



**WHANGAREI
DISTRICT COUNCIL**

Council Seal of Approval

Plan Change 94B Papakāinga (Phase 2)

I hereby certify that Plan Change 94B was approved by the Planning and Development Committee under delegation from the Whangarei District Council at their meeting on Thursday 15 February 2018 and shall become operative on 27 February 2018

K E Candy
Legal Counsel / Council Secretary
Dated: 21 February 2018



20 Operative date

- (1) Subject to subclause (2), an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified.
- (2) The local authority shall publicly notify the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.
- (3) *[Repealed]*
- (4) The local authority shall provide 1 copy of its operative policy statement or plan without charge to—
 - (a) the Minister for the Environment; and
 - (b) *[Repealed]*
 - (c) in the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and
 - (d) in the case of a district plan, the regional council and adjacent territorial authorities; and
 - (e) in the case of a policy statement or regional plan, constituent territorial authorities and adjacent regional councils; and
 - (f) the tangata whenua of the area, through iwi authorities.
 - (g) *[Repealed]*
- (5) The local authority shall provide 1 copy of its operative policy statement or plan to every public library in its area.
- (6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

Schedule 1 clause 20(1): replaced, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(2): replaced, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(3): repealed, on 7 July 1993, by section 219 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 20(4)(b): repealed, on 1 October 2009, by section 149(15) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 20(4)(f): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Schedule 1 clause 20(4)(f): amended, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 20(4)(g): repealed, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Planning and Development Committee Meeting Minutes

Date: Thursday, 15 February, 2018
Time: 9:00 a.m.
Location: Council Chamber
Forum North, Rust Avenue
Whangarei

In Attendance

Cr Greg Innes (Chairperson)
Her Worship the Mayor Sheryl Mai
Cr Stu Bell
Cr Gavin Benney
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy

Scribe **C Brindle (Senior Democracy Adviser)**

4. Decision Reports

4.1 PC94B Papakainga (Phase 2) Operative

Moved By Cr Greg Innes

Seconded By Her Worship the Mayor

That the Planning and Development Committee:

- a) Approves the incorporation of Plan Change 94B Papakainga (Phase 2) into the District Plan in terms of Clause 17 of the First Schedule of the Resource Management Act 1991; and
- b) Approve the notification of Plan Change 94B Papakainga (Phase 2) becoming operative in terms of Clause 20 of the First Schedule of the Resource Management Act 1991.

Carried



WHANGAREI
DISTRICT COUNCIL
www.wdc.govt.nz

Notification of Plan Change Operative Date

Whangarei District Council gives notice that it has **approved** the following Plan Change:

Plan Change 94B – Papakāinga: Proposes to amend provisions relating to papakāinga developments in the Whangarei District Plan. The purpose of PC94B is to provide opportunities for Māori land owners to develop and live on their ancestral land and to develop guidelines and standards for the papakāinga development plan process. Key features are:

- Chapter title change from “Papakāinga Housing” to “Papakāinga.”
- Existing objectives and policies are not subject to any proposed alterations.
- Permitted activity status for papakāinga developments on Māori freehold land administered under Te Ture Whenua Māori Act 1993 provided that a papakāinga development plan is submitted and certain controls are met.
- Discretionary activity status for papakāinga developments on land that is General land owned by Māori where the land is subject to proceedings before the Māori Land Court to change the land from general title to ancestral Māori land, or where the land is General land owned by Māori where an ancestral link has been identified.
- Non-complying activity status for papakāinga developments on all other land.
- Provisions noting transfer of powers, and the opportunity for applicants for resource consent to request that it is heard by an Independent Commissioner(s) with expertise and qualifications in tikanga and Mātauranga Māori and resource management.

The approved Plan Change will become operative on Tuesday 27 February 2018

The decision on the plan change is available for viewing on the Council’s website at: www.wdc.govt.nz/planchanges and at Whangarei District Council Service Centres at Forum North, Rust Avenue, Whangarei; Ruakaka Service Centre, Takutai Place, Ruakaka and Whangarei Central Library, Rust Avenue, Whangarei.

Please contact Council’s Policy and Monitoring Department if you have any questions about the proposal.

