

Section 42A Report

Māori Purpose Zone

Prepared for the

Proposed Kaipara District Plan

Report prepared by: **Venessa Anich**

24 March 2026

List of submitters and further submitters addressed in this report:

Submission Number	Submitter
26	Chorus New Zealand Ltd, Connexa Ltd, Spark NZ Trading Ltd, Fortysouth Group LP and One NZ
222	Kaipara District Council
307	E. Nathan
361	Disabled Persons Assembly NZ
367	Te Uri o Hau
FS104	Fonterra

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APPENDIX A: Officer’s Recommended Decisions on Submissions – Māori Purpose Zone

APPENDIX B: Officer’s Recommended Amendments to the Māori Purpose Zone

APPENDIX C: Officer’s Recommended Amendments to Definitions used in Māori Purpose Zone

APPENDIX D: Section 32AA Evaluation

List of abbreviations used in this report

Abbreviation	Term
CMA	Coastal Marine Area
COMZ	Commercial Zone
DMRU	Detached Minor Residential Unit
DPA	Disabled Persons Assembly NZ
GRZ	General Residential Zone
GRUZ	General Rural Zone
HIZ	Heavy Industrial Zone
IHEMP	Iwi-Hapu Environmental Management Plan
KDC	Kaipara District Council
LIZ	Light Industrial Zone
MHSPZ	Mangawhai Hills Special Purpose Zone
MPZ	Māori Purpose Zone
MRU	Minor Residential Unit
NES DMRU	Resource Management (National Environmental Standard for Detached Minor Residential Units) Regulation 2025
NOSZ	Natural Open Space Zone
NPS	National Policy Statements
NPS-HPL	National Policy Statement for Highly Productive Land
NRC	Northland Regional Council
NZCPS	New Zealand Coastal Policy Statement
ODP	Operative Kaipara District Plan
OSZ	Open Space Zone
PDP	Proposed Kaipara District Plan
RLZ	Rural Lifestyle Zone
RMA	Resource Management Act 1991
S32	Section 32 of the Resource Management Act
S42A	Section 42A of the Resource Management Act
SARZ	Sports and Active Recreation Zone
TSPZ-LLRA	Trifecta Special Purpose Zone – Large Lot Residential Area

Executive Summary

- i. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. The Māori Purpose Zone (**MPZ**) chapter is located in Part 3 – Area-Specific Matters and is a Special Purpose Zone. The MPZ chapter contains provisions that apply to Māori land in Kaipara District. The PDP defines Māori land as meaning any land defined and administered under Te Ture Whenua Māori Act 1993, including Māori Freehold, Māori Reservations, and Māori Customary Land. Approximately 16,000ha is Māori land, which accounts for 5% of the total of Kaipara District land. Māori land is located across the district in rural environments (refer to **Figure 1**).
- ii. There are five original submitters and one further submitter totalling 23 individual submission points. The submissions request amendments to the MPZ chapter to enable more flexibility, use or development of Māori land. There are also submissions that request amendments for clarification and consistency of MPZ rules and standards with other zones.
- iii. My recommendations for the MPZ chapter and associated definitions are summarised as follows:
 - a. Amendments to MPZ-P1 Enable a Range of Activities to include reference to the activities listed in s338(1) of Te Ture Whenua Act 1993. This is the legislative framework for Māori land, therefore consistency with the land use activities between the Act and the MPZ is considered appropriate.
 - b. A permitted activity pathway in MPZ-R2 Māori Purpose Activity so three or less papakainga houses are not required to provide a Development Plan.
 - c. Amendment to MPZ-R3 Residential Unit (excluding papakainga housing and minor residential units) to provide for a density of one residential unit per 4ha of net site area.
 - d. Refinements to MPZ-R4 Minor Residential Unit to achieve consistency with the same rule in other zones, and to give effect to the National Environmental Standard for Detached Minor Residential Units.
 - e. Addition of two new rules for the demolition of a building and the relocation of a building in order to achieve consistency with other zones.
 - f. Deletions in MPZ-S5 Setbacks from a Coastal Marine Area to remove the exemption for infrastructure as this outcome is already provided for in the Infrastructure chapter.
 - g. Amendments to the definition for Māori Purpose Activities to achieve consistency with Te Uri o Hau's Hapu Environmental Management Plan.

1. Introduction

1.1 Qualifications and Experience

1. My name is Venessa Anich. I am a Senior Planner – Plan Development at Kaipara District Council (**KDC**). I am assisting KDC with the Proposed Kaipara District Plan (**PDP**). My role in preparing this report is an expert in planning. I was not directly involved in the preparation of the Māori Purpose Zone chapter (**MPZ**) prior to notification. I have had previous involvement with the PDP as a submitter (#99) and representing clients as submitters to the PDP (refer to section 1.4 Conflict of Interest). None of these submissions include points on the MPZ.
2. I hold a Masters of Resource and Regional Planning from the University of Otago and I am an Intermediate Member of the New Zealand Planning Institute.
3. I have approximately 25 years' experience in statutory planning across local government and private consultancies. My professional experience includes the assessment and processing of small and large-scale subdivision and land use developments mostly in Northland, as well as resource consent applications and plan change applications for complex and notified applications. I was part of the team that delivered the Operative Kaipara District Plan, from review, notification, hearings and Environment Court mediations until the Plan was made fully operative in 2013.

1.2 Preparation of the report

4. I am authorised by KDC to prepare this report under section 42A of the Resource Management Act (**RMA**) to assist the PDP Hearings Panel. The purpose of this report is to both assist the Hearings Panel in hearing and deciding on submissions made on to the PDP, and to assist submitters in understanding how their submission is being considered as part of the PDP process. This report includes my recommendations on matters raised in submissions, and any changes to the PDP that I consider to be appropriate having considered the statutory requirements.
5. I am the author of this report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
6. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations that I have made in this report are not binding on the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusions or decisions

having considered all the submissions and evidence from submitters. The decision ultimately lies with the Hearings Panel.

1.3 Code of Conduct

7. While this is not a hearing held by the Environment Court, I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

1.4 Conflict of Interest

8. As noted above, I have had previous involvement with the PDP before my employment by KDC. My previous involvement with the PDP is as a submitter (#99) and representing clients as submitters (# 133, 160, 161, 165, 261). This is outlined in detail in the Register of Interests. None of these submissions include points on the MPZ, therefore there is clear separation. As such, I consider that there are no real or perceived conflict of interest issues in relation to my recommendations on the MPZ submission points.

