



Proposed Plan Change 20 Rural Activity Status

to the Auckland Unitary Plan (Operative in
part)

**SECTION 32
EVALUATION REPORT**

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Executive Summary

The Auckland Unitary Plan ('Unitary Plan') became operative in part on 15 November 2016. Since then it has become apparent that the Unitary Plan is not positioned appropriately to address the issue of how to manage activities which are not anticipated in rural zones.

Currently, Rural zones activities not provided for in the activity table (H19.8.1) are covered by Chapter C "General Rules" which makes such activities Discretionary. This status of activity for out of zone activities is at odds with Regional Policy Statement (RPS) policy which seeks to protect finite elite soils and apply a high degree of management to prime soils important to rural production activities.

This status is also at odds with managing cumulative adverse effects on coastal and rural character and amenity; being something which the RPS signals is to be at least maintained. Furthermore, a discretionary activity status for activities not associated with rural production in rural zones does not adequately support RPS policy associated with promoting a compact urban form and has the potential to undermine specific zones established to provide for intensive residential activities, industry and commercial activities.

The policy framework for rural zones at the district plan level supports the policy direction at the RPS level by placing a strong emphasis on rural zones being primarily for rural production purposes, as against being a second best possible location for activities which might successfully locate in other specific zones provided for their purpose.

It is considered that better alignment between RPS policy and the activity status for unanticipated activities in rural zones can be achieved by both:

1. Adding to the rural activity tables the statement "Any activity not provided for" and making its activity status Non-complying'
2. amending references to "residential buildings" in the Rural chapter to "dwellings".

These amendments are the most efficient and effective option to achieve the objectives and policies of the Regional Policy Statement and the Rural zones.

Introduction

This report is prepared as part of the evaluation required by Section 32 of the Resource Management Act 1991 (**'the Act'**) for proposed Plan Change 20 (**PPC20**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

Section 32 Evaluation

Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

The evaluation must also consider:

- The benefits and costs of policies, rules, or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

The evaluation approach

This section outlines how PC20 has been evaluated. The rest of this report will follow the evaluation approach described in the table below. In accordance with section 32(6) of the RMA and for the purposes of this report:

- i. the 'proposal' means the plan change;
- ii. the 'objectives' means the amendment of the activity status of activities not listed in the Rural activity table and the clarification of the references to "residential" activities and
- iii. the 'provisions' means the amendments to the objectives, policies and rules.

Sections of this report	Evaluation Approach
Section 2: Issues	This part of the report will explain the resource management issues and why there is a need to resolve them.
Section 3: Objectives	This part of the report will outline the purpose of PC20.
Section 4: The development and evaluation of options	In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue.

Section 5: Reasons for the proposed plan change	In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this part of the report examines the extent to which the objectives of the proposal (PC20) are the most appropriate way to achieve the purpose of the RMA. This section outlines the reasons for PC20 and the scope of PC20.
Section 6: Statutory evaluation	This part of the report evaluates the relevance of PC20 to Part 2 (sections 5-8) and other relevant parts / sections of the RMA.
Section 7: National and local planning context	This part of the report evaluates the relevance of PC20 against the national and local planning context.
Section 8: Development of the plan change	This part of the report outlines the methodology and development of PC20, including the information used and consultation undertaken in preparing PC20. This section includes a summary of all advice received from iwi authorities on PC20 (as required by section 32(4)(a) of the RMA).
Section 9: Evaluation of provisions	This part of the report outlines the evaluation conducted on individual issues contained within PC20.
Section 10: Conclusion	This part of the report concludes that PC20 is the most efficient, effective and appropriate means of addressing the resource management issues identified.

Section 2 - Issues

1. Introduction

The Auckland Unitary Plan ('Unitary Plan') became operative in part on 15 November 2016. It has become clear since this time that the Unitary Plan may not be positioned appropriately to manage activities not provided for in rural zones.

2. Issues / problem definition

The issue at the centre of this proposed plan change is how to manage activities which are not provided for in rural zones. The next part of this section 32 analysis considers the relevant policy context of the Unitary Plan as it relates to the rural zones. The full identification of Unitary Plan policy relevant to this plan change is to be found in Attachment 1.

Regional Policy Statement

a) Rural Activities

At the Regional Policy Statement (RPS) level any rural activities are to ensure that land containing elite soil is protected from inappropriate subdivision, urban use and development. This policy directive also applies in general to rural areas outside the Rural Urban Boundary (RUB) and coastal towns and villages. Furthermore, rural character and amenity is to be maintained in these locations.

The RPS anticipates environmental results that include land containing elite soil capable of rural production activities being excluded from development for non-rural activities, and that no additional sites will be created for non-rural production purposes over time.

b) Land with High Productive Potential

The RPS policy direction in terms of land with high productive potential is to protect land containing elite soils and maintain its accessibility for primary production. In the case of land containing prime soils this is to be managed to enable its accessibility for primary production. Any land with productive potential is also to be recognised in resource management decision making.

Again, as in the case of rural activities, the RPS anticipates an environmental result that no additional sites will be created for non-rural production purposes on land with elite soils over time.

c) Urban Growth & Form

The RPS policy direction for urban growth and form is a quality compact urban form that results in: better use of existing infrastructure; effective public transport; better maintenance of rural character and productivity; and reduced adverse environmental effects.

The RPS directs that urban growth is primarily within the urban area and that sufficient development capacity is provided for residential, commercial and industrial growth.

Urbanisation is to be contained within the RUB, towns and rural and coastal villages and is to be integrated with the provision of appropriate infrastructure.

The RPS anticipates environmental results which include available and suitably zoned land for commercial, industrial and social facility development. Similarly, it is anticipated that large scale residential and business development will only occur in urban zones.

d) Residential Growth

The RPS policy direction for residential growth is that residential intensification supports a quality compact urban form and that this primarily occurs on land within and adjacent to centres and corridors or near public transport and social facilities or employment opportunities.

The RPS anticipates an environmental result where housing intensification occurs in urban residential zones.

e) Commercial & Industrial Growth

The RPS policy direction is that commercial growth and industrial activities are primarily focussed within a hierarchy of centres and identified growth corridors that support a compact urban form.

The anticipated environmental result for commercial and industrial activities is that there be appropriate and increasing areas of land specifically zoned for these land uses.

f) Rural & Coastal Towns and Villages

The RPS at the policy level directs the growth and development of existing or new rural and coastal towns and villages to avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.

The anticipated environmental result is that no rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities.

District Plan

g) At the District Plan (DP) policy level the general rural and rural character, amenity and biodiversity objectives support the RPS direction in terms of maintaining rural character and amenity and protecting elite soil and managing prime soil for rural production. In addition, the DP requires rural lifestyle development to avoid the fragmentation of productive land.

DP objectives related to rural industries, rural commercial services and non-residential activities require the character, intensity and scale of rural industries and services to be in keeping with the character of the relevant zone. The DP policy direction is that industries, services and non-residential activities of an urban type and scale unrelated to rural production activities not be located in rural zones.

District Plan Zones

- h) The Rural Production zone policy direction is to ensure that the productive capability of the land is maintained and protected from inappropriate subdivision, use and development.
- i) The Mixed Rural zone policy direction is to promote rural production and non-residential activities and maintain rural character and amenity values. Some rural lifestyle land use is anticipated but not at the expense of rural production and non-residential activities.
- j) The policy direction of the Rural Coastal zone is to enable rural production activities, recreational and local non-residential services, and manage adverse effects on rural and coastal character and amenity values, landscape, biodiversity and Mana Whenua cultural heritage values. Rural lifestyle opportunities are limited in this zone.
- k) The Rural Conservation zone is very limited in terms of the activities which it promotes. The policy direction of this zone is to maintain and enhance existing environmental values, and largely provide for the zone's existing range of activities.
- l) The Rural Countryside Living zone is established to provide for rural lifestyle living and small-scale rural production. The type and nature of land use activities provided for are restricted to those appropriate for smaller site sizes.

3. Resource Consent Outcomes

A number of resource consents addressing activities not provided for in the rural zone activity table have been processed since the Auckland Unitary Plan became operative in part in 2016. The resource consent process has delivered, in a number of instances, outcomes not anticipated or contemplated in the rural zones. Specific examples with details are referred to in Section 5 of the report under the heading "The current potential for inappropriate activities to establish in rural zones."

An analysis of land use activities applied for by way of resource since 2016 highlights that rural zones in the Auckland region are under considerable pressure from applications primarily designed to establish additional dwellings, minor household units and minor dwellings.

Other activities which have sort to establish in rural zones include intensive aged care facilities. An existing facility located in the Mixed Rural Zone at Kumeu applied to intensify its operations by adding an additional capacity for a further 15 residents. At Riverhead a new intensive aged care facility was applied for in the Rural Countryside Living Zone (see section 5 of this report). There is evidence that such activities are prepared to locate and consider rural zones as a place to establish.

There is also evidence of applications for visitor accommodation and community activities such as art galleries in the Rural Production Zone. Such an application was received in Pukekohe. Other applications for purely visitor accommodation were received at Te Arai and Matakana. At Mahurangi on land zoned Rural Coastal consent was granted for a facility for exercise classes, day retreats and visitor accommodation. At Buckleton Beach on land zoned rural Coastal resource consent was granted for a cooking school as a discretionary activity. At Snells Beach on land zoned Rural Countryside Living consent was granted for new visitors' accommodation within a significant ecological area. At Waitoki consent was granted for a wedding and function venue with chalets for visitor accommodation on land zoned Rural Production. Although largely provided for as a Discretionary activity in the Unitary Plan it may be that these types of activities once proposed beyond certain scale thresholds would be better assessed as a non-complying activity. Currently, they can only default to discretionary.

An application was received for a small-scale dental surgery in the Mixed Rural Zone at Ardmore. Again, although expressly provided for as a discretionary activity such new facilities once beyond certain scales of operation might be best assessed as non-complying activities in zones with a rural production focus.

Also, as certain types of existing and out of zone commercial activities currently located in rural production focussed zones grow beyond a small scale, a non-complying activity status may be more appropriate. For example, at Pukekohe 4 commercial units were applied for on an existing commercial property zoned Rural Production and processed by way of resource consent as a discretionary activity.

