

EVIDENCE 04
TOPIC PC94B - Papakāinga
SUB# PC94B - Papakāinga
DATE 21-11-2016

BEFORE THE HEARING PANEL

IN THE MATTER OF Submissions and Further Submissions on Whangarei District
Council - Plan Change 94B: Papakāinga

Statement of Evidence of Jade Kake
On behalf of Ngāti Hau Trust Board and Te Matapihi he tirohanga mō te Iwi Trust

1 Introduction

- 1.1 Ko Parihaka te maunga
Ko Hātea te awa
Ko Ngāpuhi te iwi
Ko Ngāti Hau ratau ko Te Parawhau ko Ngāti Hine ko Ngati Wai ōku hapū
Ko Pehiāweri te marae
Ko Jade Kake tāku ingoa
- 1.2 I received a Bachelor of Architectural Design from the University of Queensland in 2009 and in 2015 I completed a Master's degree in Architecture at UNITEC Institute of Technology. My thesis examined papakāinga as a model for the cultural, social, economic and environmental regeneration of communities in Aotearoa New Zealand, and culminated in the design of a papakāinga scheme for Pehiāweri Marae.
- 1.3 I have experience working with Māori land trusts and other Māori groups to realise their aspirations, particularly in the area of papakāinga housing and marae development, and in working with mana whenua groups to express their cultural values and narratives through the design of our urban environments. I am currently on the management committee for Rewarewa D Incorporation and am a trustee of Pehiāweri B1B Ahuwhenua Trust, both of which are located within the Whangarei District.
- 1.4 In my current role as Programme Manager for National Māori Housing Organisation Te Matapihi, I develop sector strategy, coordinate research initiatives, and provide policy and planning recommendations. Through our work we seek to represent an independent voice for the Māori housing sector, and to influence decision-makers to deliver better housing outcomes for Māori.
- 1.5 I have prepared and am presenting this statement jointly on behalf of my hapū, Ngāti Hau, and my employer, Te Matapihi he tirohanga mō te Iwi Trust. Concerns that are specific to Ngāti Hau have been clearly identified, whilst the more general statements and discussion points pertain to the Te Matapihi submission.

2 Scope of Evidence

- 2.1 I would like to commend Whangarei District Council for their excellent work on this plan change, and for the progressive and enabling approach to papakāinga that has been envisioned through these reforms. In general, I concur with the majority of the analysis and recommendations in the section 42A Report. I particularly support the deletion of the majority of existing controls, and a reliance instead on the controls in the underlying Environment. The focus of this evidence is on those aspects of the report that I believe are inconsistent with the settled objectives and policies of PC94B, or those that require further clarification.

3 Matters for Further Discussion

3.1 Transfer of decision-making powers

- 3.1.1 I would like to reiterate our support for PKA.1.8, transfer of powers under Section 33 of the Resource Management Act 1991. I would like to refer specifically to the provisions stated within our Ngāti Hau Hapū Environmental Management Plan (HEMP) 2016.

Specific relevant objectives include –

- 3.1.2 “To seek cooperation from Local Government and Government agencies to consult with Ngāti Hau on all notified and non-notified resource consent applications within the Ngāti Hau rohe”.
- 3.1.3 “To regularly monitor and review initiatives within the rohe to ensure that policies are upheld for the protection of Ngāti Hau and others including the interests of future generations”.

3.2 Training for independent commissioners from hapū resource management units

- 3.2.1 To enable us to fulfil these roles, it would be beneficial for Whangarei District Council to support independent commissioner training, to ensure that an adequate pool of independent Māori commissioners approved by Ngāti Hau RMU is available for all relevant hearings (resource consent, plan and policy development) where Mana Whenua ki Ngāti Hau interests are involved. I would of course support this being extended to all hapū within the Whangarei District.

3.3 Development Contributions, Rates and Resource Consent Costs

- 3.2.1 I strongly support the recommendation made in the 42A report for Whangarei District Council to review funding options for development contributions, rates and resource consent fees as they relate to papakāinga developments on Māori land.
- 3.2.2 I recommend that Council consider providing relief of development levies for the purpose of supporting and incentivising papakāinga developments. Further to this, I would support the recommendation in the Section 42A Report that WDC investigate the adoption of a similar approach to that taken by Auckland Council, one that specifically sets aside funds to help fund development contributions, feasibility studies / reports / expertise and consenting fees for papakāinga developments.
- 3.2.3 Should this prove impractical or not applicable to all developments, Council could consider a financial contribution which is charged upon the completion of the development (rather than being an upfront cost), which is then used to provide seed finance funding for future papakāinga developments. I would like to reiterate the importance of development and financial contributions being tied to specific local authority activities, and would support the involvement of hapū in decision-making as to the re-investment of these funds.

