

## APPENDIX C: SECTION 32AA EVALUATION

### Introduction

This section 32AA evaluation relates to the recommended amendments to the Māori Purpose zone chapter (**MPZ**) and supports the discussion, analysis and recommendation in the section 42A report.

A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in this report needs to be at a level of detail that corresponds to the scale and significance of the changes recommended.

The section 32AA evaluation has been structured to focus on the two key areas of recommended changes, being amendments to:

1. MPZ-P1 Enable a Range of Activities and definition of 'Māori Purpose Activities'; and
2. MPZ-R2 Māori Purpose Activity and MPZ-R3 Residential Units (excluding papakāinga and minor residential units).

The evaluation also does not consider amendments to MPZ-R4 Minor Residential Units, two new rules for the demolition of a building and the relocation of a building, and MPZ-S5 Setbacks from a Coastal Marine Area, as these are either additions or amendments for consistency or clarity reasons and are therefore considered to be minor drafting refinements. In my view, these amendments do not alter the original intent of the provisions as notified, meaning no further evaluation under section 32AA is required.

There are amendments to MPZ-R4 Minor Residential Units is to give effect to the Resource Management (National Environmental Standard for Detached Minor Residential Units) Regulation 2025 and therefore does not require an evaluation under section 32AA.

### 1. MPZ-P1 Enable a Range of Activities and definition of 'Māori Purpose Activities'

The purpose of the MPZ is to recognise and provide for the relationship of Māori and their ancestral land by enabling a range of activities to be undertaken on Māori land. To achieve this outcome, I have considered a range of options including retaining unchanged the notified MPZ objectives, policies and rules of the PDP. To help achieve the purpose of the MPZ, I have recommended amending MPZ-P1 and the definition of 'Māori Purpose Activities' as follows:

<b>MPZ-P1</b>	<b>Enable a range of activities</b>
<p>Enable a range of activities, including Māori purpose activities, land-based primary production, residential activities, small-scale commercial activities, <del>and</del> rural industry <u>and the activities listed in section 338(1) of Te Ture Whenua Act 1993</u>, while ensuring that land use and development:</p> <ol style="list-style-type: none"> <li>1. Is consistent with mātauranga Māori, tikanga Māori and kaitiakitanga and consistent with whānau, hapū or iwi development plans;</li> <li>2. Can be serviced by adequate onsite infrastructure or reticulated infrastructure where available;</li> <li>3. Is at a scale and intensity that is appropriate for the physical characteristics of the land and the locality; and</li> <li>4. Avoids, remedies or mitigates adverse effects on the environment.</li> </ol>	

<b>Māori Purpose Activities</b>	<p>means the use and development of land and buildings for Māori cultural, community and living activities, including <u>but not limited to</u>:</p> <ol style="list-style-type: none"> <li>1. marae/pā;</li> <li>2. papakāinga;</li> <li>3. home business;</li> <li>4. arts and cultural centres;</li> <li>5. educational facilities; <del>and</del></li> <li>6. urupā;</li> <li>7. whare karakia (church);</li> <li>8. <u>conservation and recreation activities;</u> <u>and</u></li> <li>9. <u>wāhi tapu.</u></li> </ol>
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Below is the assessment of the objective of the MPZ (to recognise and provide for the relationship of Māori and their ancestral land by enabling a range of activities to be undertaken on Māori land) against the purpose of the Act.

<b>Evaluation of objectives</b>	
<b>Part 2 RMA</b>	<b>Comment</b>
Section 5 Purpose	Enlarging the range of activities able to be undertaken on Māori land aligns with section 5(2) as it will enable Māori landowners to provide for their social, economic, and cultural well-being, and section 5(2)(a) by enabling Māori people and their communities to meet the reasonably foreseeable [cultural] needs of future generations.
Section 6 Matters of national importance	The objective aligns with section 6(e) as it supports the outcome of recognising and providing for the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu and other taonga.

Evaluation of objectives	
Part 2 RMA	Comment
Section 7 Other matters	The objective will support Māori being kaitiaki for their own land, consistent with section 7(a).
Section 8 Treaty of Waitangi	The Treaty of Waitangi principle of rangatiratanga is considered to be supported by the enlargement of activities undertaken on Māori land.

