

2.17 – Māori land - section 32 evaluation for the Proposed Auckland Unitary Plan

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1 Overview and Purpose

This evaluation should be read in conjunction with Part 1 in order to understand the context and approach for the evaluation and consultation undertaken in the development of the Proposed Auckland Unitary Plan (the Unitary Plan).

1.1 Subject Matter of this Section

This section describes the approach to managing the resource of Māori land. The term 'Māori land' is defined as land administered by the Māori Land Court under Te Ture Whenua Māori Act 1993, including Māori freehold land, Māori customary land, and land held by trusts constituted under Te Ture Whenua Māori Act. Māori freehold land comprises approximately 0.88% of the Auckland region.

1.2 Resource Management Issue to be Addressed

Desire to occupy - Mana Whenua continue to express a desire to occupy and use Māori land within their ancestral rohe to develop social, economic and cultural activities. In Auckland the vast majority of Māori Freehold Land is under-utilised' (Auckland Council 2010, *Māori Policy and Strategy in the Auckland Plan*, pp.87-8). The reasons for under-utilisation include regulatory constraints.

Need for more flexible provisions - A report entitled '*Government planning and support for housing on Māori land*' released by the Office of the Auditor-General in 2011 (Appendix 3.17.1) included two relevant recommendations:

1. We recommend that local authorities build appropriate flexibility into their district plans to allow housing to be built on Māori land.
2. We recommend that local authorities identify and work with landowners who have particularly suitable land blocks and who want to build housing on Māori land.

Concern has also been raised regarding the prescriptive nature of papakāinga provision in some district plans – for example the list of assessment criteria included in the proposed Rotorua District Plan (Kennedy 2008, p. 18)

Economic development - A report entitled '*Owner Aspirations Regarding the Utilisation of Māori Land*' commissioned by Te Puni Kokiri in 2011 (Appendix 3.17.2) reported the aspirations of landowners around the country. This report identified land utilisation as a cultural responsibility, noting that 'As kaitiaki, the responsibility of receiving the tāonga of land was to utilise it and improve it for coming generations. Commercial use was simply a mechanism to achieve that cultural imperative' (Te Puni Kokiri 2011, p.16)

Auckland Council's *Māori Policy and Strategy in the Auckland Plan* notes that 'One consistent theme across iwi is to encourage the return of their people to their ancestral lands. This requires the provision of housing, employment, education and health in and around those ancestral lands. The attraction to return to the land predates Treaty settlements, indeed the shift from urban to rural areas by Māori has been a gradual process since the late 1970's. However, the ability to be able to secure any standard of living has been thwarted by a range of barriers largely based upon access to employment opportunities' (Auckland Council 2010, *Māori Policy and Strategy in the Auckland Plan*, pp.22-23).

Natural heritage overlays on Māori land - Māori land is disproportionately affected by the Significant Ecological Area overlays, because the land has remained undeveloped while surrounding land has been cleared and built on. In addition, a lot of the region's Māori land is in coastal areas, parts of which are protected by the Outstanding Natural Landscape and Outstanding Natural Character Overlays. The provisions of these overlays conflict with the desire to develop Māori land, particularly through the restrictions placed on building and vegetation clearance for buildings, and potentially economic activities such as forestry.

Use of Māori land for infrastructure - In the Summary of Submissions on the Review of the Public Works Act, compiled by LINZ in 2001 (Appendix 3.17.3), it is noted that: 'Many Māori submissions noted that public works legislation used for the development of New Zealand's infrastructure had resulted in considerable loss of Māori land and a number of these referred to historical Treaty grievances involving ancestral lands. Inclusion of Treaty of Waitangi provisions is keenly sought by Māori (and also supported by a number of non-Māori) in the body of the Act (rather than in a preamble) to legislatively protect their interests. Māori consider that it should also be binding on all bodies exercising powers under the Act' (LINZ 2001, p.3). Aspects of the review of the Public Works Act are encompassed in ongoing RMA reforms. The Waitangi Tribunal has also made recommendations in relation to public works grievances.

Relevant issues in Issues Paper – Treaty of Waitangi (2011)

- Providing an environment for Māori economic development
- Sustainable growth planning for Māori land
- Sustainable growth planning for Māori communities

1.3 Significance of this Subject

This approach in the Unitary Plan is a significant shift from legacy plans because the provisions for Māori land:

- Are not limited to rural areas
- Recognise the need for economic development to support occupation
- Include provision for a discretionary Integrated Māori Land Development activity.
- Include an objective and policies to address potential conflict between natural heritage overlays and the desire of landowners to occupy their ancestral land
- Include an objective and policy to encourage infrastructure providers to avoid development on Māori land, where possible.

1.4 Auckland Plan

Strategic Direction 2 of the Auckland Plan directs Council to 'Enable Māori aspirations through recognition of Te Tiriti o Waitangi/the Treaty of Waitangi and customary rights'. The Auckland Plan includes two priorities:

- To establish papakāinga in Auckland
- To enable Māori aspirations for thriving and self-sustaining marae

The Auckland Plan includes two relevant directives:

- Directive 2.1: Investigate and implement a suite of options to support papakāinga development on both traditional Māori land and general land.
- Directive 2.4: Support marae development to achieve social, economic and cultural development.

1.5 Current Objectives, Policies, Rules and Methods

Desire to occupy - Three legacy district plans include provisions to recognise Māori land. Provision is limited to enabling housing on Māori land in rural areas. There is need for consistent provision for Māori land across legacy district plan areas.

Economic development – Provisions in legacy plans do not always meet Mana Whenua aspirations for development or protection, especially economic development and involvement in decision-making.

Need for more flexible provisions - The Rodney District Plan required an 'outline plan' to be provided as part of an application for up to 6 dwellings on Māori land. Legacy plans did

not recognise the value of mātauranga and tikanga in making decisions about resource management on Māori land.

Natural heritage overlays on Māori land - Legacy plans did not provide a specific acknowledgement or mechanism to address the impact of overlays (or similar provisions to protect natural heritage and natural resources) on Māori land.

Use of Māori land for infrastructure – Legacy plans did not include provision to avoid the use of Māori land for significant infrastructure.

