

Resource Management Act 1991

**Matamata-Piako District Plan
Plan Change 54**

Papakāinga

**Independent Hearing Panel Decision Report to
the Matamata -Piako District Council**

30 June 2024

Papakāinga - Plan Change 54

INTRODUCTION

1. This decision report to approve Plan Change 54, is made to Matamata-Piako District Council by the Independent Hearing Panel (William Wasley- Chair, and James Whetu) appointed as independent commissioners and acting under delegated authority pursuant to section 34 (s34) and section 34A (s34A) of the Resource Management Act 1991 (the Act or RMA).
2. Matters related to the plan change were heard by the Hearing Panel acting under delegated authority of the Council, to hear and consider all matters related to the plan change. This included considering all submissions, the Council's section 42A (s42A) report and making decisions in respect of submissions, and making associated amendments to the Proposed Plan Change, which we have done.

BACKGROUND TO PLAN CHANGE 54

3. Both the s32 and s42A reports outline the background to the development and notification of the plan change. Therefore, it was not considered necessary to repeat that background information in this report.

PLAN CHANGE PROCESS

4. The proposed plan change has been prepared following the standard RMA Schedule 1 process. The plan change was publicly notified twice. It was first publicly notified on 8 November 2022. An error was discovered, and Plan Change 54 (PC54) was re-notified 21 December 2022.
5. The submission period was from 21 December 2022 to 13 February 2023. In total, 55 submissions were received, and the further submission period which closed on 26 April 2023, produced 3 further submissions.
6. We issued two directions in respect of the hearing which related to the exchange of evidence timetable; and hearing protocol and process.

PURPOSE AND SCOPE OF PLAN CHANGE

7. The primary purpose of PC54 is to enable Papakāinga to meet the needs, desires, and values of tangata whenua, while also managing potential adverse effects on the environment.

8. This is achieved through the creation of the Māori Purpose Zone. The Māori Purpose Zone is proposed to have two separate precincts.
 - a. Precinct 1: Papakāinga Tahī (MPZ-PREC1)

Are identified lands with existing marae and adjoining land that are Māori Freehold that directly adjoins marae.

As a Permitted Activity, increase housing density to one residential unit per 5000m² and allow up to a maximum of ten units on site.
 - b. Precinct 2: Papakāinga Rua (MPZ-PREC2)

Are identified as lands that contain existing papakāinga and have connection to Council reticulated services.

As a Permitted Activity, increase housing density to one residential unit per 500m² subject to site by Māori Freehold or has a legal mechanism in place to ensure land is held in whanau ownership in perpetuity.
9. Papakāinga outside of the Māori Purpose Zone are provided for in the Rural Zone and Rural-Residential Zone, subject to the following qualifying criteria:
 - Māori Freehold Land at, or before, 21 December 2022, or
 - General Land owned by Māori, or Treaty Settlement land, or land converted to Māori Freehold Land after 21 December 2022.

HEARING

10. The hearing was held on the 17th and 18th April 2024 in the Matamata-Piako District Council District Council Chambers, Te Aroha.
11. Those in attendance included:

Council

- Ms Jaimee Cannon - s42A Consultant Reporting Officer
- Ms Ally van Kuijk - Matamata-Piako District Planner
- Mr Te Pio Kawe - Consultant Expert on Whenua Māori and Papakāinga
- Mr Andrew Green - Counsel for Matamata-Piako District Council (Part)
- Mr Nathan Sutherland - Team Leader – RMA Policy
- Ms Patricia Kaumoana - Council Hearings Co-ordinator

Submitters (that attended)

