

Papakāinga

Index

PKA Papakāinga

<i>PKA.1</i>	<i>Papakāinga</i>
<i>PKA.1.1</i>	<i>Description & Expectations</i>
<i>PKA.1.2</i>	<i>Eligibility</i>
<i>PKA.1.3</i>	<i>Objectives</i>
<i>PKA.1.4</i>	<i>Policies</i>
<i>PKA.1.5</i>	<i>Permitted Activities</i>
<i>PKA.1.6</i>	<i>Restricted Discretionary Activities</i>
<i>PKA.1.7</i>	<i>Non-Complying Activities</i>
<i>PKA.1.8</i>	<i>Transfer of Powers</i>
<i>PKA.1.9</i>	<i>Decision Making</i>
<i>PKA.1.10</i>	<i>Advice Note</i>

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.

PKA.1

Papakāinga

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.

Papakāinga

- 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.

PKA.1

Papakāinga

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.