1.6 Information and Analysis

A number of alternative approaches to Māori land development have been developed and evaluated. These approaches have been developed in collaboration with the Independent Māori Statutory Board through workshops in November 2012 and June 2013. Approaches draw on best practice around New Zealand, including recent plan provisions developed in Whangarei District, Western Bay of Plenty District, and Tauranga City. Officers have met twice with the Māori Land Court to discuss approaches to improve coordination with Māori Land Court processes. Analysis has been carried out on the Māori land dataset to determine the location of Māori land in Auckland, as well as infrastructure availability, impact of natural heritage overlays, and selected case studies on ownership.

A Papakāinga Technical Report was prepared by Rau Hoskins (Design Tribe) dated April 2012 (Appendix 3.17.4). This report included case studies and recommended objectives, policies and rules.

A Review of the Māori Purpose Zone was prepared by Rau Hoskins (Design Tribe) in July 2013 (Appendix 3.17.5). This report included relevant recommended development controls.

1.7 Consultation Undertaken

- Issues relating to Māori land development were identified at two workshops held with iwi authorities in March 2012.
- A working draft of the Māori Land provisions was released to iwi authorities in September 2012. Options for Māori land development provisions were discussed in technical workshops held with iwi authorities in October 2012, and written feedback on the provisions was received from 15 iwi authorities in November 2012.

The draft Unitary Plan was publicly released for comment in March 2013. Two technical workshops were held with iwi authorities, which included discussions with officers regarding a development scenario for Māori land covered by a Significant Ecological Area. Written feedback on the Māori land provisions in the draft Unitary Plan was received from 19 iwi authorities in May 2013.

1.8 Decision-Making

On 25 May 2012, the Political Working Party endorsed Option 2 for recognising Māori land within the Plan. Option 2 included:-

- Map Māori land as an Overlay
- If land is converted to Māori land title after notification it would require a Plan Change;
- Underlying zoning sets the permitted baseline.
- Comprehensive Development Plan for more intensive development.

In September 2012, the Political Working Party approved the working draft of the Unitary Plan for release to iwi authorities.

On 12 December 2012, PWP agreed to a specific approach to address the disproportionate impact of natural heritage overlays on Māori land.

On 9 August 2013, the Auckland Plan Committee approved Option 2 which resulted in:-

- an increase in thresholds from 6 dwellings to 10 dwellings as a permitted activity to enable occupation of the land,
- increased range of permitted activities to recognise rural locations.
- Marae complex (up to 700m² GFA) – Permitted
 - Dwelling or marae complex requires 1 ha minimum net site size
- Rural Commercial Services (RD) and Rural Industry (D)
- This approach also encourages the use of an integrated Māori development plan to ensure integrated development with appropriate servicing as a discretionary activity.

On 9 August 2013, the Auckland Plan Committee approved Option 1 as the approach to developing Māori land within natural heritage overlays which resulted in:-

- Māori land covered by the Significant Ecological Areas Overlay (38.4% of Māori land)
 - One dwelling per site (Controlled)
 - All other buildings require Integrated Māori Development Plan (Discretionary)
- Māori land covered by Outstanding Natural Landscapes Overlay (16% of Māori land)
 - Buildings up to 50m² GFA (Permitted)
 - Buildings over 50m² GFA (Restricted Discretionary)
- Māori land covered by High Natural Character Overlay (11.4% of Māori land)
 - Buildings up to 50m² GFA (Permitted)
 - Buildings over 50m² GFA (Restricted Discretionary)

1.9 Proposed Provisions

The provisions enable minor development as permitted activities, and provide for a discretionary Integrated Māori Development Plan to enable a range of activities on Māori land. The Auckland wide provisions are supported by a non-statutory layer which maps Māori land, based on the Ministry of Justice 'Māori Land Online' database. In order for the provisions to apply an applicant would need to demonstrate through the title that land is administered under the Te Ture Whenua Māori Act 1993. The provisions are generally more enabling than the provisions in operative plans. The provisions include dwellings and a marae complex as a permitted activity, up to a specified threshold. The provisions also introduce customary uses and urupā as activities on Māori land. The Auckland wide provisions would override the relevant zone rules only where they are more permissive than what is provided for in the zone.

1.10 Reference to other evaluations

This section 32 report should be read in conjunction with the following evaluations:

- 2.1 Urban form and land supply
- 2.2 Rural urban boundary location
- 2.5 Building heights
- 2.11 Biodiversity
- 2.16 Māori development
- 2.18 Māori and natural resources
- 2.43 Land Transport Noise
- 2.44 Air quality buffers – major roads

2 Objectives, Policies and Rules

2.1 Objective

The following objective is proposed:

Auckland-wide Objectives and Policies – (Part 2, Chapter C) Objective 2.1.1 Māori land *Mana Whenua have flexibility to develop and use Māori land in accordance with mātauranga and tikanga while ensuring appropriate health, safety and amenity standards are met.*

Appropriateness of the Objective(s)

Relevance

This objective addresses the issue 'Mana Whenua economic, social and cultural development on Māori land and Treaty Settlement land' by specifically recognising Mana Whenua aspirations for Māori land.

This objective gives effect to section 6 of the RMA by recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands. This objective also implements Policy 6 of the New Zealand Coastal Policy Statement 2012.

This objective was prepared in collaboration with Mana Whenua. This objective reflects Mana Whenua feedback that Māori land must be recognised as an important remnant of the resource of Māori ancestral land. The objective also recognises that Māori land is managed within a specific legislative framework. This objective emphasises the need for flexible provisions to determine appropriate development on a case-by-case basis and with acknowledgement of the knowledge Mana Whenua hold about their land and resource management.

It is noted that the provision of housing and other activities is required on traditional lands '...to enable access to the places where these traditions are practiced whilst also maintaining the needs of important places such as marae and urupa (burial grounds) and the responsibilities that come with those areas. (Auckland Council 2010, *Māori Policy and Strategy in the Auckland Plan* pp.85)

Usefulness

Add value This objective clarifies that the development of Māori land is enabled across the region, including outside the Rural Urban Boundary and in coastal areas. This objective acknowledges that both Māori and Western knowledge systems are relevant and valid when assessing appropriate activities on Māori land.

