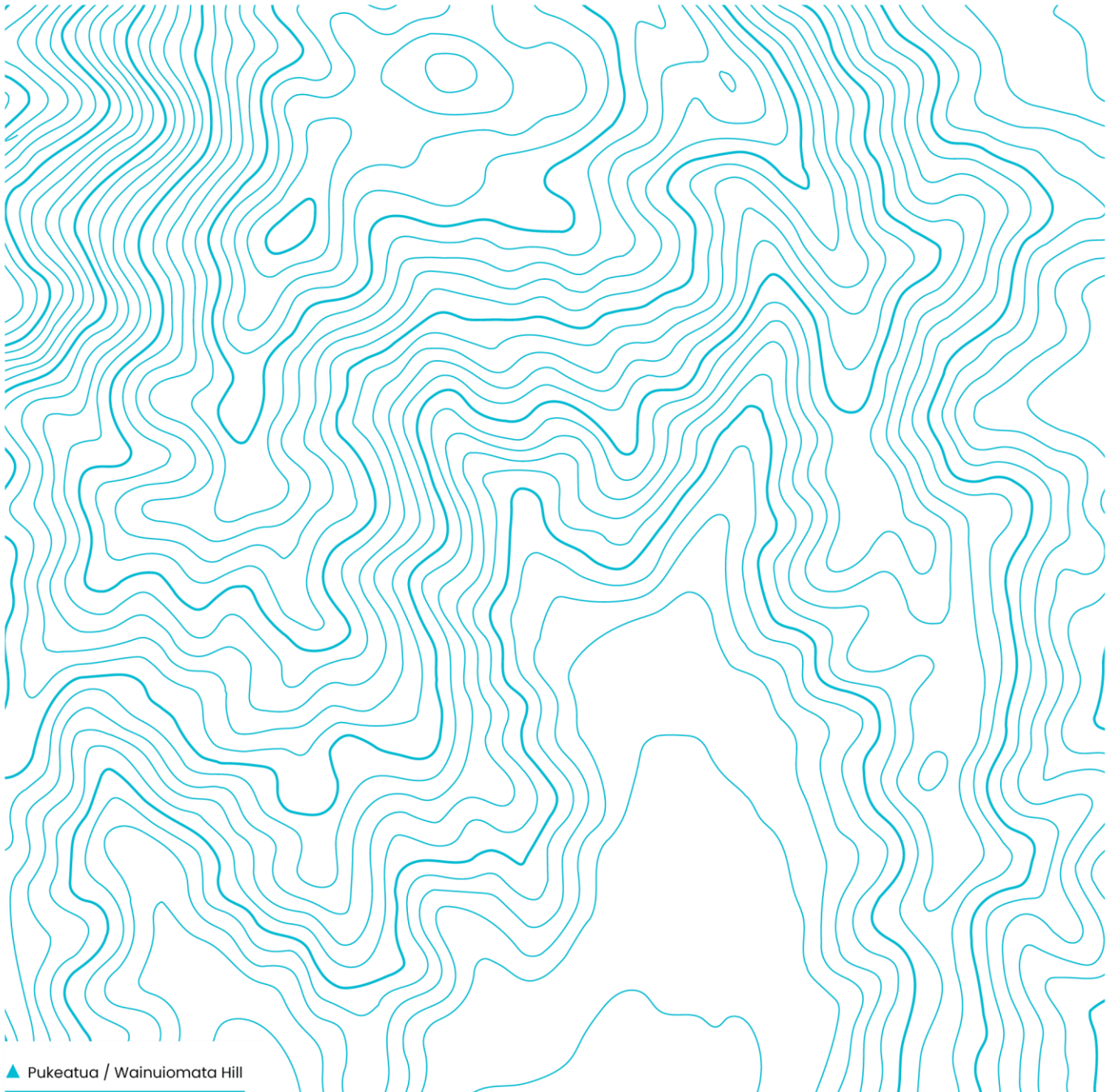


# Section 32 Evaluation PAPAKĀINGA



# 1 Contents

---

1	Contents.....	2
2	Overview and Purpose.....	4
2.1	Papakāinga.....	4
3	Statutory and Policy Context.....	5
3.1	Resource Management Act 1991.....	5
3.1.1	Section 5 – Purpose and Principles.....	5
3.1.2	Section 6 – Matters of National Importance.....	5
3.1.3	Section 7 – Other Matters.....	6
3.1.4	Section 8 – Treaty of Waitangi.....	7
3.2	National Policy Statements.....	7
3.3	New Zealand Coastal Policy Statement.....	9
3.4	National environmental standards.....	11
3.5	National Planning Standards.....	11
3.6	Regional Policy Statement for the Wellington Region and Proposed RPS Change 1	11
3.7	Regional Natural Resources Plan and Proposed NRP Change 1.....	14
3.8	Iwi management plans.....	14
3.9	Hutt City Council Plans, Policies, and Strategies.....	14
3.10	District plans of adjacent territorial authorities.....	16
3.11	Other statutory and non-statutory plans, policies and strategies.....	16
3.11.1	The Future Development Strategy for Wairarapa, Wellington and Horowhenua	16
3.11.2	MAIHI Ka Ora: The National Māori Housing Strategy 2021.....	17
3.12	Other legislation or regulations.....	17

4	Resource management issues.....	19
4.1	Mana Whenua relationship to ancestral lands.....	19
4.2	Evidence base .....	23
4.2.1	Existing approach of City of Lower Hutt District Plan .....	25
4.3	Analysis of other District Plan provisions relevant to this topic.....	26
4.3.1	Wellington City Council .....	26
4.3.2	Upper Hutt City Council .....	26
4.3.3	Porirua District Plan.....	27
4.4	Advice from mana whenua.....	27
4.5	Summary of issues analysis.....	30
4.5.1	Issue 1: Tangata whenua relationship to ancestral lands .....	30
4.5.2	Issue 2: Encouraging more Papakainga housing to be developed on Maori land is a positive outcome that can be measured.....	31
4.5.3	Issue 3: It is challenging for Māori to undertake a range of activities in underlying zones because Papakāinga encompasses a mixture of activities consisting of a communal nature and may encompass one or more non-residential activities. ....	31
4.5.4	Issue 4: Provision of adequate infrastructure and services toward rural areas	32
5	Scale and significance assessment.....	33
5.1	Evaluation of scale and significance .....	33
6	Proposed District Plan objectives and provisions.....	36
7	Evaluation of objectives .....	38
8	Evaluation of Policies and Rules .....	41
8.1	Evaluation of policies and rules that implement <i>PK-O1: Provision for Papakāinga</i>	43
9	Summary.....	48

## 2 Overview and Purpose

---

- (1) Hutt City Council is reviewing the Lower Hutt District Plan. This is a full review of the District Plan, including a new proposed district wide Papakāinga chapter.
- (2) This report is a record of the review with regard to papakāinga, and includes an evaluation of objectives and provisions for a proposed District Plan to address papakāinga activities, in accordance with the requirements of s32 of the Resource Management Act 1991.
- (3) This report sits as one of a package of reports for the proposed Plan and should be read alongside the General report, which covers matters common to all Plan topics.

### 2.1 Papakāinga

- (4) 'Papakāinga' refers to 'papa' or Papatuanuku as the ancestral earth mother and 'kāinga' as the village communal living environment. Today the term is used to define both an ancestral land base as well as a collection of dwellings occupied by Māori connected by common kinship or kaupapa, located in reasonably close proximity to each other and normally relating to a marae or other communal area or building.
- (5) Overall, Papakāinga refers to the development of housing on Māori whenua. The ability to live on traditional whenua in papakāinga developments allows Māori to maintain and enhance their culture and traditions and provides for traditional patterns of housing and use on Māori whenua.
- (6) Papakāinga is not explicitly provided for under the operative District Plan. The most relevant rules relate to multi-unit residential developments for residential zones. While these provisions provide for residential developments, they do not necessarily provide for (or are silent on) the mix of non-residential activities or communal facilities that are not usually part of conventional residential developments but are often part of papakāinga.