2. Scope of Report

2.1 Matters addressed by this report

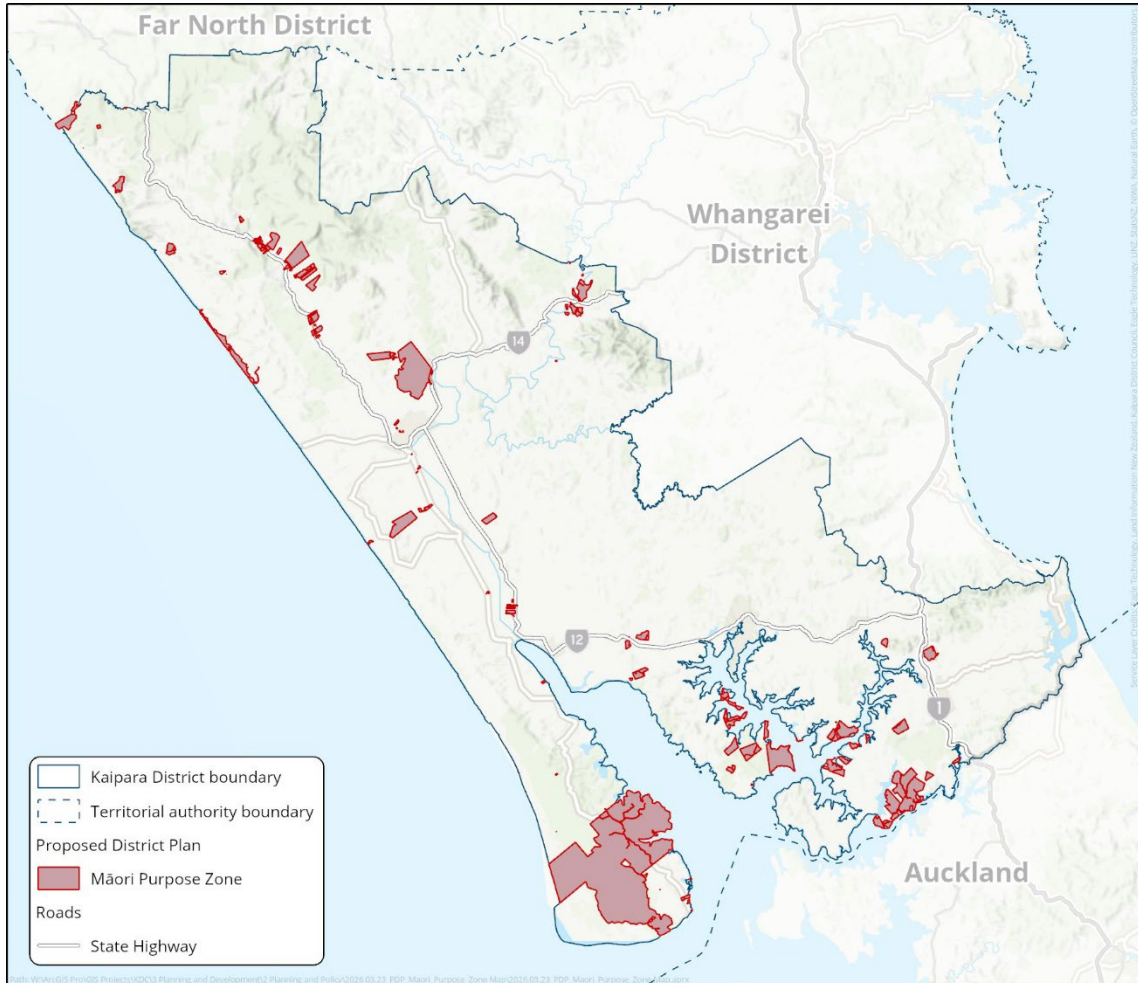
9. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the Māori Purpose Zone of the PDP and make recommendations.
10. This section 42A report also addresses the definitions which are specific to the Māori Purpose Zone but are also included in the General rural zone. Those definitions are 'Māori Purpose Activities' and 'Papakainga'.

2.2 Overview of the topic / chapter

11. As notified, the Māori Purpose Zone chapter contains the objectives, policies and rules that manage land use activities on Māori land. The purpose of this zone seeks to recognise and provide for the relationship of Māori with their ancestral land by enabling Māori purpose activities, including marae, papakainga housing, and kohanga reo, along with land-based primary production, residential activities, small-scale commercial activities and rural industry.
12. The PDP defines Māori land as meaning any land defined and administered under Te Ture Whenua Māori Act 1993, including Māori Freehold, Māori Reservations, and Māori Customary Land. The different legal status of Māori land, compared to land held in General Title, is the

reason for this zone and the bespoke provisions. Approximately 16,000ha of Kaipara District is zoned Māori Purpose Zone, which accounts for 5% of the total of the land in the district. There are currently 397 LINZ Property Titles that spatially fall within the PDP's Māori Purpose Zone ranging in size from under 1,000m² to over 3,100ha. Māori land is located across the district in rural environments, as shown in **Figure 1**.

Figure 1: Māori Purpose Zone in Kaipara District



13. The Māori Purpose Zone chapter does not address activities on Treaty Settlement Land that is held in general title. This land is identified on the Planning Maps as Treaty Settlement Overlay (Context and Information layer) and referred to in the provisions of the underlying zone chapters (e.g. GRUZ-R11 Papakainga housing).
14. The Māori Purpose Zone gives effect to responsibilities under section 6(e) of the RMA to recognise and provide for the relationship of Māori with their ancestral land. This section 6(e) responsibility is balanced with recognising and providing for other matters of national importance under section 6, such as those managed by the Natural Environment Values chapter in Part 2 of the PDP.