Assist decision-making This objective guides a consenting officer to place less emphasis on objectives and policies to limit development outside of the Rural Urban Boundary. This objective states that both Western (health and safety) and Māori worldviews must be considered when determining appropriate range, scale, and intensity of activities on a site.

Assist in achieving other environmental outcomes

This objective supports Objective 1 of the RPS – (Part 2, Chapter B) Section 5.3 Recognition of te Tiriti o Waitangi partnerships and participation.

Achievability

Functions

Council can achieve this objective through its power as a consenting authority to grant or refuse resource consent applications.

Methods

A range of methods will be used to implement this objective:

- Auckland wide objectives, policies and rules for Māori land
- Toolkits to assist with the development of Māori land
- Funding to assess site-specific constraints on Māori land

Timeframe

The success of this objective will be measured by:

- Progress towards Auckland Plan target of having 18 papakāinga in Auckland by 2040

Adapted from *Indicators from the Māori Plan (IMSB 2012)*:

Papakāinga/housing

- Number of papakāinga on Māori land in the Auckland region

- Number of people living on papakāinga on Māori land

Māori land

- Auckland Māori Asset value by industry
- Percentage of Māori land blocks in Tāmaki Makaurau with a management structure
- Value of Māori land blocks in Auckland

Reasonableness

It is reasonable for Council to recognise the specific legislative framework for Māori land and to develop provision to enable development within this framework to enable the ability for Mana Whenua to return to their ancestral lands in accordance with Part 2 s6(e) of the RMA. It is reasonable for Council to recognise the knowledge held by landowners about their land and to develop provision to give weight to this knowledge in resource management decisions. This is in accordance with Part 2 s(8) RMA and te Tiriti o Waitangi principle of participation.

Methods

- Providing for an Integrated Māori Land Development Plan as a discretionary activity

Timeframe

The success of this objective will be measured by:

- Progress towards Auckland Plan target of having 18 papakāinga in Auckland by 2040

2.1.1 Policies

- Auckland-wide Objectives and Policies – (Part 2, Chapter C) Policy 2.1.1 and Policy 2.1.2 Māori land provide for appropriate development, clarifying that a range of activities can be expected.
- Policy 6 (same section) recognises the cultural and economic drivers which may encourage the use of alternative infrastructure
- These policies are achievable:
 - These policies will be **efficient** because they clearly outline the range of activities envisaged on Māori land.
 - These policies will be **effective** because they create an explicit exception to the general approach in the Unitary Plan to discourage urban development outside the Rural Urban Boundary and in coastal areas. The policies will be effective because they include a breadth of activities identified by Mana Whenua as critical to sustainably utilising Māori land, including the potential need for alternative infrastructure.

2.1.2 Rules

The proposed rules are summarised in 1.10 above.

- The number of dwellings permitted on Māori land is ten. This threshold for permitted activities is four dwellings greater than the threshold of six dwellings set in the Rodney District Plan. The Rodney District Plan is the most permissive of the operative plans in Auckland.
- A marae complex is permitted on Māori land up to 700m GFA. This threshold reflects the size of marae necessary for the owners of a piece of Māori land or Treaty settlement land to establish a marae for their family, but is not large enough to permit the commercial operation of a marae for visitor accommodation.
- These rules are achievable:
 - These rules will be **efficient** because they allow landowners to clearly determine the level of development permitted on the land without resource consent.

- These rules will be **effective** because they allow landowners to occupy the land, albeit in a limited way, in accordance with ahi kā. Ahi kā is a concept describing the importance of having a living presence on your land.

2.1.3 Costs and Benefits of Proposed Policies and Rules

Proposed policies and rules	Provision for development on Māori land beyond what is provided for on surrounding land through Māori Land Auckland wide provisions and permitted activities irrespective of location (Part B, Chapter C, Policies 2.1.2, 2.1.2 and 2.1.6; Part 3, Chapter H Rule 2.1 of the Auckland-wide Rules – Māori land activity table, notification and development controls)
Costs	<p>Environmental cost</p> <ul style="list-style-type: none"> • Potential for more dispersed development than envisaged in compact city model • Potential for adverse environmental effects if alternative infrastructure solutions are not installed and maintained adequately <p>Economic cost</p> <ul style="list-style-type: none"> • Potentially inefficient use and development of Māori land to meet baseline requirements. <p>Social cost</p> <ul style="list-style-type: none"> • Potential for adverse effects related to noise and traffic associated with permitted residential and marae complex development <p>Cultural cost</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for economic growth</p> <ul style="list-style-type: none"> • Potential restrictions for for Mana Whenua to utilise the land for economic development due to restrictions on the range of uses provided for in the PAUP. <p>Opportunity cost for employment</p> <ul style="list-style-type: none"> • Potential loss of employment on the land as a result of restrictions on the range of uses provided for in the PAUP.
Benefits	<p>Environmental benefit</p> <ul style="list-style-type: none"> • Potential benefits from use of alternative infrastructure (e.g. land-based wastewater infrastructure) which reduce impacts on the environment <p>Economic benefit</p> <ul style="list-style-type: none"> • Utilisation of Māori land for minor development • Certainty for landowners of development permitted without a resource consent <p>Social benefit</p> <ul style="list-style-type: none"> • Enhanced Mana Whenua well-being through self-reliance and improved living conditions <p>Cultural benefit</p> <ul style="list-style-type: none"> • Residential and marae development allows re-occupation of Māori land
Effectiveness	<ul style="list-style-type: none"> • Regional Policy Statement sets the ultimate outcome: <i>Part 2, Chapter B, Objective 5.3.1 of the RPS Māori economic, social and cultural development.: Development supports the economic, social and cultural aspirations of Mana Whenua.</i> • Allows some progress towards objective through enabling minor development on Māori land. • Assumption that minimum site size and maximum GFA will prevent adverse effects from permitted baseline development • Assumption that Council has accurate data on Māori land • Risk of development permitted as a baseline preventing more comprehensive development in future • Risk of further fragmentation of Māori land to access permitted

Efficiency	Cumulative impact of costs of development on Māori land is likely to be small
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2.1.4 Adequacy of Information and Risk of Not Acting