## 3 Statutory and Policy Context

---

- (7) The following sections discuss the national, regional, and local policy framework that are particularly relevant to the statutory and policy context for the Papakāinga chapter for the District Plan Review.

### 3.1 Resource Management Act 1991

#### 3.1.1 Section 5 – Purpose and Principles

- (8) The purpose of the RMA is set out in Section 5. The purpose is to promote the sustainable management of natural and physical resources.
- (9) Under s5(2) of the Act, sustainable management means:

*Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

#### 3.1.2 Section 6 – Matters of National Importance

- (10) Section 6 of the RMA sets out matters of national importance that all persons exercising functions and powers under the Act shall *recognise and provide for* in achieving the purpose of the RMA. The most relevant s6 matters for the Papakāinga chapter are:

Section	Relevant Matter
Section 6(e)	<p><i>The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.</i></p> <p>Traditional papakāinga development generally occurs on ancestral land (including Māori freehold land, Māori customary land and Crown land reserved for Māori).</p> <p>However, the forms of papakāinga development are evolving in modern times, particularly where there is limited Māori land available.</p> <p>District plan provisions can enable papakāinga development which enable Māori to reconnect with their ancestral land and nurture their relationships with water and other taonga.</p>

### 3.1.3 Section 7 – Other Matters

- (11) Section 7 of the RMA sets out other matters that all persons exercising functions and powers under it shall *have particular regard to* in achieving the purpose of the RMA. The relevant s7 matters for the Papakāinga chapter are:

Section	Relevant Matter
Section 7(a)	<p><i>Kaitiakitanga.</i></p> <p>Provision for papakāinga enables Māori to exercise kaitiakitanga over their natural and physical resources through the use and development of papakāinga.</p> <p>Enabling papakāinga improves opportunities for Mana Whenua to exercise Kaitiakitanga over their ancestral lands and decide how they can be developed upon.</p>

Section 7(c)	<p><i>The maintenance and enhancement of amenity values.</i></p> <p>Enabling further development of papakāinga may affect the amenity values of the existing surrounding areas of a proposed site for development. Papakāinga can also provide for amenity for a site and surrounding areas, including through provision of communal spaces and facilities.</p>
Section 7(f)	<p><i>Maintenance and enhancement of the quality of the environment.</i></p> <p>Enabling further development of papakāinga may change the character of existing surrounding areas of a proposed site for development.</p>

### 3.1.4 Section 8 – Treaty of Waitangi

- (12) Section 8 of the RMA requires Council to *take into account* the principles of the Treaty of Waitangi when exercising functions and powers under the Act.
- (13) Council works with the principle of ‘partnership’ with Te Ātiawa, Taranaki Whanui and Ngāti Toa Rangatira to actively protect their interests via the Kahui group.
- (14) The second principle of protection allows tangata whenua to exercise tikanga Māori on their ancestral lands.
- (15) Council and tangata whenua partnerships have helped form the provisions to recognise and protect these interests throughout the plan. Papakāinga is a key deliverable to take s8 into account.

## 3.2 National Policy Statements

- (16) Section 75(3)(a) of the RMA requires district plans to give effect to any National Policy Statement and the New Zealand Coastal Policy Statement.
- (17) The national policy statements that are relevant for papakāinga are summarised below:

**National Policy Statement on Urban Development (NPS-UD)**

The NPS-UD aims to support well-functioning urban environments to provide for current and future community wellbeing.

Reference	Comment
Objective 5	<p><i>Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).</i></p>
Policy 1	<p><i>Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</i></p> <p><i>(a) have or enable a variety of homes that ...</i></p> <p><i>(ii) enable Māori to express their cultural traditions and norms ...</i></p>
Policy 9	<p><i>Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:</i></p> <ul style="list-style-type: none"> <li><i>a. involve hapū and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and</i></li> <li><i>b. when preparing RMA planning documents and FDSs, take into account the values and aspirations of hapū and iwi for urban development; and</i></li> <li><i>c. provide opportunities in appropriate circumstances for Māori involvement in decision-making on resource consents, designations, heritage orders, and water conservation orders, including in relation to sites</i></li> </ul>



	<p><i>of significance to Māori and issues of cultural significance; and</i></p> <p><i>d. operate in a way that is consistent with iwi participation legislation.</i></p>
--	--

### 3.3 New Zealand Coastal Policy Statement

<b>New Zealand Coastal Policy Statement 2010 (NZCPS)</b>	
<p>The NZCPS has objectives and policies which aim to protect and preserve the coastal environment while providing for appropriate activities including providing for population growth, managing change to the built environment, and encouraging consolidation of coastal settlements and urban areas where this will avoid or mitigate sporadic urban growth or sprawl. Additionally, the NZCPS policies seek to manage coastal hazard risk by locating new development away from hazard prone areas.</p>	
<b>Reference</b>	<b>Comment</b>
Objective 3	<p><i>To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:</i></p> <ul style="list-style-type: none"> <li><i>• recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;</i></li> <li><i>• promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;</i></li> <li><i>• incorporating mātauranga Māori into sustainable management practices; and</i></li> <li><i>• recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.</i></li> </ul>
Objective 6	<p><i>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health</i></p>

	<p><i>and safety, through subdivision, use, and development, recognising that:</i></p> <ul style="list-style-type: none"> <li>• <i>the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;</i></li> <li>• <i>some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;</i></li> <li>• <i>functionally some uses and developments can only be located on the coast or in the coastal marine area;</i></li> <li>• <i>the coastal environment contains renewable energy resources of significant value;</i></li> <li>• <i>the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;</i></li> <li>• <i>the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;</i></li> <li>• <i>the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and</i></li> <li>• <i>historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.</i></li> </ul>
<p>Policy 2</p>	<p><i>In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:</i></p> <p><i>(a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal</i></p>

	<i>environment, including places where they have lived and fished for generations ...</i>
Policy 6	<i>(1) In relation to the coastal environment ...  (d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them.</i>

### **3.4 National environmental standards**

- (18) National environmental standards prescribe technical standards, methods, or requirements at a national level.
- (19) While no national environmental standards specifically relate to papakāinga, the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS) may be relevant for some sites where papakāinga may take place. The NES-CS sets regulations for the change of use and development of land with contaminated or potentially contaminated soil.

### **3.5 National Planning Standards**

- (20) Section 75(3)(ba) of the RMA requires district plans to give effect to national planning standards.
- (21) The National Planning Standards do not directly address papakāinga.

### **3.6 Regional Policy Statement for the Wellington Region and Proposed RPS**

#### **Change 1**

- (22) The Regional Policy Statement for the Wellington Region ('the RPS') identifies the significant resource management issues for the region and outlines the policies and methods required to achieve the integrated sustainable management of the region's natural and physical resources.

- (23) Proposed RPS Change 1 was notified in August 2022. The proposed change seeks to enable urban development and infrastructure in appropriate locations, implement objectives regarding Te Mana o Te Wai and freshwater, respond to climate change, and strengthen provisions indigenous ecosystems and biodiversity.
- (24) While the operative RPS does not specifically address papakāinga, it includes more general objectives and policies for councils to work with iwi authorities, to take account of the principles of the Treaty of Waitangi, and to provide for kaitiakitanga (objectives 10, 23, 24 and 25 and policies 48 and 49).
- (25) Proposed RPS Change 1 proposes a new policy (Policy UD.1) and an amendment to an existing policy (Policy 67) that specifically address papakāinga, shown in the table below (proposed additions are underlined, proposed deletions are struck through). Proposed RPS Change 1 also proposes design guidance for papakāinga (Method UD.1), but this method relates to the functions of the Wellington Regional Leadership Committee, and not district plans. Decisions on Proposed RPS Change 1 were publicly notified in September 2024. However, as of the preparation of this report, those decisions are open to appeals.

