

BEFORE THE SOUTH TARANAKI DISTRICT COUNCIL HEARING PANEL

IN THE MATTER OF The Resource Management Act 1991

AND The South Taranaki District Plan

AND Plan Chane 03: Papakāinga Development

SUPPLEMENTARY PLANNING EVIDENCE OF SEAN PETER ZIELTJES

ON BEHALF OF TE KĀHUI O TARANAKI TRUST

DATED 11 MARCH 2025

Submitter No. 9

A. Initial recommendations

My original brief of evidence makes the following recommendation:

- a. *Amend the definition for Papakāinga to reflect the activity is undertaken by tangata whenua who are mana whenua irrespective of land tenure; and consequential amendments to the rule framework to provide for papakāinga as a permitted activity subject to performance standards.*
- b. *Remove the definition of Ancestral Land.*
- c. *Amend the performance standards to remove effects on character and amenity as an assessment matter.*

Following the discussion at day 1 of the Hearing (11 March 2025) I provide the following updated observations, recommendations, and associated section 32AA analysis of these changes.

B. Additional resource management issues

Following discussion on day 1 of the Hearing I understand that in addition to the key resource management issues identified in the section 32 report, the provisions of Plan Change 03: Papakāinga Development (**‘the Plan Change’**) as notified also seek to ensure:

1. Māori land is retained in Māori ownership (my interpretation of the discussion); and
2. The papakāinga development provisions cannot provide an alternative permitted activity pathway for developers (i.e., be utilised not for the purpose of providing for mana whenua to establish and maintain a papakāinga).

I consider that the provisions of the Plan Change have conflated these two issues. The Plan Change currently hinges provisions from Māori Land as defined by Te Ture Whenua Māori Act 1993 as a method to ensure more enabling papakāinga provisions are not used in an unintended way to achieve (i.e., skirt the rules), or by people other than mana whenua.

In my view these are two separate issues. I do not consider the retention of Māori Land in Māori ownership to be a resource management issue that falls neatly within the function of a territorial authority.

I do consider a rule framework being utilised to authorise a land use in an unintended way where adverse environmental effects may result to be a resource management issue. I consider that it is this issue the provisions of the Plan Change must engage directly with.

Table 1 below outlines recommended changes to the provisions of the Plan Change as notified to address these issues, along with a section 32AA analysis supporting these recommended changes.

<p>Provision as set out in the 42A report</p> <p>Red = proposed changes as notified</p>	<p>Recommended changes</p> <p>Blue = recommended changes in response to submissions</p>	<p>Commentary</p> <p>Magenta = Council officer recommendations at the start of the Hearing</p>	<p>Section 32AA analysis</p> <p>Green = recommended changes to all of the above following day 1 of the Hearing</p>
INTRODUCTIONS AND DEFINITIONS			
<p><u>ANCESTRAL LAND: means land that belonged to tipuna/tupuna (ancestors): where there is a demonstrated whakapapa or ancestral connection to the land.</u></p>	<p>Delete provision in its entirety.</p>	<p>Not required to interpret or implement the Plan if other recommended provisions/changes are adopted.</p>	<p>This change is not considered significant given the little reliance on the definition to interpret and implement the provisions of the Plan. The definitions of Tangata Whenua and Mana Whenua (both being defined in the Resource Management Act 1991) inherently address what this definition is looking to achieve.</p>
<p><u>GENERAL TITLE LAND (IN RELATION TO PAPAĀINGA DEVELOPMENT): means land that is owned by Māori but does not include Māori freehold land, Māori</u></p>	<p>Delete provision in its entirety</p>	<p>Not required to interpret or implement the Plan if other recommended provisions/changes are adopted.</p>	<p>This change is considered to be consequential to the recommended changes to the rule framework below. If adopted this definition is redundant.</p>

<p>customary land and Crown land reserved for Māori (as defined in which is not held under Te Ture Whenua Māori Act 1993/Māori Land Act 1993).</p>			
<p>PAPAKĀĀINGA DEVELOPMENT: means the integrated development of multiple DWELLING UNITS, that may include Marae, home occupations, supporting cultural information/tourism centres and other community building and recreation facilities on Māori freehold land, Māori customary land and Crown land reserved for Māori (as defined in Te Ture Whenua Māori Act 1993/Māori Land Act 1993) or general title land that is ancestral land.</p>			
<p>Amended definition presented at the start of the Hearing:</p>	<p>PAPAKĀĀINGA DEVELOPMENT: means the integrated development of multiple DWELLING UNITS, that may</p>	<p>Amending the definition to reference key attributes of the activity. That it is an activity undertaken by mana whenua of</p>	<p>The proposed changes to the definition are considered more effective and efficient as they seek to amplify the key attributes of the</p>

