



MEMO

Date: 7 February 2022
To: Hilary Samuel, Taupō District Council
From: Rowan Sapsford, ROAM Consulting
Subject: Taupō District Plan Papakāinga Provisions

Purpose

The purpose of this memo is to set out how the Taupō District Plan (TDP) currently deals with papakāinga developments within the District. It looks at the current Plan provisions as well as looking at case studies of papakāinga developments that have gained resource consent or been considered within Taupō District.

Current Approach

The TDP is an effects based plan and does not generally manage specific activities through activity-specific policy or rules. When considering how the Plan approaches papakāinga development, there is no papakāinga-specific section or group of provisions that are focused on all aspects of papakāinga development. Instead, the Plan is guided by the relevant 'Environment' (zone) provisions. The plan does however include reference to papakāinga in policy and rules that encompasses specific recognition of elements of papakāinga development that may not fit well with the wider zone provisions.

Papakāinga is provided for in the Plan but in a more implicit, rather than explicit, manner.

The following sections describe this current situation further in respect to the rural and residential zones.

Papakāinga Definition

The TDP defines Papakāinga as:

- Any dwellings erected to exclusively house members of the same whanau, hapū or iwi on land which is owned by the whanau, hapū or iwi, and;
- Is located on Māori land within the meaning of Section 129 (1) (a, b or c) of the Te Ture Whenua Māori Land Act 1993, and
- Is consistent with any license to occupy Māori land that has been issued by the Māori Land Court

The definition is strongly linked to development on māori land as defined by the Te Ture Whenua Māori Land and does not currently anticipate papakāinga development off māori land. Section 129 (1) (a, b or c) of the Te Ture Whenua Māori Land Act is as follows:

- Maori customary land:
- Maori freehold land:
- General land owned by Māori

It is noted that the definition has a focus on dwellings and not other activities or buildings (i.e. communal buildings) that could form part of a papakāinga development.

The definition of māori land used, does not refer solely to māori land which is in multiple ownership or administered by an ahu whenua trust, it also refers to land which is owned by a māori person 129 (1) (c). This would include free hold land brought by māori specifically for the development of a papakāinga or any other use.

The TDP definition is slightly different from that used by Te Puni Kōkiri which considers papakāinga to be:

“a group of houses, of three or more, on whenua Māori as a ‘community’ which may include broader support and occupant involvement.”¹

With whenua māori referring to:

- Māori Freehold Land registered in the Māori Land Court as a Māori title, OR
- Land in General Title where it once was Māori title (pre the compulsory conversion to General Title from 1967 for example), OR
- Land in the process or intention of being converted back into Māori title OR
- Land that is considered to be Māori ‘customary’ land with clear and demonstrated tikanga, history or other matters of significance (for example adjacent to a Marae) meaning it is ‘attached’ to the ownership and kaitiaki of the whānau/hapū.

Papakāinga in the Rural Environment

The current focus of the rural provisions is to prevent urbanisation (residential development greater than one house per ten hectares) of the rural environment. This is primarily done via subdivision and bulk and location provisions, including the 10ha nominal allotment performance standard which requires dwellings to be sited within their own exclusive 10ha area.

Rural Policy are contained in Section 3b of the Plan and includes a policy relating specifically to papakāinga, as follows:

3b.2.2.viii Provide for the creation of Papakāinga housing where any adverse effects on amenity and rural character are internalised within the parent allotment; and where any other adverse effects on the wider Rural Environment are avoided, remedied, or mitigated.

This policy does provide recognition of papakāinga as an activity which does not have the same effects as other residential development activities within the rural environment. Essentially the policy excludes papakāinga from being considered as ‘urbanisation’ on the basis of the unique site-specific aspects of papakāinga development. The policy does provide for a consideration of off-site effects with a focus on amenity and character rather than more functional matters or tangible effects. The direction within the policy to internalise effects does set quite a high bar for such activities and is different for other activities in the rural environment. This last point does give the impression that papakāinga are an exception to rural activities.

The current rules relating to the Rural Environment in Section 4b of the Plan have been written to enable standard rural activities, including a more distributed pattern of settlement. Currently the rules in the plan do anticipate residential land use but at a scale to enable/allow one dwelling per property (or 10ha). Landuse (not subdivision) activities that do not meet the regulatory requirements are likely to be considered as either restricted discretionary or discretionary activities.

