Te Kaunihera ō Taranaki ki Te Tonga
South Taranaki District Council

Section 42A Report

Plan Change 3: Papakāinga Development

Proposed South Taranaki District Plan – Plan Change 3

31 January 2025

Contents

1 Executive Summary

1. Proposed Plan Change 3 ("PC3") to the South Taranaki District Plan was publicly notified on 15 April 2024 (and re-notified 2 May 2024). Submissions closed 30 May 2024 and further submissions closed 18 July 2024. The purpose of PC3 is to better enable papakāinga development in the South Taranaki district to provide for the relationship of tāngata whenua with their ancestral lands while still appropriately managing adverse effects on the environment.

2. A total of eight original submitters (with 131 individual submission points) and three further submitters (with 119 individual submission points) were received on PC3. Overall, 29 original submission points indicated general support for the provisions to be retained as notified, 50 submission points indicated support in part, with changes requested, whilst 51 submission points opposed the provisions and one did not say.

3. The submissions can be categorised into several key themes:

    - Key Theme 1: Ancestral land vs land owned by tāngata whenua
    - Key Theme 2: Pathways for papakāinga on land not held under Te Ture Whenua Māori Act
    - Key Theme 3: Bulk and location
    - Key Theme 4: Other matters (not addressed elsewhere)

4. 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 both assist the Hearings Panel to make decisions on the submissions and further submissions on PC3 and also 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.

5. The key changes recommended in this report relate to:

    a) Amendments to several provisions, including definitions, objectives, policies and rules, to clarify the intent of the term 'ancestral land', reduce the potential for unintended consequences and achieve better integration and consistency between the provisions and the definitions (in relation to ancestral land).

    b) Various amendments in Section 2.7 Tāngata Whenua, including:

        (i) Changes to the wording of Objective 2.7.8 to refer to development "and use of whenua".

        (ii) Amendments to a paragraph in the Explanation of Policies to achieve better consistency between the provisions and definitions (in relation to ancestral land and papakāinga on general title land).

        (iii) Additional wording in the explanation of the issues to reference how activities that provide for the economic, social and cultural wellbeing of

iwi and hapū can lead to "positive health outcomes" to expand on the context for Section 2.7 Issues, Objectives and Policies, and align better with Section 5(2) RMA.

c) Deletion of the definition of 'Papakāinga Development on General Title Land' to simplify the framework.

d) Amending the definition of 'General Title Land (In Relation to Papakāinga Development)' to clarify which land types are not considered general title land.

e) Adding "home occupation" to the definition of 'Papakāinga'.

f) Consistent reference to "papakāinga" rather than "papakāinga development" or "papakāinga housing" throughout the District Plan.

g) Amendments to assessment matter 20.5.5 for applications on general title land to clarify intent, achieve consistency between provisions and avoid future interpretation issues.

2 Introduction

2.1 Author and qualifications

6. My full name is Sarah Capper-Liddle, and I am a Planner at South Taranaki District Council.

7. I hold the qualifications of Bachelor of Resource and Environmental Planning with First Class Honours from Massey University. I am a graduate member of the New Zealand Planning Institute.

8. I have three years' experience in planning and resource management including processing resource consent applications, notices of requirement, alterations and outline plans for designations, attending hearings, and completing amendments to the District Plan to update the Designations Schedule and remove the car parking requirements in accordance with the National Policy Statement on Urban Development 2020.

2.2 Code of Conduct

9. 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.

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

3 PC3 Background and Context

11. The purpose of PC3 is to amend the Operative District Plan (ODP) provisions to better enable papakāinga development in the South Taranaki district to provide for the relationship of tāngata whenua with their ancestral lands while still appropriately managing adverse effects on the environment.

12. The proposed provisions are summarised as follows:

    a) Within the Rural, Residential, Township and Commercial Zone chapters:

        - Papakāinga development is a permitted activity on land held under Te Ture Whenua Māori Act 1993 where the relevant performance standards are met.

        - Papakāinga development is a controlled activity on land held under Te Ture Whenua Māori Act 1993 where the relevant performance standards are not met.

        - Papakāinga development on general title land is a restricted discretionary activity, with matters of discretion restricted to demonstrating the ancestral connection to the land, and long-term Māori ownership.

        - Papakāinga development failing to comply with permitted activity (e.g. bulk and location) performance standards is a restricted discretionary activity, subject to a number of matters of discretion.

    b) New and reworded definitions relating to papakāinga development;

    c) New and reworded objectives and policies within Section 2.7 Tāngata Whenua;

    d) Changes to density (net site area) performance standards in the Residential and Township Zones, and maximum number of dwelling unit performance standard exemption introduced in Township Zone for papakāinga developments.

4 Scope/Purpose of Report

13. This report has been prepared in accordance with Section 42A of the Resource Management Act to:

a) assist the Hearing Panel in making their decisions on the submissions and further submissions on the Proposed District Plan (PDP); and

b) provide submitters with an opportunity to see how their submissions have been evaluated, and the recommendations being made by officers, prior to the hearing.

14. This report responds to submissions on PC3: Papakāinga Development for the proposed changes in Sections 1, 2, 3-6 and 20 of the South Taranaki District Plan, and other general matters associated with papakāinga development.

15. Wherever possible, I have provided a recommendation to assist the Hearings Panel.

16. Some points in submissions are outside the scope of PC3 in that they raise concern about matters beyond PC3 provisions.

17. The submission points that are not within scope of PC3 are listed in Table 1 below and have not been evaluated in Section 6.2 of this Report:

Table 1: Submission points that are not within scope of Plan Change 3, or where scope is unclear

Submitter	Submission Point	Reasons the submission is not within scope of Plan Change 3
Te Korowai o Ngāruahine Trust and Ngāti Hāua Hapū	S3.35 S7.17	Submission seeks the deletion of the requirement for Financial/Development contributions for papakāinga in the District Plan. No changes to the financial contribution provisions have been considered as part of PC3. Given the risk that persons affected by the changes sought will not have an effective opportunity to respond if these submissions are considered in this plan change, I consider that these submissions are out of scope.
Kāinga Ora	S5.3	Submission seeks amendments to the Marae definition to provide for education, home based business and associated commercial activities. The only change made in the notified Marae definition was the addition of 'urupā' and additional macrons on appropriate terms. It is not clear whether the changes sought are within scope of PC3, and these types of changes could give rise to fairness issues because potentially affected parties have not had a reasonable opportunity to understand the change sought and provide comment. In any case, commercial and education activities are provided for separately in the District Plan. In the Definitions subsection of Key Issue 4: Other matters (not addressed elsewhere) below I recommend that home-based business is included within the definition of papakāinga, which in turn, means that home based business for papakāinga at Marae are included within the definition of marae (i.e. achieving the relief sought by the submitter in response to other submissions that are more clearly within scope).
Te Korowai o Ngāruahine Trust and Ngāti Hāua Hapū	S3.3 S7.4 and S7.11	Seeks amendment to the definition of 'marae' to be in te reo, to add 'reo' to kohanga, to read 'kohanga reo' and to amend Schedule 7 Marae to correct errors. It is not clear whether the changes sought are within scope of PC3 because PC3 did not propose amendments to the definition

Submitter	Submission Point	Reasons the submission is not within scope of Plan Change 3
		of 'marae' except where the term 'urupā' was included. PC3 also did not propose amendments to Schedule 7 Marae of the District Plan. However, the corrections to Schedule 7 and correction to 'kohanga reo' within the definition of Marae will be made as Clause 16 RMA corrections separate to the Plan Change Schedule 1 process.
Te Korowai o Ngāruahine Trust and Ngāti Hāua Hapū	S3.8, S3.14, S3.20, S3.26 and S7.11 S7.10	Submissions are in support of permitted rules for marae across the zones (Rule 3.1.1(e), 4.1.1(d), 5.1.1(d) and 6.1.1(xiii)) and on Policy 2.7.19, noting that marae form part of rural environment character and amenity. No changes to Policy 2.7.19 or these rules for marae were proposed as part of PC3.
Ngāti Hāua Hapū	S7.1	Submission seeks the creation of a new section in the Introduction within Section 1 that outlines the tāngata whenua in South Taranaki, including iwi, hapū, marae and Post Settlement Government Entities (**PSGE**) to provide context to plan users. Though I understand the merits of this request, PC3 did not propose new sections for Section 1 beyond the changes to the cross referencing table and definitions. Issues of fairness could arise if content requested is added without providing the opportunity for other parties, particularly iwi, to comment through the Schedule 1 process. I consider this matter is more appropriately addressed through the District Plan review, and draft wording is provided to Nga Kaitiaki for feedback prior to notification.
Kāinga Ora	S5.9	The submission seeks that a definition of 'key sites' is included to assist with interpretation of Policy 2.7.21 that refers to 'key sites'. PC3 proposed amendments to the definition to add reference to "whānau" only. Though I agree that the term 'key sites' within the policy is unclear, I am hesitant to define the term as it could alter the intended meaning of the policy, which broadly applies to "development and a range of activities by iwi, hapū and whānau". In my view the deletion of the term "on key sites" from the policy, would be more appropriate than defining the term, though it is not clear whether this type of change is within the scope of PC3, nor is it clear that there is scope for this type of change in response to the submission by Kāinga Ora. I would be open to an amendment to respond to this submission if the panel finds it has scope to make this change. At this stage, I consider this matter would be more appropriately addressed as part of the full District Plan review or a future plan change, with input from Nga Kaitiaki in development of the provisions.
Ngāti Hāua Hapū	S7.9 and S7.10	Part of these submissions seeks clarity as to why '(including mauri)' has been included in Objective 2.7.6 and what 'key sites' means in Policy 2.7.21. I understand that the Section 2.7 Tāngata Whenua issues, objectives and methods that refer to mauri, were developed in collaboration with tāngata whenua during the development of the ODP. However, no change to Objective 2.7.6 was proposed as part of PC3 therefore the scope for any changes to this objective

Submitter	Submission Point	Reasons the submission is not within scope of Plan Change 3
		in response to submissions is not clear. With reference to Policy 2.7.21 and the term 'key sites', see above comments in relation to Kāinga Ora's submission S5.9.

18. I note that a plan change on financial contributions is currently being prepared and expected to be notified by Council in 2025. The submitters will have the opportunity to make submissions on how and whether financial contributions apply to papakāinga developments as part of the Schedule 1 process on that plan change.

5 Statutory Requirements

5.1 Statutory documents

19. I note that section 3.0 Statutory and Policy Content within the PC3 (Papakāinga Development) Section 32 report provides detail of the relevant statutory considerations applicable to PC3.

20. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. I consider that the statutory and policy analysis in the Section 32 Report remains valid for the recommended amendments to the papakāinga development provisions for PC3. As such, I adopt that analysis for PC3 as notified and have not repeated it here except where necessary in Section 6 of this report. However, it is important to highlight the higher order documents that have been subject to change since notification of the PDP which must be given effect to. Those that are relevant to PC3 are discussed in Section 5.2 below.

5.1.1 Resource Management Act

21. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation underway. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

5.1.2 Resource Management (Freshwater and Other Matters) Amendment Act

22. The Resource Management (Freshwater and Other Matters) Amendment Act was passed into law on 24 October 2024. It includes amendments to the hierarchy of obligations for Freshwater Management for resource consenting while a review and replacement of the National Policy Statement for Freshwater Management (NPS-FM) 2020 is undertaken and suspends the requirement for councils to comply with the Significant Natural Areas (SNA) provisions of the National Policy Statement for Indigenous Biodiversity (NPS-IB) 2023 for three years, while it works on replacement legislation for the RMA.

23. Plans are still required to give effect to the current direction of the NPS-FM 2020 (subject to the specified exceptions in the RMA Amendment Act) while a review is undertaken, and the NPS-IB 2023 (with the exception of the provisions that are suspended for 3 years[1]). There are no specific amendments that are directly relevant to papakāinga development.

5.2 National Policy Statements

5.2.1 National Policy Statements Gazetted since Notification of PC3

24. PC3 was prepared to give effect to the National Policy Statements (NPS) that were in effect at the time of notification (2 May 2024[2]).

25. However, it is important to highlight the higher order documents that have been gazetted or amended following notification of the PC3 on 2 May 2024.

26. As District Plans must be "prepared in accordance with[3]" and "give effect to[4]" a NPS, the Hearing Panel must apply each NPS as it stands when making recommended decisions to the Council. The Government are currently working on amendments to several of the National Policy Statements and have indicated that a suite of amendments will be proposed by the end of 2024, followed by a consultation process. I note that the proposed amendments and replacement NPS signalled by the Government are to not have legal effect until they are adopted by Government and formally gazetted.

27. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current NPS).

National Policy Statement for Indigenous Biodiversity 2023

28. The objective of the NPS-IB is to maintain indigenous biodiversity across Aotearoa New Zealand so there is at least no overall loss in indigenous biodiversity after the commencement date (31 May 2023). 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 tāngata whenua in their rohe. Part 3 of the NPS-IB sets out what must be done to give effect to the objective and policies.

29. As stated in Section 5.1.2 above, the Government has suspended certain requirements of the NPS-IB for a 3-year period and indicated that the replacement Resource Management legislation and an amended NPS-IB will further address this matter.

[1] Listed in clause 20, section 78(2) of the Resource Management (Freshwater and Other Matters) Amendment Act 2024

[2] PC3 was notified on 15 April 2024 then re-notified on 2 May 2024 to fully meet the Schedule 1 statutory requirements.