There is evidence that industrial activities have in some cases incentives to locate in rural zones rather than industrial zones. A storage and lockup facility was approved in Brookby as a discretionary activity on land zoned Mixed Rural. At Drury on land zoned Mixed Rural an application for resource consent was processed retrospectively for a motor storage facility as a discretionary activity. Such activities unless they can establish a strong connection to rural production activities would struggle to be considered a rural commercial service or rural industry in which case they would be better located in an industrial zone or assessed as a non-complying activity in a rural zone.

Section 3 – Purpose of the Plan Change

1. The purpose of this plan change (PPC20) is to consider and evaluate the best option for dealing with activities which are not contemplated in rural zones, and which extend beyond those currently provided for in the rural zones in the Auckland Unitary Plan.

Section 4 - Development of Options

Description of options

1. Option 1 - Do Nothing
This option means retaining the status quo where activities not listed in the activity table are Discretionary Activities under Chapter C General Rules, C1.7 Activities not provided for.
2. Option 2 – Add “Activities not provided for” as Non-complying activities to the Rural Activity Table, Table H19.8.1 as follows: This option would mean that any activity not currently listed in the activity table (Table H19.8.1) for rural zones would default to a non-complying activity. The proposed amendment to table H19.8.1 follows.

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
(AA1)	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

- 3) Option 3 - Clearer and more specific policy to guide decision making for Discretionary activities

This option would involve writing additional policy or amending existing policy to assist decision-makers when considering applications for discretionary activities which were not currently listed in table H19.8.1.

- 4) Option 4 - Use greater education for decision-makers and resource users

This option would require resources to be allocated to the ongoing education of decision-makers so that greater certainty of outcome was achieved regarding activities not currently provided for in rural zones.

- 5) Option 5 - Reconsider how residential activities are treated in rural zones by either:
- (i) Changing references in the relevant zone descriptions, objectives and policies from “residential buildings” to “dwellings”; or
(This option changes all the references to “residential buildings” to “dwellings”.)
 - (ii) Delete the last part of the sentence in 19.2.4 Policies, Policy 1(b) which refers to “residential buildings” as follows:

.....fewer buildings of an urban scale, nature and design, ~~other than residential buildings accessory to farming~~; and...or;
 - (iii) In Chapter J Definitions J1.3 Nesting Tables, the nesting table for “residential”, add an exception to the effect that in the Rural zones the term only applies to “dwellings” as shown below:

Chapter J Definitions J1.3 Nesting Tables - Table J1.3.5 Residential, except in Chapter 19 Rural zones where “residential” shall mean residential dwellings only.

<i>Dwellings</i>	
<i>Home occupations</i>	
<i>Visitor accommodation</i>	
<i>Camping grounds</i>	
<i>Boarding houses</i>	<i>Student accommodation</i>
<i>Integrated residential development</i>	
<i>Retirement village</i>	
<i>Supported residential care</i>	

Evaluation of options

In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue. The full details of this analysis are provided in attachment A2. A summary of this analysis follows.

Option 1 Do Nothing

This option is not supported as the current state has the potential to result in unanticipated activities being consented in the rural zones which will produce cumulative adverse effects on rural character and amenity and undermine RPS objectives and policies to protect elite soils

and where practicable prime soils. The do-nothing option also thwarts attempts to achieve a compact urban growth form and establish residential, industrial and commercial activities in specific zones. It also cuts across strong policy direction in rural zones to give rural production activities primacy.

Option 2 Introduce a Non-complying activity status

This option is supported. By way of unanticipated activities in the rural zones being considered as a non-complying activity this would require a fuller assessment of such proposals against the objectives and policies of the RPS and DP. In such cases activities which did not possess the quality of supporting rural production would either be declined or have to exhibit the qualities of not adversely effecting rural character and amenity, elite and prime soils and undermining existing specific zones or policy directions pertaining to urban growth and form.

Option 3 New or amended policy for discretionary activities

This option is not supported. It is not possible to anticipate every out of zone activity which could wish to establish in rural zones. Many of the possible activities which could establish would not be aligned to policy contained in the RPS and DP. Specific zones are in place and seek to provide for the full range of residential, commercial and industrial activities which exist currently or might wish to be developed over time. Rural zones have a rural production focus and many of the possible out of zone activities do not have this same character, intensity and scale making them at odds with the primary function of rural areas.

Option 4 Education

This option is not supported. Given the strong RPS directives it is considered that a statutory framework is more appropriate. The method of education provides less certainty of a consistent approach to the issues of finite elite soils and prime soils and rural and coastal character and amenity.

Option 5 (i) Delete references to residential buildings in policy and replace with the word “dwelling”

This option is supported. Intensive forms of residential development in rural zones is not aligned to RPS policy directives around maintaining coastal and rural character and amenity. Intensive forms of residential development in rural zones has the potential to create reverse sensitivity effects and displace legitimate in zone rural activities. Dwellings are anticipated in rural zones to support rural production focused activities. Specific zones are in place to provide for intensive residential forms of development. The possibility of more intensive residential development in rural zones is at odds with the strong rural production policy focus of most rural zones.

Section 5 - Reasons for the proposed plan change (see Attachment A3 which details the plan change content)

Auckland Plan

The Auckland Plan provides several policy directions which are in themselves reasons for initiating this plan change. This section considers both the existing Auckland Plan 2012 and the Auckland Plan 2050.

The Auckland Plan 2012 addresses rural issues and the key outcome sought relevant to this report is the protection of the rural area for rural activities.

Chapter 9 addresses rural issues and Strategy Direction 9 is to:

Keep rural Auckland productive, protected and environmentally sound

Priority 1 is to:

Create a sustainable balance between environmental protection, rural production and activities connected to the rural environment.

Directive 9.1 is to:

Ensure that the resources and production systems that underpin working rural land are protected, maintained and improved.

Another key strategy of the plan is a Compact Urban Form and one of the benefits of this is:

Encouraging growth within the existing urban footprint protects Auckland's rural hinterland and its productive potential: it enables ready access to coastal, marine and other recreation areas.

This plan has been superseded by the Auckland Plan 2050. The Auckland Plan 2050 continues with the same strategic approach to rural growth and development as the 2012 Auckland Plan. In particular the Auckland Plan 2050 Development Strategy specifies that Auckland will grow and change with a quality compact approach. This means – by 2050, most growth will have occurred within the urban footprint limiting both expansion into the rural hinterland and rural land fragmentation. The benefits of such an approach include

“Rural productivity and character can be maintained”

The Development Strategy in relation to supporting rural production states that

“Residential development in rural zones will be limited. Provision for residential growth will be focused in the existing countryside living zone.

Limiting residential growth in rural areas will maintain their values and support ongoing rural production.”

Unitary Plan Policy Context

At the RPS policy level there are some strong and clear signals that indicate unanticipated activities in rural zones and residential activities other than dwellings supporting rural production activities should be considered as a non-complying activity.

One is that elite soil is to be protected due to its significant value in rural production and finite nature. Prime soil is to be protected where practicable. Activities proposed on elite soil which were not for rural production purposes could be reasonably considered as non-complying given the finite nature and value of this resource.

At both the RPS level and DP level significance is placed on maintaining rural character and amenity. Activities beyond those anticipated in the rural zones have the potential to produce cumulative adverse effects on rural character and amenity and in such cases could be reasonably considered as non-complying activities.

The RPS contains policy direction that urban growth and form be compact so as to in part promote the efficient use of infrastructure. Furthermore, the RPS signals that specific zones are to be provided for intense forms of residential development and commercial and industrial development. In view of these policy provisions the use of rural land for other than rural production use has the potential to undermine the function of rural zones and specific zones set aside for residential, commercial and industrial activities. This suggests that such out of zone activities in rural zones should be considered as non-complying.

The rural zones themselves have a strong policy focus on rural production and maintaining rural character and amenity which again supports the view that activities not anticipated in these zones which does not have a rural character and rural production focus should be considered non-complying.

Infrastructure

Another reason for this plan change is the issue of infrastructure.

A greater number and range of residential activities approved in rural zones (such as boarding houses, retirement villages and residential care facilities) will result in pressure for infrastructure not usually considered necessary in rural locations. Examples of this include footpaths, curb and channel and reticulated services.

In urban locations infrastructure exists or can be added to or upgraded as needs arise from the intensification or expansion of residential activities. This affords the opportunity for effective and efficient solutions to infrastructure issues. In contrast rural locations are usually characterised by lower levels of physical infrastructure and the establishment of residential facilities in random and unconnected locations reduces the likelihood of efficient, timely and co-ordinated infrastructure provision.

Reverse Sensitivity

A key reason for this plan change is the potential for reverse sensitivity effects. Examples of reverse sensitivity include complaints from residential activities to spray drift and odour from nearby farming activities.

Intensive forms of residential activities in particular, where residents are not themselves engaged in farming activities and choose to occupy smaller rural sites with limited buffering from nearby rural farming activities have the potential to create reverse sensitivity effects.

If residential activities in rural zones are not limited to dwellings used to support farming and rural production activities the possibility of reverse sensitivity effects on farming activities could arise at any location across the rural zones.

Finite Soils

Concerns regarding adverse cumulative effects on and the loss of soils critical to agricultural production are another reason for this plan change.

The elite and prime soils of the Auckland region are generally flat and therefore are attractive to non-agricultural development because of the relative ease in which construction activities can occur.

The introduction of greater residential activities into the rural zones has the potential to result in even greater losses of these soils to agricultural activities. This a matter of high significance because of the limited availability of this resource to agriculture in the Auckland region.

The Current Potential for Inappropriate Activities to establish in Rural Zones

The need to initiate a plan change is supported by some recent decision making which focused on the status of the activity as discretionary rather than non-complying.

A recent decision by Hearings Commissioners to grant resource consent for an industrial activity in the Rural zone (Commissioner Decision 11 September 2017 LUC60066560 Hibiscus Tanks Ltd 63 Richards Road, Dairy Flat) relied in part on the discretionary activity status of activities not listed in the Rural activity table. The decision stated:

“there is no defensible basis to hold the view that ‘industrial’ activities...are inherently incompatible with the zone. If such a doctrinaire approach to industrial activities had been intended in the Plan, the Commissioners agree with the applicant’s planners Mr Foster and Ms MacNicol that a Non-complying activity status...would have been necessarily included in the AUPOP”.