¹ Te Puni Kōkiri, A Guide to Papakāinga Housing. (2017)

Key standards and rules within Chapter 4B that are most likely² to trigger resource consent requirements for Papakāinga development are:

- 4b.1.2 **Maximum building coverage** of 2.5% aggregate total of all buildings or 1,000m² ground floor area of a single building, whichever is the more restrictive
- 4b.1.3 & 4 **Minimum building setback** – front boundary = 25m, all other boundaries = 15m
- 4b.1.5 **Rural effects area radius (REAR)**- Any proposed building to be used as a residential unit or for an Accommodation Activity shall have an ‘effects area’ within the allotment of: 50m from all other allotment boundaries.

Papakāinga is specifically exempt from Rule 4b.1.22 Nominal Allotments, which requires the second dwelling within an allotment to be situated within its own 10-hectare nominal allotment. The exception means that there is no regulatory limit on the number of dwellings to be located on land meeting the Papakāinga definition.

Papakāinga housing is also subject to the provisions of Section 6: Parking, Loading and Access, no matter what Environment it is contained in. These provisions are generally relevant in the design and location of internal roads and parking areas.

Development does not need to be compliant with these rules and standards to be able to proceed. The rules and standards are thresholds or triggers for the development to be considered through the resource consent process. Developments that do not meet coverage or setback standards will be considered as Discretionary activities. Those that do not comply with the REAR rule only will be considered as Restricted Discretionary activities. The extent to which developments comply with these standards will depend on the size of the site, the size and design of the development and its proposed location within the site. While it is entirely feasible to anticipate permitted (under the District Plan) Papakāinga to occur if they are set back within a large lot in the Rural Environment, Papakāinga on lots less than 2 ha in size will invariably be considered as a Discretionary activity due to coverage.

The above discussion is focused on land use rather than subdivision. The current definition of Papakāinga does not anticipate such development on non-Māori land or land that is able to be ‘subdivided’. Subdivision of land within the Rural Environment to create lots smaller than 10ha is a Discretionary activity, and smaller than 4ha is non-complying. Papakāinga that involves the subdivision of separate house lots is likely to be a non-complying activity and consent may be more challenging to obtain.

Papakāinga in the Residential Environment

Residential activities are generally anticipated to occur within the Residential Environment, meaning the policies and rules associated with the environment are more supportive of papakāinga development than within the Rural Environment. Papakāinga housing is assessed against the Residential Environment provisions in the same way as any other residential development in that Environment.

Objectives and policies for the Residential Environment are contained within Section 3a of the District Plan. There is no explicit reference to Papakāinga within these provisions, however there is overriding support for the location of residential activities.

Section 3a contains policy (3a.2.1 (ii)) to enable small-scale home-based employment opportunities and local community facilities to be established within the residential environment. This is a useful policy when considering some of the non-residential ancillary activities that occur within Papakāinga.

² Note, all performance standards and rules need to be considered and there may be other elements of a development, such as parking and access, that do not meet Plan standards.

Unlike the Rural Environment, properties within the Residential Environment can be subject to greater dwelling density due to the allowance of greater coverage and no minimum allotment size. Rules governing development within the residential environment are contained within Section 4a of the Plan. Key land use provisions are focused on coverage and setback of buildings. There is no restriction on the number of dwellings on a site, however performance standards for vehicle movements mean that more than three dwellings (>24 equivalent movements per day) on a site is likely to require a discretionary resource consent. This is because the vehicle movement rules relate to the 'site' and not a 'dwelling', so multiple dwellings on a site are more likely to require resource consent. Most developments that are unable to meet the standards will be considered as either restricted or full Discretionary activities. Those developments that are unable to meet four or more bulk and location standards will be non-complying activities (Rule 4a.2.13). It is reasonable to expect that some papakāinga development within residential areas could be non-complying given the desire to maximise use of the land to house whanau.

Non residential activities on site are also more likely to trigger vehicle movement, noise and signage provisions in Section 4a requiring discretionary resource consent.

As with the rural environment, not meeting a performance standard or requiring consent does not mean the development cannot proceed. It just means the application and its effects need to be considered through the resource consent process.

Infrastructure

All residential dwellings in the District will be required to have a source of fresh water and dispose of their waste water. This can be done by connecting to community infrastructure if able or developing on site infrastructure. Such matters are generally regulated by the regional council under the regional plan. Taupō District sits within the boundaries of four regional councils, with Waikato Region (based on the catchment of the Waikato Awa including Taupō Moana, covering around two thirds of the district. Regional plans require water permits for the abstraction of surface or ground water and also discharge consents for the discharge of human waste to land or water. The status of such consents will relate to the scale of the proposed development and its location. Public health requirements could also be relevant where there is a single water source being sought for multiple dwellings.