[3] Section 74(1)(a) of the RMA

[4] Section 75(3)(a) of the RMA

30. When the revised legislation takes effect, Council will need to consider the extent to which changes to the District Plan more generally are required to give effect to the amended NPS-IB. These considerations are outside the scope of PC3 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 PC3 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.

National Policy Statement for Highly Productive Land 2022

31. The objective of the National Policy Statement for Highly Productive Land (NPS-HPL) 2022 is to protect highly productive land for use in land-based primary production both now and for future generations. This objective is supported by nine policies and implementation requirements that sets out how local authorities will give effect to the objective and policies.

32. For completeness, I have summarised below the key clauses of the NPS-HPL relevant to papakāinga development. 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 certain activities.

33. Clause 3.9(2) of the NPS-HPL states that a use or development of highly productive land is inappropriate except where at least one of the following applies and the measures in subclause (3) are applied:

    (c) It is, or is for a purpose associated with, a matter of national importance under Section 6 of the Resource Management Act (which includes S6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga); or

    (d) it is 'specified Māori land'.

34. If one of the above matters applies, Clause 3.9(3) NPS-HPL must be applied, which states that territorial authorities must take measures to ensure that any use or development on highly productive land:

    (a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and

    (b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.

35. "Specified Māori land" is defined in the NPS-HPL 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 with the intention of returning the land to the holders of the mana whenua over the land.

36. Land that is Māori freehold land (held under the TTWMA) meets the criteria for "specified Māori land" under Clause 3.9(2)(d) within the NPS-HPL and is exempt from the NPS-HPL restrictions if the measures in subclause (3) are applied. Treaty Settlement Land, in particular, land that is returned and held in Māori freehold title, would also meet the definition of "specified Māori land" under Clause (f).

37. Papakāinga on general title land owned by Māori that is ancestral land would meet criteria 3.9(2)(c) because Māori living on their ancestral lands is for the purpose of, and directly associated with matter of national importance S6(e) RMA. As a result, papakāinga on ancestral land that are held in general title would be exempt from the NPS-HPL restrictions on land use if the measures in subclause (3) are applied, though subdivision of general title land that is "highly productive land" associated with a papakāinga would still likely be subject to the restrictions in Clause 3.8(1).

38. In terms of clause 3.9(3), PC3 provides for papakāinga as a permitted activity on land held under TTWMA (which is "specified Māori land" described in paragraph 35 above), subject to compliance with permitted activity performance standards. It also provides for papakāinga as a restricted discretionary activity on general title land, subject to compliance with bulk and location performance standards.

39. Any papakāinga failing to comply with performance standards requires a restricted discretionary activity consent (for example rule 3.1.3(p) for the Rural Zone) with matters of discretion related to

(i) avoiding, remedying or mitigating actual or potential effects from non-compliance with the performance standards

(ii) effects on character and amenity values, and

(iii) measures proposed to avoid or mitigate potential reverse sensitivity effects.

40. These provisions enable an assessment of any papakāinga infringing the bulk and location thresholds against matters of relevance to the NPS-HPL through the resource consent process and reduce the likelihood of a papakāinga being inappropriate within highly productive land and creating reverse sensitivity effects. Within the South Taranaki district there is a low likelihood of papakāinga reducing the availability and productive capability of highly productive land, particularly considering the uptake for papakāinga is constrained by several other barriers (outside of the District Plan), and the intensity of the papakāinga will be determined by the servicing capacity of the land and the performance standards. The PC3 framework is therefore not considered to be inconsistent with the direction of the NPS-HPL.

41. New amendments to the NPS-HPL took effect on 13 September 2024. The amendments introduced a new consenting pathway for intensive indoor primary production, greenhouse activities, and specified infrastructure. No amendments were made to the NPS-HPL directly applicable to papakāinga summarised above.

42. The Council will need to give effect to the NPS-HPL and its amendments as part of a future plan change or as part of the comprehensive District Plan Review, however, these changes at present are considered outside the scope of PC3 and will be undertaken as a separate process.

5.3 Regional Policy Statement for Taranaki

43. The Regional Policy Statement (RPS) for Taranaki is currently under review. The review is proposed to occur in two parts.

44. Part 1 of the review will focus on a review and update of the land and freshwater chapters of the RPS to give effect to the NPS-FM and aligned with the preparation of a Proposed Land and Freshwater Plan for Taranaki.

45. Part 2 of the review will focus on a review and update of the remaining chapters of the policy statement post-2025 for document alignment and to give effect to other national directions and community expectations.

46. These draft documents are not relevant to PC3 as they are yet to be notified.

47. There have been no amendments to the RPS since notification of PC3.

5.4 Regional Plans

48. Under Section 75(4) of the RMA, a district plan must not be inconsistent with a regional plan for any regional council functions specified in Section 30(1) of the

RMA. The Taranaki Regional Council is implementing a strategic plan review of the following regional plans:

a) Regional Freshwater Plan

b) Regional Soil Plan

c) Regional Air Plan

49. The regional freshwater and soil plans will be combined into a new Land and Freshwater Plan for Taranaki.

50. A revised Regional Air Plan for Taranaki is proposed to occur following a review of the remaining chapters in the RPS. Notification for the regional air plan is expected in 2026.

51. These draft documents are not relevant to PC3 as they are yet to be notified. The applicable versions of the regional plans noted above remain as they were at the time of notification of PC3.

52. The Coastal Plan for Taranaki was made operative on 4 September 2023 and has not changed since the notification of PC3.

5.5 Treaty Settlements

53. Section 3.4.2 of the Section 32 Report for PC3 summarises the status of Treaty Settlements within the South Taranaki district. Since notification of PC3 on 15 April 2024 there have been no further Deeds of Settlement signed to settle historic Te Tiriti o Waitangi / Treaty of Waitangi Claims against the Crown, in the South Taranaki District.

5.5.1 Iwi Management Plans – Update

54. There have been no changes to Iwi Management Plans since PC3 was notified. Section 3.4.1 of the Section 32 Report for PC3 explains the Iwi Management Plans relevant to PC3.

5.6 Section 32AA evaluation

55. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of PC3 are recommended, these have been evaluated in accordance with Section 32AA of the RMA. These evaluations are contained within section 6 of this report.

56. The s32AA further evaluation for each key issue considers:

a) The extent to which the amendments to the proposal are the most appropriate way to achieve the purpose of the RMA.

b) Whether the amendments are the most appropriate way to achieve the objectives of PC3, by:

i. Identifying other reasonably practicable options for achieving the objectives.

ii. Assessing the efficiency and effectiveness of the provisions in achieving the objectives.

iii. Considering the environmental, social, economic and cultural benefits and costs of the amended provisions.

iv. Considering the risk of acting or not acting where there is uncertain or insufficient information about the provisions.

57. The s32AA 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.

5.7 Procedural Matters

5.7.1 Pre-hearing engagement

58. South Taranaki District Council officers have had pre-hearing engagement with several submitters to clarify matters raised in their submissions. These are summarised in Table 2 below.

Table 2: Pre-hearing engagement with Submitters

Submitter	Type of engagement	Date	Summary of engagement / discussion
Ngāti Hāua Hapū (S7)	Meeting and email correspondence	23 September 2024	Discussions were held with representatives of Ngāti Hāua Hapū to clarify the points raised and the relief sought in submissions S7.1, S7.9, S7.12 and S7.19. Ngāti Hāua Hapū subsequently provided suggested wording to support their submission points (addressed in Section 6.2 below).
Parininihi ki Waitōtara Incorporation (PKW) (S2)	Email correspondence	11 September 2024	Email engagement with Richard Buttimore of PKW to clarify the location of land owned by PKW, the status of this land, the management structures in place, and whether an ancestral connection was present. The

Submitter	Type of engagement	Date	Summary of engagement / discussion
			information sought was provided.
Te Korowai o Ngāruahine Trust (S3), Ngā Mahanga Hapū (S6), Te Kāhui o Taranaki Trust (S9)	Email correspondence	11 September 2024, 11 October 2024	Opportunity for submitters to provide more information on the nature, location and extent of 'other land' types they refer to in their submissions. The information sought was not provided by submitters S3, S6 or S9.

5.7.2 Clause 16 amendments

59. The Council can make an amendment to a provision under Clause 16(2) where such alteration is of minor effect or may correct any minor errors. The provisions of PC3 have been updated to use lower case for the terms 'general title land', 'Māori freehold land' and 'Māori customary land' for consistency. These changes are neutral and do not alter the meaning of the provisions. These changes are shown as clean changes in Appendix 1 and throughout this report (i.e. are not shown as underline or strikethrough).

6 Consideration of submissions received

6.1 Overview of submissions received

60. A total of eight original submissions (131 submission points) and three further submissions (119 further submission points) were received on PC3.

61. In summary, 29 original submission points indicated general support, 50 submission points indicated support in part with changes requested, and 51 submission points opposed provisions proposed in PC3. One submission point's position was not stated.

62. All submitters generally support PC3 in principle.

63. The submissions on PC3 came from[5]:

    a) Submitter 2 - Richard Buttimore for Parininihi Ki Waitōtara Incorporation (PKW)

    b) Submitter 3 - Te Aorangi Dillon for Te Korowai o Ngāruahine Trust

    c) Submitter 4 - Health NZ National Public Health Service Te Manawa Taki - for Health New Zealand / Te Whatu Ora

[5] Note submission reference numbers start at number 2 due to the submission database numbering, and there is no submission #1 that has been omitted.

d) Submitter 5 - Kāinga Ora - Homes and Communities

e) Submitter 6 - Tāne Manukonga for Ngā Mahanga Hapū

f) Submitter 7 - Karl Adamson for Ngāti Hāua Hapū

g) Submitter 8 - Petrus Johannes Franciscus Rodeka

h) Submitter 9 - Ngawai Terry for Te Kāhui o Taranaki Trust

64. Further submissions on PC3 came from:

a) Further Submitter 10 – Ngahina Capper

b) Further Submitter 11 – Richard Buttimore for Parininihi Ki Waitōtara Incorporation (PKW)

c) Further Submitter 12 – Karl Adamson for Ngāti Hāua Hapū

65. Section 6 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submission points 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 issues. This thematic response assists in providing a concise response to and recommended decision on, submission points.

6.2 Late Submission

66. Further Submission 12 from Ngāti Hāua Hapū was received on 19 July 2024, one day past the closing date for submissions (5pm Thursday 18 July 2024). This further submitter contacted Council to request a one-day extension. The reason provided by Karl Adamson of Ngāti Hāua Hapū for the late submission was that they had various kaupapa to address at that time and their secretary who was assisting with the further submission drafting, had been out of the country.

67. 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.

68. Taking into account the matters set out in Section 37A(1) of the RMA, it is recommended that the Hearing panel accept the late submission by Ngāti Hāua Hapū (FS12) as a submission, allowing the matters raised to be addressed through the hearing process because:

a) The submission was received no more than 24 hours past the closing time/date for further submissions and will not result in unreasonable delay.

b) The further submission was made on other submission points that are within the scope of the plan change. It is important that these matters are considered, addressed and tested through the schedule 1 process along with all other matters raised in submissions.

c) There is no prejudice to any person directly affected by the Hearings Panel accepting the late submission.

6.3 Officer Recommendations

69. A recommended set of provisions on response to submissions on PC3 is provided in Appendices 1.1-1.7 to this Report. In these appendices, the changes to Operative District Plan provisions as notified are shown in **red text** (with ~~**strikethrough**~~ for deletions and **underline** for additions). The amendments recommended in this report in response to submissions are shown in **blue text** (with ~~**strikethrough**~~ for deletions and **underline** for additions).

70. A full list of submissions, further submissions, and officer recommendations on the submission points for PC3 is contained in Appendix 2: Recommended Decisions on Submissions.

71. For information purposes, Appendix 3 contains maps of the extent of Māori land and Treaty Settlement land based on currently available information from Māori Land Court and Te Arawhiti at the time of writing.

6.3.1 Key Issue 1: Ancestral land vs land owned by tāngata whenua

Overview

Table 3: Summary of Officer Recommendations for Key Issue 1

Provision(s)	Officer Recommendation(s)
Definition of 'Ancestral Land'	Amend definition to replace reference from "means land that belonged to tipuna/tupuna (ancestors)" with "land where there is a demonstrated whakapapa or ancestral connection to the land".
Objective 2.7.11	Amend to provide for papakāinga development on ancestral land (rather than "land owned by tāngata whenua").
Policy 2.7.18	Amend to refer to papakāinga on ancestral land.
Rules and matters of discretion for papakāinga development in zone chapters 3-6	Consequential amendments to matters of discretion, for consistency, from wording that requires that the applicant has "demonstrated their whakapapa or ancestral connection to the land" to "the applicant has demonstrated that the land is ancestral land".

Analysis of Submissions on Key Issue 1

Matters raised in submissions

72. Kāinga Ora (S5.1) support the definition of 'ancestral land' and request it is retained as notified.

73. Kāinga Ora (S5.6) supports Objective 2.7.8 and request it is retained as notified.

74. Kāinga Ora (S5.7) supports Objective 2.7.11 but seeks an amendment to refer to "land owned by tāngata whenua" as follows:

To provide for papakāinga development on land owned by ~~Tāngata Whenua~~ iwi, hapū and whānau.

