions

160. Several submissions sought that the application of the Māori Purpose Zone and/or District-Wide papakāinga provisions are expanded to apply to other land. The submissions addressed in this key issue fall into two key groups:

- Those seeking that papakāinga provisions allowing for further development for all to apply to all land (not just land owned by Māori);

²⁵ With the exception of 54.8 insofar as the policy is recommended to be amended to refer to iwi, hapu or whānau ownership in perpetuity – see Key Theme 4.

- Those seeking to apply Māori Purpose Zone provisions district wide and/or to general land owned by Māori district wide; and

161. Each key group is addressed in turn below.

6.2.6.1 Papakāinga development ability on all land

Table 12 Submissions seeking Papakāinga development ability on all land

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
2.1	Rachel and Norm Salisbury	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Decline the Plan Change • Opposed to development in Douglas Road area • Allowance must be made for all parties to be able to develop their land. Change the rural zoning for all parties in the area. 	Reject
29.1	Margaret Osbourne	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Decline the Plan Change • Provisions should apply to all land owners 	Reject
47.4	Carolyn Nimmo	Entire Plan Change	Neutral	<ul style="list-style-type: none"> • No amendment requested, but hopes future plan changes and planning rules allow close-proximity/communal housing in urban and rural-residential zones, such as new models of co-housing that support elderly, disabled, and different cultures 	Reject
52.1	Karen Chandler	Entire Plan Change	Amend	<ul style="list-style-type: none"> • Add allowance for other land owners to add dwellings to land for family in addition to 50 m² for Dependent Living. 	Reject
42.3	Sacha Capeling and Dayne Hazelden	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Decline the Plan Change • The proposed zoning provisions should be made available to all 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				groups on freehold land	

Analysis

162. Rachel and Norm Salisbury (S2), Margaret Osbourne (S29), and Sacha Capeling and Dayne Hazelden (S42) expressed the view that allowance should be made for all landowners to develop their land. Karen Chandler (S52) requested allowance be made for other landowners to add dwellings to land for family in addition to what is already provided for in the District Plan. Carolyn Nimmo (S47) expressed a hope that future plan changes would allow communal housing in urban and rural-residential zones.
163. I acknowledge the points raised by submitters. However, Council must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, as a matter of national importance (s6(e)) under the Resource Management Act 1991.
164. The purpose of PC54 is to enable papakāinga, primarily to “Enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land and to enhance their social, economic and cultural wellbeing” (Papakāinga Objective 1 of PC54).
165. The amendments requested by these submitters are considered to be outside the scope of PC54. To apply the same enabling provisions to all land or rural land would not relate to the objective of enabling Māori to maintain and enhance their traditional and cultural relationship with their ancestral land and to enhance their social, economic and cultural wellbeing. It would also result in the provision for much greater development potential than some rural areas have the capacity to accommodate, particularly in terms of three waters servicing, transport infrastructure, and rural character and amenity. This outcome (enabling provisions being applied to all land, not just land owned by Māori) would compromise the outcomes sought for the Rural Zones within Matamata-Piako District, including:
- Ensuring that the productive capability of land is not compromised (Objective 3.3.2(O2)); and
 - Preventing inappropriate fragmentation of rural land titles (Objective 3.3.2(O3)).

Recommendation

166. I recommend that, for the above reasons, submissions listed in Table 12 are rejected. No changes to the provisions are recommended to address these submissions.

Section 32AA Evaluation

167. No changes to the provisions are recommended as a result, a Section 32AA evaluation is not required.

6.2.6.2 Apply enabling Māori Purpose Zone provisions district wide and/or to general land owned by Māori

Table 13 Submissions seeking to apply Māori Purpose Zone Provisions on a District Wide basis

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
4.4	Ngāti Hauā Iwi Trust	District Wide Provisions	Amend	<ul style="list-style-type: none"> Extend the MPZ provisions to the District Wide provisions where there are ancestral connections and legal mechanisms for perpetuity of Māori ownership 	Reject
5.3	Te Puawaitanga o Ngāti Hinerangi	Zoning	Amend	<ul style="list-style-type: none"> Extend MPZ to cover more Māori Freehold Land 	Reject
9.2	Shannon Clarke	District Wide Provisions	Amend	<ul style="list-style-type: none"> Request that General Land owned by Māori be treated the same as Papakāinga Tahi 	Reject
11.2	Robyn Roa	District Wide Provisions	Amend	<ul style="list-style-type: none"> Request that General Land owned by Māori be treated the same as Papakāinga Tahi 	Reject
13.1	Lea Thompson	District Wide Provisions	Amend	<ul style="list-style-type: none"> Request the Māori Purpose Zone provisions be applied to district wide provisions 	Reject
20.1	Tahauariki Tauwhiti Thompson	District Wide Provisions	Amend	<ul style="list-style-type: none"> Request that General Land owned by Māori be treated the same as Papakāinga Tahi 	Reject
44.1	Rev Henare Waaka	District Wide Provisions	Amend	<ul style="list-style-type: none"> Request General Land owned by Māori be treated exactly the same as Papakāinga Tahi 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
37.1	Te Hanga South Trust	District Wide Provisions	Amend	<ul style="list-style-type: none"> Trustees request that two specific land blocks be set aside in the District Plan under the District Wide provisions 	Accept in part insofar as the district wide provisions already apply
54.60	Kāinga Ora	Definition of Papakāinga	Oppose	<ul style="list-style-type: none"> Replace the definition of Papakāinga with a definition that allows for papakāinga on general title land and where there is no requirement to prove whakapapa to that land, as follows: <i><u>A development by tangata whenua established to be occupied by tangata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental, and economic wellbeing of tangata whenua.</u></i> 	Reject
54.40	Kāinga Ora	6.1 Papakāinga	Oppose in part	<ul style="list-style-type: none"> Amend Section 6 to provide for Papakāinga on general title land as well as Māori Freehold Land and Treaty Settlement Land. 	Reject
54.33	Kāinga Ora	Papakāinga-P2	Oppose	<ul style="list-style-type: none"> Delete Policy Papakāinga-P2 	Reject
54.28	Kāinga Ora	MPZ Principal Reasons	Oppose	<ul style="list-style-type: none"> Delete MPZ-PR3 	Reject
54.47	Kāinga Ora	6.2	Oppose	<ul style="list-style-type: none"> Delete Section 6.2 	Reject
54.53	Kāinga Ora	4.4.2	Oppose	<ul style="list-style-type: none"> Delete Performance Standards 4.4.2 	Reject

Analysis

168. Te Puawaitanga o Ngāti Hinerangi (S5) sought to extend the Māori Purpose Zone to cover more Māori Freehold Land. The submission notes that only 2% of the Matamata-Piako District is in Māori Freehold ownership and to restrict development further because neighbours are not used to it is not a justifiable reason. The submission states that where possible, Te Puawaitanga o Ngāti Hinerangi supports the inclusion of any/all Māori Freehold Land in the district.
169. Ngāti Hauā Iwi Trust (S4) and Lea Thompson (S13) sought that the enabling provisions in the Māori Purpose Zones be applied to district wide provisions where there are ancestral connections and legal mechanisms for perpetuity of Māori ownership.
170. Shannon Clarke (S9), Robyn Roa (S11), Tahauriki Tauwhiti Thompson (S20), and Rev Henare Waaka (S44) sought that General Land owned by Māori be treated the same as the MPZ-PREC1.
171. Kāinga Ora's submission (S54) sought to allow for papakāinga and associated activities as a Permitted activity on both Māori Land and General Title Land. The submission supports the provision of papakāinga and associated activities on all land and not just land in Māori title or where there is a requirement to hold land in whānau ownership in perpetuity. Similar to Kāinga Ora's position explained in paragraphs 132 and 133 (Key Theme 4), Kāinga Ora considers that the proposed approach restricts Māori unnecessarily and seeks that the PC54 provisions are broadened to apply to all land owned by Māori. Kāinga Ora has sought several changes to PC54 to give effect to this position including to definitions, policies, rules, and principal reasons.
172. The approach in PC54 is set out in district-wide Policies Papakāinga-P1 and Papakāinga-P2 and for MPZ-PREC1 in Policy MPZ-P2. Essentially the approach for District-Wide provisions is to provide for papakāinga on Māori Freehold Land and on general land owned by Māori and Treaty Settlement Land only where:
 - The land is ancestral Māori land; and
 - The land will be maintained in whānau ownership in perpetuity; and
 - The scale of the development is compatible with the character of the existing environment.
173. In response to Kāinga Ora's submission points, the reasons for applying the provisions to land that will remain in Māori ownership in perpetuity are explained in detail in Key Theme 4 above.
174. In response to Te Puawaitanga o Ngāti Hinerangi (S5), Ngāti Hauā Iwi Trust (S4) and Lea Thompson (S13), the Plan Change does seek to enable papakāinga development on Māori Freehold Land through the inclusion of the district wide rules for papakāinga. These provide for one residential unit per 1 hectare (10,000 m²), up to a maximum of five residential units, on Māori Freehold Land in the Rural and Rural-Residential zones as a Permitted activity, subject to standards (refer to Table 2).

175. In response to Kāinga Ora (S54), Shannon Clarke (S9), Robyn Roa (S11), Tahauariki Tauwhiti Thompson (S20) and Rev Henare Waaka (S44), the MPZ-PREC1 provisions allow for a greater level of development as a Permitted activity than the district wide papakāinga provisions in the Rural and Rural-Residential zones. In the MPZ-PREC1 one residential unit per 5000 m² of site area, up to a maximum of 10 residential units is a Permitted activity. Marae and home businesses are also provided for as a Permitted activity in MPZ-PREC1. The provisions for papakāinga on General Land owned by Māori, Treaty Settlement Land, or land converted to Māori Freehold Land after the date of the plan change notification are less enabling. Two or more residential units per site require a Discretionary activity resource consent in the Rural and Rural-Residential zones.
176. The effects of the plan change on infrastructure, including roading, have been based on a level of development enabled by a Permitted activity status on land that is currently Māori Freehold Land. To enable larger-scale development as a Permitted activity could adversely affect rural character, and could place significant pressure on infrastructure in this rural environment.
177. General land owned by Māori is also not excluded from the requirements of the NPS-HPL and a resource consent process is required to allow Council to consider the effects of development on highly productive land and consistency with the NPS-HPL. Requiring development to be subject to a resource consent process, which would allow for consideration of whether there is an ancestral connection to the land (Policy Papakāinga-P2) and an assessment of the effects of the development, including on infrastructure, rural character and amenity, and effects on highly productive land, is therefore considered appropriate.

Recommendation

178. For the reasons explained in paragraphs 172 - 177, I recommend that the submissions referred to in Table 13 above are rejected, and no changes to the provisions are made.

Section 32AA Evaluation

179. No changes to the provisions are recommended, therefore a Section 32AA evaluation is not necessary.

6.2.7 Key Theme 7: Highly Productive Land

Table 14 Submission on Highly Productive Land

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
25.4	John and Irene Harris	Entire Plan Change	Amend	<ul style="list-style-type: none"> Requested consideration be given to the effects 	Accept in part, insofar as consideration has been given to

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				of development on Class 1 soils	development on Class 1 soils.

Analysis

180. The submission by John and Irene Harris (S25.4) requested consideration be given to the effects of development on Class 1 soils. It is recognised that PC54 enables papakāinga development on Class 1 soils. A high portion of the Matamata-Piako District contains LUC Class 1, 2 and 3 land ("highly productive land"). Council officers considered the implications of the Papakāinga provisions on LUC Class 1 land and highly productive land generally, during preparation of the PC54 provisions. The effects on the plan change on LUC Class 1 land are not expected to be significant because:

- Any activity that is currently permitted within the Rural Zone will continue to be permitted. This recognises that many of these areas will continue to be used for farming, which will maintain the value of high-class soils.
- Much of the District's land is not held in Māori land ownership (only 2% being Māori Freehold land).
- Māori face several barriers with respect to development of Papakāinga (separate to the District Plan) which influences the uptake in papakāinga development²⁶.
- Where areas are developed with papakāinga, these areas will be localised areas, expected to be mostly clustered around existing marae, and relatively small in the context of the overall soil resource. For example, the MPZ-PREC1 zoned land includes a total of 49 Māori freehold land sites, surrounding 13 marae (refer to Table 26 for theoretical development yield for these MPZ-PREC1 sites).
- Consideration has been given to the NPS-HPL (refer to Section 5.1.1.1). Given the exclusions for specified Māori Land, PC54 is not inconsistent with the NPS-HPL. In addition, PC54 requires resource consent as a Discretionary activity for papakāinga on General land owned by Māori and Treaty Settlement Land (returned as general land) within the Rural Zone and Rural Residential zones²⁷. Any resource consent for Papakāinga on "highly productive land" requires an assessment against the NPS-HPL, including of effects on the value of highly productive land.

Recommendation

²⁶ Several of these barriers are explained in the [PC54 Issues and Options Paper](#).

²⁷ General land owned by Māori and Treaty Settlement Land (returned as general land) does not fall under the specified Māori land exemptions of the NPS-HPL (refer Section 5.1.1.1)

181. For the above reasons, it is recommended the submission point S25.4 is accepted in part, insofar as consideration has been given to effects on LUC Class 1 land during preparation of the PC54 provisions.

Section 32AA Evaluation

182. No change to the provisions is recommended, therefore no Section 32AA evaluation is required.

6.2.8 Key Theme 8: Rural Character and Amenity

Summary of Submissions

Table 15 Submissions on Rural Character and Amenity

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Recommendation
2.2, 2.6, 2.7	Rachel and Norm Salisbury	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Concerns raised in relation to Douglas Road area: <ul style="list-style-type: none"> Potential impacts on property values Existing housing standards and crime Dog control and stock safety 	Reject
FS1	Charlotte Cross	Entire Plan Change	FS on S2 Oppose ²⁸	<ul style="list-style-type: none"> Decision sought from Council is "allowed in whole" Raises concerns about a range of issues including relating to amenity, traffic and parking, rubbish, maintenance, fencing, rural aspect and lifestyle 	Reject
7.1	Sam and Leah O'Connor	Entire Plan Change	Support	<ul style="list-style-type: none"> Support Plan Change but have concerns relating to potential negative impact on neighbouring properties of potentially large scale development, including on property values. 	Reject

²⁸ Note, although the submission states 'oppose', from the content of the further submission it appears the submitter opposes the plan change rather than the original submission.

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Recommendation
17.2, 17.3, 17.5, 17.8, 17.9	Grant and Annette Cranfield	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Raises concerns relating to: <ul style="list-style-type: none"> Rubbish disposal Maintenance concerns regarding fencing, lawns and gates Noise and disturbance from dwellings Loss of rural character 	Reject
19.1, 19.2	McRae	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Raises concerns with the amount of housing and buildings diminishing the rural aspect and quality of rural life 	Reject
24.1, 24.2	Richard and Ariana Pirrit	MPZ-PREC1, MPZ-PREC2 (Rukumoana Road)	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Raises concerns with Papakāinga Tahi due to an increase in housing density in comparison to rural zoning Raises concerns regarding Papakāinga Rua – related to Rukumoana Road: <ul style="list-style-type: none"> Noise Visual effects <p>Existing issues with:</p> <ul style="list-style-type: none"> Crime Dogs attacking stock Rubbish disposal 	Reject
33.4	Brandon Dromgool and Lyndsay Oldham	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Raises concerns relating to devaluing of the submitters' property and impact on amenity value 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Recommendation
				<ul style="list-style-type: none"> Requests to be involved as a directly affected stakeholder to ensure all reasonable steps to mitigate impacts on the submitters' property 	
42.1	Sacha Capeling and Dayne Hazelden	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Raises concerns with development in the paddock surrounding the submitters' home, including impact on Kaimai views and rural setting. 	Reject
41.1	Brad Hutton	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change 	Reject

Analysis

183. Several submissions raised concerns regarding matters relating to amenity and rural character, some in relation to a specific location and some more generally.
184. The potential for new papakāinga development to change the character and amenity of the Rural Zone is acknowledged and is identified as a key resource management issue in the Section 32 Report. Performance standards, including setbacks, height limits, fence height, and building coverage will help to minimise these effects. Objectives and policies also guide decision makers to consider character and amenity through the resource consent process. Key objectives and policies in this respect are MPZ-O3, MPZ-P3, Papakāinga-O3, and Papakāinga-P3.
185. In relation to the management of rubbish on site, the sites in MPZ-PREC2 are currently serviced by Council's rubbish collection contractor. Other areas are generally not serviced by rubbish collection. Permitted activity standards require solid waste service areas to be provided. For MPZ-PREC1 and for papakāinga district-wide the service area is to be screened from a public road or public place and set back 10 m from the boundary of another property²⁹. Rule MPZ-PREC2-R(5)(f)(solid waste) also requires a service area that is screened from a public road or other public place.
186. These provisions will ensure sufficient space is provided for rubbish to be managed on site prior to disposal and that this will be screened from view

²⁹ Required by Rule MPZ-PREC1-R(5)(f)(solid waste) for MPZ-PREC1 and Rule 4.4.1(4) in the district-wide provisions.

and set back from the boundary in areas where there is sufficient space to achieve this.

187. The existing provisions of the Operative District Plan relating to lighting and noise will apply to papakāinga. Rule 5.2.6 sets noise limits for the Rural and Rural-Residential Zones and is proposed to be amended to apply the same limits to the Māori Purpose Zone. There is also a general duty in Section 16 of the RMA to avoid unreasonable noise.
188. Animal management, including dog control, is a matter that sits outside the District Plan and therefore no provisions are proposed to address this. Likewise, issues with crime and law enforcement are matters that sit with Police and are not managed by the District Plan.
189. Some submitters raised concerns regarding the impact of potential development on their property value. The relevance of effects on property values was considered in the case of *Tram Lease v Auckland Transport* [2015] NZ EnvC 137 where the Court noted that effects on property values were not generally a relevant consideration (under the Resource Management Act 1991) and that diminution of property values will generally simply be found to be a measure of adverse effects on amenity values.
190. Council must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, as a matter of national importance (s6(e)) under the Resource Management Act 1991.
191. PC54 implements the above matter of national importance by enabling papakāinga development as a Permitted activity within the Māori Purpose Zone and district-wide on Māori Freehold Land. It requires Permitted activities to meet standards which will minimise potential effects on rural character and amenity, including maximum density, bulk and location standards, and setbacks from boundaries (see Table 1 and Section 4.1 of this Report). Papakāinga development will otherwise require a resource consent process enabling consideration of a range of matters, and objectives and policies would guide decision makers to consider amenity. This approach achieves the objective of enabling Māori to maintain and enhance their traditional and cultural relationship with their and ancestral land and enhance their social, economic and cultural wellbeing, in a manner that does not unduly compromise rural character and amenity.