Resource consents are generally required by the regional council for the development of community waste water treatment systems for papakāinga development. The level of treatment required for such systems generally increases the closer to a waterway it is, specifically Taupō Moana and its tributaries. Land based treatment of wastewater is generally required, meaning larger lots are more likely to have room for treatment and more likely to gain consent. The Waikato Regional Plan does have a specific rule (3.10.6.6) where new wastewater discharges from papakāinga and marae are a Restricted Discretionary Activity as opposed to Discretionary.

Within the Residential Environment, it is generally anticipated that the development will connect to existing water and wastewater infrastructure. Where developments can connect to existing wastewater or water infrastructure it will generally not require a resource consent, provided that the community system is still able to operate within its consented and physical capacity. Papakāinga development on rural land adjacent to urban areas could also connect to community systems provided there is capacity in the system. Currently development on rural land to the north of the Waikato Awa around Taupō town may not be able to connect due to a lack of physical capacity in the wastewater infrastructure on that side of the awa. This may restrict development of papakāinga in that area, specifically land adjacent to Acacia Bay Road.

Case Studies

There have only been a small number of resource consent applications for Papakāinga within Taupō District. Two have been granted and the details of one are set out at the end of this paper. It is understood that discussions have been had

with other landowners, but applications have not been lodged. There has been an increased level of interest in Papakāinga in recent times, however.

Of those consents applied for, both were considered as restricted Discretionary activities under the rural setback provisions – namely rule 4b.2.5 (REAR Rule). Both were granted with basic conditions and with a view that there would be less than minor effects on the functioning of the neighboring rural lot. In both cases, sign-off had been obtained from the neighboring landowners.

Both applications were on large lots with the development situated in one corner to facilitate productive use of the wider block.

Both also required regional consents for water and waste.

Summary

The Taupō District Plan does not deal with Papakāinga as a specific activity although there is specific reference to it in the rural provisions and definitions. This approach is consistent with the effects based kaupapa of the plan. The activity itself is, however, generally anticipated by the Plan. Papakāinga are generally considered against provisions that have a much broader role and focus than that activity. The definition limits any enabling provisions to Māori land only. Policy support for Papakāinga is limited and what does exist has a narrow focus to dwellings and seeks that effects are internalised to the site.

The Plan does, however, generally support Papakāinga, and while resource consent is generally required, it is to take a closer look at the detail of the proposed development rather than challenge the principle of it occurring.

Applications lodged to date have been for Papakāinga in the rural environment. These applications had a range of dwelling numbers (up to 21) and have included ancillary development. These developments have all been able to proceed with restricted Discretionary consent. There have also been Papakāinga established as permitted activities.

No Papakāinga applications have been lodged in the residential environment as of yet. Papakāinga within the residential environment with more than three dwellings are likely to be Discretionary activities on the basis of vehicle movement standards.

Consented Papakāinga

Location	Number of dwellings	Zone	Activity Status and reason	Regional Consents	Discussion
78 Rihia Road, Turangi	Nine plus communal whare and utility buildings	Rural	Restricted Discretionary as it does not meet rule 4b.2.5 (REAR) as two dwellings were located 15m from one boundary and others between 25 and 32m.	Yes - WRC Water permit Discharge consent	<p>Non notified landuse consent was granted on 15 August 2017 (RM170191)</p> <p>Impacts on the neighbouring properties were considered in the decision and were addressed by neighbour sign offs. The design of the dwellings (single storey) and landscaping included a bund and planting along the boundary. The decision did focus on the effects on the 'functioning' of the neighbouring property.</p> <p>Adverse effects were considered to be less than minor.</p> <p>Link to Application</p>



MEMO

Date: 20 April 2022
To: Hilary Samuel, Taupō District Council
From: Rowan Sapsford, ROAM Consulting
Subject: Taupō District Rural Plan Change Papakāinga Provisions

Purpose

The purpose of this memo is to set out, and seek feedback on, the draft papakāinga provisions which are anticipated to form part of the proposed plan change to the rural provisions in the Taupō District Plan.

Plan Change Approach

The proposed changes are to be considered as part of the rural plan change and have an objective of facilitating the development of papakāinga within the Taupō District Rural Environment. It is anticipated that there will also be changes to the residential chapters in the plan, however that plan change is not scheduled to be developed until later in 2022.