Another example is a self-storage facility of over 5000m² at Rivehead Road, Kumeu, granted consent as a Discretionary Activity [BUN60314368] in the Mixed Rural zone. The consent was granted on the basis that it was not contrary to the policies and objectives of the zone, but an ‘urban style’ self-storage facility was not generally contemplated as an activity that would be located on rural zoned land. Amending the status of such activities to non-complying would assist in providing stronger guidance as to the type of activities anticipated in the rural zones. The decision in this case, stated in the reasons that granting

consent will not create precedent or cumulative issues or undermine the integrity of the plan. The council is now dealing with a similar application for 45 storage units at Jones Road, Omaha Flats in the Mixed Rural zone.

In a recent interim decision of the Environment Court (Decision No. [2018] NZEnvC 27 *Kumeu Property Limited V Auckland Council*), the Court highlighted that some of the rural policies refer to “residential” activities. Under the nesting tables in Chapter J Definitions this includes a wide range of activities, including amongst others, retirement villages. The Court granted resource consent for a supported care facility/retirement village in a rural zone, in part, based on the policy and definition, and because activities not listed in the activity table are discretionary.

The policy that the Court referred to is set out directly below (highlighting for this report only):

H19.2.4. Policies – rural character, amenity and biodiversity values

- (1) *Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:*
 - (a) *a predominantly working rural environment;*
 - (b) *fewer buildings of an urban scale, nature and design, other than **residential** buildings and buildings accessory to farming; and*
 - (c) *a general absence of infrastructure which is of an urban type and scale.*

In Chapter J Definitions the term “residential” is not defined. However, it is included in the nesting tables as follows:

Table J1.3.5 Residential

<i>Dwellings</i>	
<i>Home occupations</i>	
<i>Visitor accommodation</i>	
<i>Camping grounds</i>	
<i>Boarding houses</i>	<i>Student accommodation</i>
<i>Integrated residential development</i>	
<i>Retirement village</i>	
<i>Supported residential care</i>	

There are several other instances in the Rural Chapter where the term “residential” is used. These are:

H19.6 Rural Conservation Zone

H19.1.1. Zone description

*This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including **residential**, low-impact recreational activities, conservation and open space...*

*The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural and **residential** activities to continue.*

H19.6.2 Objectives

*(3) Existing rural and **residential** activities are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.*

H19.6.3 Policies

*(3) Enable the continued use of established rural and **residential** activities and provide for new activities only where adverse effects are avoided or mitigated.*

H19.7 Rural - Countryside Living Zone

H19.7.1 Zone description

*This zone incorporates a range of rural lifestyle developments, characterised as low-density rural **residential** development on rural land. These rural lifestyle sites include scattered rural **residential** sites, farmlets and horticultural sites, **residential** bush sites and papakāinga.*

These references are all in policies or zone descriptions however the term is not used in the Rural activity tables or the standards. Elsewhere in the Rural Chapter the term dwellings is used. In the rural activity table, Table H19.8.1 and Table H19.8.2 the term “dwellings” is referred to and in the latter table one dwelling per site is a permitted activity in all the rural zones except for several Rural Coastal zones in which they are restricted discretionary. All the development controls also refer to “dwellings”

Section 6 – Statutory Evaluation

The relevant sections of the Resource Management Act 1991 include sections 5, 6, 7 and 8.

The plan change supports section 5 by promoting the sustainable management of natural and physical resources. In this regard the plan change assists rural zones to maintain rural character and amenity and ensure that rural land is primarily used for rural production activities to support local communities.

The plan change supports section 6 of the Act by enabling rural/natural coastal character and amenity to be maintained.

Regarding section 7 the plan change promotes the efficient use of natural and physical resources (rural land), the maintenance and enhancement of rural amenity values, the maintenance of the quality of the rural environment and supports the finite characteristics of natural and physical resources (elite and prime soils).

In developing the plan change consultation was undertaken with local iwi. The details of this consultation are outlined in section 8.

Section 7 – National & Local Planning Context

Ministry for the Environment is proposing to develop national environmental standards. These are at an early stage of development and only in draft form. However, within these standards are Draft Area Specific Matters Standards. Draft Area Specific Matters Standards contain zones and purpose statements (see 44 S-ASM: Draft Area Specific Matters Standard within a document to be cited as Ministry for the Environment. 2018, Draft National Planning Standards. Wellington: Ministry for the Environment.).

Of note is the purpose of the Rural zone which is to provide primarily for primary production activities. The zone may also provide for a limited range of activities which support rural production.

Also, of note is the Rural production zone. The purpose of the Rural production zone is to prioritise primary production activities that rely on the productive nature of the soils, intensive primary production, and provide for associated rural industry.

Although now no weight can be placed on the Ministry’s work on environmental standards as discussed above, it is worth noting that the direction being proposed in this draft documentation is aligned to the purpose of this plan change which is to ensure that rural zones remain primarily for the purpose of rural production activities.

Section 8 - Development of Plan Change

Information Used

1. The following information has been used in the preparation of this Plan Change.

Name of document, report, plan	How did it inform the development of the plan change
Environment Court (Decision No. [2018] NZEnvC 27 Kumeu Property Limited V Auckland Council	The court’s decision highlighted that the use of the term “residential” in the rural policies could result in the establishment of activities that were not contemplated in the zone such as retirement villages.
Hearing Commissioner Decision 11 September 2017 LUC60066560 Hibiscus Tanks Ltd 63 Richards Road, Dairy Flat	The Decision relied in part on the fact that activities not listed in the Rural Activity Table were discretionary.
Ministry for the Environment. 2018, Draft National Planning Standards. Wellington: Ministry for the Environment	The content of this document informed the indicative direction that central government is intending to take regarding developing national standards pertaining to rural zoned land.

Consultation with Iwi

1. An invitation to consult on the plan change was extended to all Iwi within the Auckland region which had rural zoned land within their rohe. This included:

Waikato - Tainui
Ngati Maru
Ngati Te Ata
Ngati Manuhiri
Ngati Wai
Ngati Tamatera
Ngati Whatua Orakei
Te Kawerau a Maki
Ngati Paoa
Te Uri o Hau
Te Patukirikiri
Te Ahiwaru - Waiohua
Ngai Tai ki Tamaki
Ngati Tamaoho
Te Akitai Waiohua
Ngati Whanaunga
Te Runanga o Ngati
Whatua
Ngati Whatua o Kaipara

Ngāti Whātua Ōrākei indicated that they were a predominantly urban iwi and did not wish to consult on the matter of the plan change. Only Nga Maunga Whakahii o Kaipara indicated a wish to be consulted on the proposed plan change.

Consultation occurred with Nga Maunga Whakahii o Kaipara on 30th July 2018 where representatives advised that they supported the proposed plan change. The reasons for supporting the plan change were largely derived from the following concerns which it hoped would be able to be addressed through the plan change progressing:

- A wish to maintain rural character and amenity and avoid adverse cumulative effects on the rural environment;
- The need for pre-planned management of topsoil overburden from rural residential development.
- Impacts on the performance of on-site waste water systems in clay soil types associated with residential intensification in rural areas;
- A strong trend of permitted activities and non-notification of resource consent applications in regard to rural development, which negated iwi participation in decision making processes.

The consultation undertaken with Nga Maunga Whakahii o Kaipara indicated that there were no cultural concerns which required any amendment to the plan change content. However, the plan change can be seen to assist in addressing the concerns of iwi consulted in the process as:

- By limiting the range of residential activities able to establish in rural areas by right or relatively easily this assists to maintain rural character and amenity and avoid adverse cumulative effects;

- Issues such as on-site waste water system performance and topsoil from development entering rural waterways become matters capable of being considered in the context of a non-complying activity resource consent application and the consideration of cumulative effects.
- By establishing a default to a non-complying activity for those activities not anticipated in rural zones and by limiting residential activities to dwellings this increases the likelihood that intensive forms of residential development in rural zones will require an appropriately higher level of public notification.

Consultation occurred with the Independent Maori Statutory Board of Auckland Council on the proposed plan change. It sought that Papakainga on general rural land be afforded the status of a discretionary activity. Considerable analysis of the existing opportunities for Papakainga in the rural zones was undertaken. On the basis of this analysis which highlighted policy and implementation concerns regarding providing for Papakainga on general rural land it was not considered appropriate that the plan change widen its scope to satisfy this request. It was considered that providing for Papakainga on general rural land was a matter best dealt with as a separate and discrete plan change. Attachment A4 to this report contains the full body of analysis undertaken on this matter.

Consultation with Local Boards

1. Consultation was undertaken with both the Franklin and Rodney Local Boards. These two Local boards have most of the Auckland region's rural land within their operational boundaries. Both local boards indicated that they were supportive of the plan change.

Conclusion

A Plan Change is necessary to address the fundamental issue of how unanticipated activities not provided for in rural zones should be managed.

Two solutions have been identified as an appropriate response to this issue. The first is to amend the rural activity tables to add a new activity into the table, being "Any activity not provided for" and making its activity status Non-complying'

The second is to amend references to "residential buildings" in the Rural chapter to "dwellings".

Together, these amendments are the most efficient and effective option to achieve the objectives and policies of the Regional Policy Statement and the Rural zones.

