

Issues

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 Resource Management [Act](#) 1991 (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 Māori and their culture and traditions with their ancestral lands, [water](#), sites, [wāhi tapu](#), and other [taonga](#); a matter of national importance in the Resource Management [Act](#) (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 facilities](#) and [recreational facilities](#), [places of assembly](#), [industrial activities](#), 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 papakāinga 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 Māori 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 Licences 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.

Notes:

1. *Transfer of Power: Subject to the requirements of section 33 of the Resource Management [Act](#) 1991, the Whangarei District Council is able to transfer its powers to the relevant [iwi authority](#) for the rohe in which the [land](#) is located. 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-R1 – R4 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.*

Papakāinga (PKA)

Objectives	
PKA-O1 – Traditional and Cultural Relationship	For the District Plan to recognise the desire of Māori to maintain and enhance their traditional and cultural relationship with their ancestral land.
PKA-O2 – Provision for Papakāinga Development	Provide for papakāinga development on ancestral land in a manner which is sensitive to tikanga Māori and the sustainable management of the land resource.
PKA-O3 – Ancestral Lands	Allow maximum flexibility for Māori to develop their ancestral lands, while ensuring appropriate health, safety and amenity standards are met.
PKA-O4 – Traditional Settlement Patterns	Enable Māori to establish and maintain traditional settlement patterns, activities and development opportunities.
PKA-O5 – Protection and Enhancement	Protection and enhancement of ecological, landscape, cultural, heritage and other features which are of value to Māori and the wider community.

Policies	
PKA-P1 – Papakāinga on Ancestral Māori Land	To limit papakāinga development to ancestral Māori land that is administered under the Te Ture Whenua Māori Act 1993.
PKA-P2 – Intensity and Scale of Development	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 .
PKA-P3 – Location and Extent of Development	To require the location and extent of built development to be determined by the physical characteristics of the land and tikanga Māori .
PKA-P4 – Non-Residential Activities	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.
PKA-P5 – Papakāinga Development Plans	To encourage Māori to prepare Papakāinga Development Plans as a guide to sustainable management of ancestral land.

Rules

PKA-R1	Eligibility
	<ol style="list-style-type: none"> 1. The following provisions of the District Plan shall apply to papakāinga developments: <ol style="list-style-type: none"> a. The District Wide and Resource Area objectives, policies and rules. b. The underlying Zone provisions, unless otherwise specified in PKA-R2. c. The underlying Zone subdivision provisions. 2. The PKA provisions shall not apply to land located in the Heavy Industrial Zone.

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PKA-R2	Papakāinga Developments on Māori Freehold Land*	
	<p>Activity Status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> 1. A Papakāinga Development Plan is submitted to Council prior to any application for building consent that identifies and demonstrates the following: <ol style="list-style-type: none"> a. The location of any <u>residential units</u>. b. The location of any <u>structures</u> other than <u>residential units</u>. c. Areas of <u>land</u>, <u>buildings</u> or <u>major structures</u> (excluding <u>minor buildings</u>) to be dedicated to <u>commercial activities</u>, <u>community activities</u> or <u>industrial activities</u>. d. The location of utility servicing requirements and internal roading network. e. The <u>land</u> can be serviced in terms of <u>access</u>, <u>water</u>, <u>wastewater</u> and <u>stormwater</u> in accordance with the relevant provisions of the Transport and Three Waters Management Chapters for the type and number of <u>buildings</u> shown on the Papakāinga Development Plan. The Papakāinga Development Plan shall be accompanied by a written report and certification to this effect from a Chartered Professional Engineer confirming that this requirement is met. f. The location of any recorded <u>historic heritage</u> (including archaeology) that is protected by the Heritage New Zealand Pouhere Taonga Act 2014. 2. Any <u>places of assembly</u>, <u>recreational facilities</u>, <u>educational facilities</u>, and <u>commercial activities</u> or <u>industrial activities</u> are established in conjunction with and are directly associated with the <u>residential activities</u> of the papakāinga. 3. Any <u>places of assembly</u>, <u>recreational facilities</u>, <u>educational facilities</u>, and <u>commercial activities</u> or <u>industrial activities</u> are <u>setback</u> at least 100m from 	<p>Activity Status when compliance not achieved: Restricted Discretionary</p> <p>Matters of Discretion:</p> <ol style="list-style-type: none"> 1. Council shall restrict its discretion to any actual or potential environmental <u>effects</u> associated with the matter of non-compliance.

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	<p>any existing <u>residential unit</u> on a separate <u>site</u>.</p> <p>4. <u>Commercial activities</u> or <u>industrial activities</u> do not cumulatively exceed 500m² in <u>gross floor area</u> on any one <u>site</u>.</p> <p>5. The number of <u>residential units</u> per <u>site</u> does not exceed one <u>residential unit</u> per 2,000m² of <u>net site area</u>.</p> <p><i>Note:</i></p> <p>1. *Māori Freehold Land is defined in the Te Ture Whenua Māori Act 1993.</p>
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PKA-R3	Papakāinga Development on General Land* Owned by Māori	
	<p>Activity Status: Restricted Discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> It is demonstrated that the papakāinga development would otherwise comply with the permitted activity controls in PKA-R2; and The <u>land</u> is subject of proceedings before the Māori Land Court to convert the <u>land</u> to Māori Freehold Land on the date the application for resource consent is made; or The <u>land</u> has not been the subject of proceedings before the Māori Land Court to convert the <u>land</u> to Māori Freehold Land but an ancestral link to the land has been identified. <p>Matters of Discretion:</p> <ol style="list-style-type: none"> Explanation as to the historical reasons why the <u>land</u> was transferred to general title. Evidence as to why the <u>land</u> should be considered as ancestral Māori land. In the case of PKA-R3.3 above, an explanation as to why the <u>land</u> has not been converted to Māori Freehold Land pursuant to the Te Ture Whenua Māori Act 1993. Demonstration of appropriate legal mechanism(s) to ensure that the <u>land</u> is maintained in whanau ownership. <p><i>Notes:</i></p>	<p>Activity Status when compliance not achieved: Discretionary</p>

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	<ol style="list-style-type: none"> 1. Refer to guidance document for assistance in demonstrating the adequacy of evidence for the identification of an ancestral link. 2. *General Land owned by Māori is defined in the Te Ture Whenua Māori Act 1993.
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PKA-R4	Papakāinga Development on all Other Land
	<p>Activity Status: Non-Complying</p> <p>Where:</p> <ol style="list-style-type: none"> 1. Papakāinga developments on all other <u>land</u> not specified in PKA-R2 to PKA-R3.