Recommendations

192. I recommend that the submissions listed in Table 15 are rejected. No amendments to the provisions are recommended in response to the submission points.

Section 32AA evaluation

193. No change to the provisions or planning maps is recommended, therefore a Section 32AA evaluation is not required.

6.2.9 Key Theme 9: Reverse Sensitivity and “Planned Rural Character”

Table 16 Submissions on Reverse Sensitivity and Planned Rural Character

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.3	Kāinga Ora	MPZ-O3	Amend	Amend MPZ-O3 to refer to the planned environment and delete reference to reverse sensitivity effects	Reject
54.5	Kāinga Ora	MPZ-P3	Amend	Amend MPZ-P3 to refer to the planned environment rather than the character of the particular zone	Reject
54.6	Kāinga Ora	MPZ-P4	Amend	Amend MPZ-P4 to delete reference to the functioning of legitimate land uses on adjacent sites	Reject
54.31	Kāinga Ora	Papakāinga-O3	Amend	Amend Papakāinga-O3 to refer to the planned environment and delete reference to reverse sensitivity effects	Reject
54.34	Kāinga Ora	Papakāinga-P3	Amend	Amend Papakāinga-P3 to refer to the planned environment rather than the character of the particular zone	Reject
54.35	Kāinga Ora	Papakāinga-P4	Amend	Amend Papakāinga-P4 to delete reference to the functioning of legitimate land uses on adjacent sites	Reject

Analysis - Reverse Sensitivity

194. Kāinga Ora sought to amend objectives MPZ-O3 and Papakāinga-O3 to refer to the planned environment and delete reference to reverse sensitivity effects.
195. With respect to reverse sensitivity, Kāinga Ora’s submission raised concerns that the objectives protecting primary production activities from reverse sensitivity effects may place an undue responsibility on the receiving environment to mitigate adverse effects.
196. The objectives (MPZ-O3 and Papakāinga-O3) recognise that there are lawfully established rural activities that should be able to continue. It is

unreasonable to expect that these activities must adjust their operations to accommodate the establishment of new sensitive activities. The objective is consistent with Objective 3.12(g) of the Waikato Regional Policy Statement, which requires built development to occur in a way that minimises land use conflicts, including the potential for reverse sensitivity. The Plan Change proposes a larger side and rear yard requirement of 20 m as a method to achieve the objective. Therefore, no change is recommended.

197. Kāinga Ora's submission raised concern that protecting primary production activities from reverse sensitivity effects may place an undue responsibility on the receiving environment to mitigate adverse effects. The submission sought the following amendment to Policy MPZ-P4 and Papakāinga-P4³⁰:

Papakāinga (including non-residential activities) shall be of a scale that does not adversely affect:

~~(a)~~ *The safe and efficient operation and functioning of the surrounding transport network; and*

~~(b) The functioning of legitimate land uses on adjacent sites.~~

198. For the same reasons as above, it is considered that minimising land use conflicts through protecting existing lawfully established activities from reverse sensitivity effects is appropriate. No change to MPZ-P4 or Papakāinga-P4 is recommended.

Analysis - Planned Rural Character

199. Kāinga Ora made several submissions seeking reference to the "planned environment" or "planned rural character" throughout objective and policies. Specifically, Kāinga Ora's submission sought to amend MPZ-O3 to refer to the planned environment, and amend Policy MPZ-P3 to refer to the planned character rather than the character of the particular zone, with the following wording requested for Policy MPZ-P3:

Manage the bulk and location of buildings and structures on the planned rural character and amenity of adjoining properties.

200. The notified version of Policy MPZ-P3 reads:

To maintain the amenity of adjoining properties by controlling the bulk and location of buildings and structures at the interface of the zone.

201. I consider that the wording of the notified policy MPZ-P3 more clearly articulates the outcome to be achieved (maintaining amenity of adjoining properties), how (controlling the bulk and location of buildings and structures) and where (at the interface of the zone).

³⁰ Although the submission states this relief under MPZ-P7 it appears to relate to MPZ-P4.

202. In addition, the “planned rural character” within the Matamata-Piako District is not vastly different to the existing rural context and character. All of the MPZ “clusters” are located within rural contexts, surrounded by predominantly farming activities, which is unlikely to change. Therefore, reference to the “planned rural character” within the objective and policy framework is not appropriate as it signals the characteristics of the rural environment are anticipated to change, which is not the case.

Recommendation

203. For the above reasons, I recommend that Kāinga Ora’s submission points listed in Table 16 are rejected, and the objectives and policies (MPZ-O3, MPZ-P3, MPZ-P4, Papakāinga-O3, Papakāinga-P3, Papakāinga-P4) are retained as notified.

Section 32AA Evaluation

204. No Section 32AA Evaluation is required because no changes to the provisions are recommended.

6.2.10 Key Theme 10: Infrastructure Services and Rates

Overview

Table 17 Submissions on Services and Rates

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
2.4	Rachel and Norm Salisbury	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Concerns raised about lack of servicing in the Douglas Road area including no rubbish, water, or sewerage provided by Council and limited cellular coverage and poor ADSL internet. Concern further development will put strain on existing networks 	Reject
17.4	Grant and Annette Cranfield	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Concerns raised about who is able to access the sewage lines 	Reject
25.2	John and Irene Harris	Entire Plan Change	Amend	<ul style="list-style-type: none"> Requested evidence papakāinga development will meet its fair share of capital and operating costs, especially around water services, roading and refuse 	Accept in part
28.1	Thomas Bougher	Entire Plan Change	Amend	<ul style="list-style-type: none"> Questions whether the increase in number of houses will result in increase 	Accept in part

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				in rates revenue, given need to maintain roads with increased traffic	
33.3	Brandon Dromgool and Lyndsay Oldham	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Objects to the Plan Change • Notes lack of reticulated wastewater and water supply and that houses would need a water tank and septic tank, both undergoing regular servicing 	Reject
48.1	Muna Wharawhara	Entire Plan Change	Support	<ul style="list-style-type: none"> • The information omits Councils contribution to infrastructure. 	Reject

Analysis

205. Several submitters raised concerns about the limitations of servicing, including the lack of reticulated water and wastewater.
206. Many of the areas subject to PC54 are located rurally and therefore have limited infrastructure servicing. Therefore, new development will need to provide on-site services for stormwater, wastewater, and water. However, the sites located within MPZ-PREC2 are connected to Council services and it is understood from the Council's infrastructure team there is capacity within these services to provide for additional housing a(for the intended density as a permitted activity). Sites within MPZ-PREC1 will need to enquire with Council as to what servicing may be available.
207. For Permitted activities, Papakāinga Development Plans (required for development of two or more kāinga) are required to show how the development will be serviced with three waters infrastructure, electricity and telecommunications. Permitted activity standards also require the provision of solid waste storage areas (refer to Table 1 and Table 2 of this Report for standards).
208. Where a resource consent is required, policies (MPZ-P5, MPZ-P8, Papakāinga-P5, and Papakāinga-P8) require consideration of provision for infrastructure.
209. Some of the submissions raise concerns relating to funding of services and rates. These submission points relating to rates are outside the scope of PC54. Papakāinga development (even if a Permitted activity in the District Plan) will be subject to Council's Development Contributions Policy. Under the current Development Contributions Policy, papakāinga are subject to a "special assessment", during which Council would consider, as a starting point, the development contributions for a residential unit in the appropriate location and existing services. Papakāinga development will contribute financially to the costs of providing additional infrastructure to support papakāinga development.

210. In addition, all land is subject to Council rates (except as remitted in accordance with Council's Policy on the Remission and Postponement of Rates³¹. The objectives of the Rates policy include contributing to the fair and equitable collection of rates from all sectors of the community. Rates are based on the capital value of the property, which is assessed every three years. The capital value of a property generally increases when it contains more houses (i.e. "improvement value").
211. The Rates Policy for the remission of rates on Māori freehold land is contained in Section 5 of the abovementioned Policy. Remissions can apply to all rates except targeted rates for water supply, wastewater, stormwater, kerbside collection or rural halls. Any rates relief granted is at the sole discretion of the Council, considering where the rating value is significantly in excess of the economic value arising from the actual use of the property.

Recommendations

212. I recommend that the submissions listed in Table 17 are rejected with the exception of:
- S25.2, which I recommend is accepted in part, insofar as papakāinga development will be subject to Council's development contributions policy, meaning development will contribute financially to the costs of providing additional infrastructure to support papakāinga development.
 - S28.1 which I recommend is accepted in part, insofar as all land is subject to Council rates³²
213. For the reasons outlined in paragraphs 205 to 209, no recommended amendments are necessary in response to these submission points.

Section 32AA Evaluation

214. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

³¹ <https://www.mpd.govt.nz/rates/policies-on-the-remission-and-postponement-of-rates>

³² except as remitted in accordance with Council's Policies on the Remission and Postponement of Rates ([mpdc.govt.nz](https://www.mpd.govt.nz)).

6.2.11 Key Theme 11: Natural Hazards and Climate Change

6.2.11.1 Flooding Risk on land surrounding Waiti Marae

Table 18 Submission on Flood Risk on land surrounding Waiti Marae

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
26.4	Waikato Regional Council	MPZ-PREC1 Waiti Marae Map	Amend	<ul style="list-style-type: none"> Identified Waiti Marae is within a WRC drainage scheme (Central drainage scheme) Requested to: <ul style="list-style-type: none"> Reduce the extent of MPZ-PREC1 around Waiti Marae to only cover areas suitable for development Ensure ongoing access to WRC for monitoring and maintenance Require flood risk mitigation measures 	Accept

Analysis

215. Waikato Regional Council's submission (26.4) identified that Waiti Marae is within the Central drainage scheme. Waikato Regional Council raised concerns that Waiti Marae is located downstream from the Waiti Detention Dam and is subject to flooding during a 2% annual exceedance probability (AEP) flood event. The Waiti Dam Spillway, stop bank, and spillway traverse or adjoin the sites east of Waiti Road³³.
216. The District Plan recognises that rainfall events that exceed the capacity of the drainage and flood control schemes have led to inundation. The District Plan notes, as a significant issue for the Matamata-Piako District³⁴, that:

A considerable amount of effort has been put into remedying flood hazard and in general, the flood protection schemes along major rivers within the District provide a high level of protection. However, stopbank breaches or overtopping still present a significant hazard in the rural areas.

³³ refer to [Figure 1](#) in Waikato Regional Council's Submission 26 for location of WRD flood management assets.

³⁴ Section 3.2.1 of the District Plan (Significant issues of the District)

217. The operative district plan's flood hazard objective is to minimise the risk of flooding affecting people and property in the Matamata-Piako District. Five policies seek to achieve this objective by ensuring all future development does not increase the flood risk for the existing buildings and activities by avoiding adverse effects and building development in areas with a known risk factor of 1% annual return flood level, while utilising public open space as floodways where protected natural environments are not adversely affected. Flood hazard areas are identified on planning maps. The zoning of land has a key influence on the future use of the land, and the constraints (such as natural hazards) on the land influence the zoning. The objectives and policies are achieved by managing certain activities within identified flood hazard areas (specifically the activities table (11.2.2) which highlights the activity standard for use, development or subdivision of land at risk of flood hazards).
218. The land east of Waiti Road is identified in the District Plan as subject to "Detention Ponds and Spillways" (shown in **Figure 3A, Attachment C** to this Report). The extent of the flood risk shown in the District Plan is not up-to-date with latest Waikato Regional Council flood modelling available for the site (depicted in **Figure 3A, Attachment C** to this Report).
219. Discussions were held with Waikato Regional Council on 4 July 2023 to understand the most up-to-date flood modelling for the area. Waikato Regional Council advised that initial modelling identifies the land east of Waiti Road as a "Defended area" subject to flooding risk within a 2% Annual Exceedance Probability Event (2% AEP)³⁵ (depicted in **Figure 3A, Attachment C** to this Report).
220. Defended areas are those that are defended from flooding by structural defences such as stopbanks or floodwalls.
221. Although these areas are defended by most flood events (depending on their level of protection), they still have the potential to flood. Defended areas may flood due to a larger than design event, e.g. a 1% AEP flood (i.e. a flood that occurs once every 100 years) may overtop a stopbank designed to a 2% AEP level (designed to withstand a flood that occurs every 50 years). I understand that defended areas may also flood due to failure of a structural defence - this is unlikely but can still happen.
222. The risk of the land flooding east of Waiti Road is considered a "residual risk". The Waikato Regional Policy Statement ("RPS") includes policies and methods about reducing residual risk, including the need for District Councils to control use and development, to minimise any increase in vulnerability to residual risk (Policy HAZ-P2, Method HAZ-M12). This policy direction and methods is implemented in the Operative District Plan as outlined earlier. In addition, this policy direction is relevant when evaluating the zoning of land, as is the case with PC54 and this submission.

³⁵ Shown in WRC Hazards Portal ('Defended Areas' tab).

223. Retaining the Māori Purpose zoning of the land east of Waiti Road would indicate that the land is suitable for Papakāinga development, which is inconsistent with the RPS policy direction. It would allow the Māori landowners to develop Papakāinga as a Permitted activity (1 kāinga per 5000 m² of site area, up to 10 units). I acknowledge that this type of development would have been subject to the District Plan site suitability rules (discussed in detail within Section 6.2.11.2 below), however the MPZ-PREC1 zoning could increase vulnerability (of those developing and living in the kāinga) to residual risks.
224. Waikato Regional Council recommend reducing the spatial extent of the MPZ-PREC1 zoning around Waiti Marae so that it only covers areas suitable for development, and retaining Rural Zoning to land (east of Waiti Road) that is subject to residual flood risk.
225. Council officers held a meeting with representatives of Waiti Marae on 10 September 2023 to discuss the WRC submission and implications for the zoning of the Māori land east of Waiti Road. The outcomes of these discussions are summarised in a letter from Council to the Trustees of Waiti Marae, contained in **Attachment D** to this Report. In summary, Marae representatives did not raise any concerns with amending the zoning of land east of Waiti Road (specifically Māori land blocks RT318271 and RT315700) from Māori Purpose Zone to Rural zone.
226. Subsequently, in March 2024, Council provided information to Mike Paki of Waiti Marae, explaining the context, the matters raised in WRC's submission, available information on residual flood risk, and Council's intended recommendation (to retain Rural Zoning for land east of Waiti Road). On 16 March, Mike Paki held a meeting with the landowners of the of the area to communicate this information to them (refer to letter to Mike Paki, contained in **Attachment D**).

Recommendation

227. I recommend that Waikato Regional Council's submission S26.1 is accepted, and the land on the eastern side of Waiti Road (specifically Māori land block RT318271 and a part of RT315700 where it occupies land to the east of Waiti Road) are removed from the proposed Māori Purpose zoning and remain Rural Zone (shown on Figure 3B in **Attachment C**). The Māori land blocks west of Waiti Road and are recommended to be retained as MPZ – PREC1.

Section 32AA Evaluation

228. A Section 32AA evaluation for the recommendation to remove Māori Purpose Zoning from land east of Waiti Road is provided below:

Effectiveness and Efficiency

- The recommended amendments (not rezoning land to MPZ and retaining current Rural Zone) are more appropriate in achieving the purpose of the RMA because they seek to prevent development in areas of residual flood risk.

Costs/Benefits

- The benefits of the recommended approach are that the Rural Zoning (as opposed to Māori Purpose Zoning) does not 'signal' that the site is suitable for papakāinga of other types of development without the necessary flood risk information, and possibly prevents the risks/costs involved from developing on flood prone land (flood damage and repair, insurance, health and safety risks).
- The costs are that there is reduced development potential for owners of the land blocks east of Waiti Road, however development of the site could still be considered under the district-wide provisions and would need to consider and address site suitability.
- The proposed approach strikes an appropriate balance between the relationship of Māori with their ancestral lands, efficient use of land, and the management of significant risks from natural hazards.

Risk of acting or not acting

- The information on flood risk for the land east of Waiti Road is initial modelling only, and more detailed flood modelling information will be required prior to any development to determine site suitability. The risk of accepting the recommended amendments is low compared to the risk of not acting. The risk of "not acting" and retaining Māori Purpose Zone over land that is possibly not suitable for development due to flood risk is high. There is sufficient information to act on the submission.

Decision about most appropriate option

- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the Proposed District Plan.

6.2.11.2 Flooding Risks in the Douglas Road Area

Table 19 Submission raising concerns that parts of Douglas Road are subject to flooding

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
2.5	Rachel and Norm Salisbury	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Decline the Plan Change • Concerns raised that lower parts of Douglas Road are subject to flooding and not suitable for development. 	Accept in part

Analysis

229. Rachel and Norm Salisbury (2.5) raised concerns that the lower parts of Douglas Road, Okauia are subject to flooding and are not suitable for development.
230. The Māori Freehold land on the lower parts of Douglas Road have been included in the Māori Purpose Zone because they adjoin the Hinerangi Tawhaki Marae and Tamapango Marae, are large enough so that papakāinga could be a Permitted activity, and have direct access to Douglas Road.
231. Although the eastern parts of the land zoned Māori Purpose Zone (north of Douglas Road) adjoin a tributary of Mangapiko stream, there are no known flood hazards identified on the District Plan maps or the Waikato Regional Council's [Hazards Portal](#) for this area (refer to **Figure 2, Attachment C** showing the Douglas Road areas without any identified flood hazard risk).
232. Waikato Regional Council did not raise any issues with respect to flooding on the lower parts of Douglas Road in early engagement or their submission on PC54 (as they did with other areas subject to flood risk). At the time of writing, Council has asked for comment from WRC on the current extent of flood modelling for land at Douglas Road and are yet to receive feedback.
233. Council also raised this matter with Ngati Hinerangi³⁶ and Te Ohaki Marae Chair, querying if they were aware of any evidence of flooding in the Douglas Road area. Ngati Hinerangi³⁷ and Te Ohaki Marae Chair advised, via their consultant planner (Jess Strange at Riverside Planning and Projects) that they were not aware of any flooding issues on the Māori land blocks in question but would be comfortable with the proposed Māori Purpose Zone remaining, with advisory notes that if flooding risks were determined by WRC or MPDC, then resource consent will be required.
234. Council recognises that there may be some areas which have existing constraints (such as potential flooding on localised or lower parts of a site) and further, site-specific investigations will need to be undertaken by the owners, prior to development, to determine development suitability.
235. The Operative District Plan contains provisions, which will apply to any papakāinga development, that require setbacks from streams, and for all activities in all zones to demonstrate that the land is suitable for the activities proposed.
236. Specifically, Rule 1.2.2(vii) (suitability for development) requires a report stating the land is suitable for the development proposed, including building areas are free from flooding or inundation. Rule 1.2.2(vii) (site suitability) reads:

1.2.2(vii) Suitability for development

³⁶ During informal discussions with Hinerangi Viamoso of Ngati Hinerangi.