Reference	Provision
Policy UD.1	<p><u>District plans shall include objectives, policies, rules and/or methods that provide for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land, by:</u></p> <ul style="list-style-type: none"> <li>a) <u>enabling mana whenua / tangata whenua to exercise their Tino Rangatiratanga; and</u></li> <li>b) <u>recognising that marae and papakāinga are a Taonga and making appropriate provision for them; and</u></li> <li>c) <u>recognising the historical, contemporary, cultural, and social importance of papakāinga; and</u></li> <li>d) <u>if appropriate, identifying a Māori Purpose Zone; and</u></li> </ul>

	<p>e) <u>recognising Te Ao Māori and enabling mana whenua / tangata whenua to exercise Kaitiakitanga; and</u></p> <p>f) <u>providing for the development of land owned by mana whenua / tangata whenua.</u></p>
Policy 67	<p>To establish and maintain <del>and enhance</del> the qualities and characteristics of well-functioning urban environments <del>&amp; compact, well designed and sustainable regional form</del> by:</p> <p>a) implementing the New Zealand Urban Design Protocol and <u>any urban design guidance that provides for best practice urban design and amenity outcomes, including for high density development and medium density residential development;</u></p> <p>b) promoting best practice on the location and design of rural residential development;</p> <p>c) recognising and enhancing the role of the region’s open space network;</p> <p>d) <del>encouraging</del> <u>providing for</u> a range of housing types and developments to meet the community’s social, <u>cultural</u>, and economic needs, including affordable housing and improve the health, safety and well-being of the community;</p> <p>e) implementing the actions in the <del>Wellington Regional Strategy for the Regional Focus Areas</del> <u>Future Development Strategy, or the regional and local strategic growth and/or development framework or strategy that describes where and how future urban development should occur in the region; and</u></p> <p>f) <u>work together and partner with mana whenua / tangata whenua to prepare papakāinga design guidelines that are underpinned by kaupapa Māori.</u></p>

## **3.7 Regional Natural Resources Plan and Proposed NRP Change 1**

- (26) Under Section 75(4)(b) of the RMA a District Plan must not be inconsistent with a regional plan, and under s74(2)(a)(ii) of the RMA the Council must have regard to any proposed regional plan.
- (27) The Natural Resources Plan for the Wellington Region is the relevant regional plan for the Wellington region.
- (28) Proposed NRP Change 1 was notified 30 October 2023. This proposed change seeks to manage key activities to control their effects on water quality and ecological health, as well as amendments to rules relating to air quality, beds of lakes and rivers, and new sites with significant biodiversity values.
- (29) The NRP and Proposed NRP Change 1 do not address papakāinga.

## **3.8 Iwi management plans**

- (30) Section 74(2A) requires territorial authorities, when preparing or changing a district plan, to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.
- (31) There are no iwi management plans currently in place for Lower Hutt.

## **3.9 Hutt City Council Plans, Policies, and Strategies**

- (32) Relevant plans and strategies prepared under other Acts (such as the Local Government Act 2002) must be considered when preparing a District Plan.
- (33) In addition, there are other plans, policies, and strategies of Council that, while not directly prepared under a specific Act, should be considered as

part of the District Plan Review as they set Council's intentions on some matters that need to be addressed through the District Plan Review.

(34) The most relevant council strategy for papakāinga is *Te Herenga Kairangi – The Interwoven Ambition to Thrive*. Te Herenga Kairangi is Council's first Māori Strategy.

(35) The principles of Te Herenga Kairangi relate to Te Tiriti o Waitangi, Te Whare Tapa Whā (a holistic Māori health model that considers the wellbeing of a person to be multi-dimensional) and Council's Organisational Pou.

(36) The Council's Organisational Pou are described in Te Herenga Kairangi as:

- **Pou Tokomanawa** - Our environment and culture provide a positive employee experience that enables our people to thrive
- **Pou Tāhū** - Our Long Term Plan is delivered enabling our city and communities to thrive
- **Pou Tuarongo** - Our communities and their voices are at the heart of our work
- **Pou Whenua** - Our Mana Whenua partners and their priorities, are at the core of our policies and practices

(37) The strategy includes an action plan. While the action plan does not specifically address papakāinga, it includes a range of more general actions that can be relevant. In particular:

- Council provides effective opportunities for District Plan (and Spatial Plan) consultation to ensure strategic alignment with Mana Whenua priorities to uphold Council's commitment to Te Tiriti o Waitangi. and
- Investigate opportunities to contribute to:
  - Business support services for existing and new pakihi Māori in Lower Hutt, and
  - Potential housing support initiatives.

## **3.10 District plans of adjacent territorial authorities**

(38) Under Section 74(2)(c) of the RMA, the Council must have regard to the extent to which the District Plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(39) The following territorial authorities are adjacent to Lower Hutt:

- Kāpiti Coast District Council,
- Porirua City Council,
- Upper Hutt City Council,
- Wellington City Council, and
- South Wairarapa District.

(40) Areas of Māori land and other locations where papakāinga may occur are spatially separated from neighbouring territorial authorities. As a result, there are no relevant cross-boundary issues for papakāinga and little value in being consistent with the plans and proposed plans of other territorial authorities.

## **3.11 Other statutory and non-statutory plans, policies and strategies**

(41) In addition to Hutt City Council's plans, policies, and strategies (discussed above), there are regional and national plans, policies, and strategies that, while not mandatory considerations for the District Plan Review, should still be considered as they form part of the management regime for natural and physical resources in the district, and considering these documents can aid integrated management.

### **3.11.1 The Future Development Strategy for Wairarapa, Wellington and Horowhenua**

(42) The Future Development Strategy for Wairarapa, Wellington and Horowhenua (the FDS) is relevant for papakāinga.



- (43) The FDS is required under the National Policy Statement on Urban Development. It sets a strategy for delivering well-functioning urban environments for Wairarapa, Wellington and Horowhenua. The FDS is a shared document in our existing and future towns and cities over the next 30 years. The FDS is developed through the Wellington Regional Leadership Committee, a regional partnership between Mana Whenua, local government and central government, including Hutt City Council, Taranaki Whānui ki te Upoko o te Ika and Te Rūnanga o Toa Rangatira.
- (44) Appendix 1 of the FDS outlines prioritised areas for development, and states that development areas that are of importance to iwi are prioritised, including papakāinga development, marae-based urban developments and co-led urban developments.

### **3.11.2 MAIHI Ka Ora: The National Māori Housing Strategy 2021**

- (45) MAIHI Ka Ora: The National Māori Housing Strategy is a strategy from the Ministry of Housing and Urban Development.
- (46) This document seeks for all whānau to have safe, healthy, affordable homes with secure tenure, across the Māori housing continuum. It identifies challenges facing Māori housing and directs how these challenges can be overcome.
- (47) Papakāinga development falls under two of these challenges – Māori Housing Supply and Māori Housing Sustainability. Papakāinga development provides a solution for Māori housing supply that could also be made more energy efficient and self-sustaining.