## Identification of Options to Achieve the Objectives

The following reasonably practicable options have been identified to achieve the objective of the proposal:

**Option 1** – Retain MPZ chapter policies, rules and definitions as notified.

**Option 2** – Amend MPZ-P1 and the definition of ‘Māori Purpose Activities’ to enlarge the activities able to be undertaken on Māori land.

**Option 3** – Delete all specific activities from MPZ-P1 and the definition of ‘Māori Purpose Activities’.

### Preferred Option

As described in the s42A report, the intent of the MPZ is to enable the use and development of Māori ancestral land to enhance social, economic and cultural well-being of Māori people. The objectives and policies reflect this intent with both MPZ-O2 and MPZ-P1 titled – Enable a range of activities. The notified MPZ policies and rules are considered to achieve this intent, however further enhancement of this intent is considered worthwhile to widen the list of activities anticipated in this zone and to make it an open list of activities, able to change in sync with tikanga and cultural practices. As such, Option 1 is not the preferred option.

Option 2 involves amending MPZ-P1 to include reference to the Te Ture Whenua Act 1991 (**TTW Act**) s338(1) so that the list of activities from that sub-section are also within the range of activities supported on Māori land, including recreation and sports ground, bathing place, landing place, fishing ground, spring, well, timber reserve, catchment area and water supply source. Option 2 also involves amending the definition of ‘Māori Purpose Activities’ so that it is an open list, and for the list to include additional activities guided by Te Uri o Hau’s definition for Papakāinga, being conservation and recreation activities, and wāhi tapu. Therefore, this amendment reinforces the intent of the MPZ.

This section of TTW Act is referenced in Te Uri o Hau’s Hapu Environmental Management Plan in a Māori Land chapter policy. In addition, including reference to TTW Act in MPZ-P1 is considered

appropriate because the MPZ is for Māori land which is administered under the TTW Act (refer PDP definition for 'Māori land').

Option 3 would involve taking out any specific mention of activities from MPZ-P1 and the definition of 'Māori Purpose Activities' and leaving both the policy and definition open statements. This is not the preferred option because a list of activities provides certainty to plan users, provided this is balanced by the list being open so that it is able to change in sync with tikanga and cultural practices.

Overall, it is considered that Option 2 will best achieve the objective of the MPZ.

## Evaluation of Preferred Option Against Objectives

This section contains an evaluation of the preferred option identified above, with the evaluation focusing on the recommended amendment to MPZ-P1 and Topic 9 Definitions.

<b>Evaluation of Preferred Option Against Objective(s)</b>		
	<b>Costs</b>	<b>Benefits</b>
<b>Environmental</b>	The activities listed under s338(1) of TTW Act includes buildings, and having an open list of activities could result in building being established. There is the potential for built form to be established in such a way as to have effects on the environment. However, there are standards and requirements under district plans and regional plans that ensure these matters are appropriately addressed. Therefore, it is considered that there are no identified environmental costs.	Section 338(1) of TTW Act includes providing for springs, wells, catchment area or other water supply, or scenic interest. While some of these activities are managed by the Regional Council, considering the environmental benefits holistically is considered appropriate for this assessment. The inclusion of these types of activities as being provided for on Māori land would result in positive environmental benefits.  The inclusion of 'conservation activities' into the definition as a type of activity that can be established on Māori land would result in positive environmental benefits.
<b>Economic</b>	No identified economic costs.	Section 338(1) of TTW Act includes providing for a village site, fishing ground, and timber reserve. The inclusion of these types of activities as being provided for on Māori land would result in positive economic benefits.  Making the list of activities open and able to change means that an income generating activity could be established