³⁷ During informal discussions with Hinerangi Viamoso of Ngati Hinerangi.

Council will require a report, including certification from an appropriately qualified person(s), stating that the land is suitable for the activities anticipated in the zone, or the development proposed, and/or the conditions under which development will be appropriate including:

- (a) Each building area as described in (ii) [building sites] above is free from flooding or inundation, erosion, subsidence and thermal ground;*
- (b) Slope stability, foundations of structures, major earthworks including access tracks and roads;*
- (c) Ground water table levels;*
- (d) Earthquake faultlines or other seismic hazard;*
- (e) For contaminated sites, a report on the extent and likely effect of the contamination on the proposed activity, including any off-site effects that may occur as a result of disturbance or development of the site.*
- (f) The matters within the MPDC Development Manual 2010.*

The report shall set out the facts relating to the investigation together with test results and other data on which recommendations are based.

Council may refuse to approve a subdivision or resource consent or in approving the proposal, impose appropriate conditions to avoid high probabilities of accelerated erosion, land slip, flooding or subsidence, or increased adverse effects resulting from contaminants on the site.

See also Section 11: Natural Hazards.

237. In addition, Rule 11.3 (Site Suitability), contained within the Natural Hazards chapter of the District Plan, reads:

Site Suitability

Where a site lies outside the hazard areas but may be subject to any:

- Natural hazard;*
- Slope stability issues; or*
- Ground conditions not suitable for the foundations of buildings, services or other works*

Any persons proposing to use, develop (including bulk earthworks) or subdivide the site will require a site evaluation from a suitably qualified engineer or other person confirming that the site can be safely developed without adverse effects either on or off the site for a permitted activity including necessary access and servicing requirements.

238. For papakāinga development (which often does not require a subdivision) this site suitability report will either be required:
- at resource consent stage for papakāinga developments that require resource consent.
 - at building consent stage (along with the Papakāinga Development Plan, in scenarios where the proposal is permitted under the District Plan, and involves two or more kāinga).
 - at building consent stage, for proposals involving one kāinga (no Papakāinga Development Plan required).
239. It is recommended that this requirement could be made clearer in the provisions by explicitly referencing it in the list of information required to be provided in a Papakāinga Development Plan. It is recommended to insert additional wording into MPZ-PREC1-R(1)(f)(ii)(a) (Papakāinga Development Plan) and 4.4.1.1(i) (performance standards, Permitted activities) as shown below. In addition, a new matter of discretion relating to site suitability is recommended.
240. Any papakāinga failing to provide a site suitability report to demonstrate compliance with Rule 1.2.2(vi) and 11.3 (Natural hazards), will require resource consent as a Restricted Discretionary activity under:
- Rule 4.4.1 (Restricted Discretionary activities) for papakāinga outside of Māori Purpose Zone failing to meet the performance standards³⁸ (considering the matters of discretion in 4.4.3); and/or
 - Rule 1.2.1(i)(b) (activity status criteria for Development suitability). This rule would also apply to papakāinga within Māori Purpose Zone failing to demonstrate site suitability.

Recommendation

241. I recommend that Rachel and Norm Salisbury's submission 2.5 is accepted in part, insofar as the Māori Purpose Zone land along Douglas Road remains as notified, but the site suitability requirements of the District Plan are explicitly listed in the information requirements for Papakāinga Development Plans as follows:

MPZ-PREC1-R(1)(f)(ii) A Māhere Ahu Papakāinga (Papakāinga Development Plan) must be submitted to Council prior to (or with) any application for building consent for two or more kāinga

³⁸ This would include a Papakāinga that fails to demonstrate compliance with relevant performance standards and development controls (including site suitability).

(residential units). The Plan shall show the entire papakāinga development (although the development may be staged) and must include:

- (a) A site plan demonstrating compliance with the relevant standards of the Māori Purpose Zone and other relevant rules of the District Plan. **This includes, but is not limited to, requiring a site suitability report as per Rule 1.2.2(vii) and 11.3.**

4.4.1 Performance Standards: Permitted Activities

...

1. A Māhere Ahu Papakāinga (Papakāinga Development Plan) must be submitted to Council prior to (or with) any application for building consent for two or more kāinga (residential units). The Plan shall show the entire papakāinga development (although the development may be staged) and must include:
 - i. A site plan demonstrating compliance with the relevant performance standards and development controls. **This includes, but is not limited to, requiring a site suitability report as per Rule 1.2.2(vii) and 11.3.**

242. In addition, to ensure the risks of natural hazards can be assessed under Restricted Discretionary status for Rule 4.4.1 (Restricted Discretionary activities), I recommend a new matter of discretion is added to Section 4.4.3 as follows:

Whether the site suitability report demonstrates that the land is suitable for the proposed activities, including building areas free from flooding or inundation, instability, erosion, subsidence or thermal ground.

Section 32AA Evaluation

243. A Section 32AA evaluation for the recommendation to explicitly reference site suitability requirements as part of a Māhere Ahu Papakāinga (Papakāinga Development Plan) is provided below:

Effectiveness and efficiency

- The recommended amendments are more appropriate in achieving the purpose of the RMA, specifically recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands (S6(e) RMA) while managing significant risks from natural hazards (S6(h)RMA).
- The recommended amendments assist with interpretation, clarifying the intent of the provisions, explicitly referencing the information requirements and improving usability of the plan.

Costs/Benefits

- The provisions strike an appropriate balance between the efficient use of land, enabling papakāinga development and the management of risks from natural hazards.
- The costs of preparing a site suitability assessment (borne by the owners/ developer) are necessary to demonstrate that the land is suitable for the development and activities proposed and avoid unnecessary costs associated with development on unsuitable land.

Risk of acting or not acting

- The risk of accepting the provisions (Māori Purpose Zone applied to lower Douglas Road area) is low because there are no known flood hazards identified and the site suitability report will determine appropriate building areas, free from flooding or inundation.

Decision about most appropriate option

- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of PC54.

6.2.11.3 Natural hazards and climate change direction

Summary of Submissions

Table 20 Submissions on Natural Hazards and Climate Change Direction

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
25.3	John and Irene Harris	Entire Plan Change	Amend	<ul style="list-style-type: none"> • Requested there be direct references to climate change, specifically flooding/ inundation due to sea level rise, taken into account for long term decision-making before applying for resource consents 	Accept in part
26.2	Waikato Regional Council	New objectives and policies	Amend	<ul style="list-style-type: none"> • Add an additional objective and two policies relating to climate resilience and responsiveness to environmental change 	Reject
26.3	Waikato Regional Council	MPZ-PREC1	Amend	<ul style="list-style-type: none"> • Identified Raungaiti Marae is within a WRC drainage scheme (Thames Valley drainage scheme) 	Accept in part

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				<ul style="list-style-type: none"> Noted appropriate techniques should be employed to manage any cumulative impacts on the drainage scheme 	

Analysis - Natural hazards and climate change direction

244. John and Irene Harris's submission (S25) requested consideration of climate change at the start of any development process and flooding/inundation due to sea level rise should be identified as early as possible.
245. Waikato Regional Council (S26) sought to add an additional objective and two policies relating to climate resilience and natural hazard and climate change risks. They considered this would support and encourage papakāinga development that both mitigates and adapts to a changing climate. The following wording was requested:

Objective:

Support and enable sustainable papakāinga developments that are climate-resilient and are responsive to environmental change.

Policies:

1. *To encourage the efficient use of water and energy in papakāinga developments by:*
 - (a) *Utilising water sensitive features (such as rainwater collection tanks and low-flow fittings);*
 - (b) *Enabling the use of renewable energy; and*
 - (c) *Providing for electric mobility and associated charging infrastructure.*
2. *To increase community resilience and reduce exposure of papakāinga developments to natural hazard and climate change risks by:*
 - (a) *Locating buildings and infrastructure outside of areas currently affected by natural hazards and their associated risks and those potentially affected in the future;*
 - (b) *Designing papakāinga to be adaptable to a range of changing environmental conditions and changes in temperature, rainfall, water availability and wind;*

- (c) *Supporting the use of mātauranga Māori to guide the design of papakāinga to be adaptable to natural hazards and climate change risks; and*
- (d) *Supporting existing development to adapt and where necessary, relocate.*

246. Waikato Regional Council's submission (26.3) also identified that Raungaiti Marae is within the Thames Valley drainage scheme. The submission requested that appropriate drainage techniques should be employed to manage any cumulative impacts on the drainage schemes.
247. These matters are not specific just to papakāinga and the Māori Purpose Zone. They are district-wide matters that are best dealt with at a district-wide level to ensure a consistent approach across the District Plan and avoid duplication and inconsistency. PC54 relies on the existing provisions in the Operative District Plan to manage natural hazards. The Operative District Plan currently contains district-wide objectives and policies addressing energy efficiency (Part A 2.4(8)O1 and P4), flooding (Part A 3.2.2(1)O1 and P1 – P5), and other natural hazards. These are supported by district-wide rules, particularly those in Part B Section 11 relating to natural hazards and in Section 1.2 relating to development suitability. Therefore, to introduce specific objectives and policies to apply only to papakāinga would introduce some internal inconsistency (and duplication) in the District Plan, which is inefficient. To apply the objective and policies more widely would be outside the scope of PC54.
248. In relation to Submission 26.3 regarding Raungaiti Marae, Part B Section 5.9.1(i) of the District Plan requires any development to provide for effective stormwater management, in compliance with the Development Manual. Therefore, no change is required (and none was requested) to the PC54 provisions in this respect.
249. I consider that the Operative District Plan district-wide objectives and policies relating to natural hazards and site suitability should continue to apply to papakāinga, and that the District Plan natural hazard provisions should be reviewed at a district-wide level when Council undertakes its natural hazards plan change as part of its District Plan rolling review.

Recommendations

250. The changes recommended in response to submission 2.5 (paragraph 239) go some way to achieving the relief sought by submission 25.3. To this effect, and for the above reasons, I recommend submission 2.5 is accepted in part, and submission 26.2 is rejected. I recommend that submission 26.3 is accepted insofar as the PC54 provisions already require stormwater management which will seek to manage any cumulative impacts on drainage schemes.
251. No changes are recommended (except for those recommended in paragraph 239).

Section 32AA Evaluation

252. No change to the provisions is recommended. On this basis, no evaluation under Section 32AA is required.

6.2.12 Key Theme 12: Traffic, Access and Parking

Table 21 Summary of Submissions on Traffic and Parking matters

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
2.3	Rachel and Norm Salisbury	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Concerns raised with existing issues on Douglas Road and its suitability for increased use 	Reject
28.1	Thomas Bougher	Entire Plan Change	Support with amendments	<ul style="list-style-type: none"> Road names established if there are more than 5 houses on a right of way. 	Reject (insofar as this already a requirement of the Development Manual)
17.1, 17.6, 17.7	Grant and Annette Cranfield	Entire Plan Change	Oppose	<ul style="list-style-type: none"> Decline the Plan Change Concerns raised about health and safety including: <ul style="list-style-type: none"> Increased road users Constant turning and slowing of vehicles Traffic and congestion Complex intersection which could be hazardous for drivers and pedestrians Hazardous railway Loss of parking spaces at marae and tendency to park on road Refuse bags causing obstruction 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				<ul style="list-style-type: none"> ○ Lighting distracting motorists 	
28.1	Thomas Bougher	MPZ-PREC1 MPZ-PREC2		<ul style="list-style-type: none"> • Good well-built and well maintained access for proposed houses is essential. • Need access for emergency services • Houses need to be properly numbered 	Reject (insofar as the District Plan and Development Manual already achieve the relief sought)
33.1, 33.2	Brandon Dromgool and Lyndsay Oldham	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Expressed concerns around increased traffic using and also turning off State Highway 26 into the proposed Development • Expected consultation with Waka Kotahi • Requested information on what is planned for access points and positions 	Reject
42.2	Sacha Capeling and Dayne Hazelden	Entire Plan Change	Oppose	<ul style="list-style-type: none"> • Decline the Plan Change • Concerns raised about vehicle access onto Tauranga Road 	Reject
49.1	Ian Robert Young, Dana Sheree Lewis and Ian Young Family Trust	Te Ohaki Marae zoning map	Amend	<ul style="list-style-type: none"> • Submission raised issues relating to property access in relation to Te Ohaki Marae 	Reject
54.58	Kāinga Ora	9.1.2 Access (v)(iii)	Oppose in part	<ul style="list-style-type: none"> • Amend 9.1.2 Access (v)(iii) to increase threshold for number of kāinga to trigger compliance with the Development Manual 	Reject

Analysis – Roading and Traffic

253. Rachel and Norm Salisbury (S2) raised concerns about the impact of development on traffic with reference to Douglas Road. Grant and Annette Cranfield (S17) raised issues relating to traffic and parking

around what is inferred to be Kai-a-te-Mata Marae on Kereone Road near the submitter's property on Morrinsville-Walton Road.

254. Council has identified that roading upgrades are likely to be required in some locations. Some are in the nature of general safety upgrades that are required to address existing deficiencies regardless of development. Other works may be required as a result of development to allow the roads to safely accommodate additional traffic volumes. Roading projects will be identified through Council's Long Term Plan process.
255. In terms of parking, PC54 proposes the existing parking space requirement of two spaces per dwelling also apply to residential units (kāinga) (Rule 9.1.4). For marae it is not proposed to require a specific number of carparks but the requirement is that "sufficient area shall be available to ensure that all carparking and loading is contained within the site boundaries. All vehicles shall be required to enter and exit the site in a forwards direction". Parking requirements are also specified for home businesses (Ahumahi-ā-kāinga) which are the same as for home occupations.
256. It is a requirement to demonstrate that carparking can be adequately provided on site, in accordance with the relevant standards, on the Papakāinga Development Plan. If it is not, the standard would not be met and the activity would require resource consent, which would consider the effects of parking outside the site boundaries.

Analysis – General Site Access

257. Several submitters raised concerns about vehicle access and traffic safety either generally or in relation to specific locations. Thomas Bougher (S28) raised several matters relating to site access including the need for well-built and well-maintained access for houses, access for emergency services, road names for any right of way providing access for five or more houses, and clear numbering of houses. Sacha Capeling and Dayne Hazelden (S42) raised concerns about vehicle access onto Tauranga Road and Brandon Dromgool and Lyndsay Oldham (S33) raised concerns about access points, particularly onto State Highway 26.
258. Existing provisions in the Operative District Plan manage vehicle access. Any development will be subject to the district-wide rules in the Operative District Plan relating to transportation (Part B Section 9.1). The District Plan permits access (new or amendment to existing) onto a significant road (including State Highways) in speed zones of 50km/hr or less (Rule 9.1.2(ii) and 9.1.3(i)). Where there is a change of use of an existing vehicle crossing or a new vehicle crossing onto a significant road (which includes the State Highways) with a speed limit in excess of 50km/h a resource consent will be required as a Restricted Discretionary activity (Rule 9.1.2(1)). This resource consent process provides for a case-by-case assessment of traffic safety and efficiency, involving the road controlling authority (be it Waka Kotahi or MPDC).
259. Separate to the District Plan, any new access onto a state highway requires approval of Waka Kotahi (NZ Transport Agency), particularly if

the state highway is a “limited access road”. When issuing authorisation for new access, Waka Kotahi may place conditions on the approval, as necessary to ensure the state highway’s safe and efficient operation³⁹.

260. Grant and Annette Cranfield (S17) raised concerns about a number of traffic, access, and parking related matters, including concerns about conflict with the railway line. Development at Kai-a-te-mata Marae would require a resource consent for any vehicle access less than 30 m from the railway crossing (Rule 9.2.1(ii)). Council has had conversations with Ngati Haua Iwi Trust, and there is general acknowledgement that the MPZ-PREC1 zoned land to the north of Kai-a-te-mata Marae will require an alternative access arrangement to ensure the safety of those using the access.
261. Consultation was undertaken with Waka Kotahi (NZ Transport Agency) as part of the development of the Plan Change. Waka Kotahi provided feedback on the Draft Plan Change and did not raise concerns about development adjacent to the state highways.
262. Kāinga Ora’s submission sought an amendment to the access performance standards (9.1.2) to increase the threshold from five to ten for the number of kāinga to trigger the requirement to construct a private way in accordance with the Development Manual. Kāinga Ora has not provided any reasons for this request.
263. Standard 9.1.2(v)(a)(i) and (ii) of the District Plan requires that any road, private way or access leg that is new or changed in character, intensity or scale of use be designed, constructed and located in accordance with the Development Manual⁴⁰, and comply with standards in Table 3.1 of the Development Manual. Table 3.1 of the Development Manual sets the minimum requirements for private access including rights of way (e.g. width, pavement construction, sealing surfacing, turning area, maximum gradient). There are different requirements depending on the number of residential units served by the access. PC54 introduced an exemption for Papakāinga as follows:

These performance standards do not apply to private roads or private ways within a papakāinga development for up to five residential units. If the private road or private way serves more than five kāinga (residential units), it shall be designed, constructed and located in accordance with the Development Manual.
264. The maximum of five kāinga (for which any access or private road is exempt from complying with the Development Manual) aligns with the maximum of five kāinga per site (1 per hectare) as a Permitted activity (on Māori Land) in the Rural and Rural-Residential Zones.
265. I have discussed the submission points from Kāinga Ora and Thomas Bougher with MPDC’s Consents Engineering Team Leader, Sarah Fowlie.

³⁹ [Limited-access roads and accessways onto the state highway | Waka Kotahi NZ Transport Agency \(nzta.govt.nz\)](#)

⁴⁰ [Matamata-Piako District Council \(mpdc.govt.nz\)](#): Development Manual 2010.

MPDC's Development Manual allows private ways to be constructed for access to a maximum of six residential units. For any development involving more than six units, the expectation is that the access will be a road with a road name and numbers for postal purposes (either a private road, or public road to be vested in Council). This approach is consistent with Council's current approach to subdivision involving six or more lots.