## **3.12 Other legislation or regulations**

- (48) In addition to the RMA, other legislation and regulations can be relevant considerations for a district plan, particularly where management of an issue is addressed through multiple pieces of legislation and regulatory bodies.
- (49) The following legislation or regulations are relevant to the Papakāinga chapter:

Legislation or regulation	Comments
Building Act 2004	<p>The Building Act sets out the rules for the construction, alteration, demolition and maintenance of new and existing buildings in New Zealand.</p> <p>It is the primary legislation governing the building industry. Its purpose is that:</p> <ul style="list-style-type: none"> <li>• People can use buildings safely and without endangering their health,</li> <li>• Buildings have attributes that contribute appropriately to the health, physical independence and wellbeing of the people who use them,</li> <li>• People who use a building can escape from the building if it is on fire, and</li> <li>• Buildings are designed, constructed and able to be used in ways that promote sustainable development.</li> </ul> <p>The Building Act applies to papakāinga in the same way it applies to other forms of built development.</p>
Te Ture Whenua Māori Act 1993	<p>This Act is the primary legislation for Māori land. It aims to:</p> <ul style="list-style-type: none"> <li>• Promote the retention and use of Māori land; and</li> <li>• Facilitate the occupation, development, use and control of Māori land, taking into account the needs of all owners and their beneficiaries.</li> </ul>

# 4 Resource management issues

---

- (50) 'Papakāinga' refers to 'papa' or Papatuanuku as the ancestral earth mother and 'kainga' as the village communal living environment. Today the term is used to define both an ancestral land base as well as a collection of dwellings occupied by Māori connected by common kinship or kaupapa, located in reasonable proximity to each other and normally relating to a marae or other communal area or building. While traditionally papakāinga are generally conceived of as being rural in nature, with 83% of Māori now urbanised, increasingly such developments will desirably be developed in urban and peri-urban areas.
- (51) This section outlines resource management issues for papakāinga in Lower Hutt.

## 4.1 Mana Whenua relationship to ancestral lands

- (52) There is little recognition or provision for Te Atiawa, Taranaki Whanui and Ngāti Toa's relationship to their ancestral lands in the operative District Plan. Many whānau live in urban areas, including a small proportion on Māori land (multiple ownership through whakapapa). Many traditions are upheld on the marae setting, including respect of tangi protocols, communal living, and marae duties.
- (53) Pre-colonisation, the whenua provided a stable intergenerational economic base and was a source of not only nourishment but also collective identity, as evidenced through whakapapa which links Māori to Papatuanuku. Kāinga were the cornerstone of economic life, and were made up of whanau 'household' units that somewhat linked with hapu (sub-tribe). The whanau were the primary economic unit because the production and distribution of food and other goods occurred at a whanau or kāinga level, and property (excluding land) was held in

common by the whanau. The economic role of the hapū was centred on land use and occupation rights, that included the kāinga and surrounding lands, and the common ownership of some items of property. The economic role for iwi was limited, confined to participation in significant ceremonial events such as marriages and tangi. Iwi were also responsible for mutual defence and maintenance of borders by affiliated hapū. Iwi had virtually no economic function.

(54) The economy operated on a koha basis, with reciprocal exchange between hapū or kāinga, and access to resources and the exchange and distribution of goods and services was regulated by tikanga. Rangatira as representing their hapū were responsible for those exchanges, which normally consisted of a system of gift and counter gift. In the past this has been described as barter, but this is incorrect because there were no set rates attributed to these exchanges. There were two key types:

- Reciprocal gifts e.g. food; and
- Ceremonial or political exchanges aimed at securing and maintaining relationships.

(55) Early European settlement came with a number of innovations, new crops, tools and other goods however for the most part these did not disrupt underlying values and social structures. For example, despite the introduction of new technology and increased scale of production livestock continued to be communally farmed and distributed within whanau and hapu groups under the leadership and direction of Rangatira. Economic adjustments occurred for Māori purposes and in accordance with tikanga.

(56) Today, Māori occupation of land and stewardship of resources is governed by three key pieces of inter-related legislation. The RMA, Te Ture Whenua Māori Act 1993, and the Local Government Act 2002. Bespoke Treaty Settlement legislation also plays a role within the relevant tribal rohe (area). In addition, the Building Act 2004 is applicable to all development on Māori Land.

(57) The RMA is NZ's primary planning legislation. Under the Te Ture Whenua Māori Act, all land in New Zealand is classified as being Māori customary land, Māori freehold land, general land owned by Maori, general land,

Crown land or Crown Land reserved for Māori. The Act sets out the rules relating to Māori Land (Māori Customary Land and Māori Freehold Land), although some of its provisions apply to other types of land, in particular general land owned by Māori. It confers on the Māori Land Court extensive supervisory powers over Māori Land, most dealings with Māori Land require the approval or notification of the court.

- (58) Confusion also arises from unclear linkages between the RMA and the Māori Land Act, regarding both terms and administration. The circular cross-referencing between the two places the onus on the Māori Land Court judges to determine which provisions of the RMA (and in consequence a district plan) apply when partitioning Māori Land. In practice, however, the Court follows the District Plan when considering both full and hapū partitions to avoid difficulties arising at a later stage when building consents are sought from the district council. It is therefore paramount that papakāinga housing provisions are included in the district plan.
- (59) The Local Government Act (LGA) is the guiding legislation for local authorities. It includes special provisions for involving Māori in decision making processes and requires authorities to have a policy on remission and postponement of rates on Māori freehold Land. The relationship between the provisions of Te Ture Whenua Act, the RMA and the LGA planning requirements is crucial to the facilitation of successful papakāinga development, and a more co-operative and co-ordinated approach between decision making authorities would be beneficial.
- (60) Lower Hutt's planning framework is focused on delivering a certain type of suburban and some rural development – typically multi-unit housing. With no specific provision for Papakāinga activities (outside of Marae) that include communal spaces, tangata whenua find it difficult to undertake traditional activities, including establishing traditional forms of village living such as papakāinga where tikanga Māori can be practiced. As a result, social and cultural well-being is not adequately being provided for (outside of marae).
- (61) There is an opportunity to provide greater autonomy to tangata whenua and provide housing on ancestral land through the District Plan Review.

## Papakāinga Development

- (62) Tangata whenua ancestral lands are difficult to develop for a variety of reasons. Firstly, there are legal hurdles that do not apply to land held under general title. As outlined earlier in this report, Māori land is partitioned and managed under Te Ture Whenua Māori Act 1993.
- (63) Since the introduction of Te Ture Whenua Māori Act 1993, Māori Land Court judges have generally been unwilling to issue partition orders. The two key mechanisms now used to establish occupation are occupation orders and licenses to occupy. Occupation orders are issued by the Māori Land Court directly, whereas a licence to occupy (LTO) is issued by a Māori Land management entity, for example a trust or incorporation. A LTO is preferred because of the conditions associated with accessing Kainga whenua finances.
- (64) Often development of Māori land requires permission from various whanau groups and the Māori Land Court. This adds a level of complexity to the requirements in the RMA and the community's strongly held view is that the District Plan should not be a tool that further and unnecessarily limits use of this land. For a number of reasons, a lot of Māori Land has been converted to general title over time (including through specific legislation, such as the Māori Affairs Amendment Act 1967). This can include land that has been continuously retained in Māori ownership, and alienated ancestral land that has been brought back by those who have a direct whakapapa link to that land. This is why it is important for Council policy to accommodate Māori whanau and individuals who hold ancestral land in general title.
- (65) Māori land is also often subject to various environmental overlays which make it difficult to develop. This is a national issue, as it is partially a byproduct of legal processes such as Treaty settlements, the Public Works Act 1981, and Te Ture Whenua Māori Act 1993. Land affected by these legal processes, as well as other constraints, has often been left to revert back into native bush. Many of these areas are then subsequently identified in planning documents around the country as valued natural areas, landscapes, or coastal character areas, with associated restrictions on development.

- (66) Home Ownership on Māori Land requires permission from trustees or owners of the land and legal right to occupation. Due to this, it has limitations because it does not function well as an asset (compared with home ownership on general land) as it cannot be traded on the open market. The limited pool of potential buyers (the other often hundreds of beneficial owners) restricts resale options and capital gains.
- (67) In addition, Kāinga Ora indicates that a key barrier to Māori Land is access to finance.
- (68) Te Puni Kokiri provide infrastructure funding for services such as roading, access and three waters but this fund is limited and there is an extremely long waiting list, causing whanau to completely miss out until the next funding round opens up.
- (69) Further, Māori land is also often subject to natural hazards. This is because Māori traditionally lived near waterways and the coast for mahinga kai and to travel around their rohe by waka. These areas are generally subject to a number of hazards including flooding, tsunami, coastal erosion, and inundation.
- (70) The issues above have a significant impact on landowners' ability to use Māori land, particularly to build houses. The identification and protection of environmental overlays is of greatest concern to tangata whenua because of the potential for this to severely restrict future development. The Hutt community is generally accepting of the need to avoid building in areas of high natural hazard risk.

