

**Wanganui District Council
District Plan Review
Phase 5**

Section 32 Report

**Proposed Plan Change 37
Papakainga**

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Dated April 2014

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1. INTRODUCTION

1.1 PLAN REVIEW PROCESS

Section 79 of the Resource Management Act 1991 (RMA) requires Council to commence a review of its plans at least every 10 years. Recent amendments to the Act clarify that whole plans need not be reviewed. A Council may choose to review plans in part.

The Wanganui Airport is currently zoned 'Rural' in the Operative District Plan, with designation D45 covering a significant portion of the site. There are a number of activities accessory to the airport that have or wish to establish. This has created a small industrial area that isn't currently reflected or supported by the provisions in the Rural Zone. The Plan Change seeks to correct this establishing the Airport Enterprise zone to better reflect the existing environment, and provide for continued growth. In addition, the airport is viewed as an important infrastructure asset. The nature of airport operations is that they generate significant amounts of noise. The surrounding environment is generally industrial or rural. However, protection for the existing and future noise footprint is sought to be identified on the Planning maps, along with additional Rules, to enable to the airport to continue to operate efficiently.

The intention of the review is not to meet a specific deadline under section 79 but to ensure the provisions in the Plan are efficient and effective in managing the resources in the District and ensuring that Council's obligations under the Act are met.

The RMA does not detail how a Council must review its plans. However consideration of the efficiency and effectiveness of existing provisions is considered the first step. Section 32 of the RMA requires Council to carry out an evaluation of options before notifying a proposed plan change. These matters are discussed throughout this report. The efficiency and effectiveness of the provisions in achieving the stated objectives are analysed in this report, as are the various options that were considered.

1.2 STATUTORY AND LEGISLATIVE FRAMEWORK FOR THE REVIEW

1.2.1 Resource Management Act 1991

Section 74 of the RMA requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the RMA:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
 - b. *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of*
 - i. *the avoidance or mitigation of natural hazards*
2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined in section 5(2) as:

In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

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

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

1.2.2 National Policy Statements and Environmental Standards

There are no relevant statements or standards.

Horizons Regional Council – Regional Policy Statement

Section 75(2) of the RMA requires that a District Plan must not be inconsistent with the regional policy statement or any regional plan. Horizons Regional Council’s One Plan is considered to be relevant to this Proposed Plan Change in that it relates to seismic activity.

An assessment of how the provisions in Proposed Plan Change 37 compare with the Objectives and Policies of the Operative Regional Policy Statement and the Proposed One Plan are considered in **Table 1** below.

Table 1

Regional Policy Statement (operative)		Proposed Plan Change 37
Objectives	Policies	Evaluation
<p>Objective 3 To provide for the relationship of nga hapu and nga iwi of the Manawatu-Wanganui Region and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.</p> <p>Objective 4 To recognise iwi and hapu Kaitiakitanga.</p>	<p>Policy 3.2 To recognise the spiritual link nga hapu and nga iwi of the Manawatu-Wanganui Region have with their ancestral lands, water, sites, waahi tapu and other taonga and the special relationship that implies.</p> <p>Policy 4.3 To recognise the tangata whenua status of nga hapu and nga iwi of the Manawatu-Wanganui Region over their ancestral lands, water, sites, waahi tapu and other taonga.</p>	<p>Plan Change 37 gives effect to the objective and policies by recognising the special relationship of Tangata whenua with their ancestral land.</p>

Proposed One Plan		Proposed Plan Change 37
<p>Objective 4-1: Resource management <i>Whāinga 4-1: Te whakahaere rauemi</i></p>	<p>Policy 4-1: <i>Hapū*</i> and <i>iwi*</i> involvement in resource management <i>Kaupapa 4-1: Te whakauru mai o ngā hapū me ngā iwi ki roto i te whakahaere rauemi</i></p>	<p>Evaluation</p>

