

# PKA.1

## Papakāinga

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### PKA.1.1 Description and Expectations

The papakāinga provisions provide for the development of ancestral Māori land. In the context of the District Plan, ancestral Māori land is land subject to the Te Ture Whenua Māori Act 1993, including; Māori customary land and Māori freehold land. These provisions seek to provide opportunities for Māori land owners to develop and live on their ancestral land.

In the context of the District Plan, papakāinga developments are developments of a communal nature on ancestral Māori land. Papakāinga developments may not solely focus on providing for housing and may also include activities such as community facilities, education, recreation and enterprise.

It is recognised that Māori land is subject to a number of development barriers and complications that require it to be treated differently to land held in European title. These barriers include (but are not limited to) the status of Māori land under Te Ture Whenua Māori Act 1993 and the costs associated with obtaining approval from councils and other organisations.

Council is committed to providing for papakāinga developments on ancestral Māori land. The PKA provisions reflect this commitment by providing a permitted activity status for papakāinga developments on Māori freehold land, provided that it can be demonstrated that the land has the capacity to cater for the development and that certain amenity standards are met.

Papakāinga developments can be considered on land that is not classified as Māori freehold land. A discretionary activity status is provided for “General land owned by Māori” that is either the subject of proceedings before the Māori Land Court to convert it to Māori freehold land, or where an ancestral link has been identified. On all other land, papakāinga developments are non-complying activities.

Pursuant to section 33 of the Resource Management Act 1991, Council has reiterated the availability of a transfer of powers for the consideration of papakāinga developments that require resource consent.

Except any transfer of powers, Council has made provision for applications to be considered by Independent Commissioner(s) with expertise in tikanga Māori and resource management, on request by the applicant. It is important that the Commissioner(s) have expertise across both areas in order to ensure decision making adequately provides for tikanga and the relevant requirements of the Resource Management Act 1991.

Māori Land Court processes for Occupation Orders and Licenses to Occupy require Māori land owners to obtain certain information from Council. It is highlighted in the provisions that Council will provide this information on request.

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### *PKA.1.2 Eligibility*

1. The District Wide and Resource Area objectives, policies and rules in the District Plan shall apply to papakāinga developments under the papakāinga provisions below.
2. The underlying Environment provisions shall not apply to papakāinga developments under the papakāinga provisions below.

### *PKA.1.3 Objectives*

1. For the District Plan to recognise the desire of Māori to maintain and enhance their traditional and cultural relationship with their ancestral land.
2. Provide for papakāinga development on ancestral land in a manner which is sensitive to tikanga Māori and the sustainable management of the land resource.
3. Allow maximum flexibility for Māori to develop their ancestral lands, while ensuring appropriate health, safety and amenity standards are met.
4. Enable Māori to establish and maintain traditional settlement patterns, activities and development opportunities.
5. Protection and enhancement of ecological, landscape, cultural, heritage and other features which are of value to Māori and the wider community.

### *PKA.1.4 Policies*

1. To limit papakāinga development to ancestral Māori land that is administered under the Te Ture Whenua Māori Act 1993.
2. To require the maximum intensity and scale of papakāinga development to be determined by the sustainable servicing capacity of the land and the surrounding environment.
3. To require the location and extent of built development to be determined by the physical characteristics of the land and tikanga Māori.
4. To provide for non-residential activities of a scale, character, and intensity that are compatible with the values of Māoritanga, character of the environment and the sustainable servicing capacity of the locality.
5. To encourage Māori to prepare Papakāinga Development Plans as a guide to sustainable management of ancestral land.

### *PKA.1.5 Permitted Activities*

1. On Māori freehold land as defined in the Te Ture Whenua Māori Act 1993, papakāinga developments are a permitted activity provided that:
  - a. A Papakāinga Development Plan (“PDP”) is submitted to Council prior to any application for building consent that demonstrates the following:
    - i. The location of any residential units.
    - ii. The location of any structures other than residential units.
    - iii. Areas of land or buildings to be dedicated to commercial activities.
    - iv. Areas of land or buildings to be dedicated to places of assembly.