<b>Evaluation of Preferred Option Against Objective(s)</b>		
		on Māori land, resulting in the potential for positive economic benefits.
<b>Social</b>	No identified social costs.	<p>Section 338(1) of TTW Act includes providing for village site, marae, meeting place, recreation ground, sports ground, church site, and place of historical interest. The inclusion of these types of activities as being provided for on Māori land would result in positive social benefits.</p> <p>Equally the inclusion of 'recreation activities' into the definition as a type of activity that could be established on Māori land would result in positive social benefits.</p>
<b>Cultural</b>	No identified cultural costs.	<p>Section 338(1) of TTW Act includes providing for marae, meeting place, church site, burial ground, landing place, place of cultural and historical interest. The inclusion of these types of activities as being provided for on Māori land would result in positive cultural benefits.</p> <p>The inclusion of 'wāhi tapu' into the definition as a type of activity that could be undertaken on Māori land would result in positive cultural benefits.</p> <p>Recognition of a wider range of uses appropriate for Māori land, providing more development opportunities and ways to connect with the whenua (land).</p>
<b>Economic growth provided or reduced</b>	There is the potential for economic growth as a result of s338(1) TTW Act activities being enabled on Māori land, for example through a village site, fishing ground or timber reserve. Making the definition activity list open and able to change has the potential to enable an income generating activity to be established on Māori land.	

<b>Evaluation of Preferred Option Against Objective(s)</b>	
<b>Employment opportunities</b>	Employment opportunities will be enhanced through the opportunities for economic growth identified above.
<b>Uncertain or insufficient info</b>	<p>TTW Act is a well-established piece of legislation that administers Māori land, and the MPZ is a zone for Māori land. Therefore, it is considered that the inclusion of activities from s338(1) of the Act into MPZ-P1 is information that is certain and sufficient.</p> <p>It is considered that there is sufficient information that has enough certainty to be able to include additional activities to the 'Māori Purpose Activities' list and to make that list open and therefore able to adapt and change as cultural practices and tikanga changes. The activities added are not new or unexpected within the realm of Māori Purpose Activities. Making the list of activities open and adaptable can bring in an element of uncertainty, however any future activity will still sit within the context of being a cultural activity, which I consider gives sufficient certainty.</p>
<b>Risk of acting or not acting</b>	Low risk of acting as the recommended changes to MPZ-P1 and the definition of 'Māori Purpose Activities' is primarily building on and clarifying the original policy intent.
<b>Effectiveness</b>	
The proposed amendment will be effective as it builds on and reinforces the intent of the MPZ for Māori land, reinforces the intent of MPZ-P1 and clarifies the intent of the definition of 'Māori Purpose Activities'.	
<b>Efficiency</b>	
The proposed amendment will be efficient as it essentially achieves the same outcome as the notified wording of MPZ-P1 and definition of 'Māori Purpose Activities' but with additional activities referenced in an Act that administers Māori land that is the MPZ, and an open list that is able to respond to future cultural changes. This makes the understanding of the policy and definition more efficient for plan users.	
<b>Summary</b>	
For the reasons set out above, Option 2 is the most efficient and effective option for achieving the objective of the MPZ. As such, Option 2 is the most appropriate option in accordance with section 32AA of the RMA.	

## 2. Housing

The purpose of the MPZ is to recognise and provide for the relationship of Māori and their ancestral land by enabling a range of activities to be undertaken on Māori land. To achieve this outcome, I have considered a range of options including retaining unchanged the notified MPZ objectives, policies and rules of the PDP. To help achieve the purpose of the MPZ, I have recommended amending MPZ-R2 and MPZ-R3 as follows:

MPZ-R2	Māori purpose activity
<p><b>1. Activity status:</b> Permitted</p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. Papakāinga housing does not exceed 10 residential units per site; and</li> <li>b. The activity complies with MPZ-S1 whānau, hapū or iwi development plan, <u>except if the activity is papakāinga housing, then a development plan is not required if the number of residential units is 3 or less.</u></li> </ul>	<p><b>2. Activity status when compliance not achieved:</b> Restricted Discretionary</p> <p><b>3. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. Impacts on the transport network and the safe design of site entry and exit</li> <li>b. Measures to manage adverse effects on the amenity values of other sites including shading, dominance, privacy and access to sunlight/daylight;</li> <li>c. Any adverse effects on cultural values or rural character and any proposed mitigation; and</li> <li>d. Scale, design and location of buildings within the site to mitigate potential reverse sensitivity effects.</li> </ul>