<p>(a) To have regard to the <i>mauri</i>* of <i>natural and physical resources</i>[^] to enable <i>hapū</i>* and <i>iwi</i>* to provide for their social, economic and cultural wellbeing.</p> <p>Te Ao Māori</p> <p><i>Kia aro atu k i te mauri o ngā rauemi māori - ōk i k o hok i - hei oranga hāpori,</i></p> <p><i>ōhanga hok i, tik anga hok i mō ngā hapū me ngā iwi.</i></p> <p>(b) <i>Kaitiakitanga</i>[^] must be given particular regard and the relationship of <i>hapū</i>* and <i>iwi</i>* with their ancestral <i>lands</i>[^], <i>water</i>[^], <i>sites</i>[*], <i>wāhi tapu</i>* and other <i>taonga</i>* (including <i>wāhi tūpuna</i>*) must be recognised and provided for through resource management processes.</p> <p><i>Ka mate k a tino arohia te k aitiak itanga, ā, k a mate ka whakamanatia te hononga o ngā hapū me ngā iwi k i ō rātou whenua tūpuna, wai, papa, wāhi tapu hok i me ētahi atu taonga (pērā i ngā wāhi tūpuna), ā, ka whak aratongia mā ngā tuk anga whak ahaere rauemi.</i></p>	<p>The Regional Council must enable and foster <i>kaitiakitanga</i>[^] and the relationship between <i>hapū</i>* and <i>iwi</i>* and their ancestral <i>lands</i>[^], ...</p> <p><i>Ka mate k a tutuk i i te Kaunihera ā-Rohe - ka atawhaitia hoki - te kaitiakitanga me</i></p> <p><i>te hononga o ngā hapū me ngā iwi k i ō rātou whenua tūpuna,...</i></p>	<p>Plan Change 37 gives effect to the objective and policy by recognising the special relationship of Tangata whenua with their ancestral land.</p>
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2. PART 1: PLAN CHANGE PROPOSAL

2.1 DESCRIPTION OF PROPOSED PLAN CHANGE 37

Proposed Plan Change 37 seeks to insert rules in the District Plan to provide for papakainga developments. The result will be the Tangata whenua will be able to develop papakainga* or marae* on ancestral land*.

2.2 PROPOSED AMENDMENTS TO THE DISTRICT PLAN

The current District Plan has definitions of papakainga and marae and no regulation relating to them. Following extensive consultation, a set of Issues, Objectives Policies and rules has been produced. Tangata whenua of the District in possession of defined ancestral land will be able to carry out development in culturally appropriate ways provided their boundary interactions meet zone requirements. Insert the following additions and deletions to Chapter 2 – Tangata Whenua of the District Plan are proposed:

“2.4 CHAPTER 2 – TANGATA WHENUA

Multiple ownership of land has led to some difficulties with development and use. The intention of the papakainga* provisions is to enable Tangata Whenua to cater for their aspirations. It is recognised by Council* that papakainga* has multiple meanings from hapū to hapū. The definition in the District Plan is intended to recognise the significance of marae* and to enable hapū to use land in a way that meets their aspirations for the future.

2.5 ISSUES

- 2.5.1 Difficulty in developing multiply owned Maori land may inhibit efficient use of such land.
- 2.5.2 The character of development in the Wanganui District does not reflect the long established tradition of Maori settlement and use of natural resource which may diminish the community awareness of the significance of this history.
- 2.5.3 Marae* are places with a high cultural value that are centres of learning, traditional arts, community interaction, celebration and mourning. There is potential for activities that surround Marae* to adversely impact on these activities, and conversely for activities within the Marae* to impact on surrounding activities.

2.5 OBJECTIVES

- 2.6.1 Development of Maori land that sustainably achieves Tangata whenua aspirations.

- 2.6.2 Development reflects a culturally inclusive community.
- 2.6.3 Development that avoids or mitigates adverse effect on the cultural values of items and places of significance to Tangata whenua, hapu or whanau.

2.7 POLICIES

- 2.7.1 To enable Papakainga* or marae* developments to be established by Tangata whenua, hapu or whanau.
- 2.7.2 To enable Tangata Whenua to design papakainga* and marae* developments in accordance with cultural needs, subject to relevant legislation.
- 2.7.3 Ensure that adverse effects beyond the outer boundary of papakainga* or marae* developments are avoided, remedied or mitigated.

2.8 RULES

2.8.1 **Permitted activities**

All activities shall comply with Performance Standards and District-wide rules where relevant.

The following are permitted activities in all zones:

- a. Papakainga* or marae* developments on ancestral land* that comply at the outer boundary with the performance standards for the zone.

2.8.2 **Restricted Discretionary Activities**

The following are restricted discretionary activities:

- a. Any papakainga* or marae* development or activity which does not comply with any relevant zone performance standard, at the outer boundary.

Council restricts its discretion to the following matters:

- i. The effect of the particular non-compliance on the environment, including the cumulative or combined effect of non-compliances.

2.8.3 **Discretionary Activities**

The following are discretionary activities:

- a. Papakainga* or marae* developments on land that does not comply with the District Plan definition of ancestral land*.

CHAPTER 13 - DEFINITIONS

Ancestral Land means

1. Maori Land as defined under Te Ture Whenua Maori Land Act 1993 or
2. Land returned via Treaty Settlement Claims process.

Marae means the land and buildings (meeting house/wharenui, kitchen & dining hall/wharekai, ablution block/wharepaku) generally associated with gatherings, meetings and programmes of tangata whenua, iwi, hapū or whanau for religious, educational, or community ~~or other~~ purposes.

Papakaiinga means development established on ancestral land by an iwi, hapū or whanau of the Whanganui District on behalf of and for use by its members which promotes Tangata Whenua community development, and sustains the relationship of Tangata Whenua with their culture, traditions and ancestral land.