2.3 Statutory Context

15. This report is prepared under the Resource Management Act 1991. At the end of 2025, the Government introduced two new pieces of legislation that the RMA will be replaced with:
 - a. A Natural Environment Act – focused on managing the natural environment
 - b. A Planning Act – focused on planning to enable development and infrastructure.
16. The Government has announced their intention to proceed with the Select Committee process at pace through the first half of 2026, with both bills intended to be passed into law before the 2026 general election. Although the signalled intent is for a quick transition to the new resource management system by the end of 2029, the RMA continues to be in effect until this new replacement legislation is passed, with planning documents prepared under the RMA remaining in effect until new national direction instruments are prepared, standardised plan content developed and new plans prepared (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).
17. The Operative Kaipara District Plan (**ODP**) is thirteen years old and drafted in a manner that is misaligned with both the National Planning Standards and other district plans in the Northland region (being Whangarei and Far North District Plans). Substantive work is required to better align it with other planning provisions in the region, as well as with the style, content and format of plans that are likely to be required under the new planning system. The Schedule 1 hearing process for the PDP is an important part of modernising the district plan and achieving clear and consistent provisions that will better integrate into the new planning system.
18. Once the new legislation is passed, the direction of the new legislation will be considered when making recommendations and alignment will be sought with this direction where it is within the scope of submissions to do so. As the new legislation is not yet in force and the content is not finalised, this section 42A report does not consider the direction contained in the new bills. This report does not rely on or give effect to proposed legislation that is not yet in force.
19. This report is prepared under the Resource Management Act 1991. The Māori Purpose Zone section 32 Evaluation Report provided detail of the relevant statutory considerations with respect to Part 2 of the RMA and Te Ture Whenua Māori Act 1993, and the parts of the National Planning Standards relevant to the MPZ chapter.
20. The recommended amendments to the Māori Purpose Zone chapter maintain compliance with the National Planning Standards 2019. The Standards require local authorities to use the zones listed and described in Table 13 in its plan, which includes the Māori Purpose Zone, described as –

Areas used a range of activities that specifically meet Māori cultural needs, including but not limited to residential and commercial activities.

21. The National Planning Standards require that all special purpose zones, including the MPZ, to be located in Part 3 – Area Specific Matters of a district plan. The recommended amendments contained in this report do not alter this placement.
22. I do not repeat all of the detail of the section 32 Evaluation Report here. With respect to the higher order documents, I note that:
 - a. The New Zealand Coastal Policy Statement (**NZCPS**) recognises that the coastal environment has particular importance to Tangata Whenua, including as kaitiaki. There is 3,539.8ha of Māori land and Treaty Settlement Land located in Coastal Environment, or 22.1% of the ODP zones (refer to table in paragraph 40 of s32 Evaluation Report). The NZCPS contains a number of policies that direct local authorities to work with Māori to provide for the identification, management and protection of places or values of historic, cultural or spiritual significance or special value, recognising that tangata whenua reserve the right not to publicly identify such places. Of particular relevance is Policy 2 of the NZCPS, which requires the PDP to take into account of the principles of the Treaty of Waitangi and kaitiakitanga in relation to the coastal environment, including by:
 - i. Recognising that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment;
 - ii. Taking into account any relevant iwi resource management plan and any other relevant planning document;
 - iii. Providing for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries; and
 - iv. Recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value.
 - b. With respect to the Resource Management (National Environmental Standard for Detached Minor Residential Units) Regulation 2025 (**NES DMRU**), the overall objective is to enable a second smaller residential unit to be established on a site in specified zones which includes the Māori Purpose Zone. District Plan provisions cannot duplicate nor contradict NES DMRU. The implications for the MPZ are discussed in detail in the body of this report.
 - c. The National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**) has an overall objective to protect highly productive land for use in land-based primary production, both now and for future generations. The NPS-HPL defines and recognises Specified Māori

Land and the MPZ aligns with this definition. The NPS definition of Specified Māori Land means land that is any of the following:

- a) Māori customary land or Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):
- b) land vested in the Māori Trustee that—
 - i. is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955; and
 - ii. remains subject to that Act:
- c) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:
- d) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):
- e) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
- f) land held by or on behalf of an iwi or hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of the mana whenua over the land.

The NPS-HPL is enabling of subdivision, use and development on highly productive land that is also specified Māori land, enabling this without restriction (refer clause 3.8(1)(b) and clause 3.9(2)(d)).

- d. The objectives and policies from the Regional Policy Statement for Northland (**RPS**) of relevance to the MPZ are Objectives 3.5 and 3.12; and Policies 8.1.1 - 8.1.4 and Policies 8.3.1 - 8.3.3. In summary, these NRPS provisions require the PDP to:
 - i. Ensure natural and physical resources are sustainably managed in a way that will improve the economic wellbeing of Tangata Whenua/Mana Whenua;
 - ii. Provide for tangata whenua involvement and participation in resource management and support them to have a kaitiaki role in the management of their land and resources;
 - iii. Recognise the historical, cultural, and social importance of marae and papakainga, and enable their ongoing use and development in the PDP; and

- iv. Sustainably manage natural and physical resources in a way that is attractive for business and investment, that will improve the economic wellbeing of Northland and its communities.

It is considered that the MPZ chapter contains the relevant objectives, policies and rules to give effect to the relevant RPS objectives and policies, with more detail provided in the separate s32 Evaluation Report for MPZ.

- e. It is noted that the Ministry for the Environment are working on a new National Environmental Standards for Papakainga. This was part of the Package 1: Infrastructure and development. However, the timeframe for completion and release of this NES is understood to be delayed, therefore further consideration of this future NES is not included in the report.
 - f. No other National Policy Statements, National Environmental Standards or higher order document are considered relevant to the Māori Purpose Zone chapter.
23. The Proposed Regional Plan (**PRP**) for Northland combines the operative Regional Plans (coastal, air quality, water and soil) into one plan. All rules in the Proposed Regional Plan must now be treated as operative, in accordance with Section 86F of the RMA. The PRP carries through directives of the RMA and the RPS with respect to kaitiakitanga, and the relationship of tangata whenua to their ancestral lands, water, sites, wāhi tapu and other taonga. It is considered that the PDP is consistent with these RPS provisions.
24. Section 74(2A) of the RMA requires territorial authorities to take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district. Kaipara District contains seven Iwi Authorities, as follows:
- a. Te Uri o Hau Settlement Trust;
 - b. Te Roroa Whatu Ora Trust;
 - c. Te Kawerau a Maki Iwi Tribal Authority;
 - d. Ngati Manuhiri Settlement Trust;
 - e. Te Rūnanga o Ngati Whatua;
 - f. Ngatiwai Trust; and
 - g. Te Rūnanga A Iwi O Ngapuhi.