MPZ-R3	Residential unit (excluding papakāinga housing and minor residential units)
<p><b>1. Activity status:</b> Permitted</p> <p>The establishment of a new, or alteration, or expansion of an existing residential unit.</p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. The number of residential <u>units</u> does not exceed <u>one residential unit per 4ha of net site area. :-</u> <ul style="list-style-type: none"> <li><del>i. One residential unit per site where site is less than 24ha;</del></li> <li><del>ii. Two residential units per site where the site is at least 24ha and is less than 36ha; or</del></li> <li><del>iii. Three dwellings per site where the site is at least 36ha.</del></li> </ul> </li> </ul>	<p><b>2. Activity status when compliance not achieved:</b> Restricted Discretionary</p> <p><b>3. Matters over which discretion is restricted:</b></p> <ul style="list-style-type: none"> <li>a. Impacts on the transport network and the safe design of site entry and exit</li> <li>b. Measures to manage adverse effects on the amenity values of other sites including shading, dominance, privacy and access to sunlight/daylight;</li> <li>c. Any adverse effects on cultural values or rural character and any proposed mitigation; and</li> <li>d. Scale, design and location of buildings within the site to mitigate potential reverse sensitivity effects.</li> </ul>

Below is the assessment of the objective of the MPZ (to recognise and provide for the relationship of Māori and their ancestral land by enabling a range of activities to be undertaken on Māori land) against the purpose of the RMA.

Evaluation of objectives	
Part 2 RMA	Comment
Section 5 Purpose	Providing for three or less papakāinga houses to be established without the need for a Development Plan and to provide for a density of 4ha per residential unit on Māori land aligns with section 5(2) as it will enable Māori landowners to more easily provide for their social, economic, and cultural well-being, and section 5(2)(a) by enabling Māori people and their communities to meet the reasonably foreseeable [cultural] needs of future generations.
Section 6 Matters of national importance	The amendment to MPZ-R2 and MPZ-R3 aligns with section 6(e) as it supports the outcome of recognising and providing for the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu and other taonga.
Section 7 Other matters	Amended MPZ-R2 and MPZ-R3 will support Māori being kaitiaki for their own land as both rules are more enabling for Māori to live on their land, consistent with section 7(a).
Section 8 Treaty of Waitangi	The Treaty of Waitangi principle of rangatiratanga is considered to be supported by providing more flexibility for the establishment of papakāinga houses on Māori land and enabling more houses to be established on Māori land.

## Identification of Options to Achieve the Objectives

The following reasonably practicable options have been identified to achieve the objective of the proposal:

**Option 1** – Retain MPZ chapter policies and rules as notified.

**Option 2** – Amend MPZ-R2 to allow three or less papakāinga houses to be established on a site without the need for a Development Plan and amend MPZ-R3 to allow a density of 4ha per residential unit with no limiting cap.

### Preferred Option

As described in the s42A report, the intent of the MPZ is to enable the use and development of Māori ancestral land to enhance social, economic and cultural well-being of Māori people. The objectives and policies reflect this intent with both MPZ-O2 and MPZ-P1 titled – Enable a range of activities. The notified MPZ policies and rules are considered to achieve this intent, however further enhancement of this intent is considered worthwhile. As such, Option 1 is not the preferred option.

Option 2 involves amending MPZ-R2 to allow three or less papakāinga houses to be established on a site without the need for a Development Plan. Option 2 also involves amending MPZ-R3 to provide as

a permitted activity for one residential unit per 4ha of net site area, with no limit set on the overall number of units per site provided the 4ha per unit is achieved. Therefore, it is considered that these amendments reinforce the overall enabling intent of the MPZ.

The Operative District Plan (ODP) Rule 15A.10.4 Papakāinga does not require a development plan. Over the last 13 years, the life of the ODP, there has been no issues, for example environmental, as a result of not having a development plan. At a density of 1, 2 or 3 houses, it is considered that the need for a development plan is not warranted, as the effects generated at this density are likely to be less than minor. By way of comparison with a similar rural environment, a three-house density per site is provided for in the GRUZ if there is a minimum of 36ha (refer GRUZ-R3).