- Submitter No.6: Te Tumu Paeroa - Ms Hannah McKinley and Nicolas Cooper

- Submitter No.38: Mr Raymond Kett
 - Submitter No.50: Mr Leo Whaiapu (supported by Ms Andrea Julian)
 - Submitter No.8: Mr Michael Paki
 - Submitter No.28: Mr Thomas Bougher
 - Submitter No.25: Mr John Harris
 - Submitter No.50: Kainga Ora – Ms Lezel Beneke and Mr Kahurangi Tapsell
 - Submitter No.2: Ms Rachel Salisbury
 - Further Submitter No.2: Mr Clarke McKinney
12. The Panel received a report under s42A of the RMA and the submissions to PC54. All documents were made available to the public on the Council website.
 13. Te Tumu Paeroa and Kainga Ora pre-circulated their submitter evidence before the commencement of the Hearing.
 14. The Waikato Regional Council (Submitter No.26) in lieu of not attending the Hearing, tabled their evidence at the Hearing, which was received on the day by the Panel.
 15. A late submission from Matamata Soaring Centre (Submitter No.55) was formally received by the Panel.
 16. The Hearing proceeded by way of a mix of in-person and virtual appearances, and enabled submitters to present their concerns personally or through their representatives.
 17. The panel wish to note that it was disappointed with the number of submitters who had indicated that they would be attending and presenting their submissions at the hearing and did not attend. We wish to acknowledge the efforts of staff in trying to contact submitters. Because of non- attendance there were long adjournment periods during the hearing.
 18. At the conclusion of the hearing, it was adjourned and subsequently closed on 27 June 2024.

OVERVIEW OF SUBMISSIONS RECEIVED

19. A total of 55 submissions were received, of which one submission was late, and a further three submissions were received.

20. It was noted in the s42A report¹ that two submitters each lodged two submissions. These submissions were consolidated, therefore a total of 53 submissions were received.

21. Of the 53 submissions:

- 8 submitters opposed PC54.
- 19 submitters supported PC54.
- 23 submitters supported in part PC54, and
- three submitters were unsure/unstated.

22. In her s42A report, Ms Cannon categorised the submissions into 26 key themes, and these are listed as follows:

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|---|--|--|
| 1. Definitions | 8. Rural Character and Amenity | 18. Height in Relation to Boundary |
| 2. Site Specific Requests/ Spatial Extent of Māori Purpose Zone | 9. Reverse Sensitivity and “Planned Rural Character” | 19. Relocatable Buildings |
| 3. General Objectives (MPZ-01 and Papakāinga-01) | 10. Infrastructure Services and Rates | 20. Commercial Activity and Home Businesses |
| 4. Management Structures and Whānau Ownership in Perpetuity | 11. Natural Hazards and Climate Change | 21. Communal Living Arrangements |
| 5. Subdivision of Land Occupied by Papakāinga | 12. Traffic, Access, and Parking | 22. Marae and Papakāinga in Urban Zone |
| 6. Broader Application of Papakāinga Enabling Provisions | 13. Matamata Aerodrome | 23. Community, Education and Healthcare Facilities |
| 7. Highly Productive Land | 14. Papakāinga Development Plan | 24. Solid Waste |
| | 15. Maximum Density | 25. Earthworks |
| | 16. Maximum Building Coverage | 26. Miscellaneous |
| | 17. Yards / Setbacks | |

23. Three further submissions were received from two parties. One further submission supported the submissions in opposition to PC54, and the two remaining further submissions by Mr C McKinney, supported the submissions of Te Puawaitanga o Ngāti Hinerangi (Submitter No.5) and Kainga Ora.

¹ Section 42A Report, Page 18

STATUTORY AND POLICY CONTEXT

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24. PC54 must be prepared in accordance with the following sections of the RMA:
- Part 2 – Purpose and principles
 - Section 31 – Council’s functions and responsibilities
 - Section 32 – an evaluation report and any further evaluation required by section 32AA of the RMA.
 - Sections 74 and 75 – matters to be considered and contents of a district plan.

PC54, and the process to develop the plan change, are considered to be consistent with the requirements of the RMA, and section 2 of the s32 report provided a detailed record of the relevant statutory considerations applicable to the plan change. Accordingly, it is not necessary to repeat that detail or undertake further assessment of those provisions.