Risks	<p>Complete information is not available about the resource of Māori land. The provisions are worded to encompass all land held under Te Ture Whenua Māori Act – however only the extent of Māori freehold land is known. Additional land can be converted to Māori land through the Māori Land Court.</p> <p>The risk of acting is that, as land is converted to Māori land, provisions developed to recognise Mana Whenua aspirations will come to apply much more widely across the region. To avoid this risk, it would be necessary to stipulate that Māori land provisions will only apply to Māori land at the time of notification. However, restricting the provisions to Māori land at time of notification could create practical difficulties if land is converted in or out of Māori land tenure during the life of the plan.</p> <p>Only 0.88% of Auckland is currently held as Māori land, but that there is potential for general land to be converted to Māori land. There are two ways to convert general land to Māori land – through status order, or through the establishment of a trust.</p> <p>The risk of not acting is that Council's relationship with individual iwi and hapū will deteriorate because of a perceived reluctance to acknowledge the challenges of developing Māori land.</p>
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2.2 Objective

The following objective is proposed:

Auckland-wide Objectives and Policies – Part 2, Chapter C Objective 2.1.2 Māori land
The importance of economic development to support the occupation, development and use of Māori land is recognised.

This objective addresses the issue 'Mana Whenua economic, social and cultural development on Māori land and Treaty Settlement land' by specifically recognising the need for economic activities on Māori land.

Under ss. 61(2A)(a), 66(2A)(a), and 74(2A)(a) of the RMA, Iwi Management Plans must be taken into account when preparing or changing regional policy statements and regional and district plans. Resource management plans developed by iwi and hapū in Auckland include a number of statements relating to development on Māori and general land, including the following examples:

1. The Te Uri o Hau Kaitiakitanga o te Taiao Hapū Environmental Management Plan 2011 identifies an issue that:
'Māori land as defined by the Te Ture Whenua Māori Act 1993 within Te Uri o Hau statutory area of interest is undeveloped, and has the ability to provide for the cultural, social and economic needs of Te Uri o Hau hapu and whanau. The restriction for Te Uri o Hau to develop their lands in line with general land impedes the social and economic well-being of Te Uri o Hau'.

This issue is followed by the objective:

'To assist and support Te Uri o Hau land-holders in the cultural, social and economic development of Māori land held under Te Ture Whenua Māori Act 1993' (2012, p.87-88)

The Te Uri o Hau Kaitiakitanga o te Taiao Hapū Environmental Management Plan 2011 also specifically mentions the issue of apiculture:

'Te Uri o Hau have an abundance of uneconomic Māori land which could be regenerated in manuka for the purpose of empowering hapu and whanau tino rangatiratanga in the apiculture industry'

This issue is followed by an objective:

'Te Uri o Hau seek to regenerate uneconomic Māori land through the replanting of manuka to create employment opportunities for Te Uri o Hau hapu and whanau in the apiculture industry' (2012, p.90)

2. Ngai Tai ki Tamaki Iwi Management Plan (Stage One) states that:

Tourism is the largest niche investment and income generating field of activities which will benefit the members and families of Ngai Tai ki Tamaki. Farm stay, eco-tourism, heritage and joint venture business will be employed to ensure that Ngai Tai ki Tamaki exercise the collective right to use and secure income from traditional and customary resources (p.21)

Ngāi Tai ki Tamaki aim:

To develop business initiatives and profit generating commercial ventures to provide an on-going employment and capital generating base for Ngai Tai ki Tamaki (p.17)

3. Te Kawerau a Maki Resource Management Statement v.2 - 1995 includes a policy relating to economic development:

By restoring & sustaining a land & economic base for TKaM (1995, p.9)

4. Whaia to Mahere Taiao a Hauraki - Hauraki Iwi Environmental Plan 2004 states that:

Hauraki people have embarked on a number of economic development initiatives since the settlement of their treaty claim in 2007. The kinds of businesses invested in are environmentally sound, and based on resource sustainability, traditional economies and cultural heritage such as sustainable aquaculture, heritage tourism, energy efficiency, waste reduction, riparian, coastal and wetland restoration. (2004, p.11)

Iwi Management Plans referred to are included in Appendix 3.17.6.

Appropriateness of the objective

Relevance

This objective gives effect to section 6 of the Resource Management Act 1991 by recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands.

This objective was prepared in collaboration with Mana Whenua. This objective reflects feedback from Mana Whenua emphasising the need for economic activities on Māori land to support sustainable occupation of landblocks which may be distant from existing employment opportunities.

Usefulness

Add value This objective clarifies that development envisaged on Māori land is not restricted to residential or community facility activities, but may encompass economic development activities such as tourism, farming etc.

Assist decision-making This objective guides Council to consider the role of economic activities as an integral part of the range of activities proposed for Māori land, especially

where the development of employment opportunities may make sustainable occupation possible.

Assist in achieving other environmental outcomes?

This objective supports Part 1, Chapter B Objective 5.1.1 of the RPS Recognition of te Tiriti o Waitangi partnerships and participation which recognises the principles of the Treaty be provided for in the sustainable management of ancestral lands.

This objective complements the other objectives in the Māori Land Auckland wide provisions.

Achievability

Functions

Council can achieve this objective through its power as a consenting authority to grant or refuse resource consent applications.

Reasonableness

It is reasonable for Council to recognise the need for economic development to support the occupation and use of Māori land and to develop provision to enable development accordingly.

Methods

- Providing for an Integrated Māori Land Development Plan as a discretionary activity

Timeframe

The success of this objective will be measured by:

- Number of people employed by economic activities on Māori land
- Number of hectares of Māori land in economic use

Indicators from the Māori Plan (IMSB 2012):

Māori land

- Auckland Māori Asset value by industry
- Percentage of Māori land blocks in Tāmaki Makaurau with a management structure
- Value of Māori land blocks in Auckland

2.2.1 Policies

Auckland-wide Objectives and Policies – Part 2, Chapter C Objective 2.1.2 - Māori land provide for appropriate economic development, clarifying that a range of activities can be expected and setting out how the appropriate development will be determined

- These policies are achievable:
 - These policies will be **efficient** because they allow landowners to clearly determine the level of development permitted on the land without resource consent.
 - These policies will be **effective** because they allow landowners to develop economic activities to support the occupation of land which is often distant from employment opportunities.