266. Considering many kāinga are located within a rural context and will be accessed from rural roads, it is appropriate that any papakāinga development involving six or more residential units should comply with the Development Manual (consistent with the proposed approach). Council is not supportive of allowing a Papakāinga development involving up to 10 kāinga to be exempt from compliance with the Development Manual. It is important that the accessways for medium or large scale Papakāinga (i.e. more than five kāinga) are designed and constructed in a manner that ensures they are fit for purpose, to provide safe access to residents and visitors. I recommend that the exemption to Standard 9.1.2(v)(a)(i) and (ii) is retained as notified.

Te Okahi Marae access

267. The submission on behalf of Ian Robert Young, Dana Sheree Lewis and Ian Young Family Trust (S49) submitted that the map and shading on the Te Ohaki Marae map is incorrect as the driveway belongs to the Ian Young Family Trust and the map incorrectly provides the illusion that the driveway can be used by people living in the papakāinga as a right of way appurtenant to the Māori Trust Land. The submission also raised concerns about the increased use of the driveway and implications for safety and maintenance and sought this be considered by Council or for a crossing to be established over the driveway of the Young's land opposite the Marae Driveway by way of easement.
268. The location of the site access and property boundary is shown in **Figure 5, Attachment C**. Part Okauia 4E 2F 3B Block, is held in RT266706 and is proposed to be rezoned Māori Purpose Zone. The title states it is Māori Freehold Land. The title states it is "Subject to a right of way over part coloured yellow on ML 17092 created by SAPR243/51". The title and ML 17092 are contained in **Attachment E** to this Report. ML 17092 shows the right of way (coloured yellow) located on Part Okauia 4E 2F 3B Block and specifies that it is "appurtenant to 4E 2F 3A". The title for the submitter's property (SA49D/837, a copy of which is contained in the submission) states 'Appurtenant hereto is a right of way...(affects Part Okauia 4E 2F 3A Block).
269. From the titles it therefore appears that Part Okauia 4E 2F 3B Block (the Māori land proposed to be rezoned to Māori Purpose Zone) is subject to the right of way and the right of way is appurtenant to Part Okauia 4E 2F 3A Block.
270. Council officers met with representatives of the submitter to better understand the access arrangement. A letter was provided (and is attached as **Attachment D**) confirming the submitter maintains the driveway is situated on their land.

271. Access arrangements are a property matter that will need to be resolved if the site is developed, but this does not preclude the zoning of the site. The boundary of the proposed Māori Purpose Zone follows the property boundary of Part Okauia 4E 2F 3B Block, which is Māori Freehold Land. Therefore, no change is recommended to the zoning boundary.

Recommendations

272. It is recommended that the submissions listed in Table 21 are rejected. No changes to PC54 provisions are required because:
- There are existing District Plan provisions to ensure safe and efficient parking and access.
 - There are existing Waka Kotahi approval processes to manage safe vehicle access onto State Highways.
 - Access arrangements are a property matter that will need to be resolved if the site is developed, but this does not preclude the zoning of the Okauia 4E 2F 3B Block north of Te Okahi Marae.
 - Compliance with the Development Manual for medium-large scale Papakāinga (i.e. more than five kāinga) is important to ensure accessways are designed and constructed so they are safe and fit for purpose.

Section 32AA Evaluation

273. No Section 32AA Evaluation is required because there are no recommended changes to the provisions.

6.2.13 Key Theme 13: Matamata Aerodrome

Table 22 Summary of Submissions on Matamata Aerodrome

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
10.1, 10.2, 10.3	Tony Ashworth	Maps: Raungaiti Marae - Māori Purpose Zone - Precinct 1	Amend	<ul style="list-style-type: none"> • Requested amendments: <ul style="list-style-type: none"> ○ Any houses built along the edge of the runway, or vegetation, avoid the 3 degree airport boundary limitation ○ Any houses would not have the right to make noise complaints about recreational aerodrome traffic 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				<ul style="list-style-type: none"> ○ The plan change provide for building hangars along the runway boundary 	
34.1, 34.2	Matamata Aeroclub	Maps: Raungaiti Marae - Māori Purpose Zone - Precinct 1		<ul style="list-style-type: none"> • Concerns raised about future residents complaining about aircraft noise • Requested Council create a noise contour plan to establish a baseline of pre-existing noise contours as the existing noise contours only cover the airfield and its direct surrounds 	Reject
55.2, 55.3	Matamata Soaring Centre	MPZ-PREC1-R(1) PER Activities and MPZ-PREC1-R(5)(general standards)	Amend	<ul style="list-style-type: none"> • Amend the Plan Change to explicitly reference the Matamata airport protection zones (Part B, Appendix 6 of the District Plan) • Concerns raised about perceived noise nuisance for houses neighbouring airfield • Request Council investigate an appropriate set-back from the airfield or other noise mitigation measures for this area • Consider potential economic benefit for landowners of Permitted activity status for development related to airfield operations on land adjoining the airfield. 	Reject

Analysis – Noise Contours

274. Submissions by Tony Ashworth (S10), Matamata Aeroclub (S34) and Matamata Soaring Centre (S55) raised concerns about the potential for

future noise complaints from new development adjacent to the Airport. The Matamata Aeroclub submission requested Council create a noise contour plan to establish a baseline of pre-existing noise contours as the existing noise contours only cover the airfield and its direct surrounds. The Matamata Soaring Centre submission requested Council investigate an appropriate set-back from the airfield or other noise mitigation measures for this area.

275. Papakāinga development in the Māori Purpose Zone or district-wide will be subject to the Operative District Plan provisions relating to airport noise. The planning maps identify a 65 dBA Ldn air noise boundary and 55 dBA Ldn outer control boundary.
276. As can be seen from the plan shown in **Figure 6, Attachment C** showing the noise contours and the Proposed Zoning Map for Raungaiti Marae, the properties on Gillet Road and Kutia Road to be zoned MPZ-PREC2 are outside these contours. Part of Raungaiti Marae and the adjacent site as well as a corner of the block north of Kutia Road which are proposed to be zoned MPZ-PREC1 are within the 55 dBA Ldn contour. A very small area in the corner of the block north of Kutia Road is within the 65 dBA Ldn contour.
277. Rule 5.2.7 Airport Noise sets noise limits specific to aircraft using the airport based on the above noise contours. In addition, there are specified noise limits for aircraft maintenance and engine testing. There is nothing in the submissions to suggest that the aerodrome is not complying with the noise limits set by the current noise contours, therefore no evidence to justify an extension to the current aerodrome noise contours.
278. Rule 5.2.10 places restrictions on noise sensitive activities within the airport noise contours. Noise sensitive activities are a Non-Complying activity inside the 65 dBA Ldn contour and between the 55 and 65 dBA Ldn contour there are insulation requirements that must be met or a Restricted Discretionary activity resource consent is required. A papakāinga is a 'noise sensitive activity' as defined in the Operative District Plan and if located within the noise control boundaries, would be subject to these resource consent and/or noise insulation requirements.
279. Given the relatively small area affected, I consider that the existing provisions provide mitigation and are sufficient to appropriately manage activities locating within the noise contours. Due to the nature, size and location of sites, it is likely that any development could be designed to avoid locating inside the 65 dBA Ldn contour and development could either be located outside the 55 dBA Ldn contour or be designed to meet the noise insulation requirements.

Analysis – Airport Height Controls

280. The Matamata Soaring Centre submission (S55) seeks that the Plan Change explicitly reference the Matamata airport protection zones. Tony Ashworth's submission (S10) requests houses avoid the '3 degree airport boundary limitation'. It is assumed both these submissions are referring to the Airport Height Control Surfaces, which are mapped and described

in Appendix 6 of the District Plan. Rule 9.3.1 would apply to any building, structure, or tree:

No buildings structure, mast, tree or other object of growth shall penetrate the height limitations within the Matamata Airport Protection Area as shown on Planning Maps Number 11, 12, 14 and 31 and/or as defined in Appendix 6. Where there is conflict between these height control limits, the lowest restriction shall prevail.

281. The Airport Height Control Surface one Map (Appendix 6 to the District Plan) shows that much of the area to be rezoned Māori Purpose Zone around Raungaiti Marae, Gillet Road, and Kutia Road is within the "Maximum Height 30 m" area. Part of the area is within the "transition surfaces" and part within the "horizontal surface".
282. The Matamata North G2B Block is the nearest Māori Purpose Zoned site, located immediately east of the airstrip. Considering the side and rear yard setbacks, the closest a kāinga could be built to the airfield is 34 metres from the airstrip. At this location, a dwelling could be 6.8 m high (i.e. a single storey kāinga) before it protrudes through the transitional side surface⁴¹. This scenario enables efficient and reasonable use of the Māori land, in accordance with the objectives of PC54, without compromising aircraft operations or aircraft safety.
283. No amendment is necessary to reference Rule 9.3.1 as MPZ-R(1) already states that all activities in MPZ-PREC1 and MPZ-PREC2 shall comply with relevant standards and rules in other sections of the District Plan, including Section 9 Transportation.

Hangar Development

284. Tony Ashworth's submission sought PC54 provide for building hangars along the runway boundary. The Matamata Soaring Centre considered there may be a potential economic benefit for landowners of Permitted activity status for development related to airfield operations on land adjoining the airfield.
285. Hangar development and other activities related to airfield operations would not be consistent with the objectives and policies of the Māori Purpose Zone including MPZ-O1, MPZ-O2 and MPZ-P1. While MPZ-P1 refers to providing for economic activities, the reference is to economic activities ancillary to marae and papakāinga.
286. It is therefore not considered appropriate to provide for hangar development and development related to airfield activities as a Permitted activity within the Māori Purpose Zone. Such development could be the subject of a resource consent application, although as noted above, it is unlikely to be supported by the objectives and policies of the zone.

⁴¹ The transitional side surfaces associated with the runway rise upwards and outwards from its sides at a gradient of 1:5 (vertical: horizontal), and the 6.8 m height assumes that the ground between the airstrip and Matamata North G2B Block is level.

Recommendation

287. I recommend that submissions listed in Table 22 are rejected for the reasons outlined in paragraphs 275 to 286 above.

Section 32AA Evaluation

288. No changes to the provisions are recommended, therefore no Section 32AA Evaluation is required.

6.2.14 Key Theme 14: Papakāinga Development Plan

Table 23 Submissions on Papakāinga Development Plans

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.7	Kāinga Ora	MPZ-P7	Amend	<ul style="list-style-type: none"> Delete MPZ-P7 as the submission of a Papakāinga Development Plan is not necessary 	Reject
54.10	Kāinga Ora	MPZ-PREC1-R(1)(f) (One kāinga per 5000 m ² of site area, up to a maximum of ten kāinga per site)	Oppose in part	Delete requirement for Papakāinga Development Plan	Reject
54.28	Kāinga Ora	MPZ Principal Reasons	Oppose	<ul style="list-style-type: none"> Delete MPZ-PR2 	Reject
54.36	Kāinga Ora	Papakāinga-P7	Oppose	<ul style="list-style-type: none"> Delete Papakāinga-P7 as the submission of a Papakāinga Development Plan is not necessary 	Reject
54.38	Kāinga Ora	Part B: Rules 1.1.2 Plans	Oppose	<ul style="list-style-type: none"> Delete 1.1.2 Plans in its entirety as a Papakāinga Development Plan is not necessary 	Reject
54.49	Kāinga Ora	4.4.1 Performance Standards: Permitted Activities	Oppose	<ul style="list-style-type: none"> Delete 4.4.1.1 requiring submission of a Papakāinga Development Plan 	Reject
54.59	Kāinga Ora	Other Methods 13.6	Oppose in part	<ul style="list-style-type: none"> Amend to remove reference to 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
		Tangata whenua		Papakāinga Development Plan	

Analysis

289. Kāinga Ora sought the deletion of Policy MPZ-P7, Policy Papakāinga-P7, and the rules, principal reasons, and other methods requiring submission of a Papakāinga Development Plan. Kāinga Ora did not consider the submission of a Papakāinga Development Plan necessary for Permitted activities and questioned the control and discretion provided to Council. Kāinga Ora considered activities requiring building consent will need to show compliance with the development and performance standards, which in themselves provide appropriate management of the development.
290. The purpose of the Papakāinga Development Plan is to prompt consideration of the papakāinga development as an integrated whole, rather than allowing piecemeal development. A Papakāinga Development Plan is only required where two or more kāinga are proposed on one title. It is a key step in planning for a Papakāinga development as recommended in the Council's Papakāinga Development Toolkit. It also demonstrates how the proposal meets the District Plan requirements and how development will be integrated.
291. The Papakāinga Development Plan must show the entire development (although the development may be staged) and must include:
- A site plan demonstrating compliance or otherwise with the relevant performance standards and rules of the District Plan.
 - The bulk, scale and location of existing, proposed and future buildings and structures.
 - The location of solid waste storage areas and a statement as to how waste shall be managed.
 - The location of any archaeological site, heritage site, wāhi tapu site, or any other scheduled item under the District Plan.
 - How the development will be serviced with three waters infrastructure, electricity and telecommunications.
 - Compliance with the transportation provisions, including parking, location and formation of vehicle crossings and access arrangements.
 - Location of overflow parking for events or commercial activities.
 - Landscaping and communal areas.
 - Any proposed staging for the development.
292. Kāinga Ora is correct in identifying that the development and performance standards themselves provide appropriate management of the development. That is the intention, as these provide sufficient parameters to enable the activity to occur as a Permitted activity. As Kāinga Ora noted in its submission, information will be required at the building consent stage to show compliance with development and

performance standards. The requirement does not therefore introduce a significant additional information burden. In terms of the control and discretion provided to Council, this would be limited to confirming the proposal meets the Permitted activity standards. If the proposal does not comply, then either the proposal will require amendment or a resource consent will be required and Council would consider the proposal with the control or discretion as determined by the activity status, which will depend on the particular consent trigger.

293. I understand that the PC54 provisions were developed in collaboration with tangata whenua, via the IWG. I understand the IWG were supportive of the requirement for the provision of a Papakāinga Development Plan to enable integrated development.

Recommendation

294. For the above reasons, I recommend that the submission points listed in Table 23 are rejected. I recommend that the requirement for the provision of a Papakāinga Development Plan is retained.

Section 32AA Evaluation

295. A Section 32AA evaluation is not required because no change to the provisions is recommended.

6.2.15 Key Theme 15: Maximum Density

Table 24 Submissions on Maximum Density Standards

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
1.1	Tu Clarke	MPZ-PREC1	Amend	Add Marae and whenua connected to the Marae to be included in the increased density of Papakāinga Rua (MPZ-PREC2) of one residential dwelling per 500 square meters of land.	Reject
4.3	Ngāti Hauā Iwi Trust	Unspecified, but assumed to relate to MPZ-PREC1-R(1)(PER activities)	Amend	<ul style="list-style-type: none"> Requested wording around maximum of ten homes be reconsidered Requested that the wording is changed to make it clear that developments above ten homes may be possible, but will require resource consent 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
5.1	Te Puawaitanga o Ngāti Hinerangi	MPZ-PREC1	Amend	<ul style="list-style-type: none"> Amend MPZ-PREC1 Papakāinga Tahi to allow for one kāinga per 2,500 m² of site area 	Reject
5.8	Te Puawaitanga o Ngāti Hinerangi	Part B 2 Activity Table 6.1.1	Amend	<ul style="list-style-type: none"> Amend provision 6.1.1.1 [assumed to be 6.1.1] to enable kāinga per 2,500 m² 	Reject
13.4	Lea Thompson	Unspecified	Support	<ul style="list-style-type: none"> Seeks the privileges afforded to urban properties. Notes disappointment Māori must seek permission to develop their own properties. Notes in town houses are positioned extremely close to neighbours. 	Reject
30.1	Te Mangeo Tamehana Tarapipipi	Unspecified but assumed MPZ-PREC1-R(1)(PER activities)	Amend	<ul style="list-style-type: none"> Reduce the 5000 m² per dwelling requirement as many blocks are owned by many shareholders and would not have opportunity to have 5000 m² 	Reject
28.1	Thomas Bougher	MPZ-PREC1	Amend	<ul style="list-style-type: none"> Concern raised that the provisions set overall density but do not require spacing between dwellings. Concerned about wastewater, stormwater and privacy. 	Reject
31.1	Virginia McMillan	Unspecified but assumed MPZ-PREC1-R(1)(PER activities)	Amend	<ul style="list-style-type: none"> Provide for an increase in the maximum number of houses. Further consult with iwi on their aspirations to arrive at a more generous number. 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.32	Kāinga Ora	MPZ-PREC1-R(1)(f)(One kāinga per 5000 m ² of site area, up to a maximum of ten kāinga per site)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(1)(f) to delete the density of one kāinga per 5000 m² 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including density 	Reject
54.19	Kāinga Ora	MPZ-PREC2-R(1)(a)(one kāinga per Record of Title)	Oppose	<ul style="list-style-type: none"> Amend MPZ-PREC2-R(1)(a) to remove density requirement 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including density 	Reject
54.41, 54.42	Kāinga Ora	6.1.1	Oppose in part	<ul style="list-style-type: none"> Amend Activity Table line 6.1.1 to remove density restriction of five kāinga per site and delete 6.1.2 	Reject

Analysis - Density

296. The density standards applied to Papakāinga and other residential activities in PC54 and the Operative District Plan are summarised in Table 25 below.

Table 25 Density Standards for Zones in Matamata-Piako District

Zone	Permitted Density	Max number of houses per site
Density for Papakāinga (part of PC54)		
Māori Purpose Zone – PREC1	1 kāinga per 5000 m ² of site area	10

Zone	Permitted Density	Max number of houses per site
Māori Purpose Zone – PREC2	1 kāinga per 500 m ² of site area ⁴²	n/a
Rural Zone (on Māori Freehold land at or before 21 December 2022)	1 kāinga per 1 ha of site area	5
Rural Zone (General Land owned by Māori, Treaty Settlement Land, or land converted to Māori Freehold Land after 21 December 2022)	1 kāinga per site	1
Rural-Residential Zone (on Māori Freehold land at or before 21 December 2022)	1 kāinga per 1 ha of site area	5
Rural Zone (General Land owned by Māori, Treaty Settlement Land, or land converted to Māori Freehold Land after 21 December 2022)	1 kāinga per site	1
Density for general residential activities (i.e. not Papakāinga, and not part of PC54)		
Rural Zone	1 kāinga per site	1
Rural-Residential 1 Zone	1 kāinga per site / 1 lot per 1 ha	1
Rural-Residential 2 Zone	1 kāinga per site / 1 lot per 5000 m ²	1
Residential Zone	1 kāinga per 450 m ² net site area	2

297. Several submitters sought a greater density of development be provided for in MPZ-PREC1. Tu Clarke (S1) sought the application of the MPZ-PREC2 density of one kāinga per 500 m² of site area be applied to marae and whenua connected to the marae, specifically referencing Kai-a-te-mata Marae. Te Puawaitanga o Ngāti Hinerangi (S5) (supported by Clarke McKinney (FS2)) sought a density of one kāinga per 2,500 m² of site area. Lea Thompson's submission (S13) more generally requested the privileges afforded to urban properties be applied. Te Mangeo Tamehana Tarapipipi (S30) sought an increase in density due to concerns many blocks are owned by multiple shareholders who would not have the opportunity to have 5,000 m² each. Virginia McMillan (S31) sought an increase in the maximum number of houses, citing a specific example, assumed to be Te Omeka Marae⁴³, where the submitter considered more than 35 houses should be able to be built. Kāinga Ora (S54) considered the maximum number of 10 houses is arbitrary and that the proposal for one kāinga per 5000 m² of site area will discriminate against owners of

⁴² Provided that the site is Māori Freehold land; or a legal mechanism is put in place to ensure the land will be maintained in whānau ownership in perpetuity.