<p><u>PAPAKĀINGA: means the development of multiple DWELLING UNITS for tangata whenua residing in the South Taranaki District, that may include Marae, home occupations, supporting cultural information/tourism centres and other community building and recreation facilities.</u></p> <p><u>Note: for the avoidance of doubt, tangata whenua is not limited to iwi or hapū organisations. It includes:</u></p> <ul style="list-style-type: none"> <u>• Māori landowners who whakapapa to the whenua and their whānau; and</u> <u>• Individuals and whānau who are part of, or are a member of iwi or hapū who are tangata whenua.</u> 	<p><u>include Marae, home occupations, supporting cultural information/tourism centres and other community building and recreation facilities on Māori freehold land, Māori customary land and Crown land reserved for Māori (as defined in Te Ture Whenua Māori Act 1993/Māori Land Act 1993) or general title land that is ancestral land.</u></p> <p><u>Buildings or Structures on a Site utilised by Mana Whenua to live communally on ancestral land.</u></p>	<p>any given area. That it can utilise buildings and structures on a site as opposed to repurposing/reinterpreting definitions of other activities into a hybrid list. And that it is undertaken on ancestral lands, which by default are connected with the definition of Mana Whenua.</p> <p>There are three key attributes that plan users must fit within to utilise the definition as follows:</p> <ol style="list-style-type: none"> 1) Be Mana Whenua; 2) Be a building or a structure on a Site; and 3) Be utilised communally on ancestral land. <p>By focussing on these attributes of papakāinga it enables the rule provisions of the Plan to better implement the objectives and</p>	<p>activity of papakāinga, as opposed to package up a series of different land uses activities that collectively can be considered elements of papakāinga. It is noted that the list of activities provided in the definition as drafted is incomplete.</p> <p>By focussing the definition on the key attributes of papakāinga the plan intends to enable/are within the scope of matters a territorial authority is able to address. This is considered to be clearer for plan users and in this regard more efficient and effective.</p>
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		policies of the plan, and in turn the direction of higher order planning documents.	
OBJECTIVES AND POLICIES			
2.7.11 To provide for papakāinga development on ancestral land owned by Tangata Whenua.	Retain objective as amended following submissions.	This objective is clear and not changes are recommended to support the application of the recommended rule framework that would implement this provision.	
2.7.17 Enable the development of papakāinga housing whilst managing potential adverse effects on amenity values.	2.7.17 Enable the development of papakāinga housing whilst managing potential adverse effects on amenity values conflict between different land uses and development	Amending the policy to clearly identify it is the management of potential land use conflicts, as opposed to more general amenity values is consider necessary to a) protect existing land uses), whilst b) clearly signalling to plan users papakāinga are anticipated and should be expected as a part of the changing character across the district whilst managing conflicts to ensure the health and safety of people, and well-functioning communities are sustained.	This change is considered to be clearer as to what the resource management issues are to be addressed in implementing objective 2.7.11. A core role of a district plan is to manage conflicts between competing or potentially incompatible land uses, as opposed to sustaining or maintaining amenity.

			Amenity should be expected to change over time as signalled in higher order policy documents.
<p>2.7.18 <u>Allow for papakāinga on:</u> a) Land held under Te Ture Whenua Māori Act, and b) Ancestral land where it is general title land; where there is a demonstrated ancestral connection to the land and that the land is intended to remain with Māori long term.</p>	Delete this policy in its entirety.	I consider this policy to duplicate 2.7.17. If it is acknowledged that all land is ancestral land (as outlined in iwi management plans and in evidence presented to the Hearing), a policy differentiating between current titles is not required.	This change is considered to be consequential to the recommended changes to the rule framework below. If adopted this policy is redundant.
RULE FRAMEWORK			
<p>Amended rules as the start of the hearing:</p> <p>Permitted activity (rules 3.1.1(f), 4.1.1(e), 5.1.1(e), 6.1.1(xiv)): Papakāinga on Māori land (as defined in Te Ture Whenua Maori Act 1993) or Crown Land Reserved</p>	<p>Permitted activity (rules 3.1.1(f), 4.1.1(e), 5.1.1(e), 6.1.1(xiv)):</p> <p>Papakāinga</p>	<p>Removing references to underlying land titles in accordance with commentary provided above with respect to the definition of papakāinga.</p> <p>More work is required on the effects standards within each zone to ensure potential land use</p>	