2.2.2 Rules

The proposed rules are summarised in 1.10 above.

- The activities provided for in the underlying zone are also provided for on Māori land.
- Applications for activities beyond those provided for in the underlying zone will be considered as discretionary activities if included in the activity 'Integrated Māori Land Development'

- These rules are achievable:
 - These rules will be **efficient** because they allow landowners to continue to develop their land according to the underlying zone, with further development enabled through a discretionary activity.
 - These rules will be **effective** because they allow landowners to apply to develop economic activities which may not be envisaged in the underlying zone, but which may be appropriate on a site when the specific historical and legislative context is taken into account.

2.2.3 Costs and Benefits of Proposed Policies and Rules

Proposed policies and rules	Provision for appropriate economic development on Māori land (Part B, Chapter C, Policy 2.1.2; Part 3, Chapter H, Rule 2.1 of the Auckland-wide Rules – Māori land – activity table, notification and development controls
Costs	<p>Environmental cost</p> <ul style="list-style-type: none"> • Potential for economic activities beyond the scale and character of the surrounding area <p>Economic cost</p> <ul style="list-style-type: none"> • Potential for economic activities established outside urban areas to undermine viability of urban areas <p>Social cost</p> <ul style="list-style-type: none"> • None <p>Cultural cost</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for economic growth</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for employment</p> <ul style="list-style-type: none"> • None
Benefits	<p>Environmental benefit</p> <ul style="list-style-type: none"> • Provision of employment in rural areas minimises travel for employment <p>Economic benefit</p> <ul style="list-style-type: none"> • Contributes to utilisation of Māori land <p>Social benefit</p> <ul style="list-style-type: none"> • Improved well-being through self-sufficiency and employment opportunities <p>Cultural benefit</p> <ul style="list-style-type: none"> • Improved well-being through exercising kaitiakitanga

2.2.4 Adequacy of Information and Risk of Not Acting

Same as 2.1 above

2.3 Objective

The following objective is proposed:

Auckland-wide Objectives and Policies – Part 2, Chapter C, Objective 2.1.3. Māori land Mana Whenua occupy, develop and use Māori land within areas scheduled for natural heritage values in ways that recognise and provide for those natural heritage values.

This objective addresses the issue ‘Mana Whenua economic, social and cultural development on Māori land and Treaty Settlement land’ by specifically recognising the disproportionate percentage of Māori land covered by natural heritage overlays.

Analysis shows that approximately 41.5% of Māori land is also covered by one or more natural heritage overlays. The comparative figure for land held in general (non-Māori) title is 17%. Natural heritage overlays seek to protect identified values (e.g. Significant Ecological

Areas or Outstanding Natural Landscapes) by restricting certain activities such as vegetation clearance, and construction.

Appropriateness

Relevance

Connection of Māori with their lands, and protection of values protected in natural heritage Overlays are both matters of national importance in section 6 of the RMA.

This objective gives effect to Part 2, section 6e of the RMA by recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands.

This objective was prepared in collaboration with Mana Whenua. This objective reflects feedback from Mana Whenua that, although values identified as natural heritage often hold cultural value for Mana Whenua, it is unfair given historical circumstances to restrict development on Māori land to the same extent as on land held in general (non-Māori) title. Mana Whenua have their own body of knowledge to manage values which are important to them, including indigenous biodiversity and landscapes.

Usefulness

Add value

This objective sets an expectation that development on Māori land should not be prevented by the need to protect natural heritage or natural resources.

Assist decision-making

This objective guides Council to approve an application for development on Māori land which manages (rather than protects or maintains) the natural heritage values. The objective recognises that there may be no or limited alternative locations for whānau, hapū or iwi to occupy their ancestral land.

Assist in achieving other environmental outcomes?

Part 1, Chapter B, Objective 5.1.1 Recognition of te Tiriti o Waitangi partnerships and participation through the recognition of the principles of te Tiriti o Waitangi including the principle of the right of development.

This objective complements the other objectives in the Māori Land Auckland wide provisions.

This objective complements Part 1, Chapter B, Objective 4.3.2 and Objective 4.3.4.5 Natural Heritage.

Achievability

Functions

Council can achieve this objective through its power as a consenting authority to grant or refuse resource consent applications.

Reasonableness

This objective is a reasonable compromise between constraining development on Māori land through natural heritage overlays, and undermining natural heritage overlays by allowing development without resource consent.

Methods

- Working with landowners to develop a plan to manage natural heritage values
- Reassessing natural heritage values
- Covenants, fencing, and other management techniques
- Providing for an Integrated Māori Land Development Plan as a discretionary activity

Timeframe

- Progress towards Auckland Plan target of having 18 papakāinga in Auckland by 2040

2.3.1 Policies

Auckland-wide Objectives and Policies – Part 2, Chapter C, Policy 2.1.7 Māori land sets out ways in which council and landowners can work together to facilitate appropriate development.

- This policy is achievable:
 - This policy will be **efficient** because it clearly outlines the options that landowners and Council may implement to enable development on Māori land.
 - This policy will be **effective** because it encourages the use of a management plan approach ‘integrated development plan’ as an outcome of negotiation. This integrated development plan allows landowners and Council to recognise all the values (cultural and natural heritage) associated with a site and develop an appropriate response.
 - The policy will also be effective because it clearly addresses the limited availability of alternative locations for development on Māori land. Policies controlling development in natural heritage and natural resource areas identify the availability of alternative locations as an important factor in decision-making.

2.3.2 Rules

Where Māori land falls within the Outstanding Natural Character Overlay, High Natural Character Overlay, Outstanding Natural Features Overlay, Outstanding Natural Landscape overlay, the relevant Overlay rules apply. These are contained in Part 3, Chapter J, Section 6 – Natural Heritage. The effect of these rules is to make activities which are permitted on Māori land a restricted discretionary activity within natural heritage overlays, with the assessment of effects limited to the effects of exceeding the permitted activity standard. Within the Significant Ecological Areas Overlay one dwelling per site is a controlled activity and all other buildings would require an Integrated Māori Development Plan as a Discretionary Activity.