List of Attachments

Put in table form

Attachment	Name of Attachment
A1	Unitary Plan Policy
A2	Section 32 analysis
A3	Plan Change
A4	Papakainga

Attachment 1

Policy Relevant to the Plan Change (PPC20)

Reference	Regional Policy Statement Objectives	Regional Policy Statement Policy	Regional Policy Statement Anticipated Results
<p>B9. Toitū te tuawhenua- Rural environment</p> <p>B9.2. Rural activities</p> <p>B9.2.1. Objectives</p> <p>B9.2.2. Policies</p>	<p>(2) Areas of land containing elite soil are protected for the purpose of food supply from inappropriate subdivision, urban use and development.</p> <p>(3) Rural production and other activities that support rural communities are enabled while the character, amenity, landscape and biodiversity values of rural areas, including within the coastal environment, are maintained.</p> <p>(4) Auckland’s rural areas outside the Rural Urban Boundary and rural and coastal towns and villages are protected from inappropriate subdivision, urban use and development.</p>	<p>(1) Enable a diverse range of activities while avoiding significant adverse effects on and urbanisation of rural areas, including within the coastal environment, and avoiding, remedying, or mitigating other adverse effects on rural character, amenity, landscape and biodiversity values.</p> <p>(2) Minimise the potential for reverse sensitivity effects by:</p> <p>(a) preventing sensitive activities (such as countryside living) from establishing in areas where rural production activities could be adversely affected; or</p> <p>(b) requiring sensitive activities (such as new countryside living) to adopt on-site methods to avoid reverse sensitivity effects on rural production activities;</p>	<p>No rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities. (Links to B9.2.1(2))</p> <p>No additional sites are created for non-rural production purposes over time. (Links to B9.2.1(4))</p>
<p>B9. Toitū te tuawhenua- Rural environment</p> <p>B9.3. Land with High Productive Potential</p> <p>B9.3.1. Objectives</p> <p>B9.3.2. Policies</p>	<p>(1) Land containing elite soils is protected through land management practices to maintain its capability, flexibility and accessibility for primary production.</p> <p>(2) Land containing prime soil is managed to enable its capability, flexibility and accessibility for primary production.</p> <p>(3) The productive potential of land that does not contain elite or prime soil is recognised.</p>	<p>(1) Avoid new countryside living subdivision, use and development on land containing elite soil and discourage them on land containing prime soil.</p> <p>(2) Encourage activities that do not depend on using land containing elite and prime soil to locate outside these areas.</p> <p>(3) Recognise the productive potential of land that does not contain elite or prime soil and encourage the continued use of this land for rural production.</p>	<p>No additional sites are created for non-rural production purposes on land with elite soils over time. (Links to B9.3.1(2))</p>

<p>B2. Tāhuhu whakaruruhau ā-taone – B2.2 Urban growth and form</p> <p>Urban growth and form B2.2.1. <i>Development capacity and supply of land for urban development</i> Objectives 1-5</p> <p><i>Development capacity and supply of land for urban development</i> B2.2.2 Policies 1-3</p> <p><i>Quality compact urban form</i> B2.2.2 Policies 4-8</p>	<p>Urban growth and form (1) A quality compact urban form that enables all of the following: (a) a higher-quality urban environment; (b) greater productivity and economic growth; (c) better use of existing infrastructure and efficient provision of new infrastructure; (d) improved and more effective public transport; (e) greater social and cultural vitality; (f) better maintenance of rural character and rural productivity; and (g) reduced adverse environmental effects.</p> <p>(2) Urban growth is primarily accommodated within the urban area 2016 (as identified in Appendix 1A).</p> <p>(3) Sufficient development capacity and land supply is provided to accommodate residential, commercial, industrial growth and social facilities to support growth.</p> <p>(4) Urbanisation is contained within the Rural Urban Boundary, towns, and rural and coastal towns and villages.</p> <p>(5) The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with the provision of appropriate infrastructure.</p>	<p><i>Urban growth and form</i> <i>Development capacity and supply of land for urban development</i> (1) Include sufficient land within the Rural Urban Boundary that is appropriately zoned to accommodate at any one time a minimum of seven years' projected growth in terms of residential, commercial and industrial demand and corresponding requirements for social facilities, after allowing for any constraints on subdivision, use and development of land.</p> <p>(2) Ensure the location or any relocation of the Rural Urban Boundary identifies land suitable for urbanisation in locations that: (a) promote the achievement of a quality compact urban form (b) enable the efficient supply of land for residential, commercial and industrial activities and social facilities; (c) integrate land use and transport supporting a range of transport modes; (d) support the efficient provision of infrastructure; (e) provide choices that meet the needs of people and communities for a range of housing types and working environments; and (f) follow the structure plan guidelines as set out in Appendix 1; while: (g) protecting natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character; (h) protecting the Waitākere Ranges Heritage Area and its heritage features; (i) ensuring that significant adverse effects from urban development on receiving waters in relation to natural resource and Mana Whenua values are avoided, remedied or mitigated; (j) avoiding elite soils and avoiding where practicable prime soils which are significant for their ability to sustain food production;</p>	<p>Commercial, industrial and social facility development is not constrained by the amount or location of suitably zoned land which is available at any time. (Links to B2.2.1(3)).</p> <p>Land is available for residential, commercial and industrial uses in a variety of locations at a reasonable cost. (Links to B2.2.1(3)). Urbanisation does not occur without prior structure planning and plan changes. (Links to B2.2.1(4))</p> <p>Large scale residential and business development only occurs in urban zones. (Links to B2.2.1(4))</p> <p>Structure planning and plan changes make explicit provision for infrastructure. (Links to B2.2.1(5))</p> <p>Infrastructure to support development is delivered in a timely manner so that housing, commercial and business growth is not restricted by it. Links to B2.2.1(5))</p>
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		<p>(k) avoiding mineral resources that are commercially viable;</p> <p>(l) avoiding areas with significant natural hazard risks and where practicable avoiding areas prone to natural hazards including coastal hazards and flooding; and</p> <p>(m) aligning the Rural Urban Boundary with:</p> <p>(i) strong natural boundaries such as the coastal edge, rivers, natural catchments or watersheds, and prominent ridgelines; or</p> <p>(ii) where strong natural boundaries are not present, then other natural elements such as streams, wetlands, identified outstanding natural landscapes or features or significant ecological areas, or human elements such as property boundaries, open space, road or rail boundaries, electricity transmission corridors or airport flight paths.</p> <p>(3) Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guidelines.</p> <p><i>Quality compact urban form</i></p> <p>(4) Promote urban growth and intensification within the urban area 2016 (as identified in Appendix 1A), enable urban growth and intensification within the Rural Urban Boundary, towns, and rural and coastal towns and villages, and avoid urbanisation outside these areas.</p> <p>(5) Enable higher residential intensification:</p> <p>(a) in and around centres;</p> <p>(b) along identified corridors; and</p> <p>(c) close to public transport, social facilities (including open space) and employment opportunities.</p> <p>(6) Identify a hierarchy of centres that supports a quality compact urban form:</p> <p>(a) at a regional level through the city centre, metropolitan centres and town centres which function as commercial, cultural and social focal points for the region or sub-regions; and</p>	
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<p>B2.4 Residential Growth</p> <p>Objectives B2.4.1 Residential growth 1-5</p> <p>B2.4.2 Policies 1-7</p>	<p><i>Residential growth</i></p> <p>(1) Residential intensification supports a quality compact urban form.</p> <p>(2) Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.</p> <p>(3) Land within and adjacent to centres and corridors or in close proximity to public transport and social facilities (including open space) or employment opportunities is the primary focus for residential intensification.</p> <p>(4) An increase in housing capacity and the range of housing choice which meets the varied needs and lifestyles of</p>	<p>(b) at a local level through local and neighbourhood centres that provide for a range of activities to support and serve as focal points for their local communities.</p> <p>(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following:</p> <p>(a) support a quality compact urban form; (b) provide for a range of housing types and employment choices for the area; (c) integrate with the provision of infrastructure; and (d) follow the structure plan guidelines as set out in Appendix 1.</p> <p>(8) Enable the use of land zoned future urban within the Rural Urban Boundary or other land zoned future urban for rural activities until urban zonings are applied, provided that the subdivision, use and development does not hinder or prevent the future urban use of the land.</p> <p><i>Residential intensification</i></p> <p>(1) Provide a range of residential zones that enable different housing types and intensity that are appropriate to the residential character of the area.</p> <p>(2) Enable higher residential intensities in areas closest to centres, the public transport network, large social facilities, education facilities, tertiary education facilities, healthcare facilities and existing or proposed open space.</p> <p>(3) Provide for medium residential intensities in area that are within moderate walking distance to centres, public transport, social facilities and open space.</p> <p>(4) Provide for lower residential intensity in areas:</p> <p>(a) that are not close to centres and public transport; (b) that are subject to high environmental constraints;</p>	<p>The number of dwellings per hectare in areas zoned for residential intensification (Residential - Mixed Housing Urban Zone and Residential - Terrace House and Apartment Buildings Zone) increases over time. (Links to B2.4.1(1)).</p>
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Reference (including individual zones)	District Plan Objective	District Plan Policy	District Plan Rule	District Plan Anticipated Results
<p>H19. Rural zones H19.2 Objectives & Policies-all rural zones H19.2.1 Objectives-general rural</p> <p>H19.2.2 Policies</p>	<p>(3) Elite soil is protected, and prime soil is managed, for potential rural production.</p> <p>(4) Rural lifestyle development avoids fragmentation of productive land.</p>	<p>(1) Enable activities based on use of the land resource and recognise them as a primary function of rural areas.</p> <p>(3) Enable rural production activities on elite and prime soil and avoid land-use activities and development not based on, or related to, rural production from locating on elite soil and avoid where practicable such activities and development from locating on prime soil.</p> <p>(4) Enable and maintain the productive potential of land that is not elite or prime soil but which has productive potential for rural production purposes, and avoid its use for other activities including rural lifestyle living except where these are provided for or enabled by Policy H19.2.2(5).</p> <p>(5) Enable a range of rural production activities and a limited range of other activities in rural areas by: separating potentially incompatible activities such as rural production and (a)rural lifestyle living into different zones; ...</p> <p>(c) managing the effects of activities in rural areas so that; ...</p> <p>(ii) reverse sensitivity effects do not constrain rural production activities.</p>		
<p>H19. Rural zones</p>	<p>(1) The character, amenity values and biodiversity values of rural</p>	<p>(1) Manage the effects of rural activities to achieve a character,</p>		

<p>H19.2.3 Objectives- rural character, amenity and biodiversity values</p> <p>H19.2.4 Policies</p>	<p>areas are maintained or enhanced while accommodating the localised character of different parts of these areas and the dynamic nature of rural production activities.</p>	<p>scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics: a predominantly working rural environment; (a) fewer buildings of an urban scale, nature and design, other than (b)residential buildings and buildings accessory to farming; and a general absence of infrastructure which is of an urban type and scale.</p>		
<p>H19. Rural zones H19.2.5 Objectives – rural industries, rural commercial services and non-residential activities</p> <p>H19.2.5 Policies</p>	<p>(1) Rural production activities are supported by appropriate rural industries and services.</p> <p>(2) The character, intensity and scale of rural industries and services are in keeping with the character of the relevant rural zone.</p> <p>(4) Industries, services and non-residential activities of an urban type and scale unrelated to rural production activities are not located in rural zones.</p>	<p>(1) Enable rural industries and rural commercial services only where they have a direct connection with the resources, amenities, characteristics and communities of rural areas.</p> <p>(2) Manage rural industries, rural commercial services and other non-residential activities to:</p> <p>(a) avoid creating reverse sensitivity effects;</p> <p>(b) contain and manage adverse effects on-site; and</p> <p>(c) avoid, remedy or mitigate adverse effects on traffic movement and the road network.</p>		
<p>H19.3 Rural – Rural Production Zone</p> <p>H19.3.2 Objectives</p>	<p>(1) A range of rural production, rural industries, and rural commercial activities take place in the zone.</p> <p>(2) The productive capability of the land is maintained and protected from inappropriate subdivision, use and development.</p>	<p>(1) Provide for a range of existing and new rural production, rural industry and rural commercial activities and recognise their role in determining the zone’s rural character and amenity values.</p>		