75. Te Korowai o Ngāruahine Trust (S3.1), Ngā Mahanga Hapū (S6.1), Ngāti Hāua Hapū (S7.2) and Te Kāhui o Taranaki Trust (S9.1) seek that the definition of 'ancestral land' is deleted from PC3. The submitters consider that the definition for 'ancestral land' is unclear and unnecessary as the definition is only used in the parts of the plan that refer to Papakāinga and does not appear to add any value.

76. Ngāti Hāua Hapū (S7.9 and S7.10) seek amendments to Objectives 2.7.6-2.7.11 and Policies 2.7.12-2.7.21 to better support the aspirations of Ngāti Hāua Hapū, reflect the changes sought to provisions elsewhere (including the above), and ensure papakāinga is supported across the plan[6].

Analysis - Ancestral land and the concept of 'Ownership'

77. The definition of 'Ancestral Land' proposed as part of PC3 is:

ANCESTRAL LAND: means land that belonged to tipuna/tupuna (ancestors).

78. The purpose of PC3 is to amend the current provisions to better enable papakāinga development in the South Taranaki district to provide for the relationship of tāngata whenua with their ancestral lands while still appropriately managing adverse effects on the environment. The intent of PC3 is to enable papakāinga on land held under Te Ture Whenua Māori Act (TTWMA) 1993, and other land where an ancestral connection is demonstrated and long-term ownership is proposed.

79. This intent is explained in the new paragraph added to Section 2.7 (by PC3) as notified:

"Opportunities to develop papakāinga housing on these lands are also provided for within the District Plan for Māori to enable development of ancestral lands in accordance with tikanga Māori, regardless of land status."

[6] Note, some of these requests are addressed in Key Issue 5: Other Matters where they do not specifically relate to the "ancestral land" and the concept of "ownership".

80. Submissions S3.1, S6.1, S7.2, and S9.1 raised concerns about the purpose of the 'Ancestral Land' definition. The definition was produced to coincide with the matters of discretion for the demonstration of whakapapa/ancestral connection to the land as outlined in the papakāinga developments on general title land rules proposed in sections 3-6, as well as emphasise the relevant objectives and policies. I recognise the intent is not clear given the words *"Ancestral Land"* are not specifically used in the objectives, policies or rules of the Plan. Rather, the proposed provisions (as notified) use the following terms (my emphasis added):

Objectives and Policies

Objective 2.7.11 To provide for papakāinga development ***on land owned by Tāngata Whenua.***

Policy 2.7.18 Allow for papakāinga on 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.*

Method of implementation:

In providing for papakāinga on Māori owned land, papakāinga will be provided for on land held under Te Ture Whenua Māori Act 1993; and allowed on general title land owned by Māori where it can be demonstrated that there is a whakapapa or ancestral connection to the land, and the land will remain in Māori ownership.

Matters of Discretion for Rule 3.1.3(o) (and others)

Papakāinga developments on general title land that comply with the permitted activity performance standards in Section 3.2.

Matters to which the Council restricts its discretion:

(i) Whether the applicant has demonstrated their ***whakapapa*** *or* ***ancestral connection*** *to the land.*

81. Submissions S7.9 and S7.10 by Ngāti Hāua Hapū raise concerns that the Section 2.7 objectives and policies appear to repeat the wording of the section 6 and 7 matters of the RMA and seek amended wording to better support the aspirations of Ngāti Hāua. Ngāti Hāua Hapū has also expressed that there is a significant amount of case law regarding 'Ancestral land' in Aotearoa, and the concept of 'ownership' has the potential to undermine, diminish and narrow the relationship Māori have with their ancestral lands, particularly the application of section 6(e), 7(a) and 8 of the RMA. Ngāti Hāua Hapū (S7.14) has also sought amendments to the rule framework and matters of discretion to ensure that the relationship with their ancestral land is not unnecessarily narrowed.

82. I agree with Ngāti Hāua Hapū that reference to 'land owned by tāngata whenua' referred to in objective 2.7.11 and the definition of "ancestral land" referring to "land that belonged to tipuna/tupuna (ancestors)" are not as clear as they could be

which could potentially undermine the intent of PC3. In particular, the term "tāngata whenua" as defined by the RMA means:

***tangata whenua**, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area*

83. If used in the context of "ownership" the term tāngata whenua could be narrowly interpreted to exclude land owned by whānau which could have perverse outcomes.

84. I also acknowledge that Iwi Management Plans for several iwi within the district (for example, Ngaa Rauru Kiitahi) consider all land within their rohe to be ancestral land. The Taranaki RPS (Section 16.3) also explains that:

Ancestral lands are not restricted to land currently in Māori ownership but may also include lands traditionally occupied by iwi and hapū. In managing the land resources of Taranaki, opportunities must be provided for tangata whenua to use and develop their land in accordance with their culture and traditions, providing for appropriate development of marae, papakāinga and whare wānanga on tūrangawaewae and protecting wāhi tapu and other resources and places of cultural values from the adverse effects of land use.

85. In response to the above submissions, I recommend they are accepted in part and the definition of 'Ancestral Land' is amended to reference "whakapapa/ ancestral connection" rather than land "belonging" to ancestors, and the following consequential amendments are made to the provisions for consistency and better horizontal integration:

ANCESTRAL LAND: means land ~~that belonged to tipuna/tupuna (ancestors)~~ where there is a demonstrated whakapapa or ancestral connection to the land.

Objective 2.7.11 To provide for papakāinga development on ancestral land ~~owned by Tangata Whenua~~.

Policy 2.7.18 Allow for papakāinga on:

(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~~ and ~~that~~ the land[7] is intended to remain with Māori long term.

Method of implementation:

In providing for papakāinga on Māori owned land, papakāinga will be provided for on land held under Te Ture Whenua Māori Act 1993; and allowed on general title land owned by Māori where it can be demonstrated that there is a whakapapa or ancestral connection to the land, and the land will remain in Māori ownership.

[7] S3.1, S6.1, S7.2, S7.9, S7.14, S9.1

Matters of discretion and associated advice notes for rules for papakāinga development on general title land in the zone chapters are as follows:

(i) *Whether the applicant has demonstrated ~~their whakapapa or ancestral connection to the land~~ that the land is ancestral land.*

Note: For resource consent applications under this rule, the Council will obtain advice from the relevant iwi authority and will take this advice into account. The matters that Council will seek advice from iwi authorities on include:

(a) *Where the papakāinga is on general title land, whether the applicant has demonstrated ~~a whakapapa or ancestral connection to the land;~~ that the land is ancestral land*[8]*.*

86. I consider that the recommendations are more appropriate in achieving the purpose of the RMA because they:

a) Better reflect the intent of the plan change (to provide for papakāinga on ancestral land).

b) Reduce the potential for the terms 'ownership' or 'belonging' undermining the intent, and ensure the provisions better support the aspirations of tāngata whenua.

c) Are more closely aligned with terms used in higher order direction (including 6(e), 7(a) and 8 of the RMA and Section 16.3 of the Taranaki RPS).

d) Achieve greater consistency in terminology and integration between the definitions, objectives, policies, methods and rules, which aids with plan interpretation and implementation (and reduces costs and risks associated with ambiguity and inconsistent interpretation).

Recommendation

87. For the above reasons, I recommend that:

a) Submissions from Kāinga Ora (S5.1), Te Korowai o Ngāruahine Trust (S3.1), Ngā Mahanga Hapū (S6.1), Ngāti Hāua Hapū (S7.2) and Te Kāhui o Taranaki Trust (S9.1) on the definition of 'Ancestral Land' are accepted in part, insofar as the recommended amendments address the concerns raised by the iwi and hapū groups.

b) Submissions from Ngāti Hāua Hapū (S7.9, S7.10) and Kāinga Ora (S5.7) are accepted in part and the provisions are amended as set out in paragraph 85 above. The abovementioned recommended changes do not change the intent

[8] S3.1, S6.1, S7.2, S7.9, S7.14, S9.1

of the plan change, they simply clarify the intent and achieve the intended outcome in a more efficient and effective manner.

Section 32AA evaluation

88. Paragraphs 85 to 86 above provides a Section 32AA evaluation for the recommended changes referred to in paragraph 85. Specifically, the recommended amendments to provisions are the most appropriate way to achieve the objectives of PC3, and are efficient and effective, because they:

a) Reduce the potential for the terms 'ownership' or 'belonging' undermining the intent of PC3 and compromising the outcomes sought which will lead to more consistent outcomes.

b) Ensure the provisions better support the aspirations of tāngata whenua including economic growth and social and cultural wellbeing.

c) Achieve greater consistency in terminology and integration between the definitions, objectives, policies, methods and rules, which aids with plan interpretation and implementation (and reduces costs and risks associated with ambiguity and inconsistent interpretation).

d) Are more closely aligned with terms used, and give effect to, higher order direction (including 6(e), 7(a) and 8 of the RMA and Section 16.3 of the Taranaki RPS).

6.3.2 Key Issue 2: Pathways for papakāinga on land not held under Te Ture Whenua Māori Act

Overview

Table 4: Summary of Officer Recommendations for Key Issue 2

Provision(s)	Officer Recommendation(s)
Permitted activity status for papakāinga on land held under TTWMA (Rules 3.1.1(f), 4.1.1(e), 5.1.1(e), 6.1.1(xiv))	Retain as notified.
Restricted discretionary activity status for papakāinga on general title land (rules 3.1.3(o), 4.1.3 (f), 5.1.3(f), 6.1.3(e))	Retain as notified.
Definition of 'General Title Land (In Relation to Papakāinga Development)'	Amend wording to clarify which land types are not considered general title land.
Definition of 'Papakāinga Development'	Consequential amendment to add reference to "or general title land that is ancestral land" for completeness.
Definition of 'Papakāinga Development on General Title Land'	Delete definition.

Analysis of Submissions on Key Issue 2

Matters raised in submissions

89. Several submissions (see Table 5 below) were made seeking that the permitted pathway for papakāinga development of PC3 be broadened to include other types of land (beyond land held under TTWMA). Table 5 below generally summarises these submissions.

Analysis – Broadening Permitted Pathway

90. PC3 (as notified) provides for the following in the Rural, Residential, Township and Commercial Zone chapters:

a) Papakāinga development as a **permitted activity** on land held under TTWMA 1993 where performance standards are met

b) Papakāinga development as a **controlled activity** on land held under TTWMA 1993 when performance standards are not met

c) Papakāinga development as a **restricted discretionary activity** on general title land when performance standards are met, with matters of discretion restricted to demonstrating the land is ancestral land and will remain in long-term Māori ownership.

d) Papakāinga development as a **restricted discretionary activity** on general title land when the performance standards are not met, with matters of discretion restricted to various matters relating to managing the adverse effects arising from the non-compliance.

Table 5 Summary of Submissions for Key Issue 2: Pathways for papakāinga on land not held under Te Ture Whenua Māori Act

Submitter	Submission Point	Summary of Submission
Te Korowai o Ngāruahine Trust	3.2, 3.4, 3.5, 3.10, 3.16, 3.17, 3.32, 3.22, 3.28, 3.29, 3.34	Amend the definition of 'General Title Land (In Relation to Papakāinga Development),' 'Papakāinga Development' and 'Papakāinga Development on General Title Land' to encompass the relationship that hapū, iwi, marae, whānau and uri, have with their ancestral lands and including land returned by Treaty Settlement within the definition. Amendments are sought to Rule 3.1.2(b), 4.1.2(a), 4.1.3(f), 4.1.3(g) 5.1.2(a), 6.1.2(b), 6.1.3(e) and 6.1.3(f) that reflect the changes requested above.
	3.11, 3.31, 3.17, 3.23, 3.33, 3.27 3.21, 3.15	Amend Rule 3.1.3(o), 3.1.3(p), 4.1.3(f), 5.1.3(f), 5.1.3(g) and 6.1.1(xiv) and to remove reference to general title land and insert reference to whenua Māori to align with submitters previous submissions. Amend Rule 4.1.1(e) and 5.1.1(e) to refer to the type of whenua papakāinga can be developed as a permitted activity.
Te Korowai o Ngāruahine Trust, Ngāti Hāua Hapū	3.9, 7.12	Amend Rule 3.1.1(f) to broaden the whenua types in which papakāinga can be undertaken on as a permitted activity.
Kāinga Ora	5.2	Retain the definition of 'General Title Land (In Relation to Papakāinga Development)' as notified in PC3.
	5.5	Delete 'Papakāinga Development on General Title Land' definition as papakāinga and associated activities should be a provided for on both Māori title land and general title land.
	5.8, 5.11	Retain the methodology in providing for papakāinga on Māori owned land as notified in PC3. Retain Policy 2.7.18 as notified in PC3.
	5.12, 5.13, 5.17 5.22, 5.27, 5.16, 5.21, 5.14, 5.15, 5.18, 5.19, 5.23, 5.24, 5.26 5.28, 5.29	Amend Rules 3.1.2(b), 4.1.2(a), 5.1.2(a), 6.1.2(b) to include "papakāinga on general title land" (and remove reference to land held under Te Ture Whenua Māori Act 1993). Amend Rule 3.1.1(f), 4.1.1(e) and 5.1.1(e) to include "and on general title land" so it is permitted. Delete Rule 3.1.3(o), 3.1.3(p), 4.1.3(f), 4.1.3(g), 5.1.3(f), 5.1.3(g), 6.1.1(xiv), 6.1.3(e) and 6.1.3(f) as there should be no distinction in activity status between papakāinga on Māori freehold or general title land. The submitter seeks for papakāinga to be treated as a permitted or controlled activity and the deletion of this rule.
Ngā Mahanga Hapū	6.2, 6.3, 6.4	Amend the definition of 'General Title Land (In Relation to Papakāinga Development)' and 'Papakāinga Development' to exclude a range of other typical mana whenua iwi, hapū or whānau ownership structures or titles. Retain the definition of 'Papakāinga Development on General Title Land' if the amendment to 'General Title Land (In Relation to Papakāinga Development)' and 'Papakāinga Development' are accepted.
Ngāti Hāua Hapū	7.3, 7.5, 7.13, S7.10 7.14, 7.6	Delete 'General Title Land (In Relation to Papakāinga Development)' and 'Papakāinga Development' definitions and insert a new definition encompassing the relationship that hapū, iwi, marae, whānau and uri, as well as PSGEs, have with their ancestral lands. Alternatively, amend definition to avoid confusion. Delete 'Papakāinga Development on General Title Land' definition to reduce confusion. Amendments are sought to Rule 3.1.2(b) and other provisions that reflect the changes requested above.