25. Four have been established under Treaty Settlement Claims legislation, with the remaining three established under other legislative mechanisms. These three Iwi Authorities are still progressing their own Treaty settlements with the Crown.
26. Iwi and Hapu Management Plans (**IHEMP**) were referenced in the Overview s32 evaluation report. A list of the formally recognised iwi and hapa management plans for the Kaipara District is provided below:
 - a. Te Uri o Hau Kaitiakitanga o te Taiao (Te Uri o Hau);
 - b. Nga Ture mo Te Taiao o Te Roroa (Te Roroa);
 - c. Te Kawerau a Maki Iwi Management Plan (Te Kawerau a Maki Iwi Tribal Authority); and
 - d. Patuharakeke Hapa Environmental Management Plan 2018 (Patuharakeke).
27. The four iwi hapu management plans relevant to the Kaipara District were considered as part of developing the PDP, as set out in Section 2.5 of the Section 32 Overview Report. The s32 reports on Strategic Directions, Sites and Areas of Significance to Māori, as well as the Māori Purpose Zone contain the most relevant content, but all chapters of the PDP take the IHEMPs into account.
28. It is noted that Te Roroa have recently initiated the process for a Mana Whakahono Agreement with Kaipara District Council. Mana Whakahono ā Rohe are statutory iwi participation arrangements provided for under sections 58L to 58U of the Resource Management Act 1991. Their purpose is to give iwi authorities and local authorities a mechanism to discuss, agree and record how tangata whenua will participate in resource management and decision-making processes under the RMA, and to assist councils to meet their statutory duties, including under sections 6(e), 7(a) and 8. The statutory framework emphasises enduring arrangements, integrated processes, good faith, open communication, shared expertise, and minimising delay and cost. As the Mana Whakahono Agreement between Kaipara District Council and Te Roroa is not signed, no further consideration of it will be included in this report.

2.4 Procedural matters

29. No submitter, prehearing or Clause 8AA meetings have been undertaken on the Māori Purpose Zone.

2.5 Organisation of the report

30. The key issues identified in this report are set out below:
 - a. Māori Purpose whole chapter and overview;

- b. Māori Purpose chapter objectives and policies;
- c. Māori Purpose chapter rules, matters for discretion and standards; and
- d. Māori Purpose chapter definitions.

31. I have chosen to structure the report in this way to follow the cascade of matters within the chapter itself, starting with the over-arching matters like Overview, objectives and policies, and ending with the rules and standards. However, some submission points cross the chapter's cascade of matters, therefore the discussion and considerations provide for this by cross referencing.

2.5.1 Submissions and further submissions

32. Five submissions containing 13 submission points and eight further submissions were received. The summary of submissions and further submissions pertaining to this section 42A report, and my recommendation for each are attached as Appendix A. The original submission and further submission documents can be found on KDC's website.
33. While all submitters have been read and considered in the summary of submissions (Appendix A), responses have not necessarily been written for each individual submission point. To assist the Hearings Panel in achieving clause 10(2) of the First Schedule of the RMA, I have provided reasons for my recommendations to accept or reject submissions and further submissions generally by themes. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the provisions.

2.5.2 Recommended changes

34. Where I have recommended amending provisions as a result of considering the submissions and further submissions, these are contained as tracked changes in Appendix B. Text that is recommended to be amended is shown as red text, with deletions being struck through, and additional text underlined. Any recommended changes are coloured red for ease of locating.
35. No PDP maps require amending in response to submissions on the Māori Purpose Zone topic.

2.5.3 Section 32AA evaluation report

36. 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 the section 32AA evaluation reports needs to be at a level of detail that corresponds to the scale and significance of the changes recommended. To streamline this report, where a change has been recommended, the corresponding section 32AA evaluation is attached in Appendix C.

37. Amendments to the following provisions have been subject to section 32AA evaluation in Appendix C:
- a. MPZ-P1 Enable a range of activities;
 - b. MPZ-R2 Māori purpose activity;
 - c. MPZ-R3 Residential unit (excluding papakainga housing and minor residential units); and
 - d. Definition for 'Māori Purpose Activities'
38. These refinements do not alter the overall policy intent evaluated in the s32 report; they clarify the Plan's intent for the MPZ and is considered to respond appropriately to the concerns raised in submissions. Given the limited nature of these changes, primarily reinforcing the existing intent and a continuation of the status quo from the ODP, rather than introducing new requirements for example, the s32AA evaluations are proportionately brief.

3. Topic 1: Whole Chapter

3.1 Introduction

39. Disabled Persons Assembly NZ (**DPA**) (361.2) requests for the MPZ to be amended to include tangata whaikaha Māori disabled in all planning and discussions around the MPZ. The submitter states that DPA supports the MPZ because it includes a range of activities that specifically meet Māori cultural needs but that often tangata whaikaha Māori disabled, who as tangata whenua and mana whenua, are not included in these discussions. By not being involved in discussions as Māori disabled people means that any accessibility and inclusion issues within the MPZ cannot be fully addressed. The example given is where waka turi (Māori disabled wheelchair users) cannot access parts of the MPZ.

3.2 Analysis

40. Accessibility and inclusion are outside of the mandate and scope of the RMA and District Plans. MPZ provisions are for land uses like papakainga and residential units. However, these provisions address issues like density, rather than accessibility. The Building Act processes are the appropriate arena for ensuring buildings are accessible for all. Accessibility for disabled persons in the context of a District Plan zone and its provisions are not matters that are within scope of a district plan.
41. Turning to accessibility to land, all parcels of land are meant to have legal access to a public road. However, there are some historical parcels that are landlocked or access is via a waterbody

e.g. a river. Therefore, all parcels of land within the MPZ should have legal access to a public road, similar to other zones. Through the subdivision process, all proposed lots must have access to a public road, either directly via a shared boundary with the road reserve, or indirectly with access provided via a legal mechanism like a right of way. Regardless, land in the MPZ is not subdivided under the RMA, rather it follows a partition process through the Māori Land Court. Therefore, accessibility concerns would need to be addressed through that process, not a District Plan.