H19.3.3. Policies				
H19.4 Rural – Mixed Rural zone H19.4.2 Objectives H19.4.3 Policies	(2) The continuation of rural production and associated non-residential activities in the zone is not adversely affected by inappropriate rural lifestyle activity. (3) Rural character and amenity values of the zone are maintained while anticipating a mix of rural production, non-residential and rural lifestyle activities.	(2) Manage reverse sensitivity effects by: (a) limiting the size, scale and type of non-rural production activities; (b) retaining the larger site sizes within this zone; (c) limiting further subdivision for new rural lifestyle sites; and (d) acknowledging a level of amenity that reflects the presence of: (i) rural production and processing activities that generate rural odours, noise from stock and the use of machinery, and the movement of commercial vehicles on the local road network; and (ii) non-residential activities which may generate noise, light and traffic levels greater than those normally found in areas set aside for rural lifestyle activities.		
H19.5 Rural – Rural Coastal zone H19.5.2 Objectives H19.5.3 Policies	(1) Rural production activities are enabled while managing adverse effects on rural character and amenity values, landscape, biodiversity values and Mana Whenua cultural heritage values. (2) The development and operation of activities that provide recreational and local non-residential services are enabled where they maintain and enhance the zone’s rural and coastal character, amenity values, landscape and biodiversity values.	(1) Manage activities and development to maintain the distinctive rural and coastal character of the zone which include: (a) farming and forestry with a low density of buildings and other significant structures; (b) rural character and amenity values, biodiversity values, values based on particular physical and natural features such as beaches, ridgelines, estuaries, harbours, indigenous vegetation, wetlands, or similar features;		

	<p>(3) Buildings are of a scale and intensity that do not detract from the zone's rural and coastal character and amenity values.</p> <p>(4) Rural lifestyle subdivision is limited across the zone.</p> <p>(5) The significant relationship between land, freshwater bodies and the coastal marine area and their contribution to Auckland's rural and coastal character is maintained and enhanced.</p> <p>(6) Recognise differences in coastal character in different parts of the zone and manage activities and development to maintain and enhance local coastal character.</p>	<p>(c) physical and visual links between land, freshwater lakes and the coastal marine area; or</p> <p>(d) traditional cultural relationships of Mana Whenua with the coastal environment.</p> <p>(2) Enable the continuation of rural production activities and the construction of accessory buildings and structures for farming purposes.</p> <p>(3) Provide for the continued operation of forestry including harvesting and replanting in existing forest areas.</p> <p>(4) Discourage rural production activities that have significant adverse effects resulting from:</p> <p>(a) large buildings;</p> <p>(b) significant earthworks or changes to natural landforms;</p> <p>(c) adverse effects that cannot be contained or managed within the boundary of the site;</p> <p>(d) significant numbers of daily vehicle movements, particularly on scenic and tourist routes; or</p> <p>(e) significant impacts on biodiversity values and rural character and amenity values.</p> <p>(5) Maintain the rural and coastal character and amenity values in the coastal environment by controlling the number, location, size and visual impact of dwellings and other non-</p>		
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		<p>residential buildings and their curtilage and accessways.</p> <p>(6) Require the location and design of buildings and other significant structures to:</p> <p>(a) avoid locating on the top of ridgelines so their profile does not protrude above the natural line of the ridge;</p> <p>(b) minimise building platforms and accessways and earthworks associated with these; and</p> <p>(c) avoid locating buildings and other significant structures in coastal yards and riparian margins, except for fences and structures with operational need for such a location.</p> <p>(7) Recognise the importance of major roads in the zone that:</p> <p>(a) provide access to coastal settlements, public open space and the coast;</p> <p>(b) function as major transport routes for rural produce;</p> <p>(c) are major scenic and tourist routes;</p> <p>(d) are preferred locations for recreation, tourism, visitor facilities and services and the sale of produce and crafts; or</p> <p>(e) act as gateways to Auckland.</p> <p>(8) Enable the development of appropriate activities, while ensuring that the transport function of the road and its scenic values are not compromised.</p>		
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<p>H19.6 Rural – Rural Conservation zone</p> <p>H19.6.2 Objectives</p> <p>H19.6.3 Policies</p>	<p>(1) The natural character, landscape, and distinctive environmental values of the zone are recognised and protected.</p> <p>(2) The zone’s values are maintained and where appropriate enhanced.</p> <p>(3) Existing rural and residential activities are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.</p> <p>(4) Buildings and structures are unobtrusive within the natural landscape.</p>	<p>(1) Protect the natural character and landscape from significant change or modification, particularly visually intrusive buildings, structures and roads.</p>		
<p>H19.7 Rural – Rural Countryside Living zone</p> <p>H19.7.2 Objectives</p> <p>H19.7.3 Policies</p>	<p>(1) Land is used for rural lifestyle living as well as small-scale rural production.</p> <p>(2) The rural character, amenity values, water quality, ecological quality, historic heritage values and the efficient provision of infrastructure is maintained and enhanced in subdivision design and development.</p> <p>(3) Development in the zone does not compromise the ability of adjacent zones to be effectively and efficiently used for appropriate activities.</p> <p>(4) The type and nature of land-use activities provided for are restricted to those appropriate for the typically smaller site sizes.</p>	<p>(1) Locate and design subdivision and development to maintain and enhance rural character and amenity values and avoid an urban form and character by:</p> <p>(a) designing subdivision and development (including accessways, services, utilities and building platforms) to be in keeping with the topography and characteristics of the land;</p> <p>(b) minimising earthworks and vegetation clearance for accessways, utilities and building platforms;</p> <p>(c) avoiding locating accessways, services, utilities and building</p>		

		<p>platforms where they will result in adverse effects on water quality, wetlands, riparian margins, historic heritage sites or scheduled sites and places of value or significance to Mana Whenua. Where avoidance is not possible, mitigation measures must be proposed so that any adverse effects are minor;</p> <p>(d) identifying opportunities for environmental enhancement of existing areas of native vegetation, wetland areas, riparian margins or the coastal edge;</p> <p>(e) encourage landscape planting that reinforces local vegetation patterns;</p> <p>(f) cycleway and bridle path networks.</p> <p>(2) Prevent subdivision, use and development from compromising the safe and efficient operation of existing mineral extraction activities, rural production activities, existing infrastructure or industry in adjacent zones.</p> <p>(3) Avoid or mitigate adverse effects in relation to reverse sensitivity and rural character and amenity by restricting the range of land-use activities in the zone.</p> <p>(4) Discourage activities that will result in adverse effects such as noise, dust, traffic volumes, odour, visual effects and effects on health, safety and cultural values and significantly reduce</p>		
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		<p>the rural character and amenity values of the zone.</p> <p>(5) Acknowledge that the rural character and amenity values associated with this zone reflect its predominant use for rural lifestyle living rather than for rural production activities.</p>		
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Attachment A2

Section 32 Analysis (PPC20)

	Appropriate	Effective	Efficient	Costs	Benefits	Employment	Economic Growth	Risks
Option 1-Do nothing	Not appropriate. Resource consents have been granted for activities that were not anticipated in the Rural zones. It does not achieve the objectives of the RPS or the AUP.	Not effective as resource consents have been granted for activities not contemplated in the Rural zones does not achieve the objectives of the RPS or the AUP	Neutral, resource consents required.	Neutral in terms of financial cost to applicants as resource consent required. Environmental costs of urban activities locating in the Rural zones.	Relatively easier test. From landowner perspective more urban style activities could occur in the rural zones.	Discretionary activity application proposals are more likely to be approved resulting in additional jobs.	Discretionary activity proposals approved would increase regional contributions to gross domestic product.	More resource consents granted for activities not contemplated in the Rural zones.
Option 2 – Introduce Non-complying activity status	Appropriate as ensures greater scrutiny of resource consent applications and is more likely to achieve the objectives of the RPS and the AUP.	More effective as greater scrutiny of resource consent applications as NC is a more rigorous test. Achieves the objectives of the RPS and the AUP.	Neutral, resource consents required.	Neutral in terms of financial cost to applicants as resource consent required.	Greater scrutiny of applications as NC is a harder test. Fewer resource consents granted for activities not contemplated in the Rural zones. As a harder test there is more likelihood that applications will be declined and thus	Non-complying activity application proposals are more likely to be declined however it is unlikely that this will result in lost employment opportunities as start-up facilities will find land in more appropriate zones.	Non-complying activity proposals are more likely to be declined however it is unlikely that this will result in reduced economic growth as start-up facilities will find land in more appropriate zones.	Possible that resource consents could be granted but they will have been subject to greater scrutiny.

					increased environmental benefits from keeping urban activities out of the Rural zones.			
Option 3 – New or amended policy for discretionary activities not listed in table H19.8.1	Establishes a different policy base which may be or may not be relevant to individual proposals not anticipated.	Difficult to develop comprehensive policy for all activities that may not be anticipated	Not very efficient as the rural land base is having policy customised for activities provided for in other zones	Neutral as resource consent is currently required	Some unanticipated activities find it easier to establish in rural zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Activities establish in rural zones to the detriment of rural production activities.
Option 4 – Education for decision-makers and resource users	Not appropriate as existing RPS policy contains directives which require a more formalised statutory response	No guarantee of consistency in approach to significant issues such as the finite nature of elite soil	Education may not guarantee consistency of approach.	Neutral as resource consent is currently required	Higher order tests of the RMA avoided. Some activities may establish as discretionary activities but may not have if assessed as a non-complying activity.	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Inconsistent approach to decision making.
Option 5 (i) – delete references to residential buildings in rural policy and replace with “dwelling”.	Appropriate way to address the issue	Effective as it removes reference to “residential” but still makes it explicit that dwellings are contemplated in the zone	Addresses the issue at lowest cost with highest benefit.	Cost of limiting opportunities for residential activities in the rural area.	Limits opportunities for residential activities in the rural area in line with the objectives and policies.	Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.	Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more	Low risk that a wide range of residential activities locate in the rural zone.