<p>for Māori (as described in Te Ture Whenua Maori Act 1993).</p>		<p>conflicts are addressed, and zone specific issues (such as the retention of highly productive land in the rural zone) are addressed as required.</p>	
<p>Controlled Activity (Rules 3.1.3(b), 4.1.2(a), 5.1.2(a), 6.1.2(b)): Papakāinga on Māori land (as defined in Te Ture Whenua Maori Act 1993) or Crown Land Reserved for Māori (as described in Te Ture Whenua Maori Act 1993) that do not comply with one or more of the permitted activity performance standards in Section [X].</p>	<p>Controlled Activity (Rules 3.1.3(b), 4.1.2(a), 5.1.2(a), 6.1.2(b)): Papakāinga that do not comply with one or more of the permitted activity performance standards in Section [X].</p>	<p>Removing references to underlying land titles in accordance with commentary provided above with respect to the definition of papakāinga.</p> <p>More work on the matters of control are necessary relative to each zone.</p>	
<p>Restricted Discretionary Activity (Rules 3.1.3(o), 4.1.3(f), 5.1.3(f), 6.1.3(e)): Papakāinga on General land owned by Māori (as described in Te Ture Whenua Maori Act 1993) that comply with the permitted</p>	<p>Restricted Discretionary Activity (Rules 3.1.3(o), 4.1.3(f), 5.1.3(f), 6.1.3(e)): Conversion of a Papakāinga to any other activity.</p>	<p>This is the key change that enables the rule framework to directly address the resource management issue of a papakāinga ceasing to be a papakāinga and being utilised for another activity. This rule will enable the Council to assess the</p>	<p>The proposed change is considered more effective and efficient at addressing the resource management issue as it directly engages with the issue of an activity being labelled papakāinga to access a permitted activity pathway.</p>

<p>activity performance standards in Section [X].</p>		<p>impacts of a change from a papakāinga to another activity in an environment/zone, and the appropriateness of that activity once it is no longer a part of a papakāinga. This rule would make it difficult for a developer to label a development as papakāinga.</p> <p>As a restricted discretionary activity, the conversion of a papakāinga can be declined, or approved subject to conditions.</p> <p>Further work on the matters of discretion is required.</p> <p>It is expected that these land use rules can work in parallel with the subdivision rules of the plan to provide an overall coverage of a scenario where a papakāinga is converted to another activity.</p>	<p>By ensuring the rule framework requires a resource consent at this juncture ensures that mana whenua genuinely undertaking papakāinga are able to benefit from the provisions of the Plan Change as intended. This is considered to better implement Objective 2.7.11 of the Plan.</p> <p>Requiring resource consent when a papakāinga ceases to be a papakāinga as defined above ensures the costs are borne by plan users other than mana whenua undertaking papakāinga. This is consider more appropriate than the notified rule framework in which mana whenua undertaking papakāinga on a different land title bear the costs of that activity directly in conflict with the</p>
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			enabling objectives and policies of the Plan.
<p>Restricted Discretionary Activity (Rules 3.1.3(p), 4.1.3(g), 5.1.3(g), 6.1.3(f)):</p> <p>Papakāinga on General land owned by Māori (as described in Te Ture Whenua Maori Act 1993) that do not comply with the permitted activity performance standards in Section [X].</p>	Delete these rules in their entirety.	These rules are redundant where the recommended RDA rule above is adopted.	This change is considered to be consequential to the recommended changes to the rule framework above.

Table 1: section 32AA analysis of recommended changes to Plan Change 03: Papakāinga Development

B. Summary and recommendations

Based on the discussion on day 1 of the Hearing I understand that South Taranaki District Council has a strong intent to enable mana whenua to establish papakāinga across the district but holds a residual concern regarding unintended skirting of other provisions of the Plan by labelling a proposal/development/activity/use as ‘papakāinga’.

To this end I make the following recommendations:

1. Amend the definition of Papakāinga to:
 - a. *Papakāinga means buildings or structures on a site utilised by mana whenua to live communally on ancestral land.*
2. Amend the performance standards associated with the permitted pathway to address issues related to health and safety, hazards and servicing of a papakāinga
3. Amend the restricted discretionary rule framework to:
 - a. *Conversion of papakāinga to any other activity.*
4. Amend the matters of discretion to address the following:
 - a. Compatibility of the activity with the planned character and amenity of a zone.
 - b. The degree to which the activity undermines the role and function of other zones.

I consider that engaging directly with resource management issues ensures the provisions of the Plan Change are the most efficient and effective. Enabling papakāinga in the context of the South Taranaki district requires a different approach to other districts in Aotearoa New Zealand. The recommended changes to provisions are considered appropriate in enabling papakāinga in this context whilst appropriately managing potential land use conflicts. The inclusion of a rule that directly addresses the issue of changing from a papakāinga to another activity closes any permitted activity pathways by labelling a development papakāinga when it is in fact intended to be something different without penalising mana whenua that are genuinely pursuing papakāinga.

Overall, these changes are considered to be more efficient and effective at implementing the objectives and policies of the Plan, as well as higher order policy documents.