3.3 Recommendation for Topic 1

42. I recommend that submission point 361.2 is rejected.

4. Topic 2: Overview

4.1 Introduction

43. Te Uri o Hau (367.64) requests amendments to the Overview and purpose of the MPZ, including that the Overview states that the MPZ prevails over any underlying zone (367.76). No amended wording was provided in the submission. Fonterra further submitted in support of both primary submission points (104.64 and 104.76).

44. Their submission point (367.64) sought the following amendments to the MPZ Overview:

The Māori purpose zone comprises Māori land in Kaipara District. The Māori purpose zone seeks to recognise and provide for the relationship of Māori with their ancestral land, by enabling Māori purpose activities, which includes marae, papakāinga housing, and kohanga reo, along with ~~land-based primary production, residential, small-scale commercial activities and rural industry~~

4.2 Analysis

45. Regarding that the Overview should include a description that the MPZ prevails over any underlying zone, the MPZ is a zone which sits within Part 3 – Area-specific matters of the PDP. In comparison, Part 2 District-wide matters apply across the district in all zones. An example being Infrastructure or Historical and Cultural Values. This hierarchy of approach is set by the National Planning Standards, which require that all special purpose zones, including the Māori Purpose Zone, to be located in Part 3 Area Specific Matters of a district plan. The Māori Purpose Zone is a legitimate zone and is the only zone to apply to this land. I therefore consider no amendments are necessary in this regard.

46. Te Uri o Hau sought amendments to the activities listed in the MPZ Overview, but the reasons for the requested amendments (submission point 367.64) is not clear, given it is a reduction of activities envisioned to be undertaken within this zone. My interpretation of this list of activities is

that the first half are for the purpose of enabling Māori Purpose Activities, while the second half of the list are activities that are typically undertaken in a rural environment, given the MPZ in Kaipara District is located in rural environments. My interpretation is based on the comma between the first and second parts of this list of activities.

47. Given the rural setting of the MPZ, activities expected in the rural environment, as articulated in the General rural zone are relevant. They include activities that support primary production activities, that have a functional and operational need to be in the rural environment, such as rural industry. Inappropriate activities include industrial and commercial activities unrelated to primary production, including retail.
48. The intent of the MPZ is to be enabling. Excluding land based primary production, residential activities, small-scale commercial activities and rural industry from the Overview section of the MPZ is counter to the enabling intent. These activities are also included in MPZ-P1, which reinforces that their inclusion in the Overview is purposeful. The Overview is not a statutory section of the chapter therefore the exclusion of these activities will not change how the MPZ is implemented. On balance, I recommend rejecting submission point 367.64.

4.3 Recommendation for Topic 2

49. It is my recommendation to reject submission point 367.76 and reject submission point 367.64.

5. Topic 3: Objectives and Policies

5.1 Introduction

50. Topic 3 includes two submission points: 367.67 and 367.69 from Te Uri o Hau, covering both broad and specific matters. Each submission point is addressed separately below. The MPZ has two objectives and two policies, all of which are copied below. The objectives and policies have an overall enabling intent and direction for land use activities on Māori land.

5.2 Restrictive Objectives and Policies

51. The submission from Te Uri o Hau (367.67) states that the PDP objectives and policies are restrictive and limit activities that focus on 'Māori purpose activities' only, that this is confusing when MPZ-O1 includes '... exercising their roles as kaitiaki', making it open to misinterpretation. No suggested amendments to the PDP objectives and policies have been provided by with submission. Fonterra further submitted in support of this primary submission point (104.67).

5.3 Analysis

52. 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. To consider whether the MPZ objectives and policies are restrictive, I have copied them below including relevant definitions:

MPZ-O1	Relationship of Tangata Whenua/Mana Whenua to Māori land
Tangata Whenua/Mana Whenua are enabled to occupy, develop and use Māori Land and Treaty Settlement land for Māori purpose activities whilst also exercising their role as kaitiaki.	
MPZ-O2	Enable a range of activities
The Māori purpose zone enables a range of social, cultural and economic development opportunities that support the use, development and ongoing relationship of Māori with their ancestral land.	
MPZ-P1	Enable a range of activities
<p>Enable a range of activities, including Māori purpose activities, land-based primary production, residential activities, small-scale commercial activities and rural industry, while ensuring that land use and development:</p> <ol style="list-style-type: none"> 1. Is consistent with mātauranga Māori, tikanga Māori and kaitiakitanga and consistent with whānau, hapū or iwi development plans; 2. Can be serviced by adequate onsite infrastructure or reticulated infrastructure where available; 3. Is at a scale and intensity that is appropriate for the physical characteristics of the land and the locality; and 4. Avoids, remedies or mitigates adverse effects on the environment. 	
MPZ-P2	Provide for use and development of Māori land within coastal and natural environment overlays
<p>Enable the use and development of land within the Māori purpose zone that is in a Coastal Environment, Outstanding Natural Character Area, High Natural Character Area, Outstanding Natural Landscape or Outstanding Natural Feature overlay, by having particular regard to:</p> <ol style="list-style-type: none"> 1. The role and responsibilities of Tangata Whenua/Mana Whenua as kaitiaki; 2. The need to enable use and development of Māori land in accordance with mātauranga and tikanga Māori to support the social, cultural and economic wellbeing of Tangata Whenua/Mana Whenua; 3. Alternative approaches to, or locations for, use and development that avoids adverse effects on the characteristics, qualities and values of the relevant overlay; 4. The lack of, or limitations on, alternative locations for Tangata Whenua/Mana Whenua to use and develop their land; and 5. Any adverse effects on the characteristics, qualities and values of the relevant overlay can be avoided, remedied or mitigated. 	

53. The PDP definitions for 'kaitiaki', 'matauranga', 'tikanga' and 'Māori purpose activities' are relevant to interpretation of the objectives and policies as follows:

Kaitiaki - For the purposes of this plan, means those identified by tāngata whenua as having the mātauranga and mana to exercise tikanga regarding resource management within their rohe/ tribal area.

Matauranga Māori - means Māori customary knowledge, traditional knowledge or intergenerational knowledge.

Tikanga Māori - means Māori customary values and practices.

Māori Purpose Activities - means the use and development of land and buildings for Māori cultural, community and living activities, including:

1. marae/pā;
2. papakāinga;
3. home business;
4. arts and cultural centres;
5. educational facilities; and
6. urupā;
7. whare karakia (church).

