Plan Change 3 (Papakāinga Development)
Wednesday 12 March 2025
Planning Officer's Right of Reply

Plan Change 3 (Papakāinga Development) Right of Reply

1. My name is Sarah Capper-Liddle and I am the author of the Section 42A Report for Plan Change 3 (Papakāinga Development).

2. This is my verbal right of reply, based on written and oral evidence presented by submitters.

3. At this hearing we have heard from a wide range of submitters covering a broad range of themes. I acknowledge the points raised and really appreciate the mahi from submitters to provide more context and practical solutions to the matters raised.

4. I will briefly summarise my position on the key matters discussed at the hearing below, including an initial response to specific questions or matters raised by the Hearing Panel.

5. For succinctness, I will not comment on themes or submission points that have not been discussed at the hearing. For key themes not discussed, I maintain the position set out in my S42A Report.

Pathways for Papakāinga

6. We heard from several submitters, including PKW, Ngati Haua Hapu, Te Korowai o Ngaruahine Trust, Ngahina Capper, Nga Mahanga hapu, and Te Kahui o Taranaki Trust who have raised concerns that the provisions for papakāinga are not enabling enough. Specifically, submitters raised that there are several barriers to developing Maori land (including obtaining finance and leasehold title structures preventing development by landowners). Submitters also highlighted that the provisions for residential activities are more permissive than papakāinga on general land. Submitters have emphasised that papakāinga is a way of life and important to reconnect to the whenua. They are seeking that papakāinga is specifically permitted on general land owned by Māori to reduce barriers. Submitters have questioned why it is necessary for applicants to demonstrate to Council that a papakāinga will be held in long-term ownership through the resource consent process.

7. The reason the approach of ensuring long-term ownership was taken by Council was to ensure future papakāinga development on general land owned by Māori is firstly for the benefit of the people who whakapapa to the land, and not sold outside of the hapu/whanau, and secondly that the provisions are not used perversely by private developers, non-Māori, or others who do not have ancestral connections to the whenua. I need to spend some time considering the level of the risks involved (associated with misuse of enabling provisions) and reconsider whether the level of risk involved justifies the approach, which places the costs of resource consent on genuine papakāinga. Following the close of the hearing I will explore the possible mechanisms to ensure the outcome of long-term ownership, as a permitted activity. This could include a permitted activity performance standard in the District Plan (e.g.

"for general land owned by Māori, the land continues to be owned by Māori and evidence of its ownership is provided to Council upon request" in conjunction with a rule for papakāinga being converted to another activity triggering the need for resource consent. The effectiveness and efficiency of these approaches needs some further thought, including consideration of the relationship with existing use rights under S10 of the RMA, and some scenario testing to understand the implications of such an approach to possible scenarios.

Leasehold title land

8. PKW raised concerns that the pathway for land held in leasehold title is not clear under the recommended framework. In my view, and as expressed in the opening legal submissions, the underlying status of this land is Māori Freehold and therefore a papakāinga on this land would qualify for permitted activity status, although I understand in reality the leasehold title status can constrain the ability for landowners to develop papakāinga on this land. In addition I understand that there are risks that the leaseholders could possibly use the papakāinga rules perversely as a permitted activity, possibly without approval of the Māori landowners. To the extent that PKW's concern relates to the effect of the third party leasehold interests on the ability of tangata whenua to use and occupy their whenua, this appears to be something outside the ability of the District Plan to control. However, I consider that there are opportunities for refinement of the definition of papakāinga, with reference to tangata whenua and ancestral land, to ensure that the permitted activity rules for papakāinga are only used by those who whakapapa to the whenua (rather than the leaseholders).

Definition of papakāinga

9. Suggested alternative wording for the definition of papakāinga has been provided by Ngati Haua Hapu and Te Kahui o Taranaki Trust. I am supportive in principle of the amendments to this definition, especially removal of reference to land tenure within the definition. However, I have some reservations to the broad reference to "social, economic and cultural activities and development", and that a term that is loosely defined could create ambiguity and permit unanticipated activities. I need time to consider whether this inclusion is appropriate, considering how it relates to other defined terms used in the District Plan, and possible overlap with the definition of "Marae".