							appropriate zones.	
Option 5 (ii) – Delete the last sentence of Policy 19.2.4(1)(b).	Appropriate but does not address the issue across the chapter.	Not effective as it only addresses the issue in one of the instances where the term “residential” is used	Does not address the issue efficiently as does not deal with all instances of the problem.	Cost of limiting opportunities for residential activities in the rural area.	Limits opportunities for residential activities in the rural area in line with the objectives and policies.	Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.	Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more appropriate zones.	Unclear that dwellings can locate in the Rural zone and doesn’t address all instances where the term residential is used.
Option 5(iii) – amend the definition of “residential” by adding an exception for rural zones.	Appropriate but does not address the issue in the Rural chapter.	This option would address all references to “residential” in the Rural chapter. Not very effective as not all users of the plan will look in the definitions chapter at the nesting tables to determine what is included under the term “residential”.	Addresses the issue but not efficiently as it is not dealt with in the Rural chapter.	Cost of limiting opportunities for residential activities in the rural area.	Limits opportunities for residential activities in the rural area in line with the objectives and policies.	Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.	Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more appropriate zones.	Not clear in the Rural Chapter that residential activities limited to dwellings. Users may not refer to the Definitions Chapter.

Attachment A3

The Plan Change (PPC20)

There are two elements to the plan change.

- a) The first is to add to the Rural Activity Table, Table H19.8.1, reference to “Activities not provided for” as follows (additions are underlined):

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
(AA1)	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

- b) The second part of the plan change is to amend references to “residential buildings” in a number of rural zone descriptions, objectives and policies to refer to “dwellings”. The amendments are set out below:

i) **19.2.4 Policies – rural character, amenity and biodiversity values**

- (1) *Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:*

- (a) *a predominantly working rural environment;*
- (b) *fewer buildings of an urban scale, nature and design, other than ~~residential buildings~~ dwellings and buildings accessory to farming; and*
- (c) *a general absence of infrastructure which is of an urban type and scale.*

(2) **19.6 Rural – Rural Conservation Zone**

H19.6.1 Zone description

This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including ~~residential buildings~~ dwellings, low-impact recreational activities, conservation and open space....

The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural ~~and residential~~ activities and dwellings to continue.

H19.6.2 Objectives

- (4) Existing rural ~~and residential~~ activities and dwellings are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.*

H19.6.3 Policies

- (3) Enable the continued use of established rural ~~and residential~~ activities and dwellings and provide for new activities only where adverse effects are avoided or mitigated.*

iv) H19.7.Rural – Countryside Living

H19.7.1 Zone Description

.... This zone incorporates a range of rural lifestyle developments, characterised as low-density rural lifestyle residential development dwellings on rural land. These rural lifestyle sites include scattered rural ~~residential~~ dwelling sites, farmlets and horticultural sites, ~~residential~~-bush dwelling sites and papakāinga.

Attachment A4

Papakāinga

Papakāinga & General Rural Land

Purpose

This report is a supplementary to item 10 on the Planning Committee agenda for the purpose of assisting the Chair, Deputy Chair and a member of the Independent Māori Statutory Board (IMSB) to come to a decision on whether or not to provide for papakāinga housing on general rural land either as a non-complying or as a discretionary activity.

1.0 Executive Summary

- 1.1 A Council initiated proposed plan change has been initiated to modify the Unitary Plan so as to correct a matter which did not occur as intended. Originally, the Council's default position for any land use activity, not included in any zone, was one of a non-complying activity by way of general rule C1.7(1). The IHP changed the default setting in general rule C1.7(1) to a discretionary activity. In response Council modified every zone land use table in the Unitary Plan so that any activity not provided for was a non-complying activity, but unfortunately the rural zone land use table was missed. This is the fundamental intention of the proposed plan change. It is not to propose any new policy direction.
- 1.2 As papakāinga is not listed in the Rural Zones activity table, the proposed plan change would see it treated as an activity not otherwise provided for on general rural land and would therefore have non-complying activity status. However, papakāinga development in the rural zones on Māori land or Treaty Settlement land would remain unaffected by this proposed plan change, and would remain either: a permitted activity for one dwelling per hectare, with no more than ten dwellings per site; a restricted discretionary activity for one dwelling per 4,000m², with no more than 20 dwellings per site; and a discretionary activity for integrated Māori development which can include a greater number of dwellings.
- 1.3 There is an extensive area of land available for papakāinga development on rural Māori land and rural land subject to the Treaty Settlement Legislation in the Auckland region. The rural land area potentially available to Māori to establish papakāinga as a permitted, restricted discretionary or discretionary activity under the AUP conservatively approximates 48,000 ha when statutory acknowledgement areas are excluded. Potentially the rural land area available to Māori to establish papakāinga goes well beyond 48,000 ha if statutory acknowledgement land owned by claimant groups is included.
- 1.4 The approach taken by the AUP regarding papakāinga is more permissive than that of other Councils such as the Gisborne, Wellington, Far North, Whangarei and Tauranga districts which have district plan provisions which either limit the focus of papakāinga to Māori land or do not have specific papakāinga provisions.

- 1.5 In an initial meeting with the delegated members, it was agreed that further investigations should take place into options 2 and 3 (see Table 2). Possible wording for options 2 and 3 has been developed should one of these options be chosen. The details of possible Unitary Plan provisions are outlined in Attachment A.
- 1.6 To provide for papakāinga as a discretionary activity or introduce a policy for papakāinga in rural zones on general land, in addition to the existing provisions in the Māori Land and Treaty Settlement land, in conjunction with the proposed rural plan change, would result in planning policy and implementation failings (see section 6). The issue of papakāinga on general land would be best dealt with as a separate plan change matter supported by the appropriate consultation.
- 1.7 In the context of the proposed plan change a non-complying activity status for papakāinga on general rural land is considered the preferred option. This strikes an appropriate balance between supporting existing objectives and policies in the AUP seeking to protect elite and prime soils in rural zones for traditional agricultural activities associated with food production and maintaining rural character, amenity and natural values; whilst recognising the available opportunity for papakāinga development on Māori land and Treaty Settlement Land, and land within the Māori Purposes zone.

2.0 Introduction

- 2.1 Currently, any activity not provided for in the activity table for rural zones is a discretionary activity as a result of changes made by the Independent Hearings Panel. Originally, Council proposed a general provision by way of what is now rule C1.7(1) that required any activity not provided for in the Unitary Plan to be deemed a non-complying activity. In response to the Independent Hearings Panel change Council amended zone rules to clarify that any activity not provided for in land use activity table rules was a non-complying activity. However, the rural activity table was unintentionally omitted from the changes and the default position for the rural zones remained as a discretionary activity. The Council is proposing a plan change, which will result in activities not otherwise provided for in the rural zones having a non-complying activity status. It is not the intention of the proposed plan change to initiate any policy shifts in regard to any issue or land use activity.
- 2.2 This report primarily considers the advantages and disadvantages of the AUP providing for papakāinga housing on general rural land as a non-complying activity as against a discretionary activity. [The proposed plan change does **not** affect the activity status of papakāinga on Māori land under the Te Ture Whenua Māori Act 1993, or on Treaty Settlement land].
- 2.3 This report addresses the content of the AUP regarding papakāinga housing developments as adopted by the Independent Hearings Panel and Council as part of developing a Unitary Plan for Auckland; the status of papakāinga development in other council district plans; and outlines the advantages and disadvantages of several options for the consenting status of papakāinga developments on general rural land.

3.0 Current Position of the AUP

Definitions

- 3.1 There is no definition of Papakāinga in the AUP chapter of definitions (i.e. Chapter J) however in the AUP Glossary of Māori terms in Chapter N it is described as:

Papakāinga

A settlement or village which has whakapapa connections to that land.

- 3.2 Furthermore, in the AUP Glossary of Māori terms in Chapter N, Whakapapa is described as:

Whakapapa

Genealogy that links Māori to their Māori ancestors. (Io, Rangī & Papa).

Māori Land & Land Subject to Treaty of Waitangi Settlement Legislation

- 3.3 The Auckland-wide provisions of the AUP recognise the unique legal and governance framework for Māori land being subject to the Te Ture Whenua Māori Act 1993, and land subject to the Treaty Settlement Legislation.
- 3.4 Table E20.4.1 contained in Chapter E20 of the AUP outlines the status of papakāinga on Māori land. Table E21.4.1 outlined below replicates Table E20.4.1 for land subject to Treaty of Waitangi Settlement Legislation.
- 3.5 This means that the AUP treats papakāinga on Māori land or land subject to Treaty of Waitangi Settlement Legislation permissively with one dwelling per hectare, with no more than ten dwellings per site in the rural zones being a permitted activity, and one dwelling per 4,000m², with no more than 20 dwellings per site being a restricted discretionary activity. The Auckland Unitary Plan also provides for integrated Māori development as a discretionary activity which can include a greater number of dwellings.

Table E20.4.1 Activity table

	Activity	Activity status
(A1)	Activities associated with marae or papakāinga up to 250m ² gross floor area	P
(A2)	Activities associated with marae or papakāinga greater than 250m ² gross floor area	RD
(A3)	One dwelling per hectare with no more than 10 dwellings per site in the rural zones	P
(A4)	One dwelling per 4,000m ² with no more than 20 dwellings per site in the rural zones	RD
(A5)	Integrated Māori development	D
(A6)	Dwellings not otherwise provided for in a rural zone	NC

- 3.6 The Independent hearings Panel (IHP) in hearing submissions on the AUP specifically considered what the appropriate elements should be in any definition of Treaty Settlement land. The resulting definition of Treaty Settlement land sits in Chapter J of the Auckland Unitary Plan, and includes:

Property which is either:

- vested with claimant groups by the Crown as a result of Treaty settlement legislation*

and final deeds of settlement; or

- acquired by a claimant group from the Crown pursuant to a right of first refusal*

process provided that the properties were specifically identified by reference to site or

title in Treaty settlement legislation enacted prior to the date on which the Unitary

Plan became operative as Right of First Refusal land for that claimant group.