54. 'Mana' is included in the definition of 'kaitiaki' but is not defined in the PDP. 'Mana Whenua' is defined as - customary authority exercised by an iwi or hapū in an identified area (same meaning as s2 of RMA). 'Mana' is a complex concept, however my interpretation of 'mana' for this consideration of the MPZ objectives and policies is – authority.
55. With the inclusion of 'kaitiaki' in MPZ-O1, this objective encompasses a wider meaning because it includes the concept of mātauranga (customary, traditional and intergenerational knowledge) and the concept of tikanga (customary values and practices). MPZ-O2 seeks to enable a range of activities, and this is reflected in MPZ-P1 also. The language used in MPZ-O2 means it is inclusive and open with what types of activities are included and enabled. My interpretation of MPZ-O2 is confirmed by the lack of a list of activities, but instead it is an outcome focused statement which is appropriate for an objective. MPZ-P1 similarly does not limit activities so long as they:
- a. are consistent with mātauranga Māori, tikanga Māori and kaitiakitanga and consistent with whānau, hapū or iwi development plans;
 - b. can be serviced by adequate onsite infrastructure or reticulated infrastructure where available;
 - c. are at a scale and intensity that is appropriate for the physical characteristics of the land and the locality; and
 - d. avoids, remedies or mitigates adverse effects on the environment.
56. I do not consider that the MPZ objectives and policies are restrictive or limit activities that focus on 'Māori purpose activities', which is defined by a list of activities. The inclusion of 'enable' in both objectives and both policies sets a positive overall context for their meaning.

57. Further discussion on the objectives and policies in the context of Papakainga Development is in the next section of this report. The definition of 'Māori Purpose Activities' is discussed under Topic 5 Definitions of this report.
58. To conclude I consider that the objectives and policies when read collectively, are not restrictive, limiting, confusing or open to misinterpretation.

5.4 Papakainga Development

59. Te Uri o Hau (367.69) requests that in relation to papakainga development, the objectives, policies and methods in Te Uri o Hau Hapu Environmental Management Plan (**HEMP**) are included. There is no reason given in the submission for this relief sought. Fonterra further submitted in support of this primary submission point (104.69).

5.5 Analysis

60. Following are the objectives, policies and methods from the HEMP – Māori Land chapter.

Objective

To assist and support Te Uri o Hau land holders in the cultural, environmental, social and economic development of Māori land held under the Te Ture Whenua Māori Act 1993.

Policies

Provide for interim rates relief for Māori uneconomic lands, and develop rates remission policies in communication with the Northland Regional Council, Kaipara District Council and Auckland Council.

Develop sustainable strategies for the development of Māori land in communication with the Northland Regional Council, Kaipara District Council, Auckland Council and the Department of Conservation.

Assist Māori land holders in the protection of their indigenous ecosystems under the Nga Whenua Rāhui fund, supporting possible public access agreements with land holders. The objective is long term protection with inter-generational reviews of conditions.

Develop strategies for smaller blocks for formal protection pursuant to section 338 of Te Ture Whenua Act 1993 as Māori reservations.

Assist Māori land holders in the physical protection and biodiversity of land through fencing off indigenous areas on Māori land for the use, benefit and enjoyment of future generations.

Develop strategies through the afforestation scheme in communication with the Northland Regional Council and Auckland Council to reduce greenhouse gases, and provide a beneficial return to Māori land holders for future generations.

Assist Te Uri o Hau whānau in providing affordable papakāinga housing, and the maintenance of existing housing on Māori land.

Methods

Te Uri o Hau will work with Māori land holders, Māori Land Court, Northland Regional Council, Kaipara District Council, Auckland Council and the Department of Conservation to develop best practice methods for sustainable land use options and papakāinga housing on Māori land.

61. One of the HEMP policies references Section 338 of Te Ture Whenua Act 1993 (**TTW Act**). Section 338 is titled - Māori reservations for communal purposes. Sub-section 338(1) of this Act provides for the Māori Land Court to make an order to set apart as Māori reservation any Māori freehold land or and General land –
 - a. for the purposes of a village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of cultural, historical, or scenic interest, or for any other specified purpose; or
 - b. that is a wahi tapu, being a place of special significance according to tikanga Māori.
62. While section 338(14) of this Act provides for a lease or occupation license to be granted on a Māori reservation for the purpose of papakainga housing.
63. The MPZ objectives and policies are set out in paragraph 52 above.
64. The PDP definition for Papakainga is: **Papakāinga** means the development of one or more houses to support traditional Māori cultural living on Māori Land or Treaty Settlement Land. I note there is a submission from Te Uri o Hau requesting amendments to the definition of 'papakainga', which I address later in this report.
65. I note the difference between Papakainga and Papakainga Development. When considering if the MPZ objectives and policies provide for Papakainga Development, most of the activities mentioned in Te Uri o Hau's Objective, Policies, Method, or listed in their Papakainga definition

(367.4) or listed in s338(1) TTW Act are included in MPZ-O1, MPZ-O2, MPZ-P1 and MPZ-P2, but not all, as demonstrated in **Table 1** below.

Table 1: *Activities and Land Uses included in Proposed Kaipara District Plan Māori Purpose Zone Objectives and Policies, and activities and land uses included in Te Uri o Hau Hapu Environmental Management Plan - Māori Land Chapter.*

<p align="center">Proposed Kaipara District Plan Māori Purpose Zone Objectives and Policies, Papakainga definition and Māori Purpose Activities definition</p>	<p align="center">Te Uri o Hau Hapu Environmental Management Plan Māori Land Development Objectives, Policies and Methods including section 338(1) Te Ture Whenua Act, and Papakainga Definition</p>
<p>Land-based primary production, residential activities, small-scale commercial activities and rural industry (source: MPZ-P1).</p> <p>Houses (source: Papakainga definition).</p> <p>Māori cultural, community and living activities, including marae/pā, papakāinga, home business, arts and cultural centres, educational facilities, urupā and whare karakia (church) (source: Māori Purposes Activities definition).</p>	<p>Housing, village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of cultural, historical, or scenic interest, or for any other specified purpose, wahi tapu (source: HEMP Land Development Policies).</p> <p>Residential, social, cultural, economic, conservation and recreation activities, marae, wāhi tapu and urupā (source: Te Uri o Hau definition for Papakainga).</p>

66. To ensure MPZ objectives and policies provide for Papakainga Development, as expressed in TUoH's HEMP, a reference to section 338(1) TTW Act is required. To that end, an amendment is recommended to MPZ-P1 to include reference to s338(1) TTW Act, so those listed activities are explicitly provided for in the MPZ. The PDP definition of Māori land is – any land defined and administered under Te Ture Whenua Act 1993. Therefore, the inclusion of activities referred to in TTW Act as being able to be undertaken on land administered by TTW Act is considered appropriate and consistent with the enabling purpose of the MPZ.