⁴³ Appendix G to the Section 32 Report identifies a capacity of 35 houses for Te Omeka Marae.

larger blocks and prevent the development of larger papakāinga. Kāinga Ora sought the deletion of a maximum density and instead rely on “servicing a development and performance standards to determine appropriate density”. Kāinga Ora sought MPZ-PREC1-R(1)(f)(one kāinga per 5000 m² of site area, up to a maximum of ten kāinga per site), including the specific standards, be deleted and replaced with the activity “kāinga”. The further submission by Clarke McKinney (FS3) supported Kāinga Ora’s requested amendments to density.

298. In addition, Kāinga Ora sought to amend MPZ-PREC2-R(1)(a)(one kāinga (residential unit) per Record of Title) by deleting “one kāinga (residential unit) per Record of Title” and replacing with “Kāinga and kāinga activities” and to delete MPZ-PREC2-R(1)(b)(one kāinga (residential unit) per 500 m² of site area) in its entirety. Kāinga Ora considered the density requirement unnecessarily restrictive and that the development and performance standards could control the density of kāinga on a site without the need to impose density provisions. The further submission by Clarke McKinney (FS3) supported Kāinga Ora’s requested amendments to density.
299. Ngāti Hauā Iwi Trust’s submission (S4) requests that the wording around a maximum of ten homes be reconsidered. They consider this limitation in some cases will not fairly represent blocks that have a greater land mass. The Trust requests the wording to accurately reflect that the ten home maximum provision is without resource consent only, and that specific wording is used to reflect that developments above ten homes will require a resource consent.
300. Appendix G to the Section 32 Report for PC54 contains an analysis of the sites for re-zoning and includes a theoretical potential yield/total number of houses for each site based on the Permitted density standards and site area. As shown in Table 26 there are approximately 50 blocks proposed to be re-zoned as MPZ-PREC1, ranging in lot size from 667 m² to 44.3 ha. The density standards allow a total development potential of 246 kāinga within the MPZ-PREC1 zoned land, based on the site area, as a Permitted activity.

Table 26 Potential kāinga yield for MPZ-PREC1 land

Marae	Address	Number of sites zoned MPZ-PREC1	Lot sizes	Total number of houses (per marae cluster)
Paeahi Marae (Waitoki)	5876 State Highway 26	5	2023 m ² - 32.7 ha	31
Kai-a-te-mata Marae	7 Kereone Road, Morrinsville	3	9131 m ² - 3.5ha	13
Raungaiti Marae	6427 State Highway 27	3	8218 m ² - 11.63ha	21

Marae	Address	Number of sites zoned MPZ-PREC1	Lot sizes	Total number of houses (per marae cluster)
Rukumoana	536 Morrinsville Walton Road	5	8802 m ² - 16.3ha	31
Te Ohaki Marae	31A Douglas Road, Okauia	2	1.2 ha - 15.9 ha	22
Hinerangi Tawhaki Marae	96 Douglas Road	5	5934 m ² - 4.05 ha	16
Tamapango Marae	151 Douglas Road	3	4636 m ² - 1.0812 ha	4
Tangata Marae	206 Douglas Road	2	3819 m ² - 4.5335 ha	9
Waiti Marae	87 Waiti Road	5	4047 m ² - 20.1 ha	20
Tui Pa (Tumutumu Marae)	57 Tui Pa Road	6	667 m ² - 2.8 ha	14
Te Omeka Marae	1133 Tauranga Road	5	1.2 ha – 23.2 ha	35
Rengarenga Marae	Papatangi Road	3	8094 m ² - 44.3 ha	21
Te Ukaipo Marae	3535 State Highway 29	2	4046 m ² - 4.5ha	9
Total		49	8.3417 ha – 184.5947 ha	246

301. The sites in MPZ-PREC2 range in size from 809 m² – 2,898 m² and are connected to Council water and wastewater. The proposed provisions as notified will continue to provide for one residential unit per site as a Permitted activity and also allow one residential unit per 500 m² of site area if the owners either change the status to Māori Freehold Land or put a legal mechanism in place to ensure the land is maintained in whānau ownership in perpetuity. As most of the sites are around 1000 m² this generally allows one additional residential unit per site. This is more enabling of development than the current Rural zoning (which allows one house per site).
302. If no density provision applied as sought by Kāinga Ora, including for the District-wide rules (rules 6.1.1 and 6.1.2), the main District Plan standards influencing the number of residential units per site would be through yard setbacks, height and maximum building coverage and more

than one additional dwelling per site would be enabled. This would mean some sites would theoretically be able to develop one or more additional dwellings than the density standard currently allows for. Although there are benefits to increased yield (positive economic, social and cultural effects), the higher number of units will have the potential to increase demand on the water infrastructure, residential amenities and roading in the area as well as affecting the rural character surrounding the MPZ-PREC2 zone. Weighing up these benefits and costs, I consider it appropriate to have a limit on density for MPZ-PREC2 sites, given the site size, rural location and limitations on infrastructure, particularly roading.

303. In response to Ngāti Hauā Iwi Trust's submission (S4), I consider that, in the context of the format and structure of the District Plan, the rules, as notified, are accurate and clearly expressed. In particular:
- Rule MPZ-PREC1-R(1)(Permitted activities) PER Activities lists Permitted activities in the MPZ-PREC1 and (f) provides for one kāinga per 5000 m² of site area, up to a maximum of ten kāinga per site.
 - Rule MPZ-PREC1-R3(3)(Discretionary activities) DIS Activities lists Discretionary activities and includes (c) More than ten kāinga per site, or up to ten kāinga that exceed the density limit as specified in MPZ-PREC1-R(1)(f)(one kāinga per 5000 m² of site area, up to a maximum of ten kāinga per site.
304. As Ngāti Hauā's submission notes, this approach provides a potential consenting pathway for developments involving greater than ten homes.
305. It is also noted that Part B Section 2.1 of the District Plan provides guidance on the activity categories including that Permitted activities may proceed as of right provided they comply with the rules of the District Plan and Discretionary activities are subject to resource consent from Council. Ngāti Hauā Iwi Trust may wish to clarify if there is another provision they consider should be amended.
306. Council is also preparing a Papakāinga Development 'toolkit', to provide further guidance to help those interested in establishing papakāinga to understand the process and District Plan requirements (further explained in Section 4.3).
307. In response to other submissions seeking greater density, I understand and acknowledge the concerns raised by submitters, in particular that many Māori land blocks are owned by multiple shareholders who would not have the opportunity to have 5,000 m² each, particularly as the number of shareholders increase over time. However, I note that all sites are rural in nature, were zoned Rural in the Operative District Plan⁴⁴, and are varying in size.
308. I note the densities proposed are akin to the Rural-Residential Zone subdivision standards which provide for a density of one lot per hectare

⁴⁴ Except one 2.8 ha site (Te Aroha Block IX Sec.31C 4C, at Tui Pa (Tumutumu Marae)), zoned Rural-Residential in the Operative District Plan.

in the Rural-Residential 1 Zone and one lot per 5,000 m² in the Rural-Residential 2 Zone, which is much more enabling than the density standards for the Rural zone (one house per property) (Refer to Table 25).

309. In terms of the 10 house limit for MPZ-PREC1 sites this “cap” is only relevant for those sites 5.5ha and over. There are 16 sites (32% of sites in total) zoned MPZ-PREC1 where further development would be permitted if there was no 10 house limit⁴⁵ (three at Paeahi Marae, two at Raungaiti Marae, two at Rukumoana Marae, two at Te Ōhākī Marae, two at Waiti Marae, three at Te Omeka Marae, and two at Rengarenga Marae). Considering the local context, the 10-house limit is appropriate, because it provides for a case-by-case assessment for larger sites to ensure that the environmental effects are appropriately managed, and smaller sites (68% of PREC1 sites) would be permitted and would not be subject to the maximum limit.
310. Thomas Bouger’s submission (S28.1) raises concern that there is no requirement for spacing between dwellings. The setbacks from boundaries will provide appropriate spacing between kāinga on a Māori Purpose Zoned or Māori land site and other properties. The Māori landowners can determine appropriate spacing between kāinga on their own land, as part of their overall Papakāinga Development Plan. During development of the Papakāinga Development Plan the landowners will need to consider compliance with the minimum dimensions for on-site servicing.
311. Given the rural context of these areas, the level of development provided for as a Permitted activity needs to take into account the potential effects on rural character and limitations of infrastructure, particularly roading infrastructure. Some of these areas are also located on the same road (e.g. Douglas Road) and therefore may result in cumulative effects, requiring roading upgrades. While the ability to provide appropriate servicing (particularly on-site wastewater servicing) is a practical limit on density, and standards will serve to mitigate effects to an extent, the density limit provides some level of certainty that the environment will be able to accommodate the level of permitted development, without significant adverse effects.
312. I consider that the proposed density standards for Papakāinga, as notified, are appropriate and enabling to provide an efficient use of land and to achieve the objectives of PC54. The proposed density provisions strike an appropriate balance between enabling Māori to enhance their relationship with their ancestral lands and other objectives of the plan which seek to ensure a safe, efficient, integrated, and environmentally sustainable transport network and maintain rural character.
313. Development of a medium or large-scale Papakāinga that exceeds the permitted density and/or maximum number of houses can be assessed through a resource consent application, with a case-by-case assessment of the effects, including impacts on the road network and any potentially

⁴⁵ Based on the information in Appendix G of the Section 32 Report.

affected neighbouring properties. Any proposal will be assessed against the Papakāinga objectives and policies which seek to enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land, and enhance their social, economic and cultural well-being.

Recommendation

314. For the reasons stated above, I recommend that the density limits for Papakāinga (set out in Table 25) are retained as notified, and that the submissions listed in Table 24 are rejected.

Section 32AA Evaluation

315. No changes to the provisions are recommended therefore no Section 32AA Evaluation is required.

6.2.16 Key Theme 16: Maximum Building Coverage

Table 27 Submissions on Maximum Building Coverage

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.26	Kāinga Ora	MPZ-PREC2-R(5)(e)(maximum building coverage)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC2-R(5)(e) to increase maximum building coverage to 40% 	Reject
54.17	Kāinga Ora	MPZ-PREC1-R(5)(e)(maximum building coverage)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(5)(e) to increase maximum building coverage to 40% 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including: <ul style="list-style-type: none"> Building coverage 	Reject
5.2	Te Puawaitanga o Ngāti Hinerangi	MPZ-PREC1	Amend	<ul style="list-style-type: none"> Amend building coverage for MPZ-PREC1 to be 35% site coverage where sites are under 1ha and 10% where sites are over 1ha 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
5.11	Te Puawaitanga o Ngāti Hinerangi	Part B 4 Activity related performance standards 4.4.1(2)	Amend	<ul style="list-style-type: none"> Amend 4.4.1 (2) building coverage rules to be site coverage where sites are under 1ha, 10% where sites are over 1ha 	Reject
54.50	Kāinga Ora	4.4.1.2 Performance Standards: Permitted Activities	Oppose	<ul style="list-style-type: none"> Delete 4.4.1.2 maximum building coverage 	Reject

Analysis

316. Maximum building coverage in the notified plan change is 10% of the net site area for MPZ-PREC1, and 35% of the net site area for MPZ-PREC2.
317. Te Puawaitanga o Ngāti Hinerangi (S5) sought to amend building coverage for MPZ-PREC1 to be 35% site coverage where sites are under 1ha and 10% where sites are over 1ha. The reasons in the submission are that amending the rule to provide for two site coverage rules based on land size would enable more efficient use of land and enable Māori to better utilise and develop papakāinga. Kāinga Ora (S54) sought to increase the maximum building coverage for the sites within the MPZ (Precincts 1 and 2) to 40% "to allow for appropriate development on smaller sites".
318. In Precinct 2, 90% of the sites (26 sites in total) are between 1001 m² and 1500 m² in size. The 35% maximum building coverage (as notified) would allow 350.35 m² - 525 m² coverage within these contexts, which is appropriate to enable one or two kāinga per site (consistent with the provisions which allow one residential unit per site, or one unit per 500 m² of site area if the owners either change the status to Māori Freehold Land or put a legal mechanism in place to ensure the land is maintained in whānau ownership in perpetuity, for the reasons outlined in Key Theme 15 above). In addition, building coverage of 35% is consistent with the Settlement Zone Residential Precinct (SETZ R1(3)). Generally, the properties within the SETZ Residential Precinct are a similar size and character to those within MPZ-PREC2. As a result, no change to the maximum building coverage provisions for MPZ-PREC2 is recommended.
319. With respect to MPZ-PREC1, the size of sites varies from 667 m² to 44.3 ha. Table 28 provides an analysis of the maximum building coverage for the different site sizes, respective to the maximum density of one kāinga per 5000 m² of site area, up to 10 kāinga per site.

320. The building coverage standard of 10% was set to provide for a reasonable level of built development while maintaining areas of open space and rural character as sought by the objectives for the MPZ.
321. In rural areas, a 10% building coverage provides relatively generous coverage. For example, over 68% of sites zoned MPZ-PREC1 are more than 1ha in area. At a density of one kāinga per 5000 m² on a 1ha site (as notified and recommended to be retained), 10% site coverage would allow a 500 m² kāinga /accessory buildings⁴⁶. A site coverage of 35% would provide for coverage of 1,750 m² which is unlikely at the permitted density.
322. The proposed site coverage of 10% in MPZ-PREC1 is therefore considered appropriate where the MPZ applies in a rural context. An increased site coverage would provide limited benefit unless the density was increased to greater than one dwelling per 5000 m², which is not considered appropriate for the reasons outlined under Key Theme 16 above.

Table 28 Maximum Building Coverage Analysis (MPZ-PREC1)

Site size	Number and % of sites within zone MPZ-PREC1	Maximum number of kāinga as a permitted activity (1 kāinga per 5000 m ² site area)	Scenario 1 (as notified)	Scenario 2	Scenario 3 (Kāinga Ora's request)	Scenario 4 (Ngāti Hinerangi's request)
			10% maximum building coverage (m ²)	35% max building coverage (m ²)	40% max building coverage (m ²)	35% max building coverage (sites under 1 ha), 10% (for sites over 1 ha)
667 m ² – 1000 m ²	2(4%)	1	66.7 m ² to 100 m ²	233 m ² to 350 m ²	266.8 m ² to 400 m ²	233 m ² to 350 m ²
1001 m ² – 1500 m ²	-		100.1 m ² to 150 m ²	350.35 m ² - 525 m ²	400.4 m ² to 600 m ²	350.35 m ² - 525 m ²
1501 – 2000 m ²	-		150.1 m ² to 200 m ²	525.35 m ² to 700 m ²	600.4 m ² to 800 m ²	525.35 m ² to 700 m ²
2001 m ² – 2500 m ²	1(2%)	1	200.1 m ² to 250 m ²	700.35 m ² to 875 m ²	800.4 m ² to 1000 m ²	700.35 m ² to 875 m ²
2501 m ² – 3000 m ²	-		250.1 m ² to 300 m ²	875.35 m ² to 1050 m ²	1000.4 m ² to 1200 m ²	875.35 m ² to 1050 m ²

⁴⁶ Note the definition of "building coverage" is "the percentage of net site area covered by the building footprint". Therefore kāinga and accessory buildings and other buildings would be counted in site coverage but not driveways.