Includes:

- cultural redress properties;*
- commercial redress properties including:*
 - o properties returned via deferred selection,*
 - o properties transferred to other iwi, hapū or whānau entities associated or affiliated with the claimant group; and*
 - o properties transferred to a company in which the claimant group holds a controlling interest.*

Excludes:

· unspecified properties within geographic areas over which claimant groups have

been awarded Right of First Refusal in Treaty settlement legislation;

· any properties over which claimant groups have been awarded Right of First Refusal

in Treaty settlement legislation enacted after the date on which the Unitary Plan

became operative;

· properties covered by Statutory Acknowledgement or Deed of Recognition but not

owned by claimant groups;

· properties in which the claimant group, or an iwi, hapū or whānau entity associated or affiliated with the claimant group, no longer retains a legal freehold interest;

· properties leased by the claimant group to an unrelated entity for a term which,

including renewals, is or could be more than 35 years; and

· properties transferred to a company in which the claimant group has a minority interest.

4.0 Rural Land Available for Papakāinga

Recent Developments – Independent Māori Statutory Board

- 4.1 The Independent Māori Statutory Board recently approved a draft *Kāinga strategic action plan* for consultation, and the document along with supporting material was released on 4th October 2018.
- 4.2 The strategic action plan was developed alongside stakeholders and government in response to the Auckland Māori Housing Summit in April, which highlighted the urgent housing needs Māori face in Auckland, especially low-income whānau, and called for change and increased accountability.
- 4.3 One element in this draft strategy is to advance Māori housing on general rural land and apply papakāinga provisions to general rural land either owned or not owned by Māori.
- 4.4 Council in a submission dated 24 October 2018 to the draft *Kāinga strategic action plan* indicated that it was committed to improving outcomes for Maori and acknowledged that the *Kāinga strategic action plan* aligned with the Auckland Plan 2050 particularly the Homes and Places, Belonging and Participation, and Maori Identity and Wellbeing outcomes.
- 4.5 However, Council's submission also noted:
 - Where activities aligned with current and budgeted future activities, the council would look to support the actions identified in the draft plan particularly in relation to a consent made easy process and reporting outcomes, whereas support for actions that were not already underway or planned for in the 10-year budget would require political direction and decisions;

- The Auckland Unitary Plan provided significant opportunities for Maori social, cultural and economic activities, including dwellings, on general land. Recommendation 22 [in the *Kāinga strategic action plan*] suggested more needed to be done, (i.e. Develop and improve provisions in the Unitary Plan to enable papakāinga on general land and other otherwise viable Māori housing outcomes). In this regard the Council submission outlined that It would be useful to discuss this and understand it further. It further noted that it was important that communities understand the services that council offered and council's activities and that to avoid any confusion, it would be helpful if those actions in the draft plan attributed to Auckland Council were suggested actions noting that some would require political sign-off or legislative change.

4.6 Whilst the *Kāinga strategic action plan presents* laudable goals it also raises a number of significant issues. The *Kāinga strategic action plan* at this stage is a draft document which still requires further community and council consideration. In its aspiration to apply papakāinga provisions to general rural land it is diametrically opposed to the proposed plan change which is very specific in nature, and the Regional Policy Statement which would require change. [Consequently, it is not possible to add a new discretionary activity status for papakāinga to the proposed plan change whilst the Regional Policy Statement contains current policy directions around managing rural land and development.]

4.7 Furthermore, consultation undertaken in conjunction with the proposed plan change indicated that Auckland iwi were supportive of the proposed plan change and they did not raise any issues around the need to provide greater opportunities for papakāinga development in rural locations.

Auckland Unitary Plan

4.8 Attachment 1 outlines the location of land potentially available for papakāinga in the rural zones of the Auckland region based on the operative Auckland Unitary Plan rules which enable this activity (depending on its size) as a permitted, restricted discretionary or discretionary activity on Māori land and Treaty Settlement land. Attachment 1 also outlines the location of elite and prime soils which are afforded a high degree of protection in the AUP.

4.9 The Regional Policy Statement objectives and policies make it clear that development on elite soil is to be avoided and in the case of prime soils development is to be avoided where practicable. A National Policy Statement may well reinforce the status and importance of versatile soils as the Minister for the Environment is currently canvassing with Councils throughout New Zealand the methodology and need for such a policy instrument. Auckland and

its elite and prime soils are likely to receive considerable attention in this process.

4.10 Table 1 below outlines the total area of land potentially available for papakāinga in rural areas by way of land being classified as either Māori land or land subject to Treaty of Waitangi Settlement Legislation.

Table 1

#	Category	Area (ha)
1	Tangata Whenua Management Area	508.36
2	Māori Freehold land	7 628.40
3	Tangata Whenua Māori Land	10 608.75
4	Commercial redress land	19 861.04
5	Cultural Redress land	9 088.07
6	Statutory acknowledgement area	90 643.64
7	Returned under 10-acre Block	0.18
8	Deed of recognition	194.01
9	Right of first refusal	289.16

4.11 The total Auckland rural land area approximates 311,737 ha. The total area of land potentially available for papakāinga development as a restricted discretionary activity under the AUP approximates 138,821ha. This represents approximately 45% of the total resource, namely 138,821/311,737ha.

4.12 It must be acknowledged that the largest area of land in Table 1 is the statutory acknowledgement area (i.e. 90,643ha) which would only provide for papakāinga greater than 250m² as a restricted discretionary activity where the land was owned by a claimant group.

4.13 Removing statutory acknowledgement areas results in 15% of the total rural land area being capable of being considered for papakāinga development as a restricted discretionary activity under the AUP (i.e. 48, 178/311,737ha). This is still a very significant land area.

4.14 It is important to note that the Independent Hearings Panel in its deliberations on the Auckland Unitary Plan did not enable specific provisions for papakāinga beyond Māori Land and Treaty Settlement Land, or the Māori Purposes zone, which enables up to three dwellings as a permitted activity and four or more dwellings as a discretionary activity. The Māori Purposes zone applies to 21 Marae of which seven are rural. The rural marae includes: Rewiti, Haranui, Kakanui, Araparera, Te Henga, Umupuia and Puatahi. Furthermore, in the consultation with iwi on the proposed plan change no iwi requested any change

to the existing position in the Auckland Unitary Plan in regard to where papakāinga could be developed.

5.0 What are Other Councils Doing?

- 5.1 The papakāinga provisions in the Whangarei District Plan provide for the development of ancestral Māori land. In the context of the District Plan, ancestral Māori land is land subject to the Te Ture Whenua Māori Act 1993. These provisions seek to provide opportunities for Māori land owners to develop and live on their ancestral land.
- 5.2 In the Tauranga City Plan papakāinga means development by tangata whenua of land held under the Te Ture Whenua Māori Act (1993), in the traditional rohe of those tangata whenua and developed for residential, social, cultural, economic, conservation and recreation activities.
- 5.3 The Far North and Gisborne districts provide for papakāinga development on Māori land subject to the Te Ture Whenua Māori Act 1993.
- 5.4 Wellington City Council does not have any objectives, policies and rules specifically providing for papakāinga in its district plan.

6.0 Options for Papakāinga on General Rural Land in Terms of the Proposed Plan Change Table 2

#	<u>Option</u>	<u>Advantages</u>	<u>Disadvantages</u>
<u>1</u>	Retain as Non-complying activity (i.e. as proposed in the plan change)	<ul style="list-style-type: none"> • Recognises that dwellings irrespective of land ownership or cultural connection pose a threat to: rural production activities from reverse sensitivity; and rural character. • Maintains a consistent approach to activities currently discretionary in rural zones • Requires a more robust policy analysis of proposals against critical policy elements such as the impact on elite and prime soils. • Provides an incentive to convert general land to Māori land under the Te Ture Whenua Māori Act 1993. 	<ul style="list-style-type: none"> • Where general land is converted to Māori land papakāinga would be a restricted discretionary activity. • Higher threshold for applications for papakāinga to meet.
<u>2</u>	Retain Non-Complying status, but add a separate policy addressing papakāinga.	<ul style="list-style-type: none"> • As above in 1. • Provides greater direction to decision-makers around where Papakāinga can be encouraged to locate. 	<ul style="list-style-type: none"> • Provides an exception for Papakāinga in environments where new settlement and housing is not encouraged due to the zones having (in some cases a very strong

			focus) on rural production activities or rural values.
<u>3</u>	Add papakāinga as a discretionary activity with standards around such things as scale, density, minimum site size, bulk, location and buffers which if infringed result in a requirement for a non-complying activity consent.	<ul style="list-style-type: none"> Provides greater direction to decision-makers around bulk and location controls to manage visual impacts and reverse sensitivity effects. 	<ul style="list-style-type: none"> Not as strong in providing direction to decision-makers around where Papakāinga should be encouraged to locate.
<u>4</u>	Add as a Discretionary Activity with no additional constraints.	<ul style="list-style-type: none"> Increases permissiveness (in terms of the RMA statutory categories) for the consenting of Papakāinga for Māori to pursue their economic, social and cultural aspirations. 	<ul style="list-style-type: none"> Is at odds with the current approach in the AUP which provides for Papakāinga on Māori land/Treaty Settlement land as an RDA based on a cultural nexus to this land Increases the likelihood of development occurring which creates the range of adverse effects that the plan change is trying to prevent The range of possible links to the land to establish Papakāinga is greatly increased as use rights and any cultural nexus (rather than ownership/occupational rights) may only need to be established at resource consent time.

How could Options 2 and 3 be further Developed

Option 2

The Elements

- 6.1 Option 2 would involve retaining the non-complying activity status for papakāinga on general rural land, but a separate policy would be added specifically addressing papakāinga. In this regard it would be critical for the policy to have the appropriate settings to capture the situations where papakāinga was to be encouraged.
- 6.2 In providing for papakāinga on general rural land there is an argument that it should only be provided for where the land is not Māori land under the Te Ture Whenua Māori Act 1993 or Treaty of Waitangi Settlement Legislation **but** there is still a strong cultural connection capable of being established. To do otherwise would create a mismatch between the concept of papakāinga and the land resource in question.