National Policy Statements

25. The s32 evaluation report provided an assessment of national policy statements requiring consideration. These included the following statements relating to freshwater management (NPS-FM); renewable electricity generation; electricity transmission (NPS-ET); and urban development (NPS-UD).
26. Conclusions reached in the s32 report² were that while there was potential for PC54 to have adverse effects on freshwater, the existing and proposed provisions in combination with the Waikato Regional Plan would manage such effects, and that the plan change has given effect to the NPS-FM.
27. In respect of the NPS-ET, it was noted that the existing rules in sections 3.5 and 3.6 of the District Plan manage activities adjacent to the National Grid, and that those rules apply to any development enabled by PC54. The s32 report concluded that the provisions of PC54 had given effect to the NPS-ET.
28. In respect of the NPS-UD, the Council is noted as a Tier 3 Council, and as PC54 is limited to rural and rural-residential areas, there are no relevant directions arising from that policy statement.
29. The panel concurs with the assessment outlined in the s32 report in relation to the abovementioned policy statements. In addition, no matters were raised in submissions for our further consideration.
30. However, consideration of other higher order planning documents is required which have been subject to change since notification of PC54, to which effect must be given, and are of relevance to the Plan Change provisions.

² s32 report-Para 7.2.1

National Policy Statement for Highly Productive Land (2022)

31. The National Policy Statement for Highly Productive Land (NPS-HPL) came into effect on 17 October 2022, just before PC54 was notified for public submissions (8 November 2022 and re-notified 21 December 2022). As district plans must be “prepared in accordance “with” and “give effect to” an NPS, the implications of the NPS-HPL for the Plan Change must be considered. As part of its guidance on the implementation of the NPS-HPL the Ministry for the Environment has issued information sheets specific to implications for Māori land and rezoning land to a Māori Purpose Zone.
32. As noted in the s42A report, until a regional policy statement containing maps of highly productive land becomes operative references to such land includes land zoned general rural or rural production and LUC 1,2, or 3 land, but not land identified for future urban development or subject to a Council initiated or an adopted plan change to rezone it from general rural or rural production to urban or rural lifestyle.
33. Ms Cannon brought to our attention clause 3.8 (avoiding subdivision of highly productive land) and clause 3.9 (protecting highly productive land from inappropriate use and development) of the NPS-HPL contain exclusions for subdivision and use on specified Māori land, which is defined in the NPS-HPL as land that is any of the following:
 - (a) *Māori customary land or Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):*
 - (b) *land vested in the Māori Trustee that—*
 - (i) *is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955; and*
 - (ii) *remains subject to that Act:*
 - (c) *land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:*
 - (d) *land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):*
 - (e) *the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:*
 - (f) *land held by or on behalf of an iwi or hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of the mana whenua over the land*
34. Ms Cannon outlined that the “rezoning of land (Māori Freehold land and land set aside as Māori Reservation) from Rural to Māori Purpose Zone (PREC-1) in PC54 is not classed as ‘urban rezoning’ in the NPS-HPL therefore Policy 5 and clause 3.6 restricting urban rezoning of highly productive land do not apply. In addition, clause 3.8 (avoiding subdivision of highly productive land) and 3.9 (protecting highly productive land from

inappropriate use and development) do not apply to specified Māori land (i.e. Māori Purpose Zone PREC-1 land in PC54)".