Site size	Number and % of sites within zone MPZ-PREC1	Maximum number of kāinga as a permitted activity (1 kāinga per 5000 m ² site area)	Scenario 1 (as notified)	Scenario 2	Scenario 3 (Kāinga Ora's request)	Scenario 4 (Ngāti Hinerangi's request)
			10% maximum building coverage (m ²)	35% max building coverage (m ²)	40% max building coverage (m ²)	35% max building coverage (sites under 1 ha), 10% (for sites over 1 ha)
3001 m ² – 3500 m ²	-		300.1 m ² to 350 m ²	1050.35 m ² to 1225 m ²	1200.4 m ² to 1400 m ²	1050.35 m ² to 1225 m ²
3501 m ² – 4000 m ²	1(2%)	1	350.1 m ² to 400 m ²	1225.35 m ² to 1400 m ²	1400.4 m ² to 1600 m ²	1225.35 m ² to 1400 m ²
4001 m ² – 4500 m ²	4(8%)	1	400.1 m ² to 450 m ²	1400.35 m ² to 1575 m ²	1600.4 m ² to 1800 m ²	1400.35 m ² to 1575 m ²
4501 m ² – 5000 m ²	-	1	450.1 m ² to 500 m ²	1575.35 m ² to 1750 m ²	1800.4 m ² to 2000 m ²	1575.35 m ² to 1750 m ²
5001 m ² – 6000 m ²	2(4%)	1	500.1 m ² to 600 m ²	1750.35 m ² to 2100 m ²	2000.4 m ² to 2400 m ²	1750.35 m ² to 2100 m ²
6001 m ² – 7000 m ²	1(2%)	1	600.1 m ² to 700 m ²	2100.35 m ² to 2450 m ²	2400.4 m ² to 2800 m ²	2100.35 m ² to 2450 m ²
7001 m ² – 8000 m ²	-	1	700.1 m ² to 800 m ²	2450.35 m ² to 2800 m ²	2800.4 m ² to 3200 m ²	2450.35 m ² to 2800 m ²
8001 m ² – 9000 m ²	4(8%)	1	800.1 m ² to 900 m ²	2800.35 m ² to 3150 m ²	3200.4 m ² to 3600 m ²	2800.35 m ² to 3150 m ²
9001 m ² – 10,000 m ² (1 ha)	1(2%)	1	900.1 m ² to 1000 m ²	3150.35 m ² to 3500 m ²	3600.4 m ² to 4000 m ²	3150.35 m ² to 3500 m ²
1-2 ha	10(20%)	2-4	1000 m ² to 2000 m ²	3500 m ² to 7000 m ²	4000 m ² to 8000 m ²	1,000 m ² to 2,000 m ²
2-3 ha	4(8%)	4-6	2000 m ² to 3000 m ²	7000 m ² to 1.05 ha	8000 m ² to 1.2 ha	2,000 m ² – 3000 m ²
3-4 ha	2(4%)	6-8	3000 m ² to 4000 m ²	1.05 ha to 1.4 ha	1.2 ha to 1.6 ha	3000 m ² – 4000 m ²

Site size	Number and % of sites within zone MPZ-PREC1	Maximum number of kāinga as a permitted activity (1 kāinga per 5000 m ² site area)	Scenario 1 (as notified)	Scenario 2	Scenario 3 (Kāinga Ora's request)	Scenario 4 (Ngāti Hinerangi's request)
			10% maximum building coverage (m ²)	35% max building coverage (m ²)	40% max building coverage (m ²)	35% max building coverage (sites under 1 ha), 10% (for sites over 1 ha)
4-5 ha	3(6%)	8-10	4000 m ² to 5000 m ²	1.4 ha to 1.75 ha	1.6 ha to 2 ha	4000 m ² – 5000 m ²
5-6 ha	1(2%)	10	5000 m ² to 6000 m ²	1.75 ha to 2.1 ha	2 ha to 2.4 ha	5000 m ² – 6000 m ²
6-7 ha	1(2%)	10	6000 m ² to 7000 m ²	2.1 ha to 2.45 ha	2.4 ha to 2.8 ha	6000 m ² – 7000 m ²
7-8 ha	1(2%)	10	7000 m ² to 8000 m ²	2.4 5ha to 2.8 ha	2.8 ha to 3.2 ha	7000 m ² – 8000 m ²
8-9 ha	3(6%)	10	8000 m ² to 9000 m ²	2.8 ha to 3.15 ha	3.2 ha to 3.6 ha	8000 m ² – 9000 m ²
9-10 ha	-	10	9000 m ² to 1ha	3.15 ha to 3.5 ha	3.6 ha to 4 ha	9000 m ² – 1 ha
10-15 ha	2(4%)	10	1 ha to 1.5 ha	3.5 ha to 5.25 ha	4 ha to 6 ha	1 ha – 1.5 ha
15- 20 ha	2(4%)	10	1.5 ha to 2 ha	5.25 ha to 7 ha	6 ha to 8 ha	1.5 ha – 2 ha
20ha – 44.3ha	5(10%)	10	2 ha to 4.43 ha	7 ha to 15.505 ha	8 ha to 17.72 ha	2 ha – 4.43 ha

Recommendation

323. For the reasons outlined above, I recommend that the submissions listed in Table 27 are rejected and the maximum building coverage provisions are retained as notified.

Section 32AA Evaluation

324. A Section 32AA Evaluation is not required because no changes to the provisions are recommended.

6.2.17 Key Theme 17: Yards / Setbacks

Table 29 Submissions on Yards / Setbacks

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.16	Kāinga Ora	MPZ-PREC1-R(5)(c)(yards)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(5)(c) to reduce front, side and rear yards to 5 m 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including: <ul style="list-style-type: none"> Yards 	Reject
5.4	Te Puawaitanga o Ngāti Hinerangi	MPZ-PREC1	Amend	<ul style="list-style-type: none"> Amend required side yards to 10 m in Precinct 1 	Reject
FS2	Clarke McKinney		Support Submission 5 in part	<ul style="list-style-type: none"> Support Te Puawaitanga o Ngati Hinerangi requested amendments to the MPZs including side yard provisions 	Reject
5.10	Te Puawaitanga o Ngāti Hinerangi	Part B 3 Development Controls 3.2.1(iii)	Amend	<ul style="list-style-type: none"> Amend the yard provisions for side yards as they relate to Papakāinga and a standard over and above what is anticipated in the rural zone 	Reject
54.48	Kāinga Ora	3. Development Controls 3.2.1(iii) Yards	Oppose	<ul style="list-style-type: none"> Reduce the side and rear yard standard from 20 m to 5 m and amend the Note applying to papakāinga spanning multiple records of title 	Reject

Analysis

325. The yard setbacks for the Māori Purpose Zone are summarised in Table 1 of this Report. For MPZ-PREC1, the front yard setback is 25 metres, and side and rear yard setback is 20 metres.
326. Te Puawaitanga o Ngāti Hinerangi (S5) sought to amend the required side yards to 10 m in MPZ-PREC1 and Development Controls 3.2.1 (iii). Ngāti Hinerangi consider that there is insufficient evidence to justify a

larger yard than required in the Rural zone purely because a development is papakāinga. It stated the implication that papakāinga will not of a high quality is an unsubstantiated prejudice rather than an appropriate rationale.

327. Kāinga Ora's submission (S54.16) considered that the yard setbacks are unnecessarily restrictive and impede the ability to undertake residential development. It sought the front yard requirement be reduced from 25 m to 5 m and the side and rear yard requirement be reduced from 20 m to 5 m.
328. To compare with the Rural and Rural-Residential yard controls in Rule 3.2.1(iii) of the Operative District Plan, the front yard in Rural zones is 25 m and in Rural-Residential zones is 10 m. The side yard requirement in the Rural zones is 10 m and in Rural-Residential zones is 5 m.
329. The purpose of the larger side and rear yard requirement (20 metres) is to manage potential reverse sensitivity effects, particularly on existing rural operations on adjoining properties. The yard provisions are a key method to achieve Objective MPZ-O3 to manage reverse sensitivity effects.
330. The development of papakāinga has the potential to result in reverse sensitivity effects due to a greater intensity of sensitive activities locating in the rural environment as a Permitted activity. The increased setback provides for a greater distance between these activities and neighbouring rural activities. A number of areas proposed to be zoned Māori Purpose are also located adjacent to a state highway. The setbacks minimise potential incompatibility between the effects from the state highway and sensitive activities (papakāinga).
331. I also acknowledge that these yard setbacks would restrict where on the sites the papakāinga can be located, however these setbacks are unlikely to constrain the level or amount of development on the sites, given the size of most properties, as set out in the previous sections of this Report.
332. The provision provides the potential to locate buildings and structures within side or rear yards with the written consent of property owners contiguous to the building or structure, and also provides an exception for papakāinga that spans multiple properties (records of title), where the building only needs to be set back 1.5 m from the property boundary.

Recommendation

333. For the above reasons, I recommend that submissions listed in Table 29 are rejected and the yard setbacks are retained as notified.

Section 32AA Evaluation

334. No Section 32AA Evaluation is required because no change to the provisions is recommended.

6.2.18 Key Theme 18: Height in Relation to Boundary

Table 30 Submissions on Height in Relation to Boundary

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.25	Kāinga Ora	MPZ-PREC2-R(5)(b)(height in relation to boundary)	Oppose	<ul style="list-style-type: none"> Amend MPZ-PREC2-R(5)(b) height in relation to boundary 	Reject
54.15	Kāinga Ora	MPZ-PREC1-R(5)(b)(height in relation to boundary)	Oppose	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(5)(b) height in relation to boundary 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including: <ul style="list-style-type: none"> height to boundary 	Reject

Analysis

335. Rules MPZ-PREC1-R(5)(b) and MPZ-PREC2-R(5)(b) (height in relation to boundary) states that within the Māori Purpose Zone, no part of any building shall exceed a height of 3 m plus the shortest horizontal distance between that part of the building and the nearest site boundary (with several exceptions for gable ends of a roof or design features).
336. Kāinga Ora's submission (54.15 and 52.25) considered that standards MPZ-PREC1-R(5)(b) and MPZ-PREC2-R(5)(b) (height in relation to boundary) is confusing and sought it be replaced with the following:

(1) Buildings must not project beyond a 45° recession plane measured from a point 3 metres vertically above ground level along all boundaries. Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the height in relation to boundary applies from the farthest boundary of that legal right of way, entrance strip, access site, or pedestrian access way.

(2) This standard does not apply to—

- (a) a boundary with a road:*
- (b) existing or proposed internal boundaries within a site:*
- (c) site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.*

337. Kāinga Ora's submissions (54.15 and 52.25) received a further submission from Clarke McKinney (FS3) in support of the requested change.

Analysis

338. The format and structure and wording of the height in relation to boundary standard included in the notified Plan Change is consistent with the equivalent standard elsewhere in the Operative District Plan as amended by the Settlements Plan Change 53 (refer SETZ-R1(2)(b))⁴⁷.
339. The exceptions in part (2)(b) and (c) of the provision proposed by Kāinga Ora are considered to be sufficiently captured in practice by the exception provided in the notified provision where the written consent of all property owners contiguous to the building/structure is obtained.
340. To maintain District Plan integrity, integration and avoid interpretation issues it is recommended that the provision remain consistent with the Settlement Zone chapter (and other zones in the District Plan) and the provision be retained as notified.

Recommendation

341. For the reasons outlined above, I recommend that Submissions 54.15 and 54.25 are rejected, and Rules MPZ-PREC1-R(5)(b) and MPZ-PREC2-R(5)(b) (height in relation to boundary) are retained as notified.

Section 32AA Evaluation

342. No Section 32AA Evaluation is required because no change to the provisions is recommended.

6.2.19 Key Theme 19: Relocatable buildings

Table 31 Submissions on Relocatable Buildings

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.21	Kāinga Ora	MPZ-PREC2-R(1)(c)(relocatable buildings)	Oppose	<ul style="list-style-type: none"> Delete MPZ-PREC2-R(1)(c) relocatable buildings 	Reject
54.9	Kāinga Ora	MPZ-PREC1-R(1)(b)(relocatable buildings)	Oppose	<ul style="list-style-type: none"> Delete MPZ-PREC1-R(1)(b) relocatable buildings 	Reject
28.2	Thomas Bougher	MPZ-PREC2	Amend	<ul style="list-style-type: none"> Require all homes to be new builds 	Reject

⁴⁷ Noting there are some differences in the provisions, including that SETZ-R1(2)(b) refers to "2 m" rather than "3 m".

Analysis

343. Rule MPZ-PREC1-R(1)(b)(relocatable buildings) provides for relocatable buildings as a Permitted activity, subject to compliance with the general standards.
344. Kāinga Ora's submission sought to delete MPZ-PREC1-R(1)(b)(relocatable buildings). The reason provided is that it does not consider 'relocatable buildings' should be separately distinguished. Kāinga Ora clarified in discussion (meeting 10 August 2023) that it considers relocatable buildings should be provided for as a Permitted activity but does not consider they need to be distinguished from other buildings.
345. Thomas Bougher's submission (S28) sought all homes be new builds to keep maintenance to a minimum and ensure proper insulation and construction standards are met.
346. Relocatable buildings are provided for as a Permitted activity in the MPZ in PC54 consistent with the Settlement Zone. Elsewhere in the Operative District Plan, a resource consent is required for a relocatable building, but the change in approach was taken in the Settlement Plan Change because Council agreed it was unreasonable to control the visual appearance of relocatable buildings when the appearance of other dwellings is not controlled⁴⁸. This approach has followed through in PC54.
347. It is the purpose of the Building Act 2004, rather than the RMA, to ensure buildings are safe and have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them.
348. Rule MPZ-PREC1-R(1)(b)(relocatable buildings) applies to relocatable buildings but there is no equivalent rule for new buildings. Activity MPZ-PREC1-R(1)(f)(one kāinga per 5000 m² of site area) applies both to new build dwellings and relocatable dwellings. This approach is consistent with the approach taken elsewhere in the District Plan⁴⁹. There is a risk therefore that if MPZ-PREC1-R(1)(b)(relocatable buildings) is deleted it could potentially be interpreted that relocatable buildings are not provided for as a Permitted activity, particularly since the notified Plan Change specifically included it. Given that it is a Permitted activity with no specific standards relating to it, I recommend that MPZ-PREC2-R(1)(c)(accessory buildings) and MPZ-PREC1-R(1)(b)(relocatable buildings) are retained to make it clear that relocatable buildings are permitted in the Māori Purpose Zone.

⁴⁸ Refer Section 32 Report for Plan Change 53 Settlements.

⁴⁹ E.g. the Settlement Zone PREC1(1) One Residential Unit and PREC1(9) Relocatable Buildings. The Activity Table Section 1.3 includes "second-hand or pre-used buildings relocated from off-site" and in Section 3.1 "one or two dwellings per urban site" but does not list new buildings as a separate activity.

Recommendation

349. For the above reasons I recommend that submissions S54.21, S54.9, S28.2 are rejected and the Permitted activity rules for relocated buildings are retained as notified.

Section 32AA Evaluation

350. A Section 32AA evaluation is not required because no changes to the provisions are recommended.

6.2.20 Key Theme 20: Commercial Activity and Home Businesses

Table 32 Submissions on Commercial Activity and Home Businesses

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.11	Kāinga Ora	MPZ-PREC1-R(1)(g)(Ahumahi-ā-kāinga (Home business))	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(1)(g) relating to home business to allow commercial activity more generally 	Reject
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including: <ul style="list-style-type: none"> Home / commercial business standards 	Reject
54.44	Kāinga Ora	6. Papakāinga 6.1.4	Oppose in part	<ul style="list-style-type: none"> Amend 6.1.4 to delete home businesses and replace with commercial activity less than or equal to 60 m², make Restricted Discretionary in Business and Industrial zones, and provide for Restricted Discretionary activity for commercial activities greater than 60 m² in the rural, rural residential and residential zones. 	Reject
54.52	Kāinga Ora	4.4.1.5	Oppose in part	<ul style="list-style-type: none"> Amend 4.4.1.5 for home businesses so that only heavy 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
		Performance Standards: Permitted Activities		vehicle controls and compliance with Permitted activity performance standards and to provide for commercial activities at a kāinga-wide level	

Analysis – Home Business

351. Rule MPZ-PREC1-R(1)(g)(ahumahi -ā- kāinga (Home business) provides for a maximum of one ahumahi -ā- kāinga per residential unit as a Permitted activity in MPZ-PREC1 where the following standards are met:

- (i) *A maximum of two full time equivalent positions may be employed in the home business and it must include at least one permanent resident of the residential unit;*
- (ii) *The home business shall not involve the parking of heavy vehicles (Gross Vehicle Weight of 3,500kg or more) on site;*
- (iii) *The sale of goods directly to customers from the site is limited to those produced on site and/or which are ancillary to a service undertaken on site;*
- (iv) *The total area dedicated to a home occupation shall be limited to 60m² floor area. This may include up to 20m² outdoor areas for the activity including storage subject to this area being screened by fencing and/or landscaping to a minimum height of 1.8m;*
- (v) *A maximum outdoor area of 10m² for the display of goods for sale in addition to (iv). This rule is a maximum total area for all home businesses on site combined;*
- (vi) *Includes non-self-contained visitor accommodation for up to six people. Only one visitor accommodation per site is permitted;*
- (vii) *All on site activities must individually and collectively comply with all permitted activity standards;*
- (viii) *Shall not involve any pet day care or grooming services; and*
- (ix) *The hours for delivery and collection of goods as well as onsite customer visits shall be between 7.30am to 5.30pm, Monday to Sunday.*
- (x) *All vehicle loading and parking shall be provided on-site.*

352. Kāinga Ora sought to amend the rules for home business in the Māori Purpose zone and District-Wide provisions, so that home business is not limited to one home business per residential unit but any commercial activity with an area less than or equal to 60 m². Kāinga Ora also sought the deletion of Permitted activity standards so that the only applicable specific standards are those relating to parking of heavy vehicles and vehicle loading and parking. It also sought a Restricted Discretionary activity rule for commercial activities greater than or equal to 60 m². The reason provided is that the current provisions are unnecessarily restrictive and that it does not allow for commercial activities at a kāinga-wide level.
353. The proposed provisions relating to home businesses are consistent with the provisions in the Operative District Plan introduced by the Settlements Plan Change 53. These provide for home businesses as a Permitted activity subject to specific performance standards setting limits around the type, scale, and operation of the activity to ensure compatibility with the residential environment. Provision for home businesses as a Permitted activity is intended to support the social and economic wellbeing of individuals and the community.
354. Commercial activities other than those provided for as part of a home business are a Discretionary activity under Rule MPZ-PREC1-R(3)(e)(commercial activities). Therefore, there is a consenting pathway to consider whether a proposed commercial activity is appropriate in nature and scale for a particular site. A Discretionary activity status is considered appropriate rather than the Restricted Discretionary status sought by Kāinga Ora. It provides Council with full discretion to consider whether the nature of the activity is appropriate in the proposed context as well as specific aspects identified by Kāinga Ora including intensity, scale, traffic and access, noise, lighting and hours of operation.

Recommendation

355. I recommend that the provisions for home business and commercial activities are retained as notified for the reasons identified above.

Section 32AA Evaluation

356. A Section 32AA evaluation is not required because no changes to the provisions are recommended.

6.2.21 Key Theme 21: Communal Living Arrangement

Table 33 Submissions on Communal Living Arrangements

Sub #	Submitter Name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.45	Kāinga Ora	6. Papakāinga 6.1.5	Oppose in part	<ul style="list-style-type: none"> Amend 6.1.5 to add communal buildings and make permitted in Residential, Rural 	Reject

Sub #	Submitter Name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				and Rural Residential Zones and Restricted Discretionary in the Business Zone	
5.9	Te Puawaitanga o Ngāti Hinerangi	Part B 2 Activity Table (6.1.5 and 6.2.3)	Amend	<ul style="list-style-type: none"> Amend the activity status for Discretionary activity for communal living arrangement to be a Restricted Discretionary activity 	Reject

Analysis – Communal Living Arrangement

357. Rule MPZ-PREC1-R(3)(d)(communal living arrangement) provides for communal living arrangements in MPZ-PREC1 as a Discretionary activity where Council shall have regard to the matters outlined in Section 1.4.30 of the District Plan.
358. A communal living arrangement is a Discretionary activity in the MPZ-PREC1⁵⁰ and on Māori Freehold Land, General Land owned by Māori and Treaty Settlement land in the Rural, Rural-Residential and Residential Zones⁵¹. It is also a non-complying activity in the Industrial, Business and Kaitiaki (Conservation) Zone⁵².
359. A definition for “communal living arrangement” is proposed in PC54 as:
- Living accommodation which is served by one or more communal living areas, including kitchens and provides for more than one immediate family unit. For example: a communal kitchen and bathroom which services individual cabins / bedrooms.*
360. Provisions for a “Communal living arrangement” were added to the proposed provisions as a Discretionary activity following consultation on the draft provisions. This type of living arrangement was discussed during consultation and is a different type of papakāinga. Essentially, rather than providing individual residential units, there may be a shared communal space (such as a kitchen and bathrooms) and individual bedroom units surrounding these spaces.
361. Kāinga Ora’s submission sought to amend 6.1.5 so it addresses the activity “communal living arrangement **and communal buildings**” and

⁵⁰ Rule MPZ-PREC1-R(3)(d)(Communal living arrangement)

⁵¹ Rule 2.2 Activity Table 6.1.5, 6.2.3

⁵² Rule 6.1.5

also sought permitted activity status in the Residential, Rural and Rural Residential zones and Restricted Discretionary in the Business Zone.