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- v. The location of utility servicing requirements and internal roading network.
  - vi. The PDP is accompanied by a statement from a suitably qualified and experienced professional stating that the land can be sufficiently serviced in terms of access, water, wastewater and stormwater in accordance with the relevant provisions of the Environmental Engineering Standards 2010 for the type and number of buildings shown on the PDP.
- b. The following controls are met:
- i. Any places of assembly and commercial or industrial activities are setback at least 100m from any existing residential unit on a separate site.
  - ii. Commercial or industrial activities shall not exceed 500m<sup>2</sup> in gross floor area.
  - iii. The construction or alteration of any building does not exceed a height equal to 3m plus the shortest horizontal distance between that part of the building and the site boundary.
  - iv. Any signage on site shall relate to activities onsite and shall not exceed 2m<sup>2</sup> per site.
  - v. Any artificial lighting shall not exceed 10 lux when measured from the boundaries of the site.
  - vi. Any activity shall meet the conditions for permitted activities in Appendix 8 Hazardous Substances.
  - vii. No indigenous wetland shall be destroyed.
  - viii. The destruction or clearance of an area of predominantly indigenous vegetation shall not exceed 500m<sup>2</sup> where it forms a contiguous area of 1.0ha or more.
  - ix. Habitable buildings are set back at least 500m of a Mineral Extraction Area or the Business 4 Environment.
  - x. The creation of impermeable surfaces does not exceed 1,000m<sup>2</sup> cumulative impermeable area (including buildings).
2. Any papakāinga development on Maori freehold land that cannot comply with the permitted activity criteria in PKA.5.1 shall be a discretionary activity.

### ***PKA.1.6 Discretionary Activities***

1. Papakāinga developments are a discretionary activity where the land is General land owned by Maori as defined in the Te Ture Whenua Māori Act 1993 and:
  - a. The land is subject of proceedings before the Māori Land Court to convert the land to Māori freehold land on the date the application for resource consent is made; or
  - b. The land has not been the subject of proceedings before the Māori Land Court to convert the land to Māori freehold land but an ancestral link to the land has been identified.
2. When assessing discretionary applications pursuant to PKA.6.1a and b above the assessment shall include (but is not limited to):
  - a. Explanation as to the historical reasons why the land was transferred to general title.
  - b. Evidence as to why the land should be considered as ancestral Māori land.
  - c. In the case of PKA.6.1b above, an explanation as to why the land has not been converted to Māori freehold land pursuant to the Te Ture Whenua Māori Act 1993.

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- d. A PDP is submitted to Council that adequately demonstrates the following:
  - i. The location of any residential units.
  - ii. The location of any structures other than residential units.
  - iii. Areas of land or buildings to be dedicated to commercial activities
  - iv. Areas of land or buildings to be dedicated to places of assembly.
  - v. How the principles of tikanga and kaitiakitanga have been incorporated into the papakāinga development.
  - vi. The location of utility servicing requirements and internal roading network.
  - vii. The PDP is accompanied by a statement from a suitably qualified and experienced professional stating that the land can be sufficiently serviced in terms of access, water, wastewater and stormwater in accordance with the relevant provisions of the Environmental Engineering Standards 2010 for the type and number of buildings shown on the PDP.

### ***PKA.1.7 Non-Complying Activities***

1. On all other land not specified above, papakāinga developments shall be a non-complying activity.

### ***PKA.1.8 Transfer of Powers***

1. Subject to the requirements of section 33 of the Resource Management Act 1991, the transfer of powers to the relevant iwi authority for the rohe in which the land is located, is available for the consideration and determination of discretionary activities in this chapter.

**Note:** Refer to guidance document on Transfer of Powers for guidance as to the process for applying for and obtaining a transfer of powers.

### ***PKA.1.9 Decision Making***

1. Except for areas subject to a transfer of powers, any applicant for resource consent for a discretionary or non-complying activity pursuant to PKA.5 – PKA.7 can request that the application is considered and determined by an Independent Commissioner(s) with knowledge and experience in tikanga Māori and Planning.

### ***PKA.1.10 Advice Note***

1. For the purposes of making an application to the Māori Land Court for an Occupation Order or a Licence to Occupy, Council can supply on request District Plan maps or any other relevant information it holds relating to the suitability of the land for a papakāinga development.

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### Revision and Sign-off Sheet

Date Approved	Editor	Paragraph	Change Reference	Decision Date	Approved By

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