Submitter	Submission Point	Summary of Submission
		Amendments are sought to Rules 3.1.2(b) and 3.1.3(p) that reflect the changes requested above, and to ensure the relationship of Ngāti Hāua Hapū and Ngāti Hāua uri with their culture and traditions and their ancestral lands within their takiwā is recognised and provided for. Consequential amendments to Policy 2.7.18 are also sought as a result of proposed rule framework amendments.
Te Kāhui o Taranaki Trust	9.2, 9.3, 9.4	Amend the definition of 'General Title Land (In Relation to Papakāinga Development)' and 'Papakāinga Development' to exclude a range of other typical mana whenua iwi, hapū or whānau ownership structures or titles. Retain the definition of 'Papakāinga Development on General Title Land' as notified in PC3.
Parininihi Ki Waitōtara Incorporation, Ngā Mahanga Hapū, Te Kāhui o Taranaki Trust	2.1, 2.2, 2.3	Amend the definition of 'General Title Land (In Relation to Papakāinga Development)', 'Papakāinga Development' and 'Papakāinga Development on General Title Land' to include other Māori ownership structures within the definition.
	2.13, 2.14, 2.15	Amend Issue 2.7.5, Objective 2.7.8 and Policy 2.7.21 to enable the collaboration of Māori Incorporations and Māori Land Trusts in supporting Iwi, hapū and whānau with Papakāinga Development.
	2.4, 2.5, 2.6, 2.8, 2.9 2.7, 6.6, 9.6	Amend Rules 3.1.2(b), 3.1.1(f), 4.1.1(e), 4.1.2(a), 5.1.1(e) to remove reference to land held under Te Ture Whenua Māori Act 1993 to enable papakāinga on all land ownership classifications.
Ngā Mahanga Hapū, Te Kāhui o Taranaki Trust	6.5, 9.5	Amend Rule 3.1.1(f) to remove reference to land held under Te Ture Whenua Māori Act 1993 as the definition of Papakāinga Development already identifies the types of title and ownership where Papakāinga are able to be established as permitted activities.
	6.7, 6.9, 6.11, 9.7, 9.9, 9.11 6.8, 6.10, 6.12, 9.8, 9.10, 9.12	Amend Rule 4.1.1(e), 5.1.1(e) and 6.1.1(xiv) to remove reference to land held under Te Ture Whenua Māori Act 1993. The submitter seeks that the rule in the operative district plan is retained. Amend Rule 4.1.2(a) 5.1.2(a) and 6.1.2(b) to remove reference to land held under Te Ture Whenua Māori Act 1993.
Petrus Johannes Francisus Rodeka	8.2	Enable a pathway for papakāinga development on general title land.

91. The definition of 'General Title Land (In Relation to Papakāinga Development)' in PC3 reads as follows:

GENERAL TITLE LAND (IN RELATION TO PAPAKĀINGA DEVELOPMENT): means land that is owned by Māori but which is not held under Te Ture Whenua Māori Act 1993/Māori Land Act 1993.

92. The proposed approach allows for papakāinga development on Māori freehold land, Māori customary land and Crown land reserved for Māori (land held under the Te Ture Whenua Māori Act) as a permitted activity. There is a consenting pathway for papakāinga on other types of land (general title land) as a restricted discretionary activity to ensure that applicants demonstrate their ancestral connection and that the land will be held in long-term ownership.

93. The definition of 'General Title Land (In Relation to Papakāinga Development)' is intentionally broad and is intended to ensure that papakāinga development on all types of land that are not Māori land held under the TTWMA is enabled. The provisions provide an enabling consenting pathway (restricted discretionary activity status) for papakāinga on general title land. This definition is also important to provide context to the various new rules and policies that relate to general title land. It makes a clear distinction between the permitted rules for papakāinga (on land held under TTWMA) and papakāinga on other land not held under TTWMA which require resource consent as a restricted discretionary activity.

94. The key reason that Council took this approach (to require that long-term Māori ownership is demonstrated by way of legal mechanisms through the resource consent process) 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 (including Treaty Settlement land) 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, or others who do not have ancestral connections to the whenua.

95. The proposed approach, including the requirement to demonstrate 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 by other councils including Hastings District Council, Whangārei District Council, Kāpiti Coast District Council and Porirua City Council.

96. The submitters are generally seeking that the framework be amended to broaden the permitted activity pathway so it applies to other types of land (not just land held under TTWMA), including, for example:

    a) General land that ceased to be Māori freehold land under Part 1 of the Māori Affairs Amendment Act 1967; and which is still owned by the persons or their

descendants, who owned the land immediately before the land ceased to be Māori freehold land; or

b) General land that is beneficially owned by 10 or more Māori – either individually or through whānau trust, Māori incorporation, Māori trust board, Marae committee or other similar legally incorporated Māori entity;

c) General land owned by a legally incorporated hapū entity;

d) General land owned by an Iwi Authority, settlement trust or subsidiary entity;

e) General land held in certain ownership structures, such as Māori Corporations or Māori Land Trusts;

f) Cultural or commercial redress properties returned to Post-Governance Settlement entities through Treaty Settlement Processes; or

g) Land owned by Māori that is not held under the TTWMA but held in other mana whenua iwi, hapū or whānau ownership structures or titles.

97. My understanding is that all of the above land types would fit within the definition of 'General Title Land (In Relation to Papakāinga Development)' proposed in PC3 (as notified, referred to in paragraph 91) because the intention of the definition of 'General Title Land (In Relation to Papakāinga Development)' is to capture all Māori-owned land that is not 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. The restricted discretionary consenting pathway applies to papakāinga development on all general title land, including general title land that is returned through Treaty Settlement legislation. However, this intention is not clear in the notified wording of this definition which may be confusing for the submitters and future plan users. To clarify which land types are not intended to be included as general title, rewording the definition to specify which land types are excluded is recommended. New wording of the definition is provided below:

GENERAL TITLE LAND (IN RELATION TO PAPAKĀINGA DEVELOPMENT): means land that is owned by Māori but does not include Māori freehold land, Māori 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).

98. It is difficult to determine the nature and extent of 'General Title Land (In Relation to Papakāinga Development)' owned by Māori in the South Taranaki District to understand the extent and implications of the changes sought by submitters (to provide for papakāinga on these types of land as a permitted activity). To assist with my evaluation of the options, I provided an opportunity for the relevant submitters[9] to provide more information on the nature, extent, land status and location of the "other land" types they refer to in their submissions, including Treaty Settlement land. The responses received are summarised below.

[9] Te Korowai o Ngāruahine Trust, Ngāti Hāua, Ngā Mahanga Hapū, Te Kāhui o Taranaki Trust and PKW (via email on 11 September 2024).

99. Richard Buttimore of PKW (S2) advised that:

a) 16,800 ha of PKW's landholdings holds Māori freehold land status. 16,050 ha of this land is "whenua tupuna" which consists of two titles that have leasehold title governed under the Māori Reserved Lands Amendment Act 1997, with underlying Māori freehold title (unimproved land), governed under the TTWMA. The remaining 750 is Māori freehold land. I understand that all of this land (including "whenua tupuna" land) would be considered "land held under Te Ture Whenua Māori Act" and would benefit from the permitted activity provisions for papakāinga on land held under Te Ture Whenua Māori Act.

b) 500 ha of PKW's landholdings is held in general title, which are primarily located in the Rural Zone.

100. Ngāti Hāua Hapū advised that Ngāti Hāua Whānui Incorporated Society, the entity through which Ngāti Hāua Hapū operates, do not currently hold/ own any land that would be classified under TTWMA. There are two deferred selection properties (DSPs) under the Ngāruahine Deed of Settlement (2014) which, if Ngāti Hāua resolve to do so, will receive from Te Korowai o Ngāruahine via a special purpose vehicle (SPV) mechanism. These are summarised in Table 6.

Table 6 Ngāruahine Deed of Settlement – Deferred Selection Properties in Ngāti Hāua Rohe

	Former Otakeho School Site	**Former Awatuna School Site**
CT reference	Record of Title 242907 - Cancelled: LD: Section 13 Block V Waimate Survey District (Taranaki)	Record of Title TNK3/2: LD: Part Section 32 Block IX Kaupokonui Survey District (Taranaki)
Size	2.8328 hectares more or less	4.0421 hectares
Location	2121 South Road, Otakeho, South Taranaki	2233 Eltham Road, Awatuna, South Taranaki.
Zone	Rural Zone Heritage Building H79	Rural Zone

101. To further assist with my evaluation on these matters, I have also undertaken a GIS analysis of the extent of 'Māori freehold land' and 'Treaty Settlement Land' within the South Taranaki District (summarised in Table 7 below). Appendix 3 to this Report also contains maps showing the location of these land types across the district. All of the 'Māori land' is Māori freehold land with the exception of 50 hectares of Māori customary land.

Table 7 Extent and Nature of Māori land and Treaty Settlement land in South Taranaki District[10]

	Māori land (Māori freehold and Māori customary land)	**Treaty Settlement land (Commercial and cultural redress)**
Number of properties	867	102

[10] Based on GIS data sourced from Te Arawhiti (Office of Treaty Settlements) and Māori Land Court at 7 November 2024.

Total ha of land	22,260 ha	338 ha
Total portion of land in South Taranaki District	6.22%	0.09%
Property size (range)	77m^2 to 687 ha	143m^2 to 108 ha
Property size (average)	25.7 ha	3 ha
Property zone	Rural (100%)	Residential (1%), Rural (99%)

102. Considering the information above, my view is that the different activity status for the different land types (i.e. land held under TTWMA vs general title land), as notified and summarised in paragraph 90 above, are appropriate because:

a) The permitted activity pathway for Māori freehold land, Māori customary land and Crown land reserved for Māori (land held under TTWMA) applies to land that is ancestral land, administered by the Māori Land Court, and the extent, location and nature of this land is known and understood (22,260 ha of Rural Zones land covering 6.22% of the South Taranaki District). To enable larger-scale development as a permitted activity on other types of land in rural areas could adversely affect rural character and could place significant pressure on infrastructure in the rural environment.

b) For other types of land (beyond land held under TTWMA), it would not be appropriate to apply a permitted activity status because:

- General title land could be sold on the open market, therefore there is no certainty (without a resource consent process and a legal mechanism in place) that a papakāinga development built on general title land will remain a papakāinga in Māori ownership long-term.

- The key reasons that this approach was introduced are to ensure the land being developed for papakāinga remains in ownership of those who whakapapa to the land, which is appropriate to achieve the objectives of PC3.

- It is appropriate that the definition of 'General Title Land (In Relation to Papakāinga Development)' remains broad so that it can capture a wide range of different ownership structures on general title land and that these are provided for under the restricted discretionary activity pathway to demonstrate the land is ancestral land and will remain in Māori ownership long-term.

- General land owned by Māori can be subdivided and may be subject to the requirements of the NPS-HPL (if it is not 'ancestral land'). A permitted activity status for papakāinga on general title land may not be consistent with or "give effect" to the NPS-HPL, including in circumstances where the land is general title without a demonstrated ancestral connection to the land.

103. I am concerned that amendments to specifically refer to other land ownership structures could confuse and undermine the intent of the definitions and associated framework and create unintended consequences. For example, excluding general

land beneficially owned by a legally incorporated Māori entity from the definition of 'General Title Land (In Relation to Papakāinga Development)', could mean that Rule 3.1.3(o) applies. This rule applies a restricted discretionary activity status for papakāinga on general title land in the Rural Zone. If Rule 3.1.3(o) no longer applies to this type of land (general title land that is beneficially owned by a legal incorporated Māori entity), then there is no clear consenting pathway for papakāinga on land in this type of ownership structure[11].

104. I consider that PC3 is already very enabling, providing for papakāinga as a permitted activity, with limited restrictions, on land held under TTWMA that covers 6.22% of the district. The provisions, as notified, are generally consistent with the approach taken by other councils and are appropriate to achieve the objectives in 2.7.6 – 2.7.11 of the District Plan, including "to provide for papakāinga development on ancestral land".