- These rules are achievable:
 - These rules will be **efficient** because they give certainty that the effects of applications activities on land covered by natural heritage overlays need to be considered by Council.
 - These rules will be **effective** because ensure that Council can manage the impact of development on values identified in natural heritage overlays, while enabling a scale of use on Māori land that is significantly higher than the scale of use provided for on land in general title.

2.3.3 Costs and Benefits of Proposed Policies and Rules

<p>Proposed policies and rules</p>	<p>Recognition of historical circumstances surrounding development of Māori land through policies emphasising development over natural heritage protection (Part 2, Chapter C - Policies 2.1.7 and 2.1.8 of the Auckland-wide Objectives and Policies; Rule 2.1 of the Auckland-wide Rules – Māori land – activity table)</p>
<p>Costs</p>	<p>Environmental cost</p> <ul style="list-style-type: none"> • Potential loss of protection for natural heritage values through development of Māori land in areas scheduled for natural heritage values <p>Economic cost</p> <ul style="list-style-type: none"> • None <p>Social cost</p> <ul style="list-style-type: none"> • None

	<p>Cultural cost</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for economic growth</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for employment</p> <ul style="list-style-type: none"> • None
Benefits	<p>Environmental benefit</p> <ul style="list-style-type: none"> • None <p>Economic benefit</p> <ul style="list-style-type: none"> • Enhanced Mana Whenua well-being through improved self-reliance <p>Social benefit</p> <ul style="list-style-type: none"> • Recognition of historical circumstances surrounding under-utilisation of Māori land <p>Cultural benefit</p> <ul style="list-style-type: none"> • Acknowledgement of rangatiratanga over Māori land and resources
Effectiveness	<ul style="list-style-type: none"> • Regional Policy Statement sets the ultimate outcome: <i>Objective 1 of the RPS – Section 5.3 Recognition of te Tiriti o Waitangi partnerships and participation: Development supports the economic, social and cultural aspirations of Mana Whenua.</i> • Allows some progress towards outcome by addressing identified barriers to development. • Assumption that specific provisions are required to enable development on Māori land • Risk that targeted provisions could set precedent for applications concerning natural heritage values or significant infrastructure development
Efficiency	<ul style="list-style-type: none"> • Identified costs relating to protection of environmental values are outweighed by benefits related to Mana Whenua well-being.

2.3.4 Adequacy of Information and Risk of Not Acting

Same as 2.1 above

2.4 Objective

The following objective is proposed:

Auckland-wide Objectives and Policies, Part 2, Chapter C – Objective 2.1.4 Māori land
The occupation, development and use of Māori land is not adversely affected by the location of new significant infrastructure.

This objective addresses the issue ‘Mana Whenua economic, social and cultural development on Māori land and Treaty Settlement land’ by recognising that Māori land is often undeveloped, due to historic circumstances. Significant amounts of Māori land nationally have been compulsorily acquired for infrastructure.

Appropriateness of the Objective

Relevance

This objective gives effect to section 6 of the Resource Management Act 1991 by recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands.

This objective was developed in collaboration with Mana Whenua. This objective reflects feedback from Mana Whenua that their relationship with the remaining Māori land in Auckland should not be compromised by infrastructure development.

This objective gives effect to **Part 2, section 8** of the RMA which requires Auckland Council to take into account the principles of the Treaty of Waitangi (Tiriti o Waitangi). The principles of the Treaty include the principle of active protection. The *Māori Values Supplement (Appendix 3.17.6)* gives an explanation of the principle of active protection, including that ‘...this principle may also require applicants to investigate alternative options which do not affect Māori relationships with resources. (MfE 2010, p. 297). This objective takes into account the principle of active protection by actively providing for the recognition of Mana Whenua interests and values in Māori land.

Usefulness

Add value

This objective sets an expectation that use or development of Māori land should not be compromised by significant infrastructure development.

Assist decision-making

This objective requires Council to assess the effects on the use, occupation or development of Māori land (including future use, occupation or development in accordance with Mana Whenua aspirations) of any significant infrastructure proposals.

Assist in achieving other environmental outcomes?

This objective supports Part 1, Chapter B, Objective 5.3.1 Recognition of te Tiriti o Waitangi partnerships and participation.

This objective complements the other objectives in the Māori Land Auckland wide section.

Achievability

Functions

Council can achieve this objective through working with requiring authorities in the pre-lodgement phase of Notices of Requirement for significant infrastructure developments. Council can also achieve this objective through its recommendation to a requiring authority to reject or confirm a Notice of Requirement, and associated conditions.

Reasonableness

It is reasonable to require council to be aware of the location of Māori land, and to encourage infrastructure providers to avoid adverse effects on Māori land. Information on Māori land is easily accessible through Council’s GIS database.

Methods

- Identifying Māori land in Council’s GIS database
- Auckland wide objectives, policies and rules relating to the development of Māori land.

Timeframe

The success of this objective will be measured by:

- Number of hectares of Māori land required for significant infrastructure development

2.4.1 Policies

- Part 2, Chapter C, Policy 2.1.8 - Māori land encourages utility operators to consider routes and locations for infrastructure which do not have adverse effects on Māori land.
- This policy are achievable:
 - This policy will be **efficient** because Māori land can be identified through the map of Māori land included in the Unitary Plan as a non-statutory layer.
 - This policy will be **effective** because it clearly guides utility operators to avoid Māori land, while recognising the limit of Council’s power to direct utility operators.