## **4.2 Evidence base**

- (71) The Council has reviewed the operative District Plan in relation to papakāinga development, identified issues associated with the current provisions, worked in partnership with tangata whenua through workshops to better understand issues and options, and reviewed approaches taken in other district plans to assist with setting the plan framework.
- (72) This work has been used to inform the identification and assessment of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions. The following sections outline this evidence.

- (73) The report by BERL, titled 'Māori Economy in the Greater Wellington Region' dated 30/3/2018 states that there is approximately 12,529 hectares of Māori Freehold land.
- (74) The map of Māori Freehold Land in the Wellington Region sourced from the Māori Land Court is shown in Figure 1 below.
- (75) In Lower Hutt City, there is a total of 320 hectares of Māori Freehold Land with a total of 27,653 hectares (16th lowest in NZ).

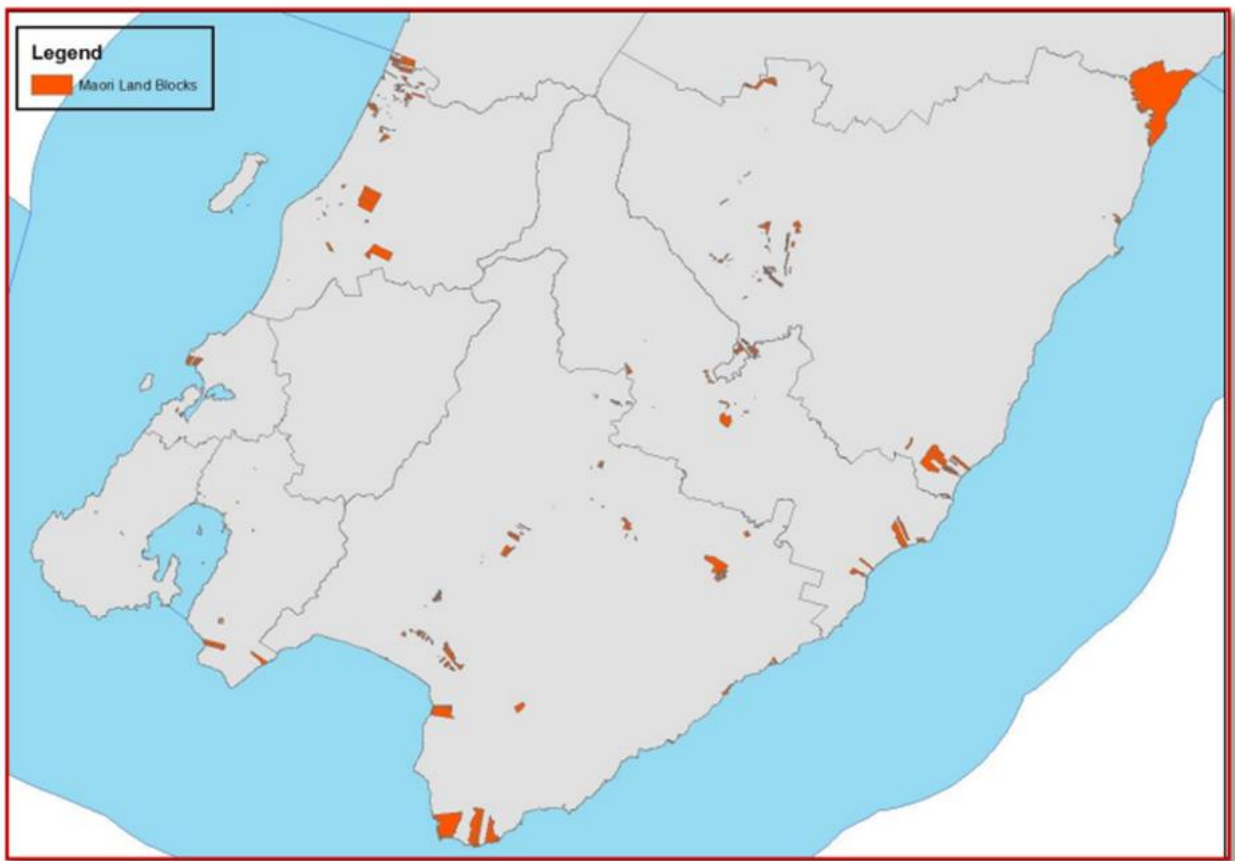


Figure 1. Māori Freehold Land in the Wellington Region.

- (76) Kāinga Ora's Papakāinga report considers that papakāinga should be a permitted activity under the following circumstances also:
- Whenua Māori under Te Ture Whenua Māori Act 1993;
  - Land converted to General Title land through the Māori Affairs Amendment Act 1967; and
  - Treaty Settlement Land, including RFR land or land purchased by post-settlement government agencies.



- (77) The Papakāinga provisions could be more enabling than those that provide for typical residential use and development. The justification for this greater enablement for Māori compared to non-Māori stems from the requirements of Section 8 and 6(e) of the RMA, which require the Council to take into account the principles of the Treaty of Waitangi, and to provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga as a Matter of National Importance.
- (78) The Council therefore requires an effective implementation method to distinguish between Māori and non-Māori to enable the papakāinga provisions to be practicably applied.
- (79) With respect to land tenures that papakāinga provisions should be applied to, provisions could specifically provide for Māori land under Te Ture Whenua Māori Act 1993. The other types of general land could be provided for via the standard provisions of a district plan that apply to all development.

#### **4.2.1 Existing approach of City of Lower Hutt District Plan**

- (80) There are no specific objectives, policy frameworks or rules for the use and development of Māori land. Any development within these areas must comply with the same general suburban and rural rules and standards that apply to non-Māori land.
- (81) There are no provisions specifically enabling traditional and cultural activities including papakāinga development outside of the Community Iwi Activity Area.
- (82) Papakāinga development is distinctive as it often involves traditional style of living where multiple dwellings are grouped around communal buildings and with communal outdoor spaces. They can also encompass activities that support and/or are complementary with papakāinga, such as small-scale commercial activities and community facilities. Any papakāinga development would currently be assessed under the relevant zone framework. Both commercial activities and community facilities would require resource consent under rural or residential zones.

## 4.3 Analysis of other District Plan provisions relevant to this topic

(83) Current practice has been considered in respect of this topic, with a review undertaken of the Wellington City, Upper Hutt, Kapiti Coast and Porirua District Council district plan provisions.

### 4.3.1 Wellington City Council

(84) The Plan offers relevant policy for papakāinga but no objectives or rules. However, it contains a Papakāinga design guide.

### 4.3.2 Upper Hutt City Council

(85) The Upper Hutt City District Plan has a Papakāinga chapter under the General District Wide Matters.

(86) The Objectives and Policies, rules and standards contained within this Chapter apply to papakāinga throughout the City. Papakāinga is specifically provided for within the following zones:

- The General Residential Zone;
- The High Density Residential Zone
- The General Rural Zone;
- The Rural Production Zone;
- The Rural Lifestyle Zone;
- The City Centre Zone;
- Town Centre Zone;
- Local Centre Zone;
- Neighbourhood Centre Zone; and Mixed-Use Zone.

(87) These rules add new requirements and discretion for papakāinga on general title land. Under the permitted activity standard, it requires that applicants provide evidence of their connection to their ancestral land and that the land is retained in Māori ownership.