The ODP Rule 15A.10.3a Dwellings (excluding Papakāinga) has the 4ha density. Over the last 13 years of the Operative District Plan, there has been 28 dwellings established in the MPZ. The 4ha/unit density has not resulted in an abundance of residential units in the rural environment, and the corresponding effects on amenity and character would have been minimal.

It is acknowledged that 4ha is permissive when compared to the General Rural Zone where the residential unit density is set at 12ha with a cap of three dwellings (refer GRUZ-R3). However, the change in residential unit density is not so much an increase in density as a continuation of the status quo.

Overall, it is considered that Option 2 will best achieve the objectives.

## Evaluation of Preferred Option Against Objective

This section contains an evaluation of the preferred option identified above, with the evaluation focusing on the recommendation to MPZ-R2 and MPZ-R3.

Evaluation of Preferred Option Against Objective(s)		
	Costs	Benefits
<b>Environmental</b>	Any potential environmental costs associated with the lack of identification of the onsite infrastructure and servicing on a development plan is considered to be mitigated by the low density of papakāinga housing.  4ha is a sufficient size to ensure infrastructure and servicing can be adequately provided onsite.	No identified environmental benefits.

<b>Evaluation of Preferred Option Against Objective(s)</b>		
	Therefore, no identified environmental costs.	
<b>Economic</b>	No identified economic costs.	<p>Not requiring a development plan will be one less item to be paid for in order to get papakāinga houses established on a site, which will help make the housing more affordable.</p> <p>Enabling additional houses to be established may help with making housing more affordable and supports secure employment when there are places to live.</p>
<b>Social</b>	No identified social costs.	<p>Providing an easier permitted activity pathway for papakāinga housing will result in positive social outcomes with more housing being able to be established.</p> <p>Providing for 4ha residential unit density will result in positive social outcomes with more housing being able to be established.</p>
<b>Cultural</b>	No identified cultural costs.	<p>Similar to above, providing an easier permitted activity pathway for papakāinga housing will result in positive cultural outcomes with more housing being able to be established on Māori land.</p> <p>Similar to above, providing a 4ha residential density will result in positive cultural outcomes with more housing being able to be established on Māori land.</p>
<b>Economic growth provided or reduced</b>	There is the potential for economic growth with an easier pathway provided for papakāinga housing and housing in general to be established which allows	

<b>Evaluation of Preferred Option Against Objective(s)</b>	
	more Māori to live on their land and therefore more likely to contribute to the economy.
<b>Employment opportunities</b>	Enabling additional housing may result in construction employment, and security of employment because there is more housing established.
<b>Uncertain or insufficient info</b>	<p>Given the low density, it is considered that there is sufficient information to provide for 1, 2 or 3 papakāinga houses to be established without a development plan.</p> <p>It is considered that there is sufficient information that has enough certainty to be able to revert the housing density to what is currently in the ODP. The 13 years of consenting under the ODP provides sufficient information and certainty.</p>
<b>Risk of acting or not acting</b>	Low risk of acting as the recommended changes to MPZ-R2 results in a low density of papakāinga housing that will not have to provide a development plan. The recommended changes to MPZ-R3 results in a continuation of the status quo under the ODP, therefore there is a low risk of acting.
<b>Effectiveness</b>	
The proposed amendment will be effective as it is taking a balanced and pragmatic approach to the establishment of a low density of papakāinga housing and the density of housing in general established on Māori land.	
<b>Efficiency</b>	
The proposed amendment will be efficient as it essentially achieves the same outcome as the notified wording of MPZ-R2 but provides a pathway for when no development plan needs to be provided when there is a low density of papakāinga housing being established. The proposed amendment to MPZ-R3 will be efficient as it achieves the same outcome as is provided for in the ODP. Therefore, both of these amendments make the respective rules more efficient for plan users.	
<b>Summary</b>	
For the reasons set out above, Option 2 is the most efficient and effective option for achieving the objective of the MPZ. As such, Option 2 is the most appropriate option in accordance with section 32AA of the RMA.	