4 Issues raised by other submitters

4.1 Consultation with owners of adjoining multiply owned Māori land without ownership structures

- 4.1.1 Far North District Council’s submission (PC94B-90I) identifies issues around consultation with owners of adjoining multiply owned Māori land without ownership structure. The Section 42A report rejects the relief sought by this submission, rationalising that the current RMA process is sufficient, and that the submission does not provide sufficient detail as to how such a process would work.

4.1.2 I would like to reiterate that the process of obtaining written approvals from adjoining blocks could prove onerous and impractical as these blocks often have no governance structure in place and in some cases may have 100s of owners. I support an approach whereby evidence of engagement (letters of support from hapū and land trusts and minutes from hui) is supplied in support of resource consent applications.

4.1.3 By way of example, the Patuone Hoskins Whānau Trust papakāinga (Pōike C, Whangaruru) experienced difficulties obtaining written approval from the owners of 17 surrounding Māori land block. Fortunately, the whānau were able to convince the Far North District Council planner that getting signatures from the owners of the surrounding blocks was not appropriate given the distance from the blocks (lack of effects), and not practicable with each multiply owned block having 10s – 100s of owners. Letters of support from the Ngāti Wai Trust Board and neighbouring Omanu D Whānau Trust were provided and did assist with the successful application.

4.1.4 I would support the inclusion of an additional sub clause in PKA.1.6.2.d which provides additional detail around demonstration of consultation with owners of adjoining multiply owned Māori land without management structures. I believe this would be advantageous, as there is a risk of successful outcomes being dependent on relationships in the absence of policy.

5 Areas seeking further clarification

5.1 Māori Reservations

5.1.1 Does PC94B apply to Māori reservations? Has consideration been given to the ways in which Māori reservations may be considered under WDC's Papakāinga policy?

5.1.2 Māori reservations can be applied to General or Māori land and provide protection from alienation. One issue associated with Māori reservations is that section 338(12) of Te Ture Whenua Māori Act 1993 provides that trustees of a Māori reservation may, with the consent of the court, grant a lease or occupation license of a reservation for a term not exceeding 14 years. Eligibility criteria for the Kāinga Whenua loan product requires a license to occupy for a term of at least 21 years.

6 Areas of Disagreement

6.1 Eligibility: Discretionary Activity Status for General Land Owned by Māori

6.1.1 The Section 42A report recommends that the commissioners decline the submission by Ngāti Hau Trust Board (PCB-110), requesting that permitted activity status be extended to land under General Title where an ancestral link has been identified. The rationale provided is that there is a clear process for transferring General Land to Māori freehold land through Māori Land Court processes.

6.1.2 I contend that there are a number of issues associated with doing so, particularly around access to finance. Kāinga Whenua is currently the only mortgage product available to owners of Māori freehold land. This product requires any dwellings to be built on piles, to enable removal should the mortgagee default on the loan. This precludes on slab developments, including earth homes such as those proposed through the Ngā Uri o Pou Whānau Trust project. Given this requirement, owners of Māori ancestral land held under

General title may have compelling reasons to retain General Land status and access conventional mortgage products.

6.1.3 Additionally, there are processes in place for establishing an ancestral link, particularly with land that has been converted to General title through specific pieces of legislation post-1840, including the Māori Affairs Amendment Act 1967. In the case of Pehiāweri, the whenua was vested in the General Trust Board of the Diocese of Auckland in 1932, by vesting order of the Native Land Court, and was subsequently converted to General Title.

6.1.3 Treaty settlement land

6.1.4 Although Ngāti Hau (Ngāpuhi) are currently pre-settlement, there is the potential for ancestral land to be returned as part of our Treaty redress. I believe specific consideration should be given to how the Papakāinga policy will apply to Treaty settlement land, which is ordinarily returned under General Title but which may be specifically identified and treated differently to other land within the District Plan (Kaipara District Council, for instance, includes a specific Treaty Settlement Land chapter). I strongly believe that any papakāinga development on future Treaty settlement land under General freehold title should be a permitted activity.

6.2 Business Environments

6.2.1 The Section 42A report states that “It was always intended that that the papakāinga provisions would not apply to land located in the Business Environments”. I contend this claim, and I believe this specific provision is unnecessarily limiting. There are many excellent examples of Mixed Use development, the principles of which could apply to papakāinga development, and I believe Māori land owners should be free to define their own aspirations with regard to urban papakāinga.

7 Conclusion

I wish to acknowledge Council for their leadership in progressing this plan change, and for their continued engagement with hapū and whanau up to this point in time. I believe the enabling approach envisioned through this plan change strengthens our mana motuhake and hapū rangatiratanga, and I look forward to the many successful papakāinga projects that will be delivered under this policy. I have made recommendations where I believe clarification or amendment is required, in the spirit of mahitahi and kotahitanga, and in recognition of the wider challenges facing our whānau who wish to develop papakāinga on their tūpuna whenua.