(88) Providing evidence to Council for consent planners to scrutinise and check whether a person or entity whakapapa's back to their land may be outside of Council's role and prove difficult and only delay papakāinga

applications. Providing evidence to Council that the land will be retained in Māori ownership would be sufficient and easily obtained through a legal document.

- (89) At the time of writing this, no papakāinga resource consent applications had yet been submitted to give effect to the Upper Hutt Papakāinga chapter.

### 4.3.3 Porirua District Plan

- (90) This district plan implements the Hongoeka Zone is to provide for a range of activities that specifically meet Māori cultural needs including social, cultural and economic development. The Hongoeka Zone will also allow Hongoeka whānau to maintain an ongoing relationship with their ancestral land.

- (91) A definition of papakāinga to ensure that the activity applies to Ngāti Toa’s ancestral lands, and to make it clear that for Ngāti Toa the activity is considered to be wider than housing and also includes economic activity and communal facilities.

## 4.4 Advice from mana whenua

- (92) Council has engaged with mana whenua as part of the District Plan Review, particularly through the Kāhui group.

- (93) The following is a summary of the advice received in relation to papakāinga from the Kahui group, which is made up of representatives of Te Atiawa, Taranaki Whānui and Ngāti Toa Rangatira mana whenua members.

<b>Date</b>	<b>Topic</b>	<b>Comment</b>
7 May 2024	Introduction to Papakāinga for the District Plan.	Kahui supports a new Papakāinga chapter.
18 June 2024	Provided Kahui with a copy of the Upper Hutt Council (UHCC) objectives and	Kahui support this approach in general.

	<p>policies for review and invited them to provide feedback via email on whether their objectives and policies align with theirs.</p>	<p>Discussion regarding evidence of an ancestral link was discussed. The provision for Maori land to remain in Maori ownership was supported.</p>
30 July 2024	<p>Discussion on how extensively the Papakāinga Chapter could be applied as the policy allowed for the Papakāinga Chapter to be applied to either ancestral land or across general land.</p> <ul style="list-style-type: none"> <li>• A Papakāinga design guide will be useful.</li> <li>• A Papakāinga Design toolkit is an option for Lower Hutt.</li> <li>• Restrictions on mixed use might be required. The land should be able to be used how they wish. It is suggested restrictions could be applied to commercial use.</li> </ul>	<ul style="list-style-type: none"> <li>• That terminology used by UHCC be adapted for Hutt City Council's Papakāinga Chapter, for example the use of "tāngata whenua" and "Mana Whenua".</li> <li>• All land in Lower Hutt is ancestral land.</li> <li>• Open to vertical housing developments.</li> <li>• Leaning towards a policy that gives Māori landowners options relative to the capacity of the land e.g. number of dwellings, wastewater etc.</li> <li>• The definition of Papakāinga used in the UHCC version. It should place more emphasis on the connection with whakapapa and identity. Form our own papakāinga definition alongside other local Wellington councils.</li> </ul>
10 September 2024	<p>Presented proposed draft papakāinga definition, objectives and policies</p>	<p>Kahui in general support of definition and objectives and</p>

	including possible matters of discretion.	policies of the proposed Papakāinga chapter.  Still preference for the applicant for papakāinga to provide evidence of the whakapapa ancestral connection to the land as a permitted activity standard.
22 October 2024	Discussed altered draft Papakāinga Chapter Objectives, Policies and Examples and Rules due to the approach being the rules will be embedded in the residential and rural zones of the proposed district plan.	No direct opposition to this general approach.

(94) In summary, the key findings arising from the consultation undertaken on this topic are:

- The definition for Papakāinga needs to be altered to provide for Papakāinga on General Title. An approach was needed for papakāinga on General Title Land owned by Māori as it remains challenging for tāngata whenua to undertake development in general.
- Strong support for introducing Papakāinga provisions similar to UHCC.
- How will Council verify ancestral connections to land? Kahui could also help determine whether these criteria have been met, and a standard process could be developed for consulting on these matters. This would be a matter for further discussion/agreement with tangata whenua and will be a resourcing issue in future.
- Definition of ancestral land need to be defined to include general land owned by Māori.
- Preference for papakāinga provisions to only be available where a person can provide evidence of an ancestral whakapapa connection to

the land as a permitted activity standard. There are questions on how the Council would verify this, and there may be an opportunity for Mana Whenua to assist with this process.

- The definition for papakāinga should emphasise the connection with whakapapa and identity.
- All land within Lower Hutt is ancestral land, and this should include general land owned by Māori (rather than 'Māori freehold land', as there is relatively little land in Lower Hutt that would meet this classification).
- There is an opportunity to work with other councils in the Wellington region on a consistent approach to papakāinga.
- There may be value in a papakāinga design guide or design toolkit.
- A policy which gives flexibility within a development as long as it does not over-capacitate the land.
- Open to vertical housing developments as a form of papakāinga.
- During more recent meetings with the Kāhui Mana Whenua, general support for the definition, objectives and policies that have been prepared for the Papakāinga chapter.

## **4.5 Summary of issues analysis**

(95) Based on the research, analysis and consultation outlined above the following issues have been identified:

### **4.5.1 Issue 1: Tangata whenua relationship to ancestral lands**

(96) There is an opportunity to provide greater autonomy to tangata whenua regarding its ancestral land through the District Plan Review. This could include providing for traditional forms of village living such as papakāinga, enabling tikanga Māori, and providing opportunities for commercial development.

(97) The relationship between tangata whenua and their ancestral land is a matter of national importance under s6(e) of the Resource Management Act. This could help deliver social and cultural well-being and economic prosperity for the Iwi.

### **4.5.2 Issue 2: Encouraging more Papakainga housing to be developed on Maori land is a positive outcome that can be measured.**

- (98) Tangata whenua find it difficult to undertake customary activities in a way that further connects them to the land, including establishing traditional forms of ‘village/communal living’ such as papakāinga where tikanga Māori can be practiced. As a result, social, economic, spiritual and cultural wellbeing is not adequately being provided for.
- (99) There is an opportunity to provide greater autonomy to tangata whenua ancestral land through the District Plan. The plan change’s proposed provisions include adding papakāinga on General Title Land owned by Māori as a Permitted Activity. This makes the activity less challenging than the status quo as the activity status is reduced and allows the consents team to only assess these proposals and confirm the historic and future ownership of the subject site to be retained in Māori ownership.

### **4.5.3 Issue 3: It is challenging for Māori to undertake a range of activities in underlying zones because Papakāinga encompasses a mixture of activities consisting of a communal nature and may encompass one or more non-residential activities.**

- (100) Papakāinga development is currently permitted for some sites of existing marae in the Community Iwi Activity Area. However, not all papakāinga have or necessarily need a traditional marae (they may opt for an urban communal space instead) and some marae are limited in land area to further build papakāinga. In addition, some of Lower Hutt’s marae are religious based and cater to matawaka groups (not strictly mana whenua).

#### **4.5.4 Issue 4: Provision of adequate infrastructure and services toward rural areas**

- (101) For papakāinga, it is important that adequate infrastructure and services are available. This is a particular issue for rural areas because connections to Council infrastructure may be too costly and inaccessible for Māori land in rural areas. In addition, there may be issues with formed and legal access to Māori land blocks. Access to utilities may be costly and options for on-site solutions may be more suitable.



# 5 Scale and significance assessment

## 5.1 Evaluation of scale and significance

(102) In writing this evaluation report we must provide a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from the implementation of the proposal.

(103) In assessing that scale and significance we have had regard to:

<b>Matters of national importance</b>	Low –The matter of national importance in section 6e of the RMA, which relates to providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, is relevant for papakāinga. However, no other matters are particularly relevant for this topic.
<b>Other matters</b>	Moderate – Several other matters identified in section 7 of the RMA are relevant for papakāinga (as outlined earlier in the report), particularly Kaitiakitanga (s7a) and the maintenance and enhancement of amenity values (s7f).
<b>Degree of change from the operative plan</b>	High – The operative District Plan has few provisions that relate to papakāinga.
<b>Geographic scale of effects</b>	Low – While papakāinga may occur in many parts of Lower Hutt (including residential, rural and commercial zones), it is expected that papakāinga will continue to make up a very small proportion of the city’s residential development.