Taupō District Council is also exploring opportunities to introduce a Māori Purpose Zone into the district plan which will be focussed on enabling development and activities around marae etc. This zone could also include consideration of papakāinga where established or around marae. Work on the Māori Purpose Zone will be progressed through a separate plan change process later in 2022 and is not part of the rural plan change.

Proposed Plan Change

The proposed papakāinga provisions are part of a wider plan change which involve a rewrite of the existing rural chapters (3b and 4b) of the Taupō District Plan. These revised chapters are to be publicly consulted on in May 2022. The following are excerpts from that plan change that relate specifically to papakāinga. There are also parts of the rural plan change which are not papakāinga specific but will have a bearing on consenting for papakāinga, i.e. coverage. These have been included in this document for context.

The rural plan change proposes to split the rural environment into two zones as follows:

1. **General Rural Environment** which makes up the majority of the district and is predominantly characterised by large open space and vegetated areas including productive farmland and forest, ridgelines, native bush, lakes, rivers and their margins. Other prime characteristics of the General Rural Environment are the diverse range of productive land uses including farming, horticulture and plantation forestry activities, with dispersed buildings and rural roads. There is also a wide range of development associated with tourism activities, recreation, and the generation and transmission of electricity.
2. **Rural Lifestyle Environment** which has been created to address the increasing demand for rural lifestyle living within the Rural Environment. The Rural Lifestyle Environment aims to provide for rural residential development in specific locations for those who want the benefits of rural living without necessarily undertaking a productive rural activity.

There are different rules and performance standards for the two rural environments. In a lot of cases the papakāinga provisions will be the same for both.

Papakāinga Definition

The proposed papakāinga definition will be used to define papakāinga development within rural and residential zones. The definition of Papakāinga is proposed to be amended to the following:

Any dwelling or dwellings and associated social, cultural and economic activities on māori land which is owned by the whanau, hapū or iwi, that enables the occupation of that land by members of the same whanau, hapū or iwi.

- *Māori land is within the meaning of Section 129 (1) (a, b or c) of the Te Ture Whenua Māori Land Act 1993, and*
- *Is consistent with any license to occupy Māori land that has been issued by the Māori Land Court*

The amended definition is very similar to the existing one in the district plan but broadens the focus from dwellings to include reference to associated activities recognising that papakāinga are not just places of residence. There is also addition of 'occupation' in the proposed definition to recognise the importance of papakāinga as a means for whanau to connect with and occupy their ancestral lands.

The definition still includes reference to Section 129 (1) (a, b or c) of the Te Ture Whenua Māori Land Act which includes the following land tenure:

- a) Māori customary land:
- b) Māori freehold land:
- c) General land owned by Māori

Rural Objectives and Policies

The following objectives and policies are proposed to be added. They are to apply to both the General Rural and Rural Lifestyle environments:

Proposed Objectives:

Whanau, hapū and iwi can use and develop ancestral land for Papakāinga

Papakāinga are of a form and scale that considers the functioning of the Rural Environment while recognising that they may contain activities of a character, scale, intensity or range that is not provided for in the surrounding area.

Proposed Policy:

- i. Provide for the development of papakāinga on Māori land*
- ii. Recognise the social and cultural benefits of the occupation and development of papakāinga by whanau, hapū and iwi on Māori land*
- iii. Allow for Papakāinga on General land owned by Māori where it can be demonstrated that there is an ancestral connection to the land and the land will remain in Māori ownership or be converted to māori freehold title.*

These provisions are proposed to add greater recognition of the importance and appropriateness of papakāinga in the rural environments. This changes the underlying assumption of the plan from papakāinga being an exception to the rules to something which is specifically provided for as an anticipated part of the rural environment.

The current plan refers to internalising effects where the proposed provisions are more focussed on considering effects which may affect the functioning of the wider rural environment, I.e. roads able to operate at a safe capacity etc.

There is also recognition of papakāinga on 'general land owned by Māori' in policy. The proposed policy iii recognises the potential for these development rights on this land to be abused, i.e. the land may be subdivided and on sold to third parties after consent has been obtained. The proposed policy iii seeks that papakāinga on general land owned by Māori' stays in Māori ownership or is converted to Māori freehold title.