67. I consider that this amendment will ensure that Papakainga Development and the intent of Te Uri o Hau's Objective, Policies and Method are included in the MPZ because all the Papakainga Development activities included in Te Uri o Hau's HEMP will be included in MPZ-P1.

5.6 Recommendations for Topic 3

68. I recommend that submission point 367.67 is rejected. If further information is provided by Te Uri o Hau, I am prepared to re-consider my recommendation.

69. I recommend that submission point 367.69 is accepted in part and that MPZ-P1 is amended to include reference to section 338(1) of Te Ture Whenua Act 1993, as shown below and included in **Appendix B**.

MPZ-P1	Enable a range of activities
<p>Enable a range of activities, including Māori purpose activities, land-based primary production, residential activities, small-scale commercial activities, and 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"> 1. Is consistent with mātauranga Māori, tikanga Māori and kaitiakitanga and consistent with whānau, hapū or iwi development plans; 2. Can be serviced by adequate onsite infrastructure or reticulated infrastructure where available; 3. Is at a scale and intensity that is appropriate for the physical characteristics of the land and the locality; and 4. Avoids, remedies or mitigates adverse effects on the environment. 	

6. Topic 4: Visitor Accommodation

6.1 Introduction

70. Te Uri o Hau (367.65) requests that MPZ-R5 Visitor Accommodation be deleted because this rule contradicts the objectives of the MPZ, in particular restricting visitor numbers to 10, which is inconsistent with activities undertaken at a marae. Fonterra further submitted in support of this primary submission point (104.65).

71. MPZ-R5 enables the establishment of a new, or alteration or expansion of an existing, visitor accommodation activity as a permitted activity provided that there are no more than 10 visitors per night.

6.2 Analysis

72. The definition of Visitor Accommodation is:

means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities.

73. To my knowledge visitors to a marae are not subject to a tariff being paid, therefore a marae is not included in the definition of Visitor Accommodation and will not be subject to 10 visitor number restriction to be a Permitted Activity.

6.3 Recommendation for Topic 4

74. I recommend that MPZ-R5 Visitor Accommodation is retained and submission point 367.65 is rejected.

7. Topic 5: Residential Unit Density

7.1 Introduction

75. Eruera Nathan (307.1) considers that MPZ-R3 Residential Unit (excluding papakainga housing and minor residential units) is overly restrictive compared to the rule it replaces in the ODP. The ODP rule allows one dwelling per 4ha (uncapped) while the PDP rule allows only up to three dwellings maximum with each dwelling requiring, in effect, 12ha of site area. The submitter considers that the restrictions are unclear and seemingly unjustified. The submitter considers that this rule restricts rather than enables development, and conflicts with MPZ-P1 Enable a range of activities and is not an effective and efficient use of Māori land. This submitter seeks for the PDP rule MPZ-R3 to more closely resemble the density controls in ODP Rule 15A.10.3a.

7.2 Analysis

76. MPZ-R3 Residential units sets a density that is in effect 12ha per residential unit as the Permitted activity density in the MPZ, with a cap of three residential units for sites greater than 36ha. Given all of the MPZ in Kaipara District is located in rural environments, a comparison with the General rural zone (**GRUZ**) rule is considered beneficial. The residential unit rule in GRUZ sets the same residential unit density - 12ha per unit as a Permitted activity and a three residential unit cap for sites greater than 36ha (refer GRUZ-R3 Residential Unit). I note one difference between these two PDP rules is the activity status if the Permitted activity thresholds are not met – for MPZ it becomes Restricted Discretionary, while for GRUZ it becomes Discretionary. The same rule in the ODP is 15A.10.3a Dwellings (excluding Papakainga) provides for a density of one dwelling per 4ha of net site area as a Permitted activity, no cap.
77. The s32 Evaluation Report does not provide any analysis of why the residential unit density in MPZ-R3 is set at 12ha per unit or why it has increased from what was in the ODP. Paragraph 26 in the s32 Report discusses the key issues and therefore intent of the MPZ (emphasis added):

*Key issues relevant to the MPZ are Te Uri o Hau and Te Roroa issues and development aspirations for Māori land, ancestral land and Treaty Settlement land to **strengthen their***

*relationship to these resources and encourage resettlement of their people to their ancestral lands and marae. Additionally, there are strong directions to enable economic opportunities to support the social and cultural wellbeing of their people. The PDP MPZ provisions are consistent with these outcomes as they seek to provide for Tangata Whenua/Mana Whenua to **occupy**, develop and use their ancestral Māori land, particularly for the development of their ancestral land (including Treaty Settlement Land). The MPZ provisions also recognise the role of tangata whenua as kaitiaki, providing for their mātauranga and tikanga Māori to be recognised.*

78. 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. This intent is reflected in the objectives and policies for this zone:
- a. MPZ-O1 Relationship of Tangata Whenua/Mana Whenua to Māori Land
 - b. MPZ-O2 Enable a range of activities
 - c. MPZ-P1 Enable a range of activities
 - d. MPZ-P2 Provide for use and development of Māori land within coastal and natural environment overlays
79. There are many barriers and constraints to establishing dwellings and other land uses on Māori land, with a central reason being the difficulties associated with the land tenure. This is documented in the s32 Report (refer sections 1.7 and 5.3). The key constraints for the use and development of Māori land are:
- a. Status of Māori land - The unique status of Māori land in terms of its tenure and requirements derived from the Te Ture Whenua Māori Act 1993 create additional barriers to land when compared to general freehold land. This is also a level of process duplication across various legislation and government organisations that can complicate processes when owners wish to use or develop the land.
 - b. Multiple ownership of the land – decision-making and cooperation between multiple landowners and/or trustees to reach agreement can be challenging. As an example, some blocks of Māori land can have in excess of 500 owners.
 - c. Financial barriers – banks and other lenders are reluctant to issue mortgages because multiply owned land does not offer the same security as land is General Freehold Title.
80. Given the constraints associated with the tenure of Māori land and that this is particular to the MPZ, seeking an enabling planning framework for this zone is understandable. There is a role for territorial authorities to contribute solutions for the use and development of Māori land.