35. It was brought to our attention by Ms Cannon that the land proposed to be zoned Māori Purpose Zone-PREC2 is general land so the specified Māori land exclusion not above, does not apply. The sites within this zone are small lots with existing residential development and are not considered suitable for primary production. As previously outlined above, clause 3.6 does not apply as rezoning to Māori Purpose Zone is not classed as 'urban rezoning', but this land would fall within the exemption in clause 3.10 (exemption for highly productive land subject to permanent or long-term constraints). In addition, to develop one kāinga per 500 m² of site area within MPZ-PREC2 as a Permitted activity would require the land to have Māori Freehold land status or a legal mechanism in place to ensure the land will be maintained in whānau ownership in perpetuity.
36. Having considered the aforementioned matters, the Hearing Panel concludes that the proposed re-zoning to Māori Purpose Zone of any land that falls within the definition of highly productive land, is not inconsistent with the NPS-HPL.
37. The Panel also note that under clause 3.5(6) if highly productive land is the subject of an approved plan change to rezone the land so that it is no longer general rural or rural production zone, the land ceases to be highly productive land from the date the plan change becomes operative.
38. Ms Cannon advised that the *"Plan Change also provides for papakāinga as a Permitted activity on Māori Freehold Land within the Rural Zone and Rural Residential zones. As this land falls within the definition of specified Māori land in the NPS-HPL the potential development of papakāinga or marae as a Permitted activity on Māori Freehold Land that is highly productive land would not be inconsistent with the NPS-HPL"*. The Panel concur with this conclusion having regard to the relevant NPS-HPL provisions.
39. It is noted that general land owned by Māori and Treaty Settlement Land (returned as general land) within the Rural Zone and Rural Residential zones does not fall under the specified Māori land exemptions of the NPS-HPL. Accordingly, the Proposed Plan Change provisions require resource consent as a Discretionary activity for papakāinga on such land.
40. Ms Cannon outlined that at *"the time of applying for a resource consent, the applicant would need to make an assessment as to whether the land meets the definition of highly productive land under the NPS-HPL and if so, would need to undertake an assessment of effects and an assessment against the NPS-HPL. The Discretionary activity status allows Council full discretion to consider the effects of development on highly productive land"*.
41. Having considered Ms Cannon's advice, and there was no evidence to the contrary, the Panel concludes that the PC54 provisions do not conflict with the directions of the NPS-HPL.

National Policy Statement for Indigenous Biodiversity (2023)

42. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023, after PC54 was notified for public submissions being 8 November 2022 and re-notified on 21 December 2022. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe. Part 3 of the NPS-IB sets out what must be done to give effect to the objective and policies.
43. On 14 March 2024, the Government announced that it has agreed to suspend the requirement for councils to comply with the Significant Natural Areas (SNA) provisions of the National Policy Statement for Indigenous Biodiversity for three years, while it works on replacement legislation for the RMA. The Government will be focusing on amendments to the NPS-IB and has indicated that the replacement Resource Management legislation will further address this matter.
44. Depending on the details of the legislative changes, Council may need to consider the extent to which changes are required to the District Plan to give effect to the NPS-IB. These considerations are outside the scope PC54 and will be undertaken as a separate process. In the meantime, the NPS-IB will be relevant to activities being undertaken on land to develop papakāinga but nothing in PC54 is fundamentally inconsistent with the NPS-IB. The presence of indigenous vegetation and habitats will be another matter that is necessary to consider when planning for development on a site.

Waikato Regional Policy Statement (WRPS)

45. A comprehensive analysis of the objectives and policies of the WRPS was outlined in the s32 report. The conclusions reached were that PC54 was consistent with the relevant objectives and policies. In reviewing that assessment, the Panel have reached the same conclusion. Accordingly, no further assessment is considered necessary.

Iwi Management Plans

46. As noted in the s42A report the Iwi Environmental Management Plans are summarised in section 7.6 of that report. The Panel were advised that iwi with rohe in the Matamata-Piako District who have prepared Iwi Environmental Management Plans, are Ngāti Hauā, Raukawa and Waikato-Tainui. Ngāti Whanaunga also has a Strategic Management Plan (2019) which contains elements of environmental management.
47. The Panel were advised that there have been no changes to the status of Iwi Management Plans since notification of PC54.

Treaty Settlements

48. Section 3.4 of the section 32 Report for PC54 summarises the status of Treaty Settlements within Matamata-Piako District. The Pare Hauraki Collective Deed of Settlement was signed 2 August 2018.
49. Since notification of PC54 on 21 December 2022, there have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Matamata-Piako District.