105. On a separate matter, Ngāti Hāua Hapū (7.6) and Kāinga Ora (S5.5) have suggested deleting the 'Papakāinga Development on General Title Land' definition to reduce confusion. The definition (as notified) reads:

PAPAKĀINGA DEVELOPMENT ON GENERAL TITLE LAND: means the development of multiple DWELLING UNITS that may include Marae, supporting cultural information/tourism centres and other community building and recreation facilities on general title land that is owned by Māori.

106. I recognise that the rules provide a clear distinction between "papakāinga development on general title land" and "papakāinga development on land held under Te Ture Whenua Māori Act 1993", therefore the definitions do not necessarily need to make this distinction and could be simplified. I agree that the definition of 'Papakāinga Development on General Title Land' can be removed, and I support including "general title land" within the definition of 'Papakāinga Development' which removes the need to have a separate definition for 'Papakāinga Development on General Title Land'. I note this amendment does not change the intent or application of the rule framework, rather it clarifies the intent and simplifies the provisions.

Recommendation

107. For the reasons stated above, I recommend that the provisions are retained as notified, that is, the framework (with the permitted pathway applying only to papakāinga development on land held under TTWMA) is retained as summarised in paragraph 90 above. I recommend that the submissions referred to in Table 5 are accepted, accepted in part or rejected as set out in **Appendix 2** to this Report.

108. I recommend that the submissions S7.6 by Ngāti Hāua Hapū and S5.5 by Kāinga Ora are accepted in part and the definition of 'Papakāinga Development on General Title Land' is deleted.

[11] Because my understanding is that this type of land would also not be considered "land held under Te Ture Whenua Māori Act 1993) and subject to the permitted rules.

109. I also recommend consequential amendments to the definitions of 'Papakāinga Development' and 'General Title Land (In Relation To Papakāinga Development' (shown in blue underline text below) to achieve better integration between the recommended provisions and to reduce the potential for conflict or confusion:

PAPAK~~A~~ĀINGA DEVELOPMENT: means the ~~integrated~~ development of multiple DWELLING UNITS that may include Marae, supporting cultural information/tourism centres and other community building and recreation facilities on M~~a~~āori freehold land, M~~a~~āori customary land and Crown land reserved for M~~a~~āori (as defined in Te Ture Whenua Māori Act 1993/Māori Land Act 1993) or general title land that is ancestral land.

GENERAL TITLE LAND (IN RELATION TO PAPAKĀINGA DEVELOPMENT): means land that is owned by Māori but does not include Māori freehold land, Māori 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).

Section 32AA evaluation

110. The recommended amendments to the definitions do not change the intent or activity status of papakāinga development under the PC3 rules, they simplify the framework and clarify the intent. The recommended amendments are more appropriate in terms of achieving the purpose of the RMA and the objectives of the district plan than the notified version of the PC3 provisions because they are simplified and more specific, resulting in less potential for ambiguity or inconsistent interpretation, and will achieve the objectives in a more efficient and effective manner.

6.3.3 Key Issue 3: Bulk and location

Overview

Table 8: Summary of Officer Recommendations for Key Issue 3

Provision(s)	Officer Recommendation(s)
Rule 3.2.1(a)(v)	Retain as notified.
Rule 4.2.1(a)(iii)	Retain as notified.
Rule 5.2.1(c)	Retain as notified.
Performance Standard 3.2.2(a)	Retain as notified.
Performance Standard 4.2.2	Retain as notified.
Performance Standard 5.2.2	Retain as notified.
Performance Standard 6.2.1	Retain as notified.
Performance Standard 6.2.3	Retain as notified.
Performance Standard 6.2.4	Retain as notified.
Performance Standard 6.2.10	Retain as notified.

Analysis of Submissions on Key Issue 3

Matters raised in submissions

111. Several submitters (S2.10, S2.11, S3.12, S3.18, S5.20, S5.25, S7.15) support performance standards 3.2.1(a)(v), 4.2.1(a)(iii) and 5.2.1(c) relating to number of dwellings and net site area, and seek the provisions are retained as notified.

112. Richard Buttimore of PKW (S2.12) and Te Korowai o Ngāruahine Trust (S3.24) seek to retain Performance Standard 5.2.1(a)-(c) as notified in PC3.

113. Te Korowai o Ngāruahine Trust (S3.13, S3.19, S3.25) and Ngāti Hāua Hapū (S7.16) oppose performance standards 3.2.2(a), 4.2.2(a) and 5.2.2(a) and seek that bulk and location requirements for papakāinga development are removed.

114. Te Korowai o Ngāruahine Trust (S3.30) seeks the removal of performance standards 6.2.1, 6.2.3, 6.2.4 and 6.2.10 for papakāinga development in the Commercial Zone.

115. The submitters request these changes to ensure the scarce resource of whenua Māori is able to be developed in a way which meets the aspirations for iwi, hapū, whānau, marae and uri.

Analysis

116. The performance standards that received submissions are summarised in Table 9 below.

Table 9: Summary of Provisions Submitted for Key Issue 3

Rural Zone	
Performance Standard	**Provision Summary**
3.2.1(a)(v) Number of Dwelling Units	Papakāinga development is exempt from the above maximum number of dwellings units.
3.2.2(a) Bulk and Location	Height and Location Requirements for dwelling unit, home occupation and other sensitive activities: • Minimum setback State Highway: 20m • Minimum setback road boundary: 10m • Minimum setback other site boundaries: 10m • Maximum height: 10m
Residential Zone	
Performance Standard	**Provision Summary**
4.2.1(a)(iii) Net Site Area	Papakāinga development is exempt from the following net site area requirements: • 400m^2 for dwelling units outside the intensification area • 300m^2 for dwelling units within the intensification area
4.2.2 Bulk and Location	Location Requirements for buildings: • 4.5m to a road boundary outside the intensification area • 3m to a road boundary within the intensification area • 3m to a rail boundary

	• 1.5m to any other site boundary Maximum height: 8m
Township Zone	
Performance Standard	**Provision Summary**
5.2.1(c) Number of Dwelling Units and Minimum Site Area	Papakāinga development is exempt from the above minimum number of dwelling unit performance standards set out in 5.2.1(a) and the net site area performance standards set out in 5.2.1(b).
5.2.2(a) Bulk and Location	Height and Location Requirements for dwelling unit, home occupation and other sensitive activities: • Minimum setback State Highway: 10m • Minimum setback road boundary: 5m • Minimum setback other site boundaries: 1.5m • Maximum height: 8m
Commercial Zone	
Performance Standard	**Provision Summary**
6.2.1 Bulk and Location	Location Requirements for buildings: • 10m to the State Highway 3 road boundary between Hāwera and Normanby. • 3m to the rail boundary. Maximum height: 10m
6.2.3 Sites Adjoining Residential Zone or Rural Zone	• All buildings shall be setback 5m from the Residential or Rural Zone boundary. • Landscaping and planting of at least 2m deep at the Residential or Rural zone boundary/boundaries shall be provided. • All outdoor carparking, storage, servicing and loading areas shall be screened with a minimum height of 1.2m and maximum height of 2m. • Light spill from any outdoor artificial lighting shall not exceed 10 lux (measured horizontally and vertically) when measured at the boundary of an adjoining Residential zoned site.
6.2.4 Minimum and Maximum Floor Areas	• Within the Commercial Zone (Hāwera Town Centre), no individual activity shall occupy a total floor area of 500m2 or more, at ground level. • Within the Commercial Zone (Large Format Trade and Service), no individual activity shall occupy a total floor area (excluding shared storage space and activities) less than 500m2, at ground level. • Within the Commercial Zone (Large Format Trade and Service), the maximum total floor area of any building shall not exceed 1000m2.
6.2.10 Residential Activities and Visitor Accommodation	• All new dwelling units to have private outdoor living area at least 50m2 in area and capable of containing a circle 4m in diameter, oriented to the east, west, or north. • All new minor dwelling units shall have a private outdoor living area which is at least 10m2 in area and capable of containing a circle 2.5m in diameter and is oriented to the east, west or north of the dwelling unit. • Within the Commercial Zone (Hāwera Town Centre) and the Defined Pedestrian Frontage area in Eltham, no residential activities or visitor accommodation shall occupy the ground floor of buildings. Except that: Residential activities may occur on the ground floor to the rear of the building if the building frontage is occupied by retail or other permitted activity.

117. The support of performance standards 3.2.1(a)(v), 4.2.1(a)(iii), and 5.2.1(c) by the submitters are acknowledged. The submitters seek that these standards are retained as notified, therefore I recommend no change is made to standards 3.2.1(a), 4.2.1(a)(iii), and 5.2.1(c).

118. Te Korowai o Ngāruahine Trust and Ngāti Hāua Hapū oppose the performance standards in the Rural, Residential, Township and Commercial Zones regarding bulk and location, specifically the height and location requirements for papakāinga development. The reasons provided by the submitters are to ensure whenua Māori can be developed in a way that meets iwi, hapū, whānau, marae and uri aspirations, culture and traditions, and for the requirements to be similar to those within the Parihaka Cultural Area.

119. The standards for papakāinga development in Parihaka Cultural Area are more permissive than those in the wider Rural Zone in that all buildings within the Parihaka Cultural Area are exempt from the Bulk and Location standards in rule 3.2.2. Instead, the following reduced bulk and location standards are applied to papakāinga developments and other permitted buildings in the Parihaka Cultural Area in Section 3 of the PDP:

> *3.2.2(c) Within the Parihaka Cultural Area, the following standards shall apply to all permitted activities.*
>
> *(i) All buildings shall be located no closer than 5m to any road or other boundary.*
>
> *(ii) No part of any building shall extend more than 15m above natural ground level.*
>
> *(iii) The total gross floor area of all retail activities (excluding tourism related activities) within the Parihaka Cultural Area shall not exceed 400m2.*

120. Section 2.7 of the ODP explains the reason for specific provisions for the Parihaka settlement is due to its historical significance and future aspirations; with site-specific provisions in place to manage the nature and scale of future development and activities while also ensuring adverse effects are avoided, remedied or mitigated.

121. The Bulk and Location, specifically height and location requirements that apply to the remaining Rural Zone and Residential and Township zones are as follows:

a) Rural Zone: 10m minimum setback from road boundary and other site boundaries; 20m minimum setback from State Highway; 10m maximum height.

b) Residential Zone: 4.5m minimum setback from road boundary; 1.5m minimum setback from other site boundaries; 8m maximum height.

c) Township Zone: 5m minimum setback from road boundary; 1.5m minimum setback from other site boundaries; 10m minimum setback from State Highway; 8m maximum height.

122. I consider that these standards with controls on building size, scale and location are necessary to control potential adverse effects on the environment, such as effects on character and amenity, and potential reverse sensitivity effects on existing land uses. These performance standards are used to implement the objectives and policies, in particular Policy 2.7.17, and policies that relate to the maintenance or enhancement of amenity values in sections 2.1-2.4 of the PDP. For context, Policy 2.7.17 is described as follows:

*2.7.17 Enable the development of papak~~a~~ā*inga housing whilst managing potential adverse effects on amenity values.*

123. Section 4.3 of the Section 32 Report identified that providing for papakāinga development may have adverse effects on the surrounding environment. These effects can be reduced, mitigated or avoided under the District Plan by using performance standards to control the scale of activities that can occur as a permitted activity, including on land held under TTWMA. I consider the bulk and location standards are necessary and appropriate for the following reasons:

a) To implement Policy 2.7.17.

b) To reduce the potential for adverse effects on the environment and ensure papakāinga developments are compatible within the receiving environment.

c) To achieve alignment with Section 7(c) RMA.

124. I note that papakāinga development is permitted on land held under TTWMA which covers approximately 6.22% of land in the district, without any maximum density restrictions, therefore the framework as notified is considered to be enabling and appropriate. For these reasons, I consider it important that the Council retains the bulk and location standards within the Rural, Residential and Township zones in order to manage character, amenity and reverse sensitivity effects on land in these zones, and to allow for a pathway to consider the effects of infringements on adjacent land uses or features.

125. Te Korowai o Ngāruahine Trust (S3.30) sought the removal of performance standards 6.2.1, 6.2.3, 6.2.4 and 6.2.10 in the Commercial Zone for papakāinga.

126. I note that the ODP contains the following objectives for the Commercial Zone:

- *2.4.4 Maintain and enhance the character and amenity values of commercial areas in a manner that enables commercial and other activities to support the local community, while avoiding or mitigating adverse effects within and adjoining the commercial areas.*

- *2.4.5 Complementary and compatible non-commercial activities within the commercial areas that support the functioning of commercial areas and recognise the sensitivities and amenity levels within and adjoining commercial areas.*

127. Additional policies also aim to maintain and enhance the amenity values within the Commercial Zone by managing the effects of activities and development. These objectives and policies as notified are not proposed to change in the PDP. The performance standards outlined in Section 6 implement these objectives and policies to ensure that amenity values are not compromised.

128. I do not support the requested removal of standard 6.2.1 Bulk and Location, as well as standards 6.2.3, 6.2.4 and 6.2.10 for the reasons outlined in paragraphs 123 and 124 above. All development undertaken as a permitted activity in the Commercial Zone are required to meet the relevant standards to maintain amenity values, and I consider this remains appropriate for papakāinga developments that may occur in this zone.