Ancestral land definition

10. Submitters, specifically Ngati Haua Hapu and Te Kahui o Taranaki Trust have provided evidence seeking that the definition of "ancestral land" is deleted because they consider that all land within their rohe is ancestral land and the definition is not necessary. The purpose of including a definition of ancestral land was to achieve consistency with S6(e) RMA matter of national importance, assist with plan interpretation and integration, and ensure that papakāinga is enabled on ancestral land to meet the PC3 objectives. I will reconsider whether this term should be defined in light of the evidence received, including whether there would be advantages of using alternative terms, such as whakapapa. My initial views are that such a change would not make a fundamental difference to how the provisions are interpreted or applied, but I would like to explore these matters further.

Bulk and location, character and amenity

11. Several submitters have suggested removing the bulk and location standards for papakāinga, and amendments to the provisions to replace reference "effects on character and amenity values" with "managing potential conflicts between land uses and developments".

12. The performance standards that apply to papakāinga are, in summary:

- in the Rural Zone, 10 metre setback from site boundaries, maximum height of 10 metres. In the Rural Zone, there are no restrictions on the maximum number of dwellings or maximum building coverage.

- In the Residential Zone, minimum 1.5 metre setback from site boundaries, or 4.5 metres or 3 metres to a road boundary, 3 metres between dwellings, and maximum height of 8 metres. Under the proposed framework, papakāinga are exempt from the net site area standards but are still subject to the maximum site coverage of 40%.

13. At this stage, I consider that it is appropriate to maintain the bulk and location standards for the reasons stated under Key Issue 3 of my Section 42A Report. I also consider that effects on character and amenity are a necessary and relevant consideration when bulk and location standards (e.g. height and boundary setbacks) are not complied with, to maintain character and amenity, and achieve the outcomes sought by the District Plan more generally. This is analysed in more detail in Key Theme 4 (Matters of Control) of my Section 42A Report.

Practice Note

14. At the commencement of the hearing the Chairperson Mr Beccard sought clarity on which circumstances will apply where, including whether guidance on ancestral connection will be sought from iwi or hapu in certain areas. Council intends to prepare an Internal Practice Note to help with implementation of the papakāinga provisions in collaboration with Nga Kaitiaki and relevant hapu to assist with consistent interpretation of provisions, including how the ancestral land connection can be demonstrated and confirmed. Part of this Practice Note could include advice on where the iwi authority is the primary contact and where hapu should be contacted to advise on whakapapa / ancestral connection.

Next steps

15. In terms of next steps, I will consider the evidence received, including the suggested new definition of papakāinga and suggested provisions, and explore opportunities to make the provisions more enabling, including for Treaty Settlement Land. I need to spend some time testing any amendments against the statutory requirements, including the NPS-HPL.

16. I suggest the following next steps:

a) I consider the matters raised including wording suggestions provided at the hearing and identify whether I am supportive of any amendments to the provisions, and pre-circulate any suggested amendments to submitters by **26 March 2025.**

b) Test the views of the experts who have provided evidence at the hearing (informally, or by expert conferencing if the Hearing Panel directs so), to discuss any amendments to the provisions and confirm areas of agreement or disagreement by **4 April 2025.**

c) The conferencing statement is provided to all submitters which provides the opportunity for other submitters to provide comment on any amended provisions in writing by **10 April 2025.**

d) I issue my written reply to the Hearing Panel and submitters by **17 April 2025.**

Could I please request that the Hearing Panel confirm the above next steps and timeframes, and advise if there is any additional information required to inform their deliberations and recommended decisions.

Noted that the written reply shall explore whether maximum site coverage for papakainga should be 50% in Residential Zone as opposed to 40% and written reply shall advise on scope for this type of change.