MATTERS HIGHLIGHTED AT THE HEARING

50. Having considered the submissions and further submissions received, the s42A hearing report, evidence and representations given at the Hearing, the Council officers' responses at the Hearing, and Right of Reply, the Panel has identified the following key matters for consideration:
 - Entry/Access to use PC54 provisions
 - Application of PC54 provisions
 - Provision for the application of mātauranga Māori

Entry/Access to use PC54 provisions

51. Who can, and how to access the PC54 provisions were considered by the Panel as fundamental matters outlined and presented in submissions. There were concerns/queries expressed in submissions where clarity or resolve was sought regarding:
 - What is, and who can do, papakāinga?
 - What is ancestral land, and ownership? and
 - The role of the Māori Land Court?
52. It is viewed by the Panel that a large number of these matters ultimately traverse through the definition in PC54 for papakāinga, which was explored, and findings outlined below.

Definition of Papakāinga

53. Te Tumu Paeroa and Kainga Ora submitted on the definition of papakāinga as described in PC54. Te Tumu Paeroa sought the inclusion of Māori landowners in the definition, whereas Kainga Ora sought the inclusion of general title and no requirement to prove whakapapa to that land. These positions were upheld by the two submitters at the Hearing.

54. In her Right of Reply, Ms Cannon responded to the submission point by Te Tumu Paeroa, and recommended an amendment³ to the notified version of the papakāinga definition:

A development by tāngata whenua on ancestral lands in their traditional rohe and established to be occupied by tāngata whenua for residential activities and ancillary social, cultural, economic, conservation and/or recreation activities to support the cultural, environmental, and economic wellbeing of tāngata whenua.

Note: for the avoidance of doubt, tāngata whenua is not limited to iwi or hapū organisations. It includes:

- *Māori landowners who whakapapa to the whenua and their whānau; and*
- *Individuals and whānau who are a member of iwi or hapū who are tāngata whenua.*

55. The amended definition informs that papakāinga is primarily a residential development with ancillary/secondary activities to support cultural, environment and economic wellbeing.
56. The definition also informs that papakāinga development is only carried out by tangata whenua. The note within the definition describes who tangata whenua are in relation to applying the PC54 provisions.
57. On the matters concerned with what is, and who can do, papakāinga, the Panel accepts Ms Cannon's amended definition in this regard.
58. On matters related to land tenure and ownership, the amended papakāinga definition states that papakāinga are located on ancestral land. We are informed that the reference to ancestral land in the definition is linked with section 6(e) of the RMA.
59. Although there is no definition for ancestral land in PC54, Māori Freehold Land is the primary land tenure recognised in PC54, noting that there is no Māori Customary Land in the Matamata-Piako district.
60. The Panel does not dispute the ancestral associations of beneficiaries to lands identified as Māori Freehold Land, and the ownership interests of those beneficiaries in those said lands.
61. With General Land owned by Māori and Treaty Settlement land⁴ and lands converted to Māori Freehold Land after 21 December 2022, these land tenures are also recognised in PC54 as ancestral lands for papakāinga development so long as there is a legal mechanism that ensures land is in whānau ownership in perpetuity.