Recommendation

129. For the reasons outlined above I recommend that:

130. The submissions from Richard Buttimore of PKW (S2.10, S2.11, S2.12), Te Korowai o Ngāruahine Trust (S3.12, S3.18, S3.24), Kāinga Ora (S5.20, S5.25) and Ngāti Hāua Hapū (7.15) for the retention of performance standards 3.2.1(a)(v), 4.2.1(a)(iii), and 5.2.1(a)-(c) are accepted and the provisions are retained as notified.

131. The submissions from Te Korowai o Ngāruahine Trust (S3.13, S3.19, S3.25, 3.30) and Ngāti Hāua Hapū (S7.16) are rejected and the bulk and location standards are retained as notified.

Section 32AA evaluation

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

5.2.3 Key Issue 4: Other matters (not addressed elsewhere)

Overview

Table 10: Summary of Officer Recommendations for Key Issue 4

Provision(s)	Officer Recommendation(s)
Definition of 'Papakāinga Development'	Remove reference of the word "development" in definition title to 'Papakāinga' and include "home occupations" in the wording.
Definition of 'General Title Land (In Relation to Papakāinga Development)'	Remove reference of the word "development" in definition title to 'General Title Land (In Relation to Papakāinga)'.
Sections 2.1-2.5 Objectives and Policies	Retain as notified.
Cross Referencing Table	Retain as notified.

Provision(s)	Officer Recommendation(s)
Issues 2.7.1-2.7.5	Retain as notified.
Paragraphs situated between the 2.7 Issues and Objectives	Amend paragraph that contains reference to 'economic, social and cultural wellbeing' to include "which contributes to positive health outcomes for Māori".
Objective 2.7.8	Amend wording to include "and use of whenua".
Section 2.7 Explanation of Policies	Amend wording to include reference to "whakapapa/ancestral connection" and "Council will also rely on the advice of iwi authorities for confirmation of an applicant's whakapapa/ancestral connection".
'papakāinga development' and 'papakāinga housing' in Section 1-6 and Section 20	Remove all reference of the word "development" and "housing" where it corresponds with 'papakāinga' throughout the PDP.
Section 20.5.5 assessment matter	Amend wording for applications on general title land.
Sections 3-6 Matters of control for papakāinga development on land held under TTWMA	Retain as notified.

Analysis of Submissions on Key Issue 4

Matters raised in submissions

133. A number of submission points were related to matters other than those discussed in the previous key issues. These submissions have been grouped into further sub-topics:

a) General Support;

b) Definitions;

c) Objectives and Policies;

d) Wording;

e) Health and Wellbeing;

f) Resource Consent Information Requirements and Assessment Matters;

g) Matters of Control;

h) Notification Process.

134. I summarise and analyse each one of the submission points in the sub-topics below.

General Support

Submission

135. Health New Zealand / Te Whatu Ora (S4.4) seek to retain the increased provision for papakāinga development as notified in PC3.

136. Petrus Johannes Franciscus Rodeka (S8.1) seeks updates to the ODP provisions through the following amendments:

"Update the operative Papakāinga Development provisions to better support Iwi aspirations for Papakāinga Development, including definitions, objectives and policies, and zone-based rule frameworks."

137. Petrus Johannes Franciscus Rodeka (S8.3) seeks that the South Taranaki District Council adopt the proposed plan changes.

Analysis

138. The submissions by Petrus Johannes Franciscus Rodeka (S8.1 and S8.3) and Health New Zealand / Te Whatu Ora (S4.4) express support for PC3 as a whole and my interpretation of their requests is that the PC3 provisions achieve the relief sought. At this stage, because these submitters do not request any specific changes to the notified provisions, I recommend no changes in regard to their submissions. However, I will consider any specific wording amendments that these submitters may provide in hearing evidence.

Recommendation

139. I recommend the submissions by Health New Zealand (S4.4) and Petrus Johannes Franciscus Rodeka (S8.1 and S8.3) be accepted and the provisions retained as notified.

Section 32AA Evaluation

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

Definitions

Submission

141. Health New Zealand / Te Whatu Ora (S4.1) seeks that the definition of Papakāinga Development is clear and is amended to incorporate a broad understanding of what papakāinga and 'home' represent to Māori.

142. Kāinga Ora have also sought (S5.4) that the definition of 'papakāinga development' be amended to provide for education, home-based business and associated commercial activities because these provide for Māori social, economic and cultural wellbeing.

Analysis

143. The definition of Papakāinga Development, as notified and with amendments recommended in paragraph 109 reads:

PAPAKĀINGA DEVELOPMENT: means the ~~integrated~~ development of multiple DWELLING UNITS~~,~~ that may include Marae, 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.

144. Te Whatu Ora has not provided any specific suggested wording amendments to support their submission (S4.1). I note the definition of papakāinga has been developed in consultation with the Ngā Kaitiaki group who provided input into the PC3 provisions prior to notification, and as part of those discussions, it was understood that the definition was appropriate. At this stage, I do not recommend any specific changes to the definition in response to Te Whatu Ora's submission S4.1 but will consider any specific wording amendments that Te Whatu Ora provides in hearing evidence.

145. In response to Kāinga Ora's submission S5.4 I consider that it is appropriate to include home occupation within the definition of papakāinga because:

a) Home occupations are incidental and secondary to the residential use of a property.

b) The definition itself includes limitations on hours and employees within the definition of 'home occupation' to manage the scale of these activities, and their potential environmental effects. Therefore, the potential for home occupation associated with a papakāinga to generate adverse effects on the environment is considered low; and

c) Home occupations are permitted in the rural environment under the ODP framework up to 50m^2 per site, therefore considering a home occupation as part of a papakāinga is generally consistent with the approach for home occupation for general residential activities more generally.

d) Allowing home occupations at papakāinga would help to provide opportunities for social, economic and cultural wellbeing for tāngata whenua.

146. I do not support adding 'commercial activities' to the definition of papakāinga because:

a) Commercial activities encompass a broad range of activities, many of which are generally not anticipated in the Rural or Residential Zones, and they have the potential to generate adverse effects (depending on intensity, scale, traffic and access, noise, lighting and hours of operation).

b) There is a consenting pathway (discretionary activity status under the zone rules[12]) to consider whether a commercial activity is appropriate in nature and scale for a particular site and context.

Recommendation

147. For the above reasons I recommend that:

a) Health New Zealand / Te Whatu Ora's submission (S4.1) is rejected.

b) Kāinga Ora's submission (S5.4) is accepted in part and the definition of papakāinga is amended to include 'home occupations', but not 'commercial activities'.

Section 32AA Evaluation

148. The recommended change to include 'home occupation' within the definition of papakāinga is appropriate for the reasons stated in paragraph 145 above, and creating more certainty that a home occupation can be associated with papakāinga aligns with Section 2.7 objectives and policies.

Objectives and Policies

Submission

149. Te Korowai o Ngāruahine Trust (S3.6) seek amendments to sections 2.1-2.4 within Section 2: Objectives and Policies to accurately reflect the tāngata whenua context in these environments.

150. Te Korowai o Ngāruahine Trust (S3.7) seek amendments to the cross-referencing table for sections 2.1-2.4 to accurately reflect the tāngata whenua context in these environments.

151. Ngāti Hāua Hapū (S7.7) seek amendments to sections 2.1-2.5 within Section 2: Objectives and Policies and the cross referencing table to recognise and provide for their relationship with ancestral lands and activities (including papakāinga) and align with the tāngata whenua objectives and policies.

152. Ngāti Hāua Hapū (S7.8) seek amendments to Issues 2.7.1-2.7.5 to acknowledge that development for iwi and hapū is not limited to marae and papakāinga.

153. Ngāti Hāua Hapū (S7.8) also seek further amendments to the commentary that follows the issues as a result of consequential amendments to definitions and rule frameworks outlined in other submissions.

154. Ngāti Hāua Hapū (S7.9) seek amendments to the wording of Objective 2.7.8 (proposed amendment underlined for clarity):

[12] Rule 3.1.4(g) in the Rural Zone

"Objective 2.7.8 – should the objective include development and use of whenua."

155. Ngāti Hāua Hapū (S7.9 and S7.10) also sought clarification in relation to the objectives and policies in Section 2.7: "It is unclear what weighting is given to objectives and policies in the assessment of a restricted discretionary, and clarification is sought as to whether the tangata whenua objectives would be given more weight than the zone objectives and policies."

156. Kāinga Ora (S5.10) sought amendments to the Explanation of Policies in section 2.7 for a focus on whakapapa instead of evidence of historic titles, worded as follows:

"Amend as follows: Provision is made for papakāinga on General Title Land in the District Plan where applicants can demonstrate long-term ownership and maintenance of the land title to ensure these developments are retained by Iwi, hapū and whānau long-term. In these cases, demonstrating whakapapa ~~evidence such as historic titles that shows the land has been held in whānau ownership, and~~ or holding the land in a Trust can be utilised."

Analysis

157. I acknowledge the submissions from Te Korowai o Ngāruahine Trust (S3.6) and Ngāti Hāua Hapū (S7.7) that sought amendments to additional sections in Section 2: Objectives and Policies of the PDP. These sections include:

a) Section 2.1 Rural Zone;

b) Section 2.2 Residential Zone;

c) Section 2.3 Township Zone;

d) Section 2.4 Commercial Zone;

e) Section 2.5 Industrial Zone.

158. Part of the submissions by Ngāti Hāua Hapū (S7.9, S7.10) also sought clarity of the weighting of objectives and policies in Section 2.7 of the District Plan against underlying zone objectives and policies.

159. No amendments were proposed in these sections as part of PC3. The issues, objectives, policies and additional content in Section 2.7 Tāngata Whenua are intended to apply District-Wide to activities undertaken by tāngata whenua in any zone or environment. When an activity such as papakāinga development is being considered as part of a restricted discretionary resource consent, the applicable objectives and policies would be considered to the extent that they are relevant to a matter of discretion. In many cases, this would include the provisions in Section 2.7 and may include the provisions for the underlying zone (e.g. sections 2.1-2.4), particularly if the development exceeds the bulk and location standards. The provisions in the District Plan chapters are to be read together as relevant when

assessing a particular proposal. Each application would be assessed individually according to its own circumstances in accordance with s104 RMA. For these reasons, no changes are recommended for sections 2.1-2.5.

160. The submission by Te Korowai o Ngāruahine Trust (S3.7) requested changes to the cross referencing table. As part of PC3, changes were only made to the Tāngata Whenua topic in the cross referencing table to reflect the notified amendments to Section 2.7 Tāngata Whenua; no changes were proposed to sections 2.1-2.4 as part of PC3. I do not recommend any changes to sections 2.1-2.4 for the reasons stated in paragraph 159 above. As such, no change is necessary for the cross referencing table for the Rural Zone, Residential Zone, Township Zone, and Commercial Zone topics that correspond with sections 2.1-2.4 of the PDP. If my recommendations are accepted by the Hearing Panel, amendments in the cross referencing table are only necessary for the Tāngata Whenua topic and the corresponding columns for this topic.

161. The submission by Ngāti Hāua Hapū (S7.8) sought amendments to the issues and commentary following the issues in Section 2.7 Tāngata Whenua. In response to their request, I note that Issue 2.7.5 uses marae and papakāinga as examples; the wording does not restrict development by iwi, hapū and whānau to solely these uses. For context, Issue 2.7.5 is provided below:

2.7.5 Providing for development by Iwi, ~~and~~ hapū and whānau (e.g. Marae, papak~~a~~āinga housing) that enhances their social, cultural and economic well-being while sustainably managing the environment.

162. I also note that because Section 2.7 Tāngata Whenua recognises development by iwi, hapū and whānau is not restricted to marae and papakāinga developments, I do not recommend any changes to the Issues in Section 2.7 of the PDP.

163. Submission 7.8 also requested amendments to the commentary as a result of consequential amendments to definitions and rule frameworks outlined in other submissions. The commentary that follows below the issues in section 2.7 describes Council obligations in regard to planning alongside the tāngata whenua of South Taranaki. This includes recognising and providing for the relationship of Māori with their ancestral lands as a matter of national importance under the RMA and the importance for Māori to maintain their traditional association with the land whilst enabling the efficient use and appropriate development of their land to provide for their economic, social and cultural wellbeing.

164. No wording was provided in the submission, which makes the amendments sought unclear. However, I note that other requests sought by the submitter (S7.2-S7.6) include amendments to definitions to encompass the submitter's relationship with their ancestral lands and how their whenua can be used. These requests (S7.2, S7.3, S7.5 and S7.6) have been addressed in Key Issue 1: Ancestral land vs land owned by tāngata whenua and Key Issue 2: Pathways for papakāinga on land not held under Te Ture Whenua Māori Act, which contain recommendations for various amendments that relate to ancestral land and the papakāinga development definition.

165. The commentary between the Issues and Objectives in Section 2.7 contains the following new wording introduced by PC3:

It is also recognised that much ancestral land occupied by iwi, hapū and whānau is held under General Title status. Opportunities to develop papakāinga housing on these lands are also provided for within the District Plan for Māori to enable development of ancestral lands in accordance with tikanga Māori, regardless of land status.

166. I consider this commentary within Section 2.7 of the PDP aligns with the recommendations in Key Issues 1 and 2 and is reflective of the request sought by S7.8. Accordingly, I recommend no changes are made to the Section 2.7 Issues or the commentary that follows.

167. Ngāti Hāua Hapū (S7.9) also sought amendments to the wording of Objective 2.7.8 to reference the use of whenua, which would read (recommended amendments in blue):

2.7.8 To recognise and provide for development and use of whenua by Iwi, ~~and~~ hapū and whānau that enhances their social, cultural and economic well-being in a way that achieves sustainable management of the environment.