<b>Number of people affected</b>	Low – The number of people affected by papakāinga would be low, as the opportunities to undertake papakāinga developments would only be available to a relatively small proportion of the population. This also means that a relatively small proportion of the population would be affected (either positively or adversely) by papakāinga developments in their neighbourhood.
<b>Duration of effects</b>	High – Effects from papakāinga would be long lasting as the developments would effectively be permanent, and benefits would be across generations.
<b>Economic impacts</b>	Moderate – Provision for papakāinga has potential benefits for people who undertake the developments.
<b>Social and cultural impacts</b>	Moderate – While papakāinga has the potential to have positive social and cultural impacts for the communities involved, the overall scale of these impacts is assessed as moderate as the likely scale of papakāinga would be low.
<b>Environmental impacts</b>	Low – The environmental impacts from papakāinga are unlikely to be substantially different from other residential developments.
<b>Health and safety impacts</b>	Low – Health and safety issues for papakāinga are no different to those for other forms of development
<b>Degree of interest from mana whenua</b>	High – The new provisions address papakāinga development for Mana Whenua, and Mana Whenua have expressed an interest in this topic during engagement on for the District Plan Review.
<b>Degree of interest from the public</b>	Low – There has been little interest in this topic during community engagement for the District Plan Review.

<b>Degree of risk or uncertainty</b>	Moderate – The effects of papakāinga are well-known. However, there is a degree of uncertainty on where papakāinga will take place.
--------------------------------------	---

(104) The overall scale and significance of Papakāinga chapter is Moderate. This is relatively high in comparison to other topics for the District Plan Review due to the high degree of interest for Mana Whenua, but is not assessed as high due to the relatively small geographic scale and number of people that would be impacted by papakāinga, which also limits the likely scale of effects.

# 6 Proposed District Plan objectives and provisions

---

(105) The proposed Papakāinga chapter includes a single objective and three policies.

(106) The objective (PK-O1: Provision for Papakāinga) states:

*Māori with ancestral land in Lower Hutt are able to develop papakāinga on that ancestral land, supporting the restoration of whānau connections to their whenua.*

*Papakāinga can include multi-generational living and a range of other activities that support the community within the papakāinga, such as marae, community facilities, educational facilities, and small-scale commercial or agricultural activities.*

(107) The policies are as follows:

- **PK-P1: Acknowledge the cultural and historical significance of papakāinga** relates to recognising the cultural and historical significance of papakāinga and its benefits.
- **PK-P2: Activities of papakāinga** relates to recognising that papakāinga can include a range of activities that are not typically part of more conventional housing developments.
- **PK-P3: Providing for papakāinga** is for papakāinga to be provided for on Māori land. This policy also gives direction in relation to three waters infrastructure and servicing, impacts on the transport network, and the outcomes for the relevant zone (including impacts on amenity values and character, reverse sensitivity effects and urban design outcomes).

(108) The chapter does not include any rules. Instead, the policies are implemented through rules located in relevant zone chapters. Specifically:

- **LLRZ-R5, MRZ-R5 and HRZ-R5**, which permit papakāinga in the Large Lot, Medium Density and High Density Zones,

- **MAZ-R5**, which permits papakāinga in the Marae Zone, and
- **GRUZ-R7** and **RLZ-R7**, which require resource consent for papakāinga in the General Rural and Rural Lifestyle Zones.

(109) In addition, while there are no papakāinga-specific rules in chapters for commercial zones and the mixed use zone, papakāinga is provided for through rules of those chapters, including rules providing for residential activities, community facilities and commercial activities.

(110) The chapter is supported by definitions for:

- Papakāinga,
- Ancestral land, and
- Māori land.

# 7 Evaluation of objectives

- (111) This section is the evaluation of objectives, as required through s32(1)(a) of the RMA.
- (112) An objective is a statement of what is to be achieved through the resolution of a particular resource management issue. A district plan objective should set out a desired end state to be achieved through the implementation of policies and rules.
- (113) Under s75(1)(a) of the Resource Management Act, a district plan must state the objectives for the district.
- (114) Under s32(1)(a) of the Resource Management Act, an evaluation report required under the Act must examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. The purpose of the RMA, as stated in s5(1) of the Act, is to promote the sustainable management of natural and physical resources.

<b>Evaluation of Objectives</b>
<p><b>PK-01: Provision for Papakāinga</b></p> <p><i>Māori with ancestral land in Lower Hutt are able to develop papakāinga on that ancestral land, supporting the restoration of whānau connections to their whenua.</i></p> <p><i>Papakāinga can include multi-generational living and a range of other activities that support the community within the papakāinga, such as marae, community facilities, educational facilities, and small-scale commercial or agricultural activities.</i></p>
<p><b>Relevance</b></p> <p>The objective addresses the identified resource management issues with regard to the benefits of papakāinga, including providing for the relationship between tangata whenua and ancestral land.</p>

### **Usefulness**

The objective sets a specific outcome for providing for papakāinga, which is useful when compared to the alternative approach of having no papakāinga specific objective, which would lead to uncertainty for plan users.

The objective specifies some details for papakāinga that adds clarity for plan users, including clarifying that papakāinga can include a range of activities and that, at least for this objective, papakāinga specifically relates to connections between Māori and their ancestral land.

The objective supports implementation of Policy 1(a)(ii) of the National Policy Statement on Urban Development, that planning decisions contribute to well-functioning urban environments, and specifies the well-functioning urban environments include (or enable) a variety of home that enable Māori to express their cultural traditions and norms.

### **Reasonableness**

The objective was prepared through engagement with Mana Whenua to reflect aspirations for their land.

The objective is reasonable as it enables communities to provide for social, economic and cultural wellbeing (part of sustainable management under s5 of the RMA) and kaitiakitanga (an *other matter* Council is to have regard to under s7(a) of the RMA).

### **Achievability**

These objectives are achievable through the policies and rules of the proposed District Plan, and through the Council's functions under section 31 of the RMA, noting that the objective does not seek that papakāinga will occur (as the actual occurrence of papakāinga depends on a wide range of factors that are outside the influence of the District Plan), but that it is able to occur.

### **Alternatives**

#### **No papakāinga-specific objective**

The District Plan could provide for papakāinga without a papakāinga-specific objective. This would not necessarily mean that the Plan would not provide for papakāinga. However, any policies or rules on providing for papakāinga would be implementing a range of other objectives, such as zone-specific objectives for

residential and mixed-use developments and more general objectives for development for tangata whenua.

The proposed objective is more appropriate than this alternative as it is more useful to set a clear outcome for papakāinga, rather than inferring the desired outcome through multiple objectives.

#### **Papakāinga objectives in zone chapters**

Rather than having a single papakāinga-specific objective, the District Plan could include objectives for papakāinga in each relevant zone.

While this is a valid alternative, the proposed approach of a single papakāinga-specific objective with policies in the Papakāinga chapter is more appropriate as it more clearly presents what the Plan seeks to achieve for papakāinga.

#### **Summary**

The proposed objective is the most appropriate means of achieving the purpose of the Act as it sets a clear outcome for papakāinga that is achievable given the Council's functions under the RMA, and reflects the aspirations of tangata whenua whilst responding to the requirements of the RMA and National Policy Statement on Urban Development.