362. In response, the proposed definition of “communal living arrangement” already captures communal buildings, therefore it is not necessary to add “and communal buildings” to the activity description in Rule 6.1.5.
363. Te Puawaitanga o Ngāti Hinerangi (S5.9) sought to amend the activity status for Discretionary activity for communal living arrangement to be a Restricted Discretionary activity.
364. In response to both submissions, I consider that the activity status of Discretionary in the Rural, Rural-Residential and Residential zones, and a Non-Complying activity in the Industrial, business and Kaitiaki (Conservation) Zone for communal living arrangements is appropriate because:
- There is potential for various designs, configurations and scale of communal living arrangements, which makes it difficult to determine efficient and effective performance standards alone (e.g. how to measure scale of such an arrangement, by number of rooms, number of buildings, number of people residing at the communal arrangement?).
 - Discretionary activity status enables assessment of any proposal for a communal living arrangement on a case-by-case basis, with full discretion to assess whether the nature and scale of the activity and its associated effects is appropriate for the context.
 - Any resource consent application for communal living arrangement proposed would be supported by the enabling objectives and policies for papakāinga.

Recommendation

365. I recommend that submissions 5.9 and 54.45 are rejected, and the rules for communal living arrangements are retained as notified, with Discretionary activity status applied within the Rural, Rural-Residential and Residential zones, for the reasons listed above.

Section 32AA Evaluation

366. No Section 32AA Evaluation is required because no change to the provisions is recommended.

6.2.22 Key Theme 22: Marae and Papakāinga in Urban Zones

Table 34 Submissions on Marae and Papakāinga in Urban Zones

Sub #	Submitter Name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
25.4	John and Irene Harris	Part B 2 Activity Table	Amend	<ul style="list-style-type: none"> Consider Non-Complying activity status for papakāinga in residential areas 	Reject
54.41	Kāinga Ora	6. Papakāinga 6.1.1	Oppose in part	<ul style="list-style-type: none"> Amend 6.1.1 to make kāinga a Restricted Discretionary in the Business Zone and a permitted activity in the Residential Zone 	Reject
54.43	Kāinga Ora	6. Papakāinga 6.1.3	Oppose in part	<ul style="list-style-type: none"> Amend 6.1.3 to make marae a permitted activity in the residential zones and Restricted Discretionary in the Business Zone. 	Reject

Analysis

367. In PC54, Kāinga / Residential unit (in the Māori Purpose Zone) is defined as “means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities”.
368. Essentially, for papakāinga in the Residential Zone, the existing Residential Zone rules will apply as these are enabling for papakāinga. Activity Table 2.1 (Rule 6.1) does not specifically list kāinga as a permitted activity in the Residential Zones, and refers plan users to the residential zone rules. In the Residential Zone, Kāinga has the same meaning as a residential unit.
369. Kāinga Ora (54.41) has sought that kāinga in the residential zones be permitted. John and Irene Harris (25.4) have suggested that papakāinga in the Residential Zones is a Non-Complying activity.
370. In response to the above submissions, no change to the Residential Zone rules is required because kāinga / residential units are already permitted in the Residential Zone and the provisions are enabling. In addition, I note that all Māori Freehold land in the Matamata-Piako District is located within rural or rural-residential areas (there is no Māori Freehold land within Residential Zones). Non-Complying activity status for kāinga within the Residential zones (as requested by John and Irene Harris) would be inconsistent with the objectives of PC54 (To provide for marae and

papakāinga on ancestral land) and the objectives and policies of the District Plan relating to residential and rural-residential growth. The Residential Zone enables one or two houses per site but permitted density is not to exceed 450 m² of the net site area (Rule 3.1.2). If more than one house is proposed on a site, buildings must comply with the following permitted activity standards:

- the buildings must be separated by a fire wall or built considering height in relation to boundary standards.
- The maximum height limit is 9 m where no part of the buildings is to exceed a height of 2 m plus the shortest horizontal distance between that part of the building and the nearest site boundary (Rule 3.1.1).
- The yard setback is 5 m in the front and 1.5 m from the side and rear (Rule 3.1.1).
- The total building coverage must not exceed 35% of the total net site area (Rule 3.1.3).

371. Kāinga Ora has also sought that papakāinga and Marae within the Business Zone be a Restricted Discretionary activity rather than Non-Complying⁵³. It also sought that marae are permitted in the Residential Zones.

372. There are no existing marae in the Residential or Business zones within the Matamata-Piako District. During preparation of PC54, the IWG advised that development of new marae in the District was unlikely, especially in urban areas. In addition, papakāinga in the Business or Residential Zones is unlikely to occur as there is no Māori Freehold land within these zones.

373. The purpose of the Business Zone is to primarily provide for commercial and business activities. Enabling papakāinga as a Restricted Discretionary activity in the Business Zone may compromise the integrity of the Business Zone for its intended use.

Recommendation

374. For the above reasons, I recommend that the submissions listed in Table 34 are rejected and provisions for marae, kāinga and papakāinga within the Residential and Business Zones are retained as notified.

Section 32AA Evaluation

375. No Section 32AA Evaluation is required because no change to the provisions is recommended.

⁵³ Rule 6.1.3 (Marae) and 6.2.1 – 6.2.3 (Papakāinga)

6.2.23 Key Theme 23: Community, Education and Healthcare Facilities

Table 35 Submissions on Community, Education and Healthcare Facilities

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.12	Kāinga Ora	MPZ-PREC1-R(1)(h)(Whare Hapori (Community facilities), Whare Akomanga (Education facilities), Whare Hauora (Healthcare facilities))	Oppose	Delete MPZ-PREC1-R(1)(h) and manage community facilities, education facilities, and healthcare facilities with development and performance standards	Reject
54.46	Kāinga Ora	6. Papakāinga New rule	n/a (new rule)	Add a new activity for educational facilities and healthcare facilities, permitted across all zones	Reject

Analysis – Māori Purpose – Precinct 1

376. Rule MPZ-PREC1-R(1)(h) provides for Whare Hapori (Community facilities), Whare Akomanga (Education facilities), Whare Hauora (Healthcare facilities) as a Permitted activity in MPZ-PREC1 where the following standards are met:

- (i) The Record of Title on which the facility will be located must have been issued prior to 21 December 2022.
- (ii) The total gross floor area of the community facility, education facility and/or healthcare facility combined shall not exceed 150 m², or 10% of the net site area (whichever is the lesser).
- (iii) The facilities shall be established only where:
- (iv) (a) The site is adjoining a marae; or (b) The site is part of a papakāinga with five or more kāinga.

377. Kāinga Ora sought the deletion of Rule MPZ-PREC1-R(1)(h)(Whare Hapori (Community facilities), Whare Akomanga (Education facilities), Whare Hauora (Healthcare facilities)) in its entirety.

378. Kāinga Ora considers the notified rules for community, education and healthcare facilities in MPZ-PREC1 are unnecessarily restrictive and suggested that these types of activities should be permitted, and be managed by development and performance standards. No alternative provision for MPZ-PREC1 was suggested, and it is assumed that the development and performance standards being referred to would be

those general standards applying to all activities including MPZ-PREC1-R(5) and those identified in table MPZ-R(1).

379. The proposed specific performance standards place limits around the scale and location of the activity. These standards are important to ensure that an activity being undertaken as a Permitted activity is compatible with the zone and surrounding areas, and limits adverse effects on the transportation network. Due to the nature and scale of these types of activities, determining efficient and effective general development and performance standards would be challenging to ensure that community, education and healthcare facilities are compatible with the surrounding environment.
380. I note that MPZ-PREC1-R(5)(e)(maximum building coverage) limits the maximum building coverage to 10% of the net site area, but Rule MPZ-PREC1-R(1)(h)(ii)(The total gross floor area of the community facility, education facility and/or healthcare facility combined shall not exceed 150 m², or 10% of the net site area (whichever is the lesser)) provides a potentially lower limit of 150 m² depending on the area of the site. Rule MPZ-PREC1-R(1)(h)(iii)(The facilities shall be established only where: (a) The site is adjoining a marae; or (b) The site is part of a papakāinga with five or more kāinga) requires that the site is adjoining the marae or is part of a papakāinga with five or more kāinga. Development meeting these requirements is more likely to serve the immediate area rather than a wider catchment, consistent with MPZ-P1, which is to provide for ancillary social, cultural, economic...activities.

All other Zones

381. Kāinga Ora (54.46) also sought insertion of a new activity for educational facilities and healthcare facilities, permitted across all zones.
382. In response, the key reason that ancillary Whare Hapori (Community facilities), Whare Akomanga (Education facilities), and Whare Hauora (Healthcare facilities) were provided for only in the MPZ-PREC 1 is because these activities would be located adjacent to the marae (where there are 'clusters' of Māori Freehold land, and the opportunity to create small papakāinga communities. The idea was that these types of ancillary activities would be small in scale and could service the local papakāinga community.
383. The District Plan already permits education facilities (up to 10 pupils)⁵⁴ in all zones except the Kaitiaki (Conservation) Zone. Medical facilities are Permitted in the Business zone, Discretionary in the Residential zone, and Non-Complying in other zones. Within the Matamata-Piako District context, new medical facilities are most likely to be established within the existing Business Zones.
384. Any papakāinga proposed to be established outside of the MPZ-PREC1 that seeks to establish educational facility exceeding 10 pupils, or a new medical facility, is likely to be a papakāinga development of a medium to

⁵⁴ Activity Table 2.1, Rules 2.1 and 2.2.

large scale, that already requires resource consent for exceeding the Permitted density standards for kāinga (maximum of five kāinga per site). Therefore, requiring resource consent for these types of ancillary (medical or education) activities does not place an unreasonable burden on Māori landowners. The resource consent process enables the proposal to be assessed on a case-by-case basis, considering local context, including impacts on the road network and any potentially affected neighbouring properties.

Recommendation

385. For the above reasons, I recommend that Kāinga Ora's submissions 54.12 and 54.46 are rejected. I consider that the provisions for Whare Hapori (Community facilities), Whare Akomanga (Education facilities), Whare Hauora (Healthcare facilities) in MPZ-PREC1 and other zones are appropriate and should be retained as notified.

Section 32AA Evaluation

386. A Section 32AA Evaluation is not required because no change to the provisions is recommended.

6.2.24 Key Theme 24: Solid Waste

Table 36 Submissions on Solid Waste

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.18	Kāinga Ora	MPZ-PREC1-R(5)(f)(solid waste)	Oppose in part	<ul style="list-style-type: none"> Delete MPZ-PREC1-R(5)(f) Solid waste 	Accept in part
54.27	Kāinga Ora	MPZ-PREC2-R(5)(f)(solid waste)	Oppose in part	<ul style="list-style-type: none"> Delete MPZ-PREC2-R(5)(f) Solid waste 	Accept in part
FS3	Clarke McKinney		Support Submission 54 in part	<ul style="list-style-type: none"> Support Kāinga Ora's requested amendments to the MPZs, including: <ul style="list-style-type: none"> Solid waste and screening 	Accept in part
54.51	Kāinga Ora	4.4.1.4 Performance Standards: Permitted Activities	Oppose in part	<ul style="list-style-type: none"> Amend 4.4.1.4 to delete 10 m setback for service area 	Reject

Analysis

387. Rule MPZ-PREC1-R(5)(f)(solid waste) and MPZ-PREC2-R(5)(f)(solid waste) is a general standard for all Permitted activities in MPZ-PREC1 and

MPZ-PREC2. The standard requires each kāinga (residential unit) to have a service area which meets the following requirements:

- (i) Has a minimum area of 10 m², with a minimum dimension of 3 m.
- (ii) Is readily accessible from the residential unit.
- (iii) Is screened from a public road or other public place.

388. Kāinga Ora's submission sought the deletion of MPZ-PREC1-R5(5)(f)(solid waste) and MPZ-PREC2-R(5)(f)(solid waste) relating to solid waste. Kāinga Ora considered this provision unnecessarily restrictive.
389. As outlined in the Section 32 Report, standards relating to solid waste storage areas were added into the Plan Change as a result of feedback received during engagement on the Draft Plan Change. The provisions were added with the intention of ensuring rubbish is dealt with appropriately and screened from neighbours.
390. A similar provision applies district-wide in the Operative District Plan Standard 5.6.1, but the minimum area and dimensions, accessibility, and set back from boundary are additional requirements in the MPZ.
391. The accessibility, 10 m setback and requirement for screening are not unreasonable and should not be onerous to comply with. However, I agree that the area requirement is unnecessarily restrictive. I consider 10 m² per kāinga is a large area for solid waste storage, especially for one kāinga. If kāinga are clustered the cumulative total of required service area would be greater than necessary and potentially result in inefficient use of land and undesirable design and amenity outcomes. I also consider that the screening requirements should only apply to rubbish and refuse storage areas.
392. I consider the other requirements, for accessibility, screening, and setback are appropriate and sufficient to manage potential adverse effects on amenity and these should be retained.

Recommendation

393. I recommend the following amendments to MPZ-PREC1-R5(5)(f)(solid waste) and MPZ-PREC2-R(5)(f)(i)(solid waste):

Each kāinga (residential unit) shall have a service area which meets the following:

- (a) ***Has a minimum area of 3m². ~~10m²~~, with a minimum dimension of 3m.***
- (b) *Is readily accessible from the residential unit.*
- (c) ***Rubbish and/or refuse storage shall be ~~is~~-screened from a public road or other public place.***

(d) [For PREC1 only] *Is set back 10m from the boundary of another property.*

394. As a consequential amendment, for consistency, I recommend the same changes are made to Standard 4.4.1(4) of the District-Wide provisions. In addition, to ensure the standard (as amended) is understood, I recommend a new definition of 'service area' is inserted to the District Plan, as follows:

Service area *means an area of outdoor space for the exclusive use of the residential unit for domestic requirements, such as rubbish storage or a clothes line. It excludes any space required for outdoor living space, parking, manoeuvring, or buildings.*

Section 32AA Evaluation

395. The recommended changes are appropriate for the reasons set out in paragraphs 389 to 391 above. In particular, the changes enable more efficient use of land and more effective implementation of the District Plan. The standards requiring the solid waste service area to be readily accessible from the unit, screened from a public road and (in the case of MPZ-PREC1 setback 10 m from a property boundary) will retain amenity values.

6.2.25 Key Theme 25: Earthworks

Table 37 Submission on Earthworks

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
54.22	Kāinga Ora	MPZ-PREC2-R(1)(e)(earthworks)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC2-R(1)(e) earthworks 	Accept

Analysis

396. Rule MPZ-PREC2-R(1)(e)(earthworks) is a general standard that all Permitted activities must comply with. The rule details specific standards that must be met:

(i) *Maximum cut or fill height:*

(a) *0.5m within minimum building setback.*

(b) *1.5m outside minimum building setback.*

(ii) *All site works shall be reinstated within 6 months of works commencing.*

(iii) *Maximum volume of earthworks is 100m³ within any 12 month period.*

- (iv) *Works must not affect or be located within any archaeological site, heritage site, waahi tapu site, or any other scheduled item under the District Plan.*
- (v) *Works cannot involve the excavation or disposal of contaminated land/materials.*
- (vi) *Works shall be set back 5m from any overland flow path and 10m from any water body.*

Exclusion:

Any earthworks which:

- (vii) *Have been approved as part of a land use or subdivision consent; or*
- (viii) *Are for the removal of topsoil for building foundations and/or driveways; or*
- (ix) *Any earthworks associated with utility installation, maintenance, upgrading and/or removal where the ground surface is fully reinstated within one month from when the work started.*

- 397. Kāinga Ora submitted that the maximum earthworks provisions are too restrictive and sought the maximum volume be increased to 500 m³ to allow for meaningful development of a site.
- 398. With the exception of (iv) the wording of the standard is the same as for the Settlement Zone Residential Precinct (refer PREC1(7)). A large portion of the Māori Purpose Zoned sites are relatively flat or gently rolling topography and would not involve significant earthworks to develop. Further, the exclusions include earthworks for the removal of topsoil for building foundations and/or driveways and earthworks associated with utility installation. On this basis, the provisions are not considered overly restrictive and would allow for the development of buildings(s) on a site without resource consent for earthworks.
- 399. Kāinga Ora's submission also noted it is unclear what the extent of the 'site' would be under sub-point (iv) which refers to archaeological site, heritage site, and wāhi tapu site. Kāinga Ora's submission sought subclause (iv) be amended to state:
 - (iv) *Works must not affect or be located within any **archaeological site, heritage site, wāhi tapu site, or any other** site or item under the District Plan.*
- 400. In terms of context:
 - The District Plan identifies heritage sites in Schedule 1 of the District Plan. Heritage sites are represented on the planning maps using a diamond (◆) symbol and the spatial extent of the site is detailed in the

district plan under Schedule 1, which identifies the site reference, name, location, object/place, HPT registration, map number and the legal description of the site.

- The District Plan identifies wāhi tapu sites in Schedule 2 of the District Plan, and defines a wāhi tapu site as a place sacred to Māori in the traditional, spiritual, religious, ritual or methodological sense. Identified wāhi tapu sites are represented on the planning maps using a square (■) symbol, and the spatial extent of the site is detailed in the District Plan under Schedule 2 which identifies the site reference, name, location, description, map number and the legal description of the site.
- The District Plan identifies outstanding or significant natural features and trees, and other protected items on the planning maps and lists these items in Schedule 3 of the District Plan.

401. Although there are no scheduled heritage or wāhi tapu sites identified in the District Plan within the areas to be zoned MPZ-PREC2, there are several sites within MPZ-PREC1 including:

- Several scheduled Wāhi tapū in areas to be rezoned MPZ-PREC1
- Two heritage sites at Rukumoana Marae are scheduled in the District Plan and listed by HNZPT on the New Zealand Heritage List/Rārangi Kōrero (Kauhanganui Parliament House and Māori King Monument).
- The Gospel Fellowship Church is a heritage site listed on Raungaiti Marae.