168. The purpose of PC3 is to better enable papakāinga development in the South Taranaki district to provide for the relationship of tāngata whenua with their ancestral lands while still appropriately managing adverse effects on the environment. To fulfil this purpose, the identified resource management issues needed to be addressed, with one such issue identified in Section 4.1 of the Section 32 Report being that the existing provisions within the ODP no longer reflect the development aspirations of tāngata whenua (Issue 1). The proposed provisions aim to make it easier for tāngata whenua to use their whenua by undertaking papakāinga developments if they wish to, however, the use of whenua is not wholly restricted to developing papakāinga on the land.

169. The intent of the Section 2.7 objectives (e.g. Objective 2.7.6 and Objective 2.7.8) is to support activities on land by tāngata whenua, provided that environmental effects are managed. Although the wording of the objectives does not explicitly reference 'land use', I note that the intent is expressed in the paragraphs that follow the Section 2.7 Issues, such as the following description:

"Tāngata Whenua have a special relationship to the land and environment. The District Plan needs to address this relationship by managing the effects of land uses on land, water, sites and areas of cultural and spiritual significance, wāhi tapu and other taonga. In addition, it is important for Iwi and hapū to be able to maintain their traditional association with the land, whilst enabling the efficient use and appropriate development of their land to provide for their economic, social and cultural wellbeing. Certain land uses may be appropriate on M~~a~~āori Land, such as ~~P~~papak~~a~~āinga housing and Marae, given the different title structure of Māori land."

170. I also note that the papakāinga development definition encourages a broad range of uses in the wording of the definition, these being "Marae, supporting cultural information/tourism centres and other community building and recreation facilities", and home occupations (as recommended in the Definitions sub-topic above).

171. In considering the above in regard to S7.9, I consider it would be appropriate to amend Objective 2.7.8 to include reference to "use of whenua" to better reflect this objective's intent. The suggested change would reflect not only the description specified in paragraph 169 above, but also be reflective of the wider range of uses expressed in the papakāinga development definition.

172. Kāinga Ora (S5.10) sought amendments to the notified changes made in the Explanation of Policies subsection within Section 2.7; proposing wording changes to focus on the demonstration of whakapapa instead of historic titles.

173. The notified version of PC3 proposed amendments to correspond with the following provisions:

a) The ANCESTRAL LAND and GENERAL TITLE LAND (IN RELATION TO PAPAKĀINGA DEVELOPMENT) definitions;

b) Policy 2.7.18;

c) The additional matters of discretion and advice note for the papakāinga developments on general title land rules in Sections 3-6;

d) The assessment matters contained in section 20.5.5(f) of the PDP.

174. The new paragraph contained in the Explanation of Policies subsection has been added to provide context behind proposed Policy 2.7.18 which relates to the new pathway provided for papakāinga development on general title land. The explanation describes a mechanism through which Council may seek evidence from applicants in demonstrating long-term ownership of the land, this being historic titles, to correspond with the provisions outlined in paragraph 173 above.

175. I agree that demonstrating whakapapa is important to Policy 2.7.18 and the other provisions outlined above to indicate the applicant's ancestral connection to the land. However, I consider it is also important to retain the existing wording for the reasons expressed above. Therefore, I recommend that the request be accepted in part, by amending the paragraph as follows:

Provision is made for papakāinga on general title land in the District Plan where applicants can demonstrate whakapapa/ancestral connection and long-term ownership and maintenance of the land title to ensure these developments are retained by Iwi, hapū and whānau long-term. In these cases, evidence such as historic titles that shows the land has been held in whānau ownership, and or holding the land in a Trust can be utilised. Council will also rely on the advice of iwi authorities for confirmation of an applicant's whakapapa/ancestral connection.

Recommendation

176. In regard to the above analysis, I recommend that:

a) The submissions by Te Korowai o Ngāruahine Trust (S3.6) and Ngāti Hāua Hapū (S7.7) are rejected for the reasons outlined above, as no changes are recommended for sections 2.1-2.5.

b) The submission by Te Korowai o Ngāruahine Trust (S3.7) is rejected, and that no change to the cross referencing table are made beyond the proposed changes as notified.

c) The submission by Ngāti Hāua Hapū (S7.8) is rejected, with no change to the Section 2.7 Issues or the section that follows made beyond the proposed changes as notified.

d) Submissions 7.9 and 7.10 by Ngāti Hāua Hapū where they sought clarification in relation to the objectives and policies in Section 2.7, are accepted in part insofar as I provide a response to their request for clarity, though no changes to the provisions are recommended.

177. I recommend that submission 7.9 by Ngāti Hāua Hapū where they sought amendments to the wording of Objective 2.7.8 be accepted in part, with amendments to Objective 2.7.8 (shown in blue underlined text below) to clarify intent and reflect the wider range of uses expressed in the papakāinga development definition.

2.7.8 To recognise and provide for development and use of whenua by Iwi, ~~and~~ hapū and whānau that enhances their social, cultural and economic well-being in a way that achieves sustainable management of the environment.

178. I recommend that submission S5.10 by Kāinga Ora is accepted in part, with amendments to the new paragraph outlined in the Explanation of Policies section (shown in blue underlined text below) to achieve better integration between the recommended provisions:

Provision is made for papakāinga on general title land in the District Plan where applicants can demonstrate whakapapa/ancestral connection and long-term ownership and maintenance of the land title to ensure these developments are retained by Iwi, hapū and whānau long-term. In these cases, evidence such as historic titles that shows the land has been held in whānau ownership, and or holding the land in a Trust can be utilised. Council will also rely on the advice of iwi authorities for confirmation of an applicant's whakapapa/ancestral connection.

Section 32AA Evaluation

179. The recommended amendments are more appropriate than the notified provisions because they achieve greater consistency in terminology and integration between

the definitions, objectives, policies, methods and rules, which aids with plan interpretation and implementation (and reduces costs and risks associated with ambiguity and inconsistent interpretation).

180. Further, the recommended amendments to Objective 2.7.8 reflect the intent of PC3 in that they better support the aspirations of tāngata whenua and are considered more appropriate than the notified objective 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).

Wording

Submission

181. Ngāti Hāua Hapū (S7.2) requested consistent use of te reo Māori to be utilised in the Plan.

182. Ngāti Hāua Hapū (S7.20) seeks that the word 'development' be removed from the title of PC3 and throughout provisions of the plan when referencing Papakāinga.

183. Ngāti Hāua Hapū (S7.20) also seek the removal of the word 'housing' where it follows Papakāinga throughout the plan.

Analysis

184. Part of the request by Ngāti Hāua Hapū (7.2) sought the consistent use of te reo Māori to be utilised in the Plan.

185. Te reo Māori is an official language of New Zealand and is becoming more commonly used in planning documents typically in introductory sections (such as including whakataukī in te reo Māori at the beginning or certain chapters of a plan). Terms in te reo Māori are commonly found in the definitions section of the plan and are defined in English, which is seen in the PDP within various definitions, such as the Marae, Papakāinga Development and tikanga Māori definitions because these are te reo Māori terms. These terms may then be found in other sections of the plan where the activity corresponds with an objective, policy or rule, which is the case for these three terms in the PDP.

186. I note that 'Ancestral Land' is an English term, and I understand that its intent and use within the PDP is to relate to the te reo Māori term 'whakapapa', meaning genealogy. The matter of consistency raised by S7.2 for this term specifically has been assessed in Key Issue 1: Ancestral land vs land owned by tāngata whenua, which contains recommendations to amend the definition to clarify its intent and achieve the intended outcome in a more efficient and effective manner.

187. I consider that both 'Marae' and 'tikanga Māori' are terms where the words themselves and their uses are consistent throughout the Plan however, the term 'papakāinga' has inconsistent combinations of wording and uses. This is seen in the following chapters of the PDP as summarised in Table 11:

Table 11: Summary of Papakāinga Terminologies used in the PDP

Section of PDP	'Papakāinga' Terminology Used
Section 1: Introduction and Definitions	'papakāinga development'.
Section 2: Objectives and Policies	'papakāinga housing', 'papakāinga development' and 'papakāinga'.
Section 3: Rural Zone Rules	'papakāinga development', 'papakāinga housing' and 'papakāinga'.
Section 4: Residential Zone Rules	'papakāinga development' and 'papakāinga'.
Section 5: Township Zone Rules	'papakāinga development' and 'papakāinga'.
Section 6: Commercial Zone Rules	'papakāinga development' and 'papakāinga'.
Section 20: Resource Consent Information Requirements and Assessment Matters	'papakāinga development and redevelopment' and 'papakāinga housing'.

188. These inconsistencies correlate with the requests sought by the submitter in S7.20. To assess whether it may be appropriate to remove the words that follow 'papakāinga', I investigated other terms within the PDP that utilise the combination terminologies as containing '… development' and '… housing'. I also investigated other district plans containing papakāinga content to assess their usage of the term as a definition and throughout the plan. The district plans assessed included those adjacent to this district (New Plymouth, Stratford and Whanganui) and those that were investigated in section 4.2.2 of the Section 32 Report (Kāpiti Coast, Hastings and West Coast Councils). Table 12 below contains a summary of the content of this investigation.

Table 12: Summary of Specific Terminologies used in District Plans

District Plan	Terminology used	Section(s) of Plan
South Taranaki Proposed District Plan	'residential development', 'commercial development', 'industrial development'. 'residential housing'.	Section 2 (sections 2.2, 2.19 and 2.21). Sections 3-6.
New Plymouth Proposed District Plan (Appeals Version)	Definition: 'papakāinga'. Consistent use of the term 'papakāinga' only.	Definitions, Zones, Schedules 3, 11, 12.
Stratford District Plan	Definition: 'papakāinga'. Consistent use of the term 'papakāinga' only.	Definitions, Policies, Rules
Whanganui District Plan	Definition: 'papakāinga'. Slightly inconsistent use of the terms 'papakāinga' and 'papakāinga development'. Noted where 'development' is used in combination with 'papakāinga', the extension of the word 'development' where used has its own definition in the plan.	Definitions, Part 1 General Provisions (Tangata Whenua and Papakāinga – Policies and Rules)
Kāpiti Coast District Plan	Definition: 'papakāinga'. Slightly inconsistent use of the terms 'papakāinga' and 'papakāinga development'.	Definitions, Zone Rules, Objectives and Policies, Schedule 9

District Plan	Terminology used	Section(s) of Plan
	Noted where 'development' is used in combination with 'papakāinga', the extension of the word 'development' where used has its own definition in the plan. Noted: Definitions also contain definitions for 'general title land (in relation to papakāinga)'.	
Hastings District Plan	Definition: 'papakāinga'. Very inconsistent combinations are utilised, these being 'papakāinga', 'papakāinga developments', 'papakāinga housing' and 'papakāinga housing development'. Noted: 'papakāinga housing' is only used for specific policies that discuss land with marae and seek to also enable housing needs. Noted: Definitions also contain a definition for 'papakāinga accessory building'.	Definitions, Zone Rules, Objectives and Policies
Te Tai o Poutini Plan (West Coast Councils)	Definition: 'papakāinga'. Very inconsistent combinations are utilised, these being 'papakāinga', 'papakāinga developments' and 'papakāinga housing'. Noted: 'papakāinga housing' is only used for specific policies that seek to enable housing needs.	Definitions, Zones (Rules and Policies)

189. Considering the information above, it is evident that inconsistencies of the te reo Māori term 'papakāinga' are not uncommon between other councils, however, I consider that there are benefits in amending the various wording used for 'papakāinga' for improved consistency and integration with defined terms. These being the definition of 'papakāinga development', and the use of 'papakāinga housing', because:

a) This approach would improve consistency and would be more consistent with the definition and approach used in district plans of other councils.

b) The term 'papakāinga housing' is not used regularly throughout the PDP or by other councils. The purpose of its use within the PDP is also unclear given that its usage in Section 2.7 Tāngata Whenua does not have a specific focus on only housing provision and papakāinga is considered to have a broader meaning when used throughout the Plan.

190. In response to the above submissions, I recommend they are accepted in part by deleting any reference to the term 'papakāinga housing' in the PDP, and to amend the 'papakāinga development' definitions to 'papakāinga'. This recommended change requires consequential amendments throughout the District Plan to consistently refer to 'papakāinga' rather than 'papakāinga development' or 'papakāinga housing'.

Recommendation

191. In regard to the above analysis, I recommend the submissions by Ngāti Hāua Hapū (S7.2 and S7.20) are accepted in part by amending the definitions of 'Papakāinga Development' and 'General Title Land (In Relation to Papakāinga Development) by removing the word "development" and deleting "development" and "housing" where it directly corresponds with "papakāinga" throughout the PDP.

Section 32AA Evaluation

192. I consider that the changes recommended above would improve consistency of the use of the term 'papakāinga' where it is used throughout the PDP because this approach would be more consistent with similar terms relating to papakāinga used within the district plans of other councils and would match the terms contained within the Definitions section of the PDP where they relate to papakāinga.

Health and Wellbeing

Submission

193. Health New Zealand / Te Whatu Ora (S4.2) seeks that there is a focus on increasing health and wellbeing outcomes when the provisions of PC3 are applied to applications for developments, including addressing social determinants of health and increasing the availability of healthy housing for Māori as well as enabling Māori whānau and hapū to live in a way that reflects their own priorities and aspirations.