- 6.3 Currently, there is no definition of papakāinga in the definitions section of the Unitary Plan. Therefore, any parties seeking to establish a papakāinga on general rural land do not have to establish or prove a cultural connection. Essentially, a papakāinga could be proposed in any rural location on general rural land. Whilst, it is likely that an application for papakainga on general rural land would be supported by information about past occupation, relatives and ancestors it is not necessarily correct to say that any applicant is required to “prove that a whakapapa link” does exist.
- 6.4 Also integral to any such policy is a requirement that it provide strong direction about the circumstances when papakāinga may not be appropriate, such as if any development due to scale or characteristics was to result in: a loss of soils critical to agricultural activities; adverse effects on rural character and amenity; reverse sensitivity effects on existing or future agricultural activities.

6.5 A suggested wording would be:

Provide for papakāinga on general rural land that is not Māori land under the Te Ture Whenua Māori Act 1993 or land which is subject to the Treaty of Waitangi Settlement Legislation in circumstances where the land is held in multiple Māori ownership and there is a strong cultural connection capable of being established to the land and provided the following effects can be avoided:

- ***Loss of versatile soils (classes 1-3);***
- ***Reverse sensitivity effects on existing rural agricultural activities;***
- ***Adverse effects on rural character and amenity as a result of the inappropriate character, scale and intensity of any development.***

- 6.6 Prima facie the policy appears to contain the critical elements that might be of concern if papakāinga was to establish on general rural land. However, the development of such a policy is not a course of action that can be recommended from a professional planning perspective for both policy and implementation reasons.

Policy matters

- 6.7 The following policy issues are of relevance:

1. It will be necessary to link the policy to issues and an objective, otherwise the policy sits in isolation, in which case the plan change would need to be expanded in breadth (see attachment A). This widening of breadth, and the inclusion of papakāinga as a special case, may warrant the consultation undertaken to date being revisited as the stakeholder interests will have been significantly changed. The RMA requires consultation to be undertaken prior to notification. The treatment of Papakāinga introduces significant new elements which affect a wider

- range of stakeholders, and it would be best if these interests were consulted to avoid any risk of judicial review.
2. The policy is at odds with the rural plan change itself as proposed, as the proposed plan change seeks to ensure that unintended land uses not aligned to rural activities are discouraged rather than enabled or provided for.
 3. The policy sits in opposition to policy drivers in the Auckland Plan and Unitary Plan, in particular those associated with urbanisation and containing urban growth within the rural urban boundary, towns, rural and coastal towns and villages and ensuring that urban growth is integrated with infrastructure. Also, at odds with the addition of a policy providing for papakāinga on general land in rural zones are objectives and policies in the rural zones which promote rural production activities (i.e. farming) and discourage those land uses which are urban in character, including rural lifestyle living.
 4. The RMA requires any plan change to be accompanied by a section 32 analysis. It is difficult to see how this could be accomplished given the content of the proposed plan change, existing policy in the Unitary Plan and the significant area of land currently available for Papakāinga (i.e. Māori Land, Treaty Settlement land and Māori Purposes zone) in locations formally recognised as having Māori ancestral linkages.
 5. It is still necessary for Council's submission to be considered to the *Kāinga strategic action plan*. This submission seeks further discussion and political support around providing for papakāinga on general rural land.
 6. The desire for papakāinga on general rural land could be addressed by way of submission to the proposed plan change but preferably by a separate in-depth plan change process that is more specifically targeted.

Implementation

- 6.8 The implementation issues surrounding such a policy approach are significant and include:
1. If a papakāinga was to be proposed on general rural land it is not currently a requirement for a cultural connection to be established between applicants and the land in question. This means that consent planners could face applications for papakāinga anywhere on general rural land.
 2. It will neither be practicable (in terms of resources) and in many cases feasible nor culturally accepted for consent planners to attempt to validate the cultural connection of any applicants to a piece of general rural land. If a title is presented with more than one Māori interest it is likely that this will be accepted. Māori ancestral linkage to land is a complex matter which goes beyond European concepts of ownership by way of being linked strongly to use rights and customary use. In the case of Māori land or Treaty Settlement land the required validation to support a consenting process requiring a cultural connection to land is made straight forward.
 3. The Auckland development community is likely to use the policy provisions for papakāinga on general rural land to argue from an effects-based perspective for comparable development rights. It should be noted that in the Independent Hearings Panel (IHP) process on the Auckland Unitary Plan (i.e. rural subdivision topics) a number of interests sought the ability to develop urban hamlets in rural zones. The IHP did not concede to this request.

4. The inclusion of a policy providing for Papakāinga is at odds with the status of the activity as proposed. On the one hand a policy appears to provide for Papakāinga if provisos are satisfied, but on the other hand it is given a non-complying activity status. This will cause confusion and is open to challenge.

Option 3

- 6.9 Option three would require papakāinga to be added as a discretionary activity with standards around such things as scale, density, minimum site size, bulk, location and buffers which if infringed would result in a requirement for a non-complying activity consent.

The Elements

- 6.10 I consider that for papakāinga to be a discretionary activity the only key new standard that need to apply is in regard to density. In this respect a limit of up to ten dwellings at a ratio of 1 dwelling per hectare per site would strike a balance between the need for community housing and to maintain some resemblance of rural character. This shadows the density provisions for the Countryside Living zone.
- 6.11 In all other regards the discretionary activity status of papakāinga would make this land use subject to existing standards H19.10.1 to H19.10.16 which include such things as: building height, yard setbacks and location of dwellings.
- 6.12 I consider that it would be necessary to develop some assessment criteria to assist decision-makers focus on the critical matters of importance in considering papakāinga on general rural land (please see Attachment A).

A suggested wording

- 6.13 Attachment A to this report outlines a complete package of provisions to support option 3 being developed.

Policy & Implementation issues

- 6.14 Option 3 would still suffer from the failings of option two. Specifically, items 2, 3, 4, 5 and 6 detailed above under the heading of “Policy matters” and items 2 and 3 detailed above under the heading of “Implementation”.

7.0 Conclusion

- 7.1 There is a potentially large area of rural land available for papakāinga development on land that is either Māori land or land subject to Treaty of Waitangi Settlement Legislation or land within the Māori Purposes zone. This affords Māori considerable opportunities to pursue aspirations around housing in locations where there is a strong cultural connection. In these situations, papakāinga housing developments can be advanced by way of a permitted activity (for papakāinga up to 250m² gross floor area), restricted discretionary

activity (for papakāinga greater than 250m² gross floor area) or a discretionary activity in the case of papakāinga as part of an integrated Māori development.

- 7.2 There is a need to protect the limited resource of elite and prime soils available in the Auckland region and maintain these for agriculture and horticultural activities associated with food production.
- 7.3 Also requiring protecting is larger land holdings which enable pastoral farming and a wider diversity of agricultural activities. These large holdings are a diminishing resource in the Auckland region, as a result of the rural land base being highly characterised by land fragmentation.
- 7.4 It is also vital to ensure that agricultural activities are protected from reverse sensitivity effects which arise from sensitive land use activities emerging near agricultural activities (e.g. rural lifestyle complaints against noise, odour, spray drift from farming).
- 7.5 The proposed plan change is very focussed on the matter of addressing how unintended land use activities in rural zones should be managed. If papakāinga is to be managed in a way that is different from the provisions developed by the IHP in its deliberations on the AUP, then this would require careful consideration outside of the current proposed plan change.
- 7.6 Providing for Papakāinga by way of a specific policy or a discretionary activity in the rural zones on general rural land, in conjunction with the proposed plan change, would produce a number of planning policy and implementation failings.
- 7.7 In view of these findings it is considered appropriate that papakāinga developments on general rural land be treated as a non-complying activity in the land use rules for the rural zones in the AUP, on the basis that there is already sufficient provision in the AUP for papakāinga on Maori Land, Maori Special Purpose zoned land and Treaty Settlement Land in the Rural zones.

Recommendation

- 7.8 That option 1 in table one above which retains papakāinga on general rural land as a non-complying activity be the preferred option.

Barry Mosley

26th October 2018.

Attachment A

Possible Discretionary Activity Provisions to Support Papakāinga Development in Rural Zones on General Land

Issues

1. The need for Māori to provide for their social and cultural wellbeing on land not Māori land under the Te Ture Whenua Māori Act 1993 or Treaty of Waitangi Settlement Legislation, but rural general land where there is a strong ancestral and cultural connection
2. Hapu wish to direct the use and development of their land in a way that is consistent with their cultural values and customs.
3. The effects of papakāinga development may be:
 - incompatible with the rural character and amenity of the surrounding environment;
 - result in the loss of versatile soils in rural zones used to support agricultural production;
 - incompatible with adjacent and surrounding rural land use

Objective

1. Provide opportunity for papakāinga on ancestral Māori land held in general title, where a traditional and cultural relationship exists.
2. Manage any adverse effects of papakāinga development on the rural land resource.

Policy

1. *Provide for papakāinga on general rural land that is not Māori land under the Te Ture Whenua Māori Act 1993 or land which is subject to the Treaty of Waitangi Settlement Legislation in circumstances where the land is held in multiple Māori ownership and there is a strong cultural connection capable of being established to the land and provided the following effects can be avoided:*
 - *Loss of versatile soils (classes 1-3);*
 - *Reverse sensitivity effects on existing rural agricultural activities;*
 - *Adverse effects on rural character and amenity as a result of the inappropriate character, scale and intensity of any development.*

Rules

Amend table H19.8.1 to include new row (A80).

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
	<u>Papakāinga of one dwelling per hectare and no greater than ten dwellings per site.</u>	<u>NC</u>	<u>DA</u>	<u>DA</u>	<u>DA</u>	<u>DA</u>
<u>(AA1)</u>	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

Assessment Criteria

Renumber existing H19.13 as H19.14 and add the following.

H19.13

The Council will consider, but not be limited to, the assessment criteria detailed below for Papakāinga considered a discretionary activity:

- (a) the appropriateness of the density, bulk or location of dwellings and buildings proposed and effects on rural character and amenity;
- (b) stormwater and waste water management;
- (c) loss of versatile soils (classes 1 to 3);
- (d) setback distances, buffering and any methods required to avoid reverse sensitivity effects;
- (e) access;
- (f) effects on biodiversity.