Rural Rules

The following rules are proposed to be added. They are the same for both the General Rural and Rural Lifestyle environments:

- i. *Papakāinga on Māori customary land and Māori freehold land which complies with all of the performance standards in 4b.2 is a **permitted activity***
- ii. *Papakāinga on Māori customary land and Māori freehold land which does not comply with one or more performance standard in 4b.2 is a **Restricted Discretionary activity***
- iii. *Papakāinga on general land owned by Māori is a **Restricted Discretionary activity***
- iv. *Applications under Rules 4b.1.6 ii or iii will not be notified.*

When considering activities under Rule 4b.1.6 ii and iii Council restricts the exercise of its discretion to the following matters:

- a. *Those performance standards in 4b.2 which the proposal does not comply with.*
- b. *Any effects on the functioning of the rural environment including effects on rural infrastructure.*
- c. *For 4b.1.6 iii:*
 - a. *Historical associations of the land to mana whenua and reasons why the land was given general title*
 - b. *Whether the land can be converted to Māori title under Te Ture Whenua Act 1993*
 - c. *Any documents or mechanisms provided by the applicant to demonstrate that the land will be secured for permanent Māori administration and maintenance of the land title.*

The proposed rules introduce the following changes to the way that the plan currently provides for papakāinga:

- The plan is now explicit that complying papakāinga is a permitted activity (no resource consent required).
- Papakāinga that requires a resource consent will be a restricted discretionary activity, where currently it could be a discretionary or non-complying activity.
- Resource consents required for papakāinga under rules ii or iii will not be subject to limited or full notification. Currently papakāinga developments that require a resource consent could be notified for third party comment. This is the first activity in the plan which has a non-notification component.
- In considering whether to grant or decline consent or impose conditions on restricted discretionary activities, the consent authority may only consider those matters specified in a, b or c. In this case they relate to the matters which give cause for a resource consent to be required, functioning of the rural environment and for papakāinga on general land owned by māori, ensuring that the land will remain in māori ownership or title.

Performance standards

Papakāinga does not generally involve the subdivision of land and there are no changes to the subdivision rules for papakāinga. Within the General Rural Environment subdivision creating allotments 10ha or less will be non-complying. Within the Rural Lifestyle Environment subdivision creating allotments 2ha or less will be non complying.

Performance standards

Associated with the rules in the rural environments are performance standards. If a papakāinga does not meet one or more of these standards then it will go from a permitted to a restricted discretionary activity. The following table sets out the proposed performance standards relevant to papakāinga:

Standard	General Rural	Rural Lifestyle	Papakāinga	Commentary
Vehicle Movements	100 vehicle movements per day	24 vehicle movements per day	100 vehicle movements per day for the allotment or 24 per dwelling, whichever is the greater.	This exception anticipates that there is likely to be more than one dwelling per allotment for papakāinga and it is more appropriate for vehicle movements to be a factor of the number of dwellings rather than the whole allotment as with other landuses.
Maximum building coverage	10% of net allotment area		No exception - 10% of net allotment area	It is proposed to increase the coverage standard from 2.5% to 10% throughout the rural environment. This is the same coverage as the current low density residential environment. No additional coverage is proposed for papakāinga as the increase to 10% will enable built development to low density urban levels.
Maximum density of primary residential units	One per 10 hectares	One per two hectares	No maximum density	This recognises anticipates that there are likely to be multiple residential units at greater densities than the wider rural environment.
Minimum building setbacks	15 meters from all boundaries	15 meters from all boundaries. 50 meters from the General Rural Environment.	15 meters from all boundaries.	The rural effects area radius setback of 50m for residential units is proposed to be removed, as has the 25m setback from front setbacks standard.
Minor residential units	A maximum of one minor residential unit per primary residential unit per allotment.		No limit	The plan anticipates that there are likely to be multiple residential units on an allotment for papakāinga. Minor (or secondary) residential units are therefore not relevant.
Home businesses, commercial and	Any indoor or outdoor space used for home business, commercial or industrial purposes,	Any indoor or outdoor space used for a home business, commercial or	No limit for home business or commercial activities in general rural	This anticipates that papakāinga are likely to have a range of associated on site land uses, including commercial ones. Industrial activities are not included in the exceptions given their wide reaching effects, especially with more sensitive landuses such as residential landuses.

Standard	General Rural	Rural Lifestyle	Papakāinga	Commentary
industrial activities	shall have a gross floor area less than 100m ² for indoor activities, or 100m ² of land area for outdoor activities.	retail purposes, shall be less than 100m ² in gross floor area for indoor activities, or 100m ² of land area for outdoor activities.	No limits for home business, commercial or retail purposes in rural lifestyle.	