³ Right of Reply, Page 3

⁴ Land acquired by a post-settlement governance entity

62. The Panel sought clarity at the Hearing on what qualifies as ownership, and an example of a legal mechanism as it relates to these three above-stated land tenures. A formal recognition of those discussions and the Council's response are provided in Ms Cannon's Right of Reply. These are summarised as:
- Demonstrating ancestral connection
 - o Māori Land Court records
 - o Decision of the Māori Land Court to enable of conversion of said lands
 - o Written confirmation from relevant iwi organisation
 - o Settlement legislation
 - Demonstrating perpetual ownership and legal mechanism
 - o Conversion of land to Māori Freehold is a recognised legal mechanism
 - o Require an encumbrance on record of title via resource consent
 - o Require consent on record of title via subdivision consent,
63. The Panel is satisfied with the clarity and examples presented by Ms Cannon in her Right of Reply.
64. To close the discussion on ownership and legal mechanism, noting the concerns of Submitter No.8, Mr Mike Paki at the Hearing, the Panel explored with Counsel at the Hearing on whether a License to Occupy is a form of ownership and legal mechanism on that would be recognised and provided for in PC54. This was confirmed by Counsel at the Hearing.
65. It was clear to the Panel that there is reliance on the Māori Land Court to support the implementation of PC54. There is a necessary and complementary connection with the processes and enquiry of the Māori Land Court to confirm/determine land as Māori Freehold Land, the issuing of orders, as well as ancestral connections and succession to original land- owners for papakāinga development to be enabled under PC54.
66. The reference to Māori landowners in the amended definition, albeit in the note, is an appropriate response by the Council, and supported by the Panel.
67. Although the Panel also notes the submissions in opposition to PC54, and those that sought for non-Māori/non-tangata whenua inclusion in the papakāinga definition, we accept the amended definition presented by Ms Cannon in her Right of Reply.

Application of PC54 provisions

68. PC54 seeks to enable Papakāinga to meet the needs, desires, and values of tangata whenua, while also managing potential adverse effects on the environment, through the creation of the Māori Purpose Zone ('MPZ') and its two precincts (Precinct 1:

Papakāinga Tahī and Precinct 2: Papakāinga Rua), and through papakāinga provisions for the Rural Zone and Rural-Residential Zone.

69. As identified in the s42A report, a number of the submissions were themed around:
- Extent of the MPZ & broader application of the provisions
 - Rural Character and Reverse Sensitivity, and
 - Bulk and Location standards and District-Wide provisions.

Extent of Māori Purpose Zone

70. It is understood that the extent of the MPZ is centred around existing marae and existing papakāinga developments. Any papakāinga developments outside of the MPZ, must first qualify as ancestral lands for development, and provide certainty that lands will remain in whānau ownership in perpetuity.
71. There were number of submissions that requested that the extent of the MPZ be expanded to include properties that were Māori Freehold and were also in close proximity to an existing marae, just not adjoining.
72. Submitter No.50, Mr Leo Whaiapu represented his submission at the Hearing and presented a compelling case to the Panel seeking the inclusion of property Okauia 2E3B Block in the MPZ.
73. Similarly, submissions from Ngāti Hauā and Ngāti Hinerangi sought the extension of the MPZ to include further Māori Freehold land and/or apply the MPZ provisions district wide.
74. In her s42A report, and reinforced in her Right of Reply, Ms Cannon maintains that those ancestral lands outside of the MPZ are in a rural environment where activities are primarily for farming activities.
75. Also, where those lands contain waahi tapu, such as an urupā, these are provided for in the District Plan. Should papakāinga development be pursued on ancestral lands outside of the MPZ, the Panel is advised that the resource consent pathway is available to those future applications.
76. In the situation presented by Mr Leo Whaiapu, Ms Cannon continues the position that the property Okauia 2E3B Block should remain in the Rural Zone and advises the Panel that the five housing units can be positioned on the property as a Permitted Activity.
77. Additionally, Ms Cannon advises⁵ that the spatial extent of the MPZ, and the Māori Freehold land outside of the MPZ, the level of papakāinga development in the district is understood, including the scale of its implication.

⁵ Right of Reply, Point 17, Page 5

78. Converse to the request to expand the MPZ, was the submission from the Waikato Regional Council to reduce/remove the MPZ on lands that were subject to natural hazard.
79. In their tabled evidence, the Waikato Regional Council informed that their flood modelling identified areas inappropriate for papakāinga development.
80. On both the expansion and reduction of the MPZ, the Panel accepts the recommendation of Ms Cannon/Council.

Broader Application of Papakāinga

81. There were a number of submissions that requested broader extension of P54 to include communities and individuals that do not identify, nor qualify, as tangata whenua.
82. It is clear to the Panel the primary purpose of PC54 is to enable papakāinga to meet the needs, desires, and values of tangata whenua. We agree with Ms Cannon that the requests by submitters are out of scope of PC54.