Papakaiinga: ~~means a traditional Maori settlement on ancestral land and includes a marae complex, urupa, and farming activities."~~

3. PART 2: SECTION 32 REPORT

3.1 Introduction

This report has been prepared in fulfilment of the requirements of Section 32(1)(c) of the Resource Management Act 1991 (RMA) which requires Local Authorities to prepare a report summarising the evaluation of the alternatives, benefits and costs of the Plan change, and giving reasons for that evaluation. Pursuant to Section 32(3) of the RMA this evaluation details the appropriateness of the objectives in achieving the purpose of the RMA, and whether, having regard to their efficiency and effectiveness, the policies, rules and other methods proposed, are the most appropriate for achieving the objectives.

3.2 Plan Change Objective

The objective of Proposed Plan Change 37 is to make provision for Papakainga development by Tangata whenua of the District.

4. REASON FOR PROPOSED PLAN CHANGE 37

4.1 Background

Since its notification in 1996, the District Plan has contained definitions of Papakainga and Marae but no provisions relating to those definitions. In the absence of such provisions, development of papakainga on ancestral land is governed by the rules of the zone in which they lie. This can lead to difficulties for compliance. Note: nothing in this plan change removes obligations under Regional Council rules or other Acts.

4.2 Chronology

Consultation with Tangata whenua and the public was planned and carried out during 2013 as follows:

23 January 2013	Tamaupoko Link meeting item
13 February 2013	Tupoho Working Party meeting item
20 February 2013	Whanganui River Road ratepayers meeting panui
6 March 2013	Tamaupoko Link meeting
18 March 2013	Focus group forum
27 March 2013	Tupoho Working Party meeting
30 April 2013	Public meeting
1 May 2013	Public meeting
8 May 2013	Tupoho Working Party meeting
22 May 2013	Tamaupoko Link meeting
19 June 2013	Tupoho Working Party meeting
10 July 2013	Tamaupoko Link report back

24 October 2013	Focus group meeting
5 December 2013	Draft provisions circulated for comment
13 March 2014	Public meeting

4.3 **Statutory Requirements**

Before a Plan change is notified, the Council must undertake the following duties under Section 32 of the RMA:

“32 Consideration of alternatives, benefits, and costs-

1. *In achieving the purpose of this Act, before a change...is publicly notified....an evaluation must be carried out by-*
 - (d) *the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of Schedule 1);*
2. *A further evaluation must also be made by-*
 - (a) *a local authority before making a decision under clause 10 or clause 29(4) of the First Schedule.*
3. *An evaluation must examine-*
 - (b) *whether having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives,*
4. *For the purposes of this examination, an evaluation must take into account-*
 - (a) *the benefits and costs of policies, rules, and other methods;*
 - (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matters of the policies, rules, and other methods.*
5. *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*
6. *The report must be available for public inspection at the same time as the document to which the report relates to is publicly notified or the regulation is made.”*

The purpose of the RMA is the baseline against which these statutory steps are to be carried out. Section 5 of the RMA sets out the purpose of the Act. The following sections are relevant:

4.4 **Purpose**

1. *The purpose of this Act is to promote the sustainable management of natural and physical resources.*

2. *In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-*
- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;*
 - and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

The Plan change will enable the sustainable development of land held by Tangata Whenua.

Other sections of relevance in Part II of the Act are as follows:

4.5 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.”

The Plan change will be in partial fulfilment of this requirement as it provides for the relationship of Tangata Whenua with ancestral lands.

4.6 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
 - (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
 - (ba) the efficiency of the end use of energy:
- (c) the maintenance and enhancement of amenity values:
- (f) the maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:”

The proposed rule change contributes to kaitiakitanga, the ethic of stewardship, the efficient use and development of resources within the district in that development of papakainga will be less difficult. Because boundary rules apply, amenity and environmental quality will be protected. The proposed rule change is therefore considered consistent with section 7 of the Resource Management Act 1991.

4.7 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

The plan change will be consistent with the principles of the Treaty of Waitangi.

5. CONSIDERATION OF PROPOSED ISSUES, OBJECTIVES, POLICIES AND RULES

5.1 Proposed Issues

5.1.1 Difficulty in developing multiply owned Maori land may inhibit efficient use of such land.

5.1.2 The character of development in the Wanganui District does not reflect the long established tradition of Maori settlement and use of natural resource which may diminish the community awareness of the significance of this history.

5.1.3 Marae are places with a high cultural value that are centres of learning, traditional arts, community interaction, celebration and mourning. There is potential for activities that surround Marae to adversely impact on these activities, and conversely for activities within the Marae to impact on surrounding activities.

Comment

These issue statements are the product of lengthy consultation with Tangata Whenua representatives and open forums. They set out the issues defined by Tangata whenua in the District Plan context.