194. Health New Zealand / Te Whatu Ora (S4.3) seeks the creation of a communication plan associated with this plan change so that residents, whānau, iwi and hapū are aware of the opportunities for development that may be available to them. The submitter seeks this change to protect and enhance wellbeing and public health.

Analysis

195. Issue 2.7.5 and Objective 2.7.8 in the PDP relate to the request sought by S4.2 as these correspond with wellbeing:

2.7.5 Providing for development by Iwi, ~~and~~ hapū and whānau (e.g. Marae, papak~~a~~āinga housing) that enhances their social, cultural and economic well-being while sustainably managing the environment.

2.7.8 To recognise and provide for development by Iwi, ~~and~~ hapū and whānau that enhances their social, cultural and economic well-being in a way that achieves sustainable management of the environment.

196. I recognise that applications for development by iwi, hapū and whānau, such as papakāinga, could provide for social, economic and cultural wellbeing as intended by Objective 2.7.8 through the notified provisions in the following ways:

a) As identified in Section 8.1.1 of the Section 32 Report, enabling papakāinga may lead to enhanced social connections and wellbeing as whānau live closer to one another, creating a sense of community.

b) Provisions that enable papakāinga development allow iwi, hapū and whānau to develop their land in accordance with Tikanga Māori.

c) More permissive provisions for papakāinga development may result in the complete avoidance of planning fees for permitted activities, or reduced fees for those undertaking the activity under the new proposed controlled and restricted discretionary pathways.

d) Papakāinga development leads to more housing for iwi, hapū and whānau; addressing housing needs that are part of the social determinants of health.

197. Through PC3, the notified provisions are more enabling of papakāinga development which would contribute to better health outcomes for Māori and provide for the social determinants of health as sought by the submitter. However, I also note that the narration directly following the Issues in Section 2.7 contains the following description relating to Objective 2.7.8 above:

"...it is important for Iwi and hapū to be able to maintain their traditional association with the land, whilst enabling the efficient use and appropriate development of their land to provide for their economic, social and cultural wellbeing."

198. I note that the use of this wording also directly corresponds with the wording used in Section 5(2) of the RMA, excepting the words "health and safety". Should this narration be amended to indicate how health is positively affected as a result of providing for these aspects of wellbeing, I consider this would provide greater alignment with Section 5(2) of the RMA.

199. I acknowledge the request by S4.3 and note that Council intends to prepare a 'Papakāinga Toolkit' to immediately follow PC3. The purpose of the toolkit will be to help Māori landowners understand the District Plan rules and navigate the process for undertaking papakāinga development on their lands, which in my opinion would achieve the outcome sought by the submitter.

Recommendation

200. I recommend that the submission by Health New Zealand / Te Whatu Ora (S4.2) is accepted in part, with amendments (shown in blue underlined text below) to a narration between the Issues and Objectives in Section 2.7 Tāngata Whenua to indicate how health is positively affected as a result of providing for these aspects of wellbeing through PC3.

...it is important for Iwi and hapū to be able to maintain their traditional association with the land, whilst enabling the efficient use and appropriate development of their land to provide for their economic, social and cultural wellbeing~~.~~ , which contributes to positive health outcomes for Māori.

201. I recommend the submission by Health New Zealand / Te Whatu Ora (S4.3) is accepted and a document that covers the papakāinga development process (i.e. a Papakāinga Toolkit) is created. It will be a non-statutory document that is used for guidance, separate from the plan change.

Section 32AA Evaluation

202. The amendment recommended is considered appropriate because it expands on the context of the Issues, Objectives and Policies in Section 2.7, allowing these provisions to be better understood; and the added wording aligns with Section 5(2) of the RMA.

Resource Consent Information Requirements and Assessment Matters

Submission

203. Kāinga Ora (S5.30) seeks that the reference to maintenance of the land title be deleted from the assessment matters, as follows:

20.5.5 Marae and Papakāinga Development

(f) For applications on general title land, whether evidence of an ancestral connection to the land ~~and maintenance of the land title~~ has been demonstrated.

Appropriate legal mechanisms to demonstrate this may include:

(i) Historic Record of Titles.

(ii) Managing the land via a Trust.

204. The submitter requests this amendment as they consider that land title is a private matter and is an inappropriate matter for Council to assess as part of a resource consent.

205. Ngāti Hāua Hapū (S7.18) seek clarity on Section 20: Resource Consent Information Requirements and Assessment Matters on how the section is utilised and for amendments to ensure the provision of expert advice of tāngata whenua to inform resource consent applications.

Analysis

206. In response to Submission S5.30, maintenance of the land title is necessary to ensure the activity occurs in accordance with Policy 2.7.18.

207. It is possible that the wording of the assessment matter 20.5.5 may have led to an interpretation error by Kāinga Ora. Maintenance of the land title refers to the applicant's intention to retain long-term Māori ownership of the land, rather than maintenance of physical features on the property itself. To avoid future

interpretation issues, clarify intent, and achieve consistency with Policy 2.7.18, I recommend amending the assessment matter as follows:

For applications on general title land, whether the land is ancestral land, ~~evidence of an ancestral connection to the land~~ and whether the land will remain in Māori ownership in the long-term. ~~maintenance of the land title has been demonstrated.~~

208. Paragraphs 26 and 27 within the legal advice from Simpson Grierson, appended as **Appendix 4** to this report, have confirmed that:

the Council has a legitimate reason for including the assessment matter (20.5.5) in this case. The purpose of the rules is to achieve the objectives of the plan, and the relevant objectives seek to ensure that the papakāinga development pathways are genuinely used for papakāinga development. The type of land title is a key qualifying feature used in the papakāinga provisions.

Conversely, it is in keeping with the purpose of those rules to set reasonable boundaries to ensure that the permissive pathway is only used for development that will be used for papakāinga over the life of the development. Maintenance of the qualifying land title relates to the purpose of the rules, as well as to the Council's function of managing the effects of the use, development, or protection of land.

209. In response to S7.18, Section 20 is used to inform applicants of the information that needs to be included in a consent application, and the assessment matters help to guide the Council to assess environmental effects. The new assessment matters in Section 20.5.5 provide guidance to the applicant and processing planner that the activity is in accordance with the relevant objectives and policies, specifically Objective 2.7.11 and Policy 2.7.18.

210. 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 by other councils including Hastings District Council, Whangārei District Council, Kāpiti Coast District Council, Porirua District Council and Nelson City Council.

211. The landowners essentially have the option to either convert the land to Māori freehold land or demonstrate that land will be held in long-term Māori ownership by legal mechanism. For general title land, I would expect that a condition of the land use consent would be that an encumbrance is to be registered on the title, acceptable to and enforceable by the Council, to ensure that the land will remain in long-term Māori ownership.

212. The land could be vested in a Trust, constituted under Part 12 TTWMA whose authority is defined in a Trust Order or other empowering instrument which will ensure that the land remains vested in the trustees or the incorporation without power of sale; and the possession and/or beneficial interest on the land is restricted to the beneficiaries of the Trust. As above, the legal mechanism would be an encumbrance to be registered on the title to ensure long-term Māori ownership.

213. Ngāti Hāua Hapū also sought amendments to the assessment matters referred to above, to ensure expert advice by tāngata whenua is used to inform resource consent applications. I consider that the 'Note' provided under each proposed Restricted Discretionary rule for papakāinga developments on general title land already achieves this outcome. This note explains that Council will obtain advice on whakapapa/ancestral connection and any other matter related to tikanga Māori from the relevant iwi authority.

Recommendation

214. I recommend that submission S5.30 is accepted in part and the assessment matter 20.5.5 is amended to clarify its intent as shown in paragraph 207 above.

215. With regard to the above analysis, I recommend submission 7.18 by Ngāti Hāua Hapū is accepted in part, insofar as the relief sought is already achieved in the notified version of provisions.

Section 32AA Evaluation

216. I consider that the recommended amendments to Assessment Matter 20.5.5 are the most appropriate way to achieve the purpose of the RMA because the changes clarify the intent, assist with effective implementation of the provisions, and achieve consistent integration and alignment with the provisions.

Matters of Control

Submission

217. Kāinga Ora (S5.13, S5.17, S5.22, S5.27) considers that the 'matters of control' for papakāinga development on land held under TTWMA, where the proposal does not comply with the performance standards, in each zone, should not include "effects on character and amenity values" and other related matters. Kāinga Ora consider that some of the matters of control[13] are too broad, which creates uncertainty for applicants and provides Council with too much discretion for a controlled activity.

Analysis

218. I disagree with Kāinga Ora. The matter of control to consider effects on character and amenity values is important to allow Council to consider the effects of a papakāinga development failing to comply with the maximum height, bulk and location standards. I note that papakāinga development is exempt from the maximum number of dwelling units in the Rural Zone and therefore the performance standards that apply are generally limited to the Bulk and Location Standards in Section 3.2.2 (maximum height and setbacks from boundaries or other activities). The provisions for papakāinga on land held under TTWMA across all of the zones are enabling and they apply to all land held under TTWMA which equates to 6.22% of the land in the South Taranaki district. For applications that infringe

[13] 3.1.2(a)(ii), 4.1.2(a)(ii), 5.1.2 (a)(ii), 6.1.2(a)(ii)

standards, such as exceeding the maximum height or encroach on setbacks from boundaries, it is important that Council can consider the effects of these infringements, in particular the effects on character and amenity, particularly for adjacent land uses.

219. Without matters of control, Council would not be able to consider these matters. I consider that the proposed approach and matters of control strike an appropriate balance between the relationship of Māori with their ancestral lands, efficient use of land, and managing potential effects on character and amenity values for surrounding land uses.

Recommendation

220. For the above reasons, I recommend Submissions S5.13, S5.17, S5.22, S5.27 by Kāinga Ora are rejected, and no change is made to the provisions.

Section 32AA Evaluation

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

Notification Process

Submission

222. Ngāti Hāua Hapū (S7.19) oppose the notification process of PC3. The submitter requests further submission notification processes to iwi, hapū, marae, Māori and Post-Settlement Governance Entities.

Analysis

223. Council followed the Schedule 1 RMA public notification process and, as well as publishing the Public Notice, sent out the Public Notice to landowners in combination with a timely rollout of the Council rates notices both electronically and by post. Specific notice was also made directly to each iwi entity as members of Nga Kaitiaki, to the adjacent councils (Stratford District, New Plymouth District, Whanganui District and Taranaki Regional Council) and to the Ministry for the Environment. Information was also available at various council buildings, including the reception of the main administration building in Hāwera, and at each library.

224. Council held a prehearing meeting on 23 September with representatives of Ngāti Hāua Hapū to discuss their concerns associated with submission 7.19 and to discuss consultation, engagement and notification going forward. Although Ngāti Hāua Hapū were aware of the plan change and made a submission, they expressed concern for other hapū and marae that would have missed out on the opportunity to provide a submission as these interested parties are not landowners that would receive rates notices.

225. A consensus was reached in the prehearing meeting, with members of Council involved in PC3 agreeing to directly notify marae and hapū of future plan changes where they are likely to be directly affected by the proposed plan, and to make it clear to the iwi entities part of the Nga Kaitiaki Group that Council expects plan change information to be disseminated to the relevant hapū. Council will also confirm its register of hapū and marae and their contact details.

Recommendation

226. No change to PC3 provisions is recommended in relation to this Submission S7.19. I recommend this submission point be accepted in part.

Section 32AA Evaluation

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

7 Conclusion

228. This report has provided an assessment of submissions received in relation to PC3. The primary amendments that I have recommended relate to:

a) Amendments to several provisions, including definitions, objectives, policies and rules, to clarify the intent of the term 'ancestral land', reduce the potential for unintended consequences and achieve better integration and consistency between the provisions and the definitions (in relation to ancestral land).

b) Various amendments in Section 2.7 Tāngata Whenua, including:

(i) Changes to the wording of Objective 2.7.8 to refer to development "and use of whenua".

(ii) Amendments to a paragraph in the Explanation of Policies to achieve better consistency between the provisions and definitions (in relation to ancestral land and papakāinga on general title land).

(iii) Additional wording in the explanation of the issues to reference how activities that provide for the economic, social and cultural wellbeing of iwi and hapū can lead to "positive health outcomes" to expand on the context for Section 2.7 Issues, Objectives and Policies, and align better with Section 5(2) RMA.

c) Deletion of the definition of 'Papakāinga Development on General Title Land' to simplify the framework.

d) Amending the definition of 'General Title Land (In Relation to Papakāinga Development)' to clarify which land types are not considered general title land.

e) Adding “home occupation” to the definition of ‘Papakāinga’.

f) Consistent reference to “papakāinga” rather than “papakāinga development” or “papakāinga housing” throughout the District Plan.

g) Amendments to assessment matter 20.5.5 for applications on general title land to clarify intent, achieve consistency between provisions and avoid future interpretation issues.

229. Section 6.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on PC3 should be accepted, accepted in part, or rejected, as set out in my recommendations of this report and in Appendix 2.

230. I recommend that provisions be amended as set out in Appendix 1.1-1.7 below for the reasons set out in this report.

Recommended by: Sarah Capper-Liddle, Planner, South Taranaki District Council

Approved by: Liam Dagg, Group Manager Environmental Services, South Taranaki District Council

Date: 31 January 2025