2.4.2 Costs and Benefits of Proposed Policies and Rules

Proposed policies and rules	Recognition of historical circumstances surrounding development of Māori land through a policy discouraging significant infrastructure development which will have adverse effects on Māori land (Policy 8 of the Auckland-wide Objectives and Policies, no supporting rule)
Costs	<p>Environmental cost</p> <ul style="list-style-type: none"> • None <p>Economic cost</p> <ul style="list-style-type: none"> • Potential cost to network utility operators to determine route for infrastructure which avoids adverse effects on Māori land <p>Social cost</p> <ul style="list-style-type: none"> • None <p>Cultural cost</p> <ul style="list-style-type: none"> • None <p>Opportunity cost for economic growth</p> <ul style="list-style-type: none"> • Potential opportunity cost for economic growth if significant infrastructure is not built due to adverse effects on Māori land <p>Opportunity cost for employment</p> <ul style="list-style-type: none"> • Potential opportunity cost for employment if significant infrastructure is not built due to adverse effects on Māori land
Benefits	<p>Environmental benefit</p> <ul style="list-style-type: none"> • None <p>Economic benefit</p> <ul style="list-style-type: none"> • None <p>Social benefit</p> <ul style="list-style-type: none"> • Recognition of historical circumstances surrounding under-utilisation of Māori land <p>Cultural benefit</p> <ul style="list-style-type: none"> • Acknowledgement of rangatiratanga over Māori land and resources
Effectiveness	<ul style="list-style-type: none"> • Regional Policy Statement sets the ultimate outcome: <i>Objective 1 of the RPS – Section 5.3 Recognition of te Tiriti o Waitangi partnerships and participation: Development supports the economic, social and cultural aspirations of Mana Whenua.</i> • Allows some progress towards outcome by addressing identified barriers to development. • Assumption that specific provisions are required to enable development on Māori land • Risk that targeted provisions could set precedent for applications concerning natural heritage values or significant infrastructure development
Efficiency	<ul style="list-style-type: none"> • Very little Māori land – likelihood of not being able to avoid is low

2.4.3 Adequacy of Information and Risk of Not Acting

Same as 2.1 above

3 Alternatives

The proposed preferred alternative (2) is discussed in 1.9 and 2.0 above. The other alternatives are:

Alternative 1: - Status quo – Legacy Plans.

Alternative 2: - Provide for Māori land in Auckland Wide Provisions (objectives, policies, rules) + minimum site size 1 hectare for a dwelling or marae as a Permitted activity.

- Show Māori land as an information layer on Council's GIS database.

- In order for Māori land rules to apply applicant needs to provide evidence of Māori land title.
 - Up to 10 dwellings (Permitted)
 - Marae complex up to 700m² GFA (Permitted)
 - Dwelling or marae complex requires 1 ha minimum site size as a permitted activity.
 - Increased range of permitted activities
 - Integrated Māori Development Plan (Discretionary)
- Māori land provisions set the permitted baseline, unless underlying zoning is more permissive.

Alternative 3:- Provide for Māori land in Auckland Wide Provisions (objectives, policies, rules) + reduce minimum site size to 2500m² for a dwelling or marae as a permitted activity.

- Show Māori land as an information layer on Council's GIS database.
- In order for Māori land rules to apply applicant needs to provide evidence of Māori land title.
 - Up to 10 dwellings (Permitted)
 - Marae complex up to 700m² GFA (Permitted)
 - Dwelling or marae complex requires 2500m² minimum site size.
 - Maximum building coverage 20% or 2500m² whichever is the greater.
 - Increased range of permitted activities
 - Integrated Māori Development Plan (Discretionary)
- Māori land provisions set the permitted baseline, unless underlying zoning is more permissive.

Alternative 4:- Map Māori land as an Overlay

- Up to 6 dwellings (Permitted)
- Marae complex up to 200m² GFA (Permitted)
- Dwelling or marae complex requires 1 ha minimum site size.
- Underlying zoning sets the permitted baseline.
- Comprehensive Development Plan for more intensive development

The table below discusses each alternative compared to the preferred alternative

	Status Quo Alternative 1	Alternative 2 – Provide for Māori land in Auckland Wide Provisions (objectives, policies, rules) + minimum site size 1 hectare for a dwelling or marae as a Permitted activity.	Alternative 3 - Provide for Māori land in Auckland Wide Provisions (objectives, policies, rules) + reduce minimum site size to 2500m² for a dwelling or marae as a permitted activity.	Alternative 4 – Map Māori land as an Overlay.
Appropriateness	Provision in three legacy district plans is limited to housing on Māori land in rural areas. These provisions in legacy plans do not meet Mana Whenua aspirations for development or protection, especially economic development and the recognition of mātauranga and tikanga in decision-making. Issues relating to infrastructure and the impact of heritage overlays on Māori land are not addressed. The relationship of Māori and their culture and traditions with their ancestral lands is not adequately addressed.	The provisions are appropriate as they enable Mana Whenua to occupy, develop and use Māori land across Auckland The provisions enable minor development as permitted activities (1 dwelling per hectare), and provide for a discretionary Integrated Māori Development Plan to enable a range of activities and more intensive development on Māori land on a case by case basis where it can be demonstrated that a development is sustainable.. The provisions are generally more enabling than the provisions in operative plans. The provisions include dwellings and a marae complex as a permitted activity, up to a specified threshold. The provisions also introduce customary uses and urupā as activities on Māori land. The provisions also take into account issues relating to infrastructure and the impact of natural heritage overlays on Māori land.	The provisions are appropriate as they enable Mana Whenua to occupy, develop and use Māori land across Auckland The provisions are generally more enabling than the provisions in operative plans. The provisions include dwellings and a marae complex as a permitted activity, up to a specified threshold. The provisions also introduce customary uses and urupā as activities on Māori land. The provisions are not appropriate in terms of the scale of development proposed as a permitted baseline, this could result in an unsustainable level of development on land that does not have the capacity to sustain this level of development in terms of servicing and protection of other values associated with the land.	The use of an Overlay approach was not considered appropriate due to the lack of flexibility it offered to landowners where land may be administered under the Te Ture Whenua Māori Act 1993 but not identified in the Overlay as any update to the Overlay would require a Plan Change. Legacy Plans did not map Māori land instead they included rules that applied to Māori land which is considered a more appropriate approach than the use of an Overlay. In addition the maximum number of dwellings (6) and marae and associated activities provided for were considered too restrictive.
Effectiveness	Provisions enable limited development in rural areas of Auckland. Status quo provisions do not achieve the objective.	Provisions enable development of Māori land and set a sustainable threshold as the permitted baseline for development and use of the land. Flexibility is offered for more intensive development through the use of the Integrated Māori development plan (Discretionary) resource consent.	Provisions enable development of Māori land but do not set a threshold that is sustainable as the permitted baseline for development and use of the land.	Provisions enable development of Māori land and set a sustainable threshold as the permitted baseline for development and use of the land. Flexibility is offered for more intensive development through the use of the Integrated Māori development plan (Discretionary) resource consent.
Efficiency	Provisions are not consistent across Auckland	Provisions are consistent across Auckland.	Provisions are consistent across Auckland.	Provisions are consistent across Auckland.
Costs	Continuing under-utilisation of Māori land Continuing disconnection from Māori land	Landowners still need to go through a resource consent process on more intensive development in order to be able to develop land.	May result in unsustainable levels on development on some sites. May result in poor outcomes in terms of servicing and infrastructure provision if no consideration is given to this at development stage.	Plan Change required to provide for any new sites of Māori land. Time / Cost. Scale of development provided for as permitted baseline results in increased need for resource consent to develop and use land for cultural and customary uses.
Benefits	Simple application of rules for general land to Māori land, with very limited exceptions	More efficient utilisation of Māori land. Coordinated approach to the development of Māori land. Enabling provisions provided to assist in overcoming the barriers to development of Māori land. A sustainable level of development is provided for as a permitted baseline, with more intensive development being considered through an Integrated Māori Development Plan.	Enabling provisions provided to assist in overcoming the barriers to development of Māori land. Reduced cost to landowners wishing to develop land due to reduced need for resource consent.	More efficient utilisation of Māori land. Coordinated approach to the development of Māori land. Enabling provisions provided to assist
Risks	Incomplete information regarding Māori land resource	Land may be converted to Māori land by Mana Whenua which may result in unanticipated development in some areas.	Land may be converted to Māori land by Mana Whenua which may result in unanticipated development in some areas.	Underutilisation of Māori land may continue.