5.2 Proposed Objectives

<p>Objectives</p> <p>Objective 1 Development of Maori land that sustainably achieves Tangata whenua aspirations.</p> <p>Objective 2 Development reflects a culturally inclusive community.</p> <p>Objective 3 Development that avoids or mitigates adverse effect on the cultural values of items and places of significance to Tangata whenua, hapu or whanau</p>	
Comment	These objectives are the response to the respective stated issues. Their focus is development which is sustainable, inclusive and appropriate.
Appropriateness and Reasonableness	The objectives are appropriate and reasonable in light of the requirements of section 6, 7 and 8 of the RMA. They facilitate Tangata whenua aspirations while protecting wider community environmental values.
Principal Alternative	As well as leaving the Plan without objectives for Papakainga, numerous alternative wordings of the final objectives were considered.
Other alternatives considered	NA
Preferred option reason	These objectives are the outcome of appropriate consultation and are fit for the intentions of the Act.
Information Risks	There is sufficient information for decision making in this Plan Change process

5.3 Proposed Policies

<p>Policies</p> <p>Policy 1 To enable Papakainga* or marae* developments to be established by Tangata whenua, hapu or whanau.</p> <p>Policy 2 To enable Tangata Whenua to design papakainga and marae developments in accordance with cultural needs, subject to relevant legislation.</p> <p>Policy 3 Ensure that adverse effects beyond the outer boundary of papakainga* or marae* developments are avoided, remedied or mitigated.</p>	
Comment	These policies will assist Tangata whenua to develop land in culturally appropriate ways.
Principal Alternative	The alternative of having no policies was considered and rejected as inappropriate as it provided no guidance for planners or Tangata whenua development.
Benefits	<p>Environmental – Papakainga land can be developed with effects appropriately managed.</p> <p>Economic – Tangata whenua will be able to make better use of an asset.</p> <p>Social and Cultural – Tangata whenua will be able to develop land in culturally appropriate ways, with expected improvements in social cohesion and satisfaction.</p>
Costs	<p>Environmental – Any environmental effects will be avoided, remedied or mitigated so environmental costs will be minimal.</p> <p>Social, Cultural and Economic – None</p>
Effectiveness	The policies will be effective by providing greater certainty for development.
Efficiency	By reducing consent complexity efficiency will be improved.
Appropriateness	The policies are appropriate under the Act.
Information Risks	There is sufficient information for decision making in this Plan Change process.

5.4 Proposed Rules

<p>Rules</p> <p>Permitted activities All activities shall comply with Performance Standards and District-wide rules where relevant.</p> <p>The following are permitted activities in all zones:</p> <ul style="list-style-type: none"> b. Papakainga* or marae* developments on ancestral land* that comply at the outer boundary with the performance standards for the zone. <p>Restricted Discretionary Activities The following are restricted discretionary activities:</p> <ul style="list-style-type: none"> b. Any papakainga* or marae* development or activity which does not comply with any relevant zone performance standard, at the outer boundary. <p>Council restricts its discretion to the following matters:</p> <ul style="list-style-type: none"> ii. The effect of the particular non-compliance on the environment, including the cumulative or combined effect of non-compliances. <p>Discretionary Activities The following are discretionary activities:</p> <ul style="list-style-type: none"> b. Papakainga* or marae* developments on land that does not comply with the District Plan definition of ancestral land*. 	
Comment	<p>The intention of these rules is to allow a degree of freedom over the internal arrangements of a papakainga, while resulting the effects at the external boundary, as is standard planning practice and socially acceptable. Other requirements such as those of the Regional Council or Building Act will still apply.</p>
Benefits	<p>Environmental – Development will occur with boundary effects appropriately managed.</p> <p>Economic – Consent processes will be reduced, reducing costs.</p> <p>Social and Cultural – Tangata whenua will be able to develop land in ways which satisfy their social and cultural needs. Recognition is given to the special relationship of Tangata whenua with their ancestral land.</p>

Costs	Environmental and Cultural – None identified Economic – None identified. Social – None identified.
Effectiveness	The rules will be effective in permitting development which complies with appropriate environmental standards.
Efficiency	The rules are efficient by reducing consent processes and enabling development.
Appropriateness	The rules are appropriate to deal with a range of possible development scenarios.
Principal Alternative	The alternative of defining papakainga areas on planning maps was considered but rejected as lacking flexibility.

Consultation

Iwi and public focussed consultation is detailed in section 3.2. In addition, Council's consent planners have been consulted.

Conclusion

The goal of the Plan change is to ensure the District Plan is enabling for Papakainga development.

The Wanganui District Council is satisfied that the preferred alternative is necessary to achieve this desired outcome in accordance with the purpose of the Resource Management Act 1991 and that it is the most appropriate means of doing so of the alternatives considered.