402. I agree that the wording of clause (iv) could be improved as it is not clear from the provision whether it is referring to sites scheduled in the District Plan or whether it would also encompass sites identified elsewhere or by other means.

403. It is also unclear whether 'site' is referring to the whole property (on which the scheduled site or feature is located) or just the feature, where the spatial extent is not immediately obvious to a plan user.

404. I agree with Kāinga Ora's suggested wording as it clarifies the intent of the standard and reduces ambiguity.

405. I consider that it is appropriate to remove reference to archaeological sites within the standard because:

- archaeological sites are not identified or scheduled in the District Plan, meaning interpretation and implementation of this standard would be difficult, and
- protection of archaeological sites is primarily the responsibility of Heritage New Zealand. Requiring resource consent for any earthworks affecting an archaeological site would duplicate the archaeological authority approval processes under the Heritage New Zealand Pouhere Taonga Act 2014.

Recommendation

406. I recommend that Kāinga Ora's submission 54.22 is accepted in part, and that standard MPZ-PREC2-R(1)(e)(iv) is amended as follows:

Works must not affect or be located within any ~~archaeological site, heritage site, wāhi-tapu site, or any other~~ scheduled ~~site or~~ item under the District Plan.

407. A consequential amendment to equivalent Standard MPZ-PREC1-R(1)(j) in the District-Wide provisions is also recommended, for consistency.

Section 32AA Evaluation

408. The amended standard is more appropriate than the notified version of the standard because the intent is clear, and the standard is measurable and enforceable, because it is directly linked to the scheduled items and sites listed in the District Plan. The removal of the reference to archaeological sites within the standard is efficient and effective because it removes duplication of processes for landowners (and associated time and cost). Instead of requiring a resource consent for disturbance to archaeological sites, Council can rely on Heritage New Zealand archaeological authority processes to protect archaeological sites.

6.2.26 Key Theme 26: Miscellaneous

Table 38 Submissions on Miscellaneous Matters

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
28.2	Thomas Bougher	MPZ-PREC2	Support with amendments	<ul style="list-style-type: none"> Require minimum of one vehicle garage and storage and workshop area per dwelling 	Reject
5.12	Te Puawaitanga o Ngāti Hinerangi	Part B 5 Performance standards – all activities 5.9.1	Support with amendments	<ul style="list-style-type: none"> Amend 5.9.1 2 wording to include or where available wireless provisions can be utilized. 	Reject
25.1 25.4	John and Irene Harris	Entire plan change	Support with amendments	<ul style="list-style-type: none"> Amend the Plan Change to include provision for some form of body corporate to manage, and be accountable for, the services within the development and ensure safety of residents and public 	Reject

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				<ul style="list-style-type: none"> Whether variations to existing Iwi housing and Marae sites on Rural, Rural-Residential and Residential zones, as well as new Papakāinga development in residential or rural-residential zones should be non-complying, instead of discretionary. 	
54.54	Kāinga Ora	4.4.3 Matters of Discretion	Oppose in part	<ul style="list-style-type: none"> Amend the matters of discretion in 4.4.3 	Reject
54.39	Kāinga Ora	Part B Rules 1.4.30 Papakāinga	Oppose in part	<ul style="list-style-type: none"> Amend 1.4.30 Papakāinga (assessment matters) to delete (i), (ii), (v), and (viii) and reword (vi) and (vii) 	Accept in part
54.13	Kāinga Ora	MPZ-PREC1-R(2)(a)(matters of discretion)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC1-R(2)(a) matters of discretion 	Reject
54.23	Kāinga Ora	MPZ-PREC2-R(2)(a)(matters of discretion)	Oppose in part	<ul style="list-style-type: none"> Amend MPZ-PREC2-R(2)(a) matters of discretion 	Reject
54.14	Kāinga Ora	MPZ-PREC1-R(3)(a)-(e)	Oppose	<ul style="list-style-type: none"> Delete MPZ-PREC1-R(3)(a)-(e) Discretionary activities 	Reject
54.24	Kāinga Ora	MPZ-PREC2-R(3)	Oppose	<ul style="list-style-type: none"> Delete MPZ-PREC2-R(3) Discretionary activities 	Reject.
8.1	Charlie and June Paki Whanāu Trust	Plan Change Process	Neutral	Concerns regarding the proposal process as the beneficiaries were not contacted or advised of the proposal, therefore not given the opportunity to ask questions. Concerns that the decision-makers do not whakapapa to the land.	Reject, insofar as no changes to PC54 were sought.
53.1	Mapuna Turner	Entire Plan Change / Plan Change process	Unkown	<ul style="list-style-type: none"> Expresses the definition of Papakāinga 	Reject, insofar as no changes to PC54 were sought.

Sub #	Submitter name	Plan Provisions	Position	Summary of submission / decision requested	Summary recommendation
				<ul style="list-style-type: none"> Expresses that planning instruments should reflect that Māori landowners have the right to determine how and what their lands shall be use for Identifies that consent has not been given to the planning authority to usurp Māori and landowner rights Stipulates that communal living should be decided by the traditional application of accommodating whānau numbers Identifies that colonisation has influenced Māori practices – traditional lores of tapu are circular Identifies land use restrictions regarding water resources 	

Analysis – Additional Controls

409. Thomas Bougher's submission (S28.1) sought additional requirements be applied in MPZ-PREC1 including a minimum of one garage and storage and workshop area per dwelling.
410. Requiring a minimum of one vehicle garage and storage workshop area per dwelling is not a requirement in other zones.
411. I consider that these are matters that should be up to those developing the papakāinga development and are not for Council to control through the District Plan. Objective MPZ-O2 seeks to enable settlement patterns, activities and development in accordance with kaupapa Māori and tikanga. Kāinga may be clustered together within a site with shared outdoor spaces which may be a preferred layout rather than individual private spaces. Likewise, wastewater systems may be communal (subject to regional council requirements). Yard setbacks are proposed which will provide setback from dwellings on neighbouring properties, but requiring set spacing between kāinga would not be consistent with the objectives of the Plan Change.

Analysis – Body corporate

412. John and Irene Harris' submission (S25) sought the Plan Change be amended to include provision for some form of body corporate to manage services and ensure safety of residents and the public. It would not be appropriate for the PC54 provisions to be amended to require body corporates. Most Māori land is administered using a Management Structure or entity, under the Māori land Court, which is similar to a body corporate, separate to the District Plan and resource consent processes.

Analysis – Matters of discretion or assessment criteria for papakāinga

413. Kāinga Ora (S54) considers that the assessment criteria for Papakāinga are unnecessarily restrictive and that they do not address the planned built form or intended changes to the environment. Kāinga Ora was opposed to considering reverse sensitivity effects and considered the development and performance standards manage setbacks appropriately. Kāinga Ora's submission sought that Rules MPZ-PREC2-R(2)(a)(any Permitted activity which does not comply with one or two general standards listed in MPZ-PREC2-R(5)(a) to MPZ-PREC2-R(5)(f)), MPZ-PREC-R1(2)(a)(any Permitted activity which does not comply with one or two general standards listed in MPZ-PREC1-R(5)(a) to MPZ-PREC1-R(5)(f)), be amended as follows:

Any Permitted activity which does not comply with ~~one or two general standards listed in MPZ-PREC1-R(5)(a) to MPZ-PREC1-R(5)(f)~~ the Permitted activity standards.

Matters of discretion:

In assessing any application for a Restricted Discretionary activity, Council shall have discretion over the following matters:

- (i) The extent of non-compliance with any performance standards*
- (ii) Traffic and access effects, including the safety and efficiency of the roading network;*
 - ~~(i) The adverse effects on the amenity values of nearby residents, including outlook, privacy, and shading.~~*
 - ~~(ii) The ability to mitigate adverse effects, including through landscaping.~~*
 - ~~(iii) (iii) Effects on the transportation network.~~*
 - ~~(iv) (iv) In relation to the river protection yard, any adverse effects on the river environment.~~*
 - ~~(v) On site amenity values.~~*
 - ~~(vi) Adverse effects relating to the bulk and dominance of buildings and structures.~~*
 - ~~(vii) Whether the activity will adversely affect or interfere with the legitimate land use and activities on surrounding sites.~~*
 - ~~(viii) (iii) Management of waste.~~*

- (viii) **(iv)** *The effect of increased coverage on the ability to effectively dispose of stormwater within the boundaries of the site.*
- (ix) **(v)** *The effect of increased coverage on the ability to effectively treat and dispose of wastewater within the boundaries of the site.*

414. In response, the proposed matters of discretion align with the matters contained in the general standards in MPZ-PREC1-R(5)(a) to MPZ-PREC1-R(5)(f), MPZ-PREC2-R(5)(a) to MPZ-PREC2-R(5)(f). It is both the extent and effect of non-compliance with standards that is relevant. Effects on the existing environment are a relevant consideration where Permitted activity standards are not met.
415. I consider that the matters of discretion as notified provide useful direction as to what matters Council should consider in assessing infringement of standards. Therefore, no change is recommended to the matters of discretion. The requested change to widen the Restricted Discretionary activity rule to cover all non-compliance with Permitted activity standards is addressed (in paragraphs 417 to 419) below.
416. Kāinga Ora (S54) considers the assessment criteria in the Papakāinga District-Wide provisions 1.4.30 unnecessarily restrictive and that they do not address the planned built form. Kāinga Ora is opposed to considering reverse sensitivity effects and consider the development and performance standards manage setbacks appropriately. Kāinga Ora's submission sought 1.4.30 Papakāinga (assessment criteria) be amended as set out in Table 39 below.

Table 39 Evaluation of Kāinga Ora's requested amendments to Assessment Criteria 1.4.30

Kāinga Ora's requested amendment to Assessment Criteria 1.4.30 (Papakāinga)	Recommendation	Reason
i. How the papakāinga will be retained in whānau ownership in perpetuity.	Reject and retain as notified with amendment to 'iwi, hapū or whānau ownership' (Key Theme 4).	Refer to discussion in Key Theme 4 of this Report.
ii. Whether any management structure exists for the papakāinga and how this management will retain the quality and amenity of the existing environment.	Accept in part (assessed as part of Key Theme 4)	
v. Whether the bulk, scale and location of the papakāinga is compatible in the context of the site and receiving environment.	Reject and retain as notified.	I consider that the compatibility of bulk, scale, and location with the site and surrounding environment is appropriate to consider, to achieve objectives MPZ-O3 and Papakāinga-O3.

Kāinga Ora's requested amendment to Assessment Criteria 1.4.30 (Papakāinga)	Recommendation	Reason
vi. <u>If there are any</u> Adverse effects on archaeological sites, heritage sites, waahi tapu sites, or any other feature protected under the District Plan.	Accept in part and amend to " <u>any</u> adverse effects on ..."	I agree that the addition of "any" is appropriate, as there may not be any such features. I do not consider the words "If there are" are needed.
vii. Whether there are any capacity issues where public reticulation is proposed to service the site <u>at the point of connection</u> .	Reject and retain as notified.	I disagree that capacity is relevant only at the point of connection.
viii. Any input, advice or consents for wastewater, stormwater and water provided by the Waikato Regional Council.	Accept in part, amend as follows: <u>The ability to provide on-site wastewater, stormwater, and water servicing, including any input, advice of consents for wastewater, stormwater and water provided by the Waikato Regional Council.</u>	I consider wastewater, stormwater and water servicing are relevant considerations but consider this could be reworded to reference the ability to service the development, including any input and advice from Waikato Regional Council.
ix. The potential for reverse sensitivity effects.	Reject and retain as notified.	Reverse sensitivity effects are a relevant consideration in the Matamata-Piako District and rural context, for the reasons explained in Key Theme 9.

Analysis – Discretionary vs Restricted Discretionary activity status

417. Rules MPZ-PREC1-R(3) and MPZ-PREC2-R(3) apply Discretionary activity status to the following activities:

- Any Permitted activity which does not comply with three or more general standards listed in MPZ-PREC1-R(5)(a) to MPZ-PREC1-R(5)(f) / MPZ-PREC2-R(5)(a) to MPZ-PREC2-R(5)(f).
- Activities that do not comply with an activity specific condition in MPZ-PREC1-R(1)(a) to MPZ-PREC1-R(1)(k) / MPZ-PREC1-R(1)(a) to MPZ-PREC1-R(1)(e).
- More than ten kāinga per site, or up to ten kāinga that exceed the density limit as specified in MPZ-PREC1-R(1)(f)(one kāinga per 5000 m² of site area, up to a maximum of ten kāinga per site) / MPZ-PREC2-R(1)(b)(one kāinga per 500 m² of site are)
- Communal living arrangement.
- Commercial activities (other than what is provided as part of a home business)

418. Kāinga Ora's submission sought the activity status for activities listed in Rule MPZ-PREC1-R(3)(a)-(e) be amended from Discretionary to Restricted Discretionary activity status. It sought to delete MPZ-PREC1-R(3) in its entirety and amend MPZ-PREC1-R(2)(a)(any Permitted activity which does not comply with one or two general standards listed in MPZ-PREC1-R(5)(a) to MPZ-PREC1-R(5)(f)) to include these activities as Restricted Discretionary. The reason given in the submission was to "provide for clarity when applying for resource consent".
419. The activities identified as Discretionary activities are the types of activities where the nature and/or scale of the activity and associated effects on the environment is potentially such that Council needs to be able to fully assess the appropriateness of the activity (e.g. more than 10 kāinga per site in a rural context). Restricted Discretionary activity status is applied to activities that infringe one or two general standards, so the effect of the infringement is expected to fall within those matters to which discretion is reserved. I consider the approach is appropriate, and that it is appropriate to provide full discretion to Council for the activities listed in Rule MPZ-PREC1-R(3).

Analysis – Discretionary vs Non-Complying activity status

420. John and Irene Harris (S25.4) queried whether variations to existing Iwi housing and Marae sites on Rural, Rural-Residential and Residential zones, as well as new Papakāinga development in residential or rural-residential zones should be non-complying, instead of discretionary.
421. A non-complying activity status for alterations or extensions to existing kāinga and/or new papakāinga development across these zones would be contrary to the objectives of PC54, which is to enable enable Māori to maintain and enhance their traditional and cultural relationship with their ancestral land, and enhance their social, cultural and economic wellbeing, while managing the adverse effects of buildings, structures and activities on the amenity values, character and quality of the surrounding environment.

Analysis – Proposal Intent and Process

422. Charlie and June Paki Whanāu Trust (S8.1) raised concerns regarding the PC54 proposal process, as the beneficiaries were not contacted or advised of the proposal, therefore not given the opportunity to ask questions. They also have concerns that the decision-makers do not whakapapa to the land.
423. Mapuna Turner (S53.1) raised similar concerns, noting that planning instruments should reflect that Māori landowners have the right to determine how and what their lands shall be use for, and that communal living should be decided by the traditional application of accommodating whānau numbers. I acknowledge the points raised. Under the RMA, Council is required to have a District Plan that sets rules for land use and activities under the Resource Management, which includes all land (including Māori owned land). However, the intention of PC54 is to make the plan provisions more enabling for development on Māori owned land

(i.e. improving the ability to develop on multiply owned Māori land as of right).

424. I acknowledge the points raised with respect to the process to develop PC54. Council undertook extensive engagement in relation to the development of PC54. This included, but was not limited to:
- Formation of an IWG comprising of representatives from Iwi Authorities in the District. Council facilitated eight hui with the IWG in order to provide recommendations on PC54.
 - An invitation to all marae in the district to present on the plan change.
 - A letter drop to all properties proposed to be re-zoned as MPZ, and all properties directly adjacent to the proposed MPZ.
 - Listing the draft plan change provisions and re-zoning maps on the Council website for the public to provide feedback. This was also advertised through Council channels, in the local newspaper, social media and letters (as identified above).
425. In addition to the above, the public notification of PC54 has provided landowners and the public with the opportunity to share their views for consideration of the decision-makers. Members of Charlie and June Paki Whanāu Trust are welcome to ask questions of Council to better understand the PC54 process and attend the hearing to share their concerns.

Recommendation

426. I recommend that the provisions are retained as notified, and the submissions listed in Table 38 are rejected with the exception of Kāinga Ora's submission 54.39 (on Assessment matters 1.4.30) which I recommend is accepted in part. The recommended changes to the provisions, and key reasons, are identified in Table 39.

Section 32AA Evaluation

427. A Section 32AA evaluation for the recommended changes to assessment Matters for Papakāinga (1.4.30) are minor changes to clarify their intent. As such, a Section 32AA Evaluation is not required.

7 Conclusion

428. This report has provided an assessment of submissions received in relation to MPDC's PC54 Papakāinga. The primary amendments that I have recommended relate to:
- Amendments to objectives to enable Māori to maintain and enhance their relationship with their ancestral lands, to refer to water, sites, wāhi tapu and other taonga, to achieve better alignment with Section 6(e) RMA.

- Refinements to the definition of Papakāinga to clarify that tangata whenua is not limited to iwi or hapū organisations, and includes development by individuals or whānau who are part of iwi or hapū who are tangata whenua.
- Amendments to the information requirements for a Papakāinga Development Plan, to specifically include reference to a site suitability report (in accordance with existing District Plan Rule 1.2.2(vii)).
- Add a new matter of discretion to assess whether the site suitability report demonstrates that the land is suitable for the proposed activities, including building areas free from flooding or inundation, instability, erosion, subsidence or thermal ground.
- Amendments to several provisions (policies, rule, performance standard, assessment matters) to broaden the application of the enabling provisions to land where it can be demonstrated that the land will remain in 'iwi, hapū or whānau ownership in perpetuity' (not limited to "whānau ownership in perpetuity").
- Removing land on the eastern side of Waiti Road (specifically Māori land blocks RT318271 and part of RT315700 where it occupies the eastern side of Waiti Road) near Waiti Marae from the proposed Māori Purpose zoning, so the land remains Rural Zone (due to flood risk).
- Reducing the minimum dimension requirement (10 m² area) for solid waste storage areas associated with kāinga (residential unit(s)) and inserting a new definition of 'service area'.
- Amend standards for earthworks to clarify their intent (protection of scheduled items and sites).
- Minor amendments to assessment matters for Papakāinga (1.4.30) to clarify their intent, including assessment matter 1.4.30(ii) regarding management structures for papakāinga (a possible method to maintain quality and amenity of the environment), and
- Minor edits for consistency and clarity.

429. Section 6.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on PC54 should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this Report.
430. I recommend that provisions for the PC54 are amended as set out in Attachment B to this Report, for the reasons set out in this report.
431. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA), the relevant objectives of PC54 and the District Plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.