4 Conclusion

Based on the above discussion, the following conclusions are drawn:

- Promoting a coordinated approach to the development of Maori land for Papakainga, Marae and associated development will help Mana Whenua to return to their land in a sustainable manner that will result in long term benefits to social, economic and cultural well being of Mana Whenua.
- The natural and cultural values associated with Maori land will be appropriately balanced, while enabling Mana Whenua to return to their ancestral land in a sustainable manner.
- The impact on economic well being of Mana Whenua will be enhanced through their ability to develop their land for a range of economic activities.
- Potential costs relate mainly to administration.

5 Record of Development of Provisions

5.1 Information and Analysis

- *Auckland Council 2010, Māori Policy and Strategy in the Auckland Plan*
- *'Government planning and support for housing on Māori land' released by the Office of the Auditor General in 2011 (Appendix 3.17.1)*
- *'Owner Aspirations Regarding the Utilisation of Māori Land' commissioned by Te Puni Kokiri in 2011 (Appendix 3.17.2)*
- *'Summary of Submissions on the Review of the Public Works Act, compiled by LINZ in 2001. (Appendix 3.17.3)*
- *'Papakāinga Technical Report, Design Tribe, April 2012 (Appendix 3.17.4)*
- *'Review of the Māori Purpose Zone, Design Tribe, July 2013 (Appendix 3.17.5)*
- *'The Māori Plan for Tāmaki Makaurau', Independent Māori Statutory Board, 2012.*
- *Iwi Planning Documents (Appendix 3.18.1)*
- *'Māori Values Supplement', Ministry for the Environment, December 2010 (Appendix 3.17.6)*

5.2 Consultation Undertaken

Feedback from Mana Whenua during the development of the Unitary Plan emphasised that:

Mana Whenua Engagement 2012

- Flexibility required to unlock Māori land for mixed use development, including housing and economic development
- The Unitary Plan needs to recognise the requirements of Te Ture Whenua Māori Act, and integrate these with the requirements of the Resource Management Act.
- Support use of concept plans for Māori land development as a 'blank page' approach to enable flexibility in design.
- Need to get different players involved in developing a concept plan.

Mana Whenua Engagement October 2012

Feedback from Mana Whenua at workshops included:

- Do not restrict Mana Whenua to papakāinga - commercial activities and an economic base are important.
- Provisions for developing Māori land should align with Māori Land Court processes, and promote collaboration between the Māori Land Court and the Council
- Need to provide for change in use for land in rural and coastal areas.
- Conservation rules prevent land development. Values identified in overlapping overlays should be managed together.

Key themes from Mana Whenua Written Feedback November 2012

- Provide for wider range of activities
- Recognise the need for wide range of economic activities
- Permitted baseline provisions are too restrictive
- Access to resources for customary use
- Support for Māori Land Development Plan concept
- Provide for wider range of activities
- Need to clarify relationship between Overlay and underlying zone
- Development of Māori land should be prioritised over conservation overlays

Key themes from Mana Whenua written feedback on draft Unitary Plan – March 2013

- there should be more permitted activities and additional economic activities on Māori land.
- Thresholds were considered too restrictive, suggestions included an increase in scale of permitted development with block size and a smaller minimum site size.
- There was also general support for an Integrated Māori Land Development Plan.

5.3 Decision-Making

On 25 May 2012, the Political Working Party endorsed Option 2 for recognising Māori land within the Plan. Option 2 included:-

- Map Māori land as an Overlay
- If land is converted to Māori land title after notification it would require a Plan Change;
- Underlying zoning sets the permitted baseline.
- Comprehensive Development Plan for more intensive development.

In September 2012, the Political Working Party approved the working draft of the Unitary Plan for release to iwi authorities.

On 12 December 2012, PWP agreed to a specific approach to address the disproportionate impact of natural heritage overlays on Māori land.

On 9 August 2013, the Auckland Plan Committee approved Option 2 which resulted in:-

- an increase in thresholds from 6 dwellings to 10 dwellings as a permitted activity to enable occupation of the land,
- increased range of permitted activities to recognise rural locations.
- Marae complex (up to 700m² GFA) – Permitted
 - Dwelling or marae complex requires 1 ha minimum net site size
- Rural Commercial Services (RD) and Rural Industry (D)
- This approach also encourages the use of an integrated Māori development plan to ensure integrated development with appropriate servicing as a discretionary activity.

Auckland Plan Committee meeting on Proposed Unitary Plan

On 5 September 2013 the Auckland Plan Committee resolved to include the proposed Māori land objectives, policies and rules for notification.

- No changes were requested.