Maintain Rural Character

83. The definition for rural character in the Matamata-Piako District Plan is:

Rural Character includes the following elements:

- (a) A predominance of natural features over human made features;*
- (b) High ratio of open space relative to built environment;*
- (c) Significant areas of vegetation in pasture, crops, forestry and/or indigenous vegetation;*
- (d) A rural working production environment;*
- (e) Presence of farmed animals;*
- (f) Noises, smells, and effects associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes;*
- (g) Low population densities relative to urban areas;*
- (h) Existence of some narrow and/or unsealed roads;*
- (i) General lack of urban infrastructure;*
- (j) At a district wide level, infrequently occurring rural based industry.*

84. The Panel is of the view that the concerns expressed in submissions regarding matters relating to amenity and potential adverse effects on rural character have been considered in PC54 through the creation of MPZ (includes the extent of the zone), the bulk and location standards for papakāinga, and the Permitted Activity standards for papakāinga in the Rural Zone and Rural-Residential Zone.

85. The Panel acknowledges Submitter No.25, Mr John Harris, attendance at the Hearing, and his concerns regarding the potential visual impacts from papakāinga if left unkept and queried the role of the Council in ensuring papakāinga maintain local amenity. This particular matter was explored with Counsel, which was helpfully captured in Ms Cannon's Right of Reply:

“With respect to ongoing maintenance and management of infrastructure (including roading) within the papakāinga developments, most Māori freehold land is administered using a Management Structure or entity, under the Māori land Court, which is similar to a body corporate, irrespective of the resource consent processes. The maintenance of infrastructure is the responsibility of the Trust which owns the land, and the responsibilities are set out in the Trust order”.

86. The Panel are satisfied that the potential effects on rural character (and amenity) have been considered and addressed in PC54.

Manage Reverse Sensitivity

87. The Panel acknowledges the concerns and submissions related to the potential reverse sensitivity issues to existing farming operations, or lawfully established activities, if residential activities via papakāinga developments, and established adjoining, adjacent and in close proximity.
88. Submitter No.55 Matamata Soaring Centre sought that reverse sensitivity effects are avoided.
89. In their submission, Kainga Ora advise that rather than referring the assessment back to the character of the particular zone, PC54 should refer to the planned environment. They do consider that reverse sensitivity effects should be managed at the source and to protect primary production activities from reverse sensitivity effects but believe that there needs to be a balance.
90. Alongside the spatial extent of the MPZ, the Panel are of the view that Objective MPZ-O3 and Policy MPZ-P4, and the bulk and location standards in PC54 give certainty that reverse sensitivity concerns on existing lawfully operating activities in the rural environment have been considered and addressed.

Bulk and Location Standards & District-Wide Provisions

91. A large number of submission points (that were helpfully thematically organised in the s42A report) referred to one or more of the bulk and location standards proposed in the MPZ.
92. As stated above, whilst the standards enable papakāinga developments (residential and ancillary activities) on lands in the MPZ, the standards also appropriately manage potential adverse effects on rural character, rural amenity, and reverse sensitivity.

93. The Panel supports the recommended MPZ provisions as outlined in Ms Cannon's Right of Reply, and these are contained in Attachment B2.
94. Similarly, the Panel supports the recommended District-Wide provisions as outlined in Ms Cannon's Right of Reply and these are contained in Attachment B1.