This notice is given pursuant to Clause 20 of the First Schedule of the Resource Management Act 1991.

R Forlong
CHIEF EXECUTIVE

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, Māori freehold land and General land owned by Māori. These provisions seek to provide opportunities for Māori land owners to develop and live on their ancestral land.

Providing for papakāinga meets the purpose of the RMA (section 5) in that it will enable Māori to provide for their social, economic, and cultural well-being and for their health and safety. It also recognises and provides for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; a matter of national importance in the RMA (section 6(e)).

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. In addition to housing papakāinga may also include activities such as: community, education and recreational facilities, places of assembly and industrial and commercial activities, all of which are directly associated with the communal nature and function of the papakāinga.

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.

A restricted 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 Maori freehold land, or where an ancestral link has been identified. On all other land, papakāinga developments are non-complying activities.

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 following provisions of the District Plan shall apply to papakāinga developments:
 - a. The District Wide and Resource Area objectives, policies and rules.
 - b. The underlying Environment provisions, unless otherwise specified in PKA.1.5.
 - c. The underlying Environment subdivision provisions.
2. The PKA provisions shall not apply to land located in the Business 4 Environment.

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 identifies and demonstrates the following:
 - i. The location of any residential units.
 - ii. The location of any structures other than residential units.

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- iii. Areas of land or buildings to be dedicated to commercial or industrial activities or places of assembly.
 - iv. The location of utility servicing requirements and internal roading network.
 - v. The land can be 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. The PDP shall be accompanied by a written report and certification to this effect from a Chartered Professional Engineer confirming that this requirement is met.
 - vi. The location of any recorded historic heritage (including archaeology) that is protected by the Heritage New Zealand Pouhere Taonga Act 2014.
- b. The following controls are met:
- i. Any places of assembly and commercial or industrial activities are established in conjunction with and are directly associated with the residential activities of the papakāinga.
 - ii. Any places of assembly and commercial or industrial activities are setback at least 100m from any existing residential unit on a separate site.
 - iii. Commercial or industrial activities shall not cumulatively exceed 500m² in gross floor area on any one site.
 - iv. The number of residential units per site does not exceed one residential unit per 2,000m² of net site area.

PKA.1.6 Restricted Discretionary Activities

1. Papakāinga developments where the land is General land owned by Maori as defined in the Te Ture Whenua Māori Act 1993 and:
 - a. It is demonstrated that the papakāinga development would otherwise comply with the permitted activity controls in PKA.1.5; and
 - b. 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
 - c. 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. Any papakāinga development on Maori freehold land that cannot comply with one or more of the permitted activity standards in PKA.1.5.
3. Matters of discretion
 - a. When assessing restricted discretionary applications pursuant to PKA 1.6.1 Council shall restrict its discretion to the following matters:
 - i. Explanation as to the historical reasons why the land was transferred to general title.
 - ii. Evidence as to why the land should be considered as ancestral Māori land.
 - iii. In the case of PKA.1.6.1 c 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.
 - iv. Demonstration of appropriate legal mechanism(s) to ensure that the land is maintained in whanau ownership.

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Note: Refer to guidance document for assistance in demonstrating the adequacy of evidence for the identification of an ancestral link.

- b. When assessing restricted discretionary applications pursuant to PKA.1.6.2 Council shall restrict its discretion to any actual or potential environmental effects associated with the matter of non-compliance.

PKA.1.7 Discretionary Activities

1. Any papakāinga development on General land owned by Māori that cannot comply with the restricted discretionary activity in PKA.1.6.1.

PKA.1.8 Non-Complying Activities

1. Papakāinga developments on all other land not specified above.

PKA.1.9 Advice Notes

1. Transfer of Power

Subject to the requirements of section 33 of the Resource Management Act 1991, the WDC is able to transfer its powers to the relevant iwi authority for the rohe in which the land is located.

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

2. Decision Making

Any applicant for resource consent pursuant to PKA 1.6 – PKA 1.8 can request that the application is considered and determined by an Independent Commissioner(s) with knowledge and experience in tikanga Māori and Planning.

3. Application to the Māori Land Court for an Occupation Order or a Licence to Occupy

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.