## 8 Evaluation of Policies and Rules

---

- (115) Policies and rules implement, or give effect to, the objectives of a plan.
- (116) Policies of a district plan are the course of action to achieve or implement the plan's objective (i.e. the path to be followed to achieve a certain, specified, environmental outcome). Rules of a district plan implement the plan's policies and have the force and effect of a regulation.
- (117) Under s32(1)(b) of the Resource Management Act, an evaluation report required under the Act must examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by –
- (i) *identifying other reasonably practicable options for achieving the objectives; and*
  - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
  - (iii) *summarising the reasons for deciding on the provisions.*
- (118) Under s32(2) of the Resource Management Act, the assessment of the efficiency and effectiveness of the provisions must:
- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*
    - (i) *economic growth that are anticipated to be provided or reduced; and*
    - (ii) *employment that are anticipated to be provided or reduced; and*
  - (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*

- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

### **Structure of this evaluation**

- (119) The proposed Papakāinga chapter includes three policies that implement the single objective of the chapter (evaluated above). These policies are then implemented by a range of rules that are located in each of the chapters for residential, rural zones and the Marae Zone. The policies are also implemented through rules in the commercial and mixed use zone chapters. However, papakāinga-specific rules are not required for those zones due to the ordinary rules of those zones being more enabling of mixed-use developments.
- (120) This evaluation assesses the collection of policies and rules that implement the objective of the proposed Papakāinga chapter (PK-O1), including the relevant rules in the zone chapters.

### **Quantification of benefits and costs**

- (121) Under Section 32(2)(b), the benefits and costs assessed should be quantified if practicable.
- (122) Given the uncertainty of where papakāinga may take place and the form that it would take (including the scale and mix of uses), the quantification of benefits and costs is not practicable.
- (123) In addition, it is not possible to quantify many of the costs and benefits as there is a cultural element to this topic that cannot be quantified (that is, it is not possible to put a value on outcomes such as living according to Te Ao Māori and tikanga Māori, maintaining a connection to the whenua and enabling kaitiakitanga and rangatiratanga).

### **Risk of acting / not acting if information is uncertain or insufficient**

- (124) Under Section 32(2)(c) the assessment of the efficiency and effectiveness of provisions must include an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

- (125) For the Papakāinga chapter, information is certain and sufficient as the chapter has been developed in partnership with Mana Whenua through the Kāhui group, and the likely impacts of a papakāinga development are well-understood, being the same as those from any other development with the mix of uses involved in papakāinga.

## 8.1 Evaluation of policies and rules that implement **PK-O1: Provision for Papakāinga**

### **PK-O1: Provision for Papakāinga**

*Māori with ancestral land in Lower Hutt are able to develop papakāinga on that ancestral land, supporting the restoration of whānau connections to their whenua.*

*Papakāinga can include multi-generational living and a range of other activities that support the community within the papakāinga, such as marae, community facilities, educational facilities, and small-scale commercial or agricultural activities.*

#### **Policies**

- PK-P1: Acknowledge the cultural and historical significance of papakāinga
- PK-P2: Activities of papakāinga
- PK-P3: Providing for papakāinga

#### **Rules**

- LLRZ-R5, MRZ-R5 and HRZ-R5: Papakāinga in residential zones
- GRUZ-R7 and RLZ-R7: Papakāinga in rural zones

<ul style="list-style-type: none"> <li>MAZ-R5: Papakāinga in the Marae Zone</li> <li>Activity rules in in chapters for commercial zones and the mixed use zone, including rules providing for residential activities, community facilities and commercial activities.</li> </ul>	
<b>Efficiency and effectiveness</b>	
<b>Costs</b>	<b>Benefits</b>
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>More enabling rules supportive of papakāinga development may change the character and amenity of areas in zones where papakāinga and similar developments are established. Performance standards and resource consent conditions will help reduce the adverse effects arising from these activities.</li> <li>Increased development can impact the natural environment by generating adverse effects. However, papakāinga developments would need to comply with other parts of the District Plan that have a greater influence on the impacts of development on the natural environment (such as the Earthworks, Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes and Natural Character chapters).</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>No direct environmental benefits have been identified.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>These provisions would likely result in reduced costs to tangata whenua that undertake papakāinga development by retaining permissive requirements.</li> <li>The consenting costs for Māori undertaking papakāinga that does not meet permitted standards may decrease as the plan contains more guidance for applicants and Council to follow, reducing processing timeframes and costs associated with processing.</li> <li>More development undertaken by Māori enabled by the provisions may generate employment opportunities relating to construction activity.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The provisions enhance wellbeing by enabling more housing growth and affordability for Māori.</li> </ul>

**Economic**

- There will be consenting costs for applicants that undertake papakāinga and other developments that do not meet permitted standards.
- If papakāinga is proposed in rural areas, there may be a risk of reverse sensitivity effects on existing farm operations. However, restricted discretionary rules are proposed for papakāinga in rural zones, with a matter of discretion that would enable potential reverse sensitivity effects to be considered during a resource consent process.

**Social**

- No social costs have been identified.

**Cultural**

- Requiring resource consent for papakāinga in some locations (including within rural zones) may discourage some papakāinga from taking place (due to the costs and uncertainty associated with a consenting process). This may inhibit the potential benefits of providing for papakāinga.

- Enabling development of papakāinga is likely to enhance social connections and wellbeing as whānau live closer to one another, creating a sense of community.

**Cultural**

- The proposed provisions provide greater opportunity for tangata whenua to exercise kaitiakitanga and rangatiratanga and develop their land in accordance with tikanga Māori.
- Where resource consent is required, consent applicants undertaking papakāinga developments under general land title are provided greater certainty of outcome for their proposal.

**Effectiveness and efficiency summary**

The proposed provisions are considered the most effective method of achieving the objective because they will provide for the increased environmental, economic, social and cultural benefits as discussed above, while maintaining character and amenity values within the underlying zones.

The provisions enable papakāinga development on land described under Te Ture Whenua Māori Act in various zones, as well as on general land title, subject to standards that will ensure papakāinga remains compatible with the underlying zone's character and amenity values.

The provisions are supportive of, and provide clear direction for, papakāinga development on both Māori Land and General Title land, reflect the aspirations of tangata whenua, and enable the Council to better meet its statutory obligations, including Section 6(e) of the RMA and Policy 1 of the National Policy Statement on Urban Development (relating to well-functioning urban environments enabling Māori to express their cultural traditions and norms).

#### **Other reasonably practicable options for achieving the objective**

##### **Providing for papakāinga through a Māori Purpose Zone for identified Māori land**

Under this alternative, the District Plan would contain policies and rules for papakāinga through a Māori Purpose Zone that would apply to Māori land (as defined in Te Ture Whenua Māori Act 1993). The policies would clearly provide for papakāinga development within the zone, and rules and standards would control activities within the zone.

However, the alternative provisions are not considered the most effective method of achieving the objectives as applying the provisions solely to Māori land through a Māori Purpose Zone would not provide flexibility for papakāinga to take place on Māori owned land in general, and would limit the opportunities for papakāinga and the potential benefits (noting that there is currently relatively little land in Lower Hutt that would meet the definition of Māori land, particularly in urban areas).

##### **No specific provisions**

Under this alternative, there would be no specific provisions for papakāinga, relying on the *ordinary* zone provisions to address papakāinga.

This alternative is less effective and efficient at providing for papakāinga than the proposed provisions as papakāinga can include a wider mix of activities than more conventional residential developments, including communal and community facilities. As a result, papakāinga would likely require resource consent under this alternative, and without clear policies to provide for papakāinga (and to recognise that papakāinga can include this greater mix of activities), parties who are considering undertaking a papakāinga development may be discouraged from doing so due the potential costs and uncertainty of outcome for the resource consent process.

## 9 Summary

---

- (126) This evaluation has been undertaken in accordance with section 32 of the RMA to identify the need, benefits, costs and appropriateness of the proposed Papakāinga chapter, having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.
- (127) The evaluation demonstrates that this chapter is the most appropriate option as it:
- Gives effect to national direction from the RMA, national policy statements and the regional policy statement, and
  - Will better enable papakāinga development to support housing growth for Māori and reflect the aspirations of tāngata whenua in this space.