Provision for application of Mātauranga Māori in PC54

95. In the presentation⁶ by Ms Cannon at the start of the Hearing, it was outlined that there were three issues that PC54 were addressing, these were:
 - Issue 1: Limited ability to live on ancestral lands
 - Issue 2: Inadequate recognition of kaupapa and mātauranga Māori
 - Issue 3: New development within Māori Freehold Land is likely to change the character and amenity currently experienced in the Rural Zone
96. The matter at hand, and raised in the Hearing, relates to Issue 2: Inadequate recognition of kaupapa and mātauranga Māori.
97. Commissioner Whetu enquired with Ms Cannon on whether there is provision for the application of mātauranga Māori in PC54. Ms Cannon acknowledged that there is currently no specific recognition of mātauranga Māori, however advised there is reference to Kaupapa Māori and tikanga within the objective framework (Objectives MPZ-O3 and Papakāinga-O3).
98. Although the Council acknowledged that that there would be merit in referencing mātauranga Māori in the plan change provisions, the submissions to PC54 unfortunately do not provide Council with the scope to do so.
99. The Panel agrees with Ms Cannon's response that we are limited in addressing the absence of specific reference to mātauranga Māori and anticipate that opportunities for application of mātauranga Māori guided by the Iwi Working Group, can identify and progress opportunities for mātauranga Māori to be incorporated in local decision-making.

CONSIDERATION OF MATTERS

100. We wish to record that we adopt the assessments outlined in the s42A report and those outlined in Ms Cannon's reply, in respect of the submissions specific to the matters in the plan change.
101. The Panel has considered that section 32AA evaluation provided in Ms Cannon's reply relating to density standards of kaumatua units and boundary setbacks, as being

⁶ Section 42A Reporting Officer's Overview Presentation

appropriate, and that it is not considered that any further section 32AA evaluation is necessary.

102. The consideration of submissions, and reasons for accepting or declining submissions, are outlined in Attachments B1 and B2 to this recommendation report.
103. Having considered all relevant statutory matters, all submissions, the s42A report and the plan change documentation including the s32 report, and the s32AA provided by the reporting officer, we conclude that it is appropriate to recommend approval of the plan change as per the amendments outlined in Appendix 2.

RECOMMENDATIONS

- ***That pursuant to Section 32 (3) of the Resource Management Act 1991, we have undertaken an evaluation which examined:***
 - (i) The extent to which each objective in the Proposed Plan Change 54 is the most appropriate way to achieve the purpose of the Resource Management Act 1991:***
 - (ii) Whether, having regard to their efficiency and effectiveness, the policies and methods are the most appropriate for achieving the objectives:***
 - (iii) And which took into account:***
 - The benefits and costs of policies and methods; and***
 - The risk of acting or not acting if there was uncertain or insufficient information about the subject matter of the policies and methods; and***

confirm the section 32 report.
- ***That pursuant to Schedule 1, Clause 10 of the RMA, the Hearing Panel determine that submissions on Plan Change 54 are accepted and declined in accordance with this report, and on the basis of the recommendations set out in the section 42A report, and as outlined in this report, and as summarised in Attachment A; and we further determine that Plan Change 54 to the Matamata-Piako District Plan is amended as per the amendments outlined in Attachments B1 and B2;***

In addition to the findings made in this report, the summary reasons for these decisions are that Plan Change 54;

 - (i) Will assist the Council in achieving its functions under s31 of the RMA and the Part 2 sustainable management purpose, and principles of the RMA.***
 - (ii) Will assist the Council in making provision for Papakāinga which meet the needs, desires, and values of tangata whenua, while managing any potential adverse effects on the environment***

(iii) Is supported by necessary evaluations in accordance with sections 32 and 32AA of the RMA.

A handwritten signature in black ink, appearing to read "Bill Wasley". The signature is fluid and cursive, with a large initial "W" and "A".

Bill Wasley

Independent Commissioner & Hearing Panel Chair

A handwritten signature in black ink, appearing to read "James Whetu". The signature is cursive and somewhat stylized, with a large initial "J".

James Whetu

Independent Commissioner

30 June 2024

Attachments

Attachment A: Hearing Panel Decisions- Accept or Decline Submissions to Plan Change 54

Attachment B1: Hearing Panel Decisions- Amendments to Plan Change 54- District Wide Provisions

Attachment B2: Hearing Panel Decisions- Amendments to Plan Change 54- Māori Purpose Zone Provisions