Appended to the s32 Report is a Papakainga Plan Change Issues and Options Paper. It is documented here that –

Papakāinga development, particularly housing, is a key method for delivering housing solutions for tangata whenua within Kaipara and is central to upholding the principles of Te Tiriti o Waitangi.

81. RMA Part II matters include: as a Matter of National Importance s6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and under s8 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).
82. The Issues and Options Paper refer to an Office of the Auditor General report (2011) titled “Government planning and support for housing on Māori land”. The report highlights that government agencies need to address the complications experienced by Māori who wish to build houses on their own land, with one of the recommendations being –
 - That local authorities build appropriate flexibility into their district plans to allow housing to be built on Māori land.
83. In 2014, the “He Whare Ahuru He Oranga Tangata – The Māori Housing Strategy” (**MHS**) was released. The MHS represents a response to the recommendations of the Auditor General’s 2011 report and seeks to improve housing for Māori and their whanau. The MHS identifies planning restrictions as a key aspect of why Māori are under-represented in housing ownership, and seeks to actively promote the removal or minimisation of the hurdles that face those looking to undertake a development on multiple-owned Māori land.
84. Set in this context I agree with submission point 307.1 that the density for residential units in the MPZ should revert to 4ha with no cap. This is a continuation of the status quo from the ODP, which in itself was a continuation of the status quo under the previous Kaipara District Plan. Therefore, Kaipara District Plans have a 20 year + legacy of having enabling and flexible provisions for housing to be built on Māori land.
85. To understand whether this legacy has resulted in adverse effects, for example on the amenity and character of the rural environment from the enabling residential unit provisions, I reviewed Council’s building and resource consent records regarding the number of consents issued in the last 13 years (life of ODP) for residential units within the MPZ, both individual residential units and papakainga housing. A total of 28 individual dwellings have been established and 26

papakainga houses over three locations. This is set in the context of the 9,600ha of Māori land in Kaipara District (refer Table 1 of the s32 Evaluation Report).

86. While the ODP Rule 15A.10.3a Dwellings is permissive, this has not resulted in a high density of residential units in the MPZ. I consider that the 4ha density has achieved the balance of being enabling without being ‘oversubscribed’ and resulting in adverse effects from an excessive number of residential units being established in the rural environment. Based on this, I conclude that the effects on the rural environment of a MPZ rule framework that permits 4ha per residential unit per site area are less than minor.
87. A comparison between the two housing rules in the MPZ is considered warranted to ensure any recommended amendments achieves the purpose of the MPZ. The two housing rules are papakainga MPZ-R2.1.a and residential units MPZ-R3. Discussion on the papakainga provisions is included later in this report, where the comparison between the two housing rules is undertaken (refer paragraph 103).
88. I recommend an approach that is appropriate for Kaipara District, given its history and the intent for the future. I recommend that the status quo density from the ODP is continued in the PDP. This recommendation is consistent with the MPZ objectives and policies, and consistent with the Tangata Whenua – Mana Whenua Chapter and Strategic Direction, in particular SD-TW-O1 Tangata Whenua / Mana Whenua -

The relationship of Tangata Whenua / Mana Whenua with ancestral lands, water, sites, wāhi tapu and other taonga is recognised and provided for.

7.3 Recommendation for Topic 5

89. I recommend that submission point 307.1 is accepted and MPZ-R3 is amended to provide for 4ha per residential unit per site area density as a Permitted activity, as shown in **Appendix B**.

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

8. Topic 6: Traffic Movements

8.1 Introduction

90. Kaipara District Council (222.37) requests that MPZ-R8 Rural Industry is amended to include traffic movements as one of the Permitted Activity thresholds for this rule. In addition, this submitter seeks a consequential amendment to TRAN-Table 1 Traffic Intensity Factor to provide for Rural Industries. The reasoning given is that Traffic movements associated with rural industry operations may impact on neighbouring properties, including accessways and may affect the amenity of an area, and that there is a need to consider as to whether the number of traffic movements should be included as a condition within the rule. This submitter has made a similar submission point to the GRUZ and Rural lifestyle zone (**RLZ**).

8.2 Analysis

91. Traffic movements are not addressed within any land use rules in the MPZ nor in land use rules of any other zones including GRUZ and RLZ. Rather, traffic movements associated with activities are addressed in TRAN – Transport (Part 2 – District-wide matters). Traffic movements will be comprehensively reviewed as part of the TRAN submissions, including this submitter’s point on TRAN-Table 1 and whether traffic movements associated with Rural Industries should be included in TRAN-Table 1 Traffic Intensity Factor.

92. For these reasons, I consider that this submitter's request for amendments to MPZ-R8 Rural Industry is not appropriate. Therefore my recommendation is to decline this submission point on the basis that traffic movements are not addressed within any land use rules in the MPZ or in land use rules of any other zones. Instead, traffic movements will be addressed comprehensively as part of the TRAN. – Transport submissions which will be considered later this year.
93. Discussion has been undertaken with the reporting planners for GRUZ and RLZ with the similar submission request, with a consistent approach proposed to be recommended for all applicable zones.

8.3 Recommendation

94. I recommend rejecting submission point 222.37 and for no amendments to be made to MPZ-R8 Rural Industry.

9. Topic 7: Iwi Development Plans

9.1 Introduction

95. Te Uri o Hau (367.66) requests MPZ-S1 Whanau, Hapu or Iwi Development Plan be amended so that Development Plans are only required when 10 or more dwellings are on one site. No reason is given in the submission point. Fonterra further submitted in support of this primary submission point (104.66).

9.2 Analysis

96. MPZ-S1 does not contain the 10 residential units per site threshold for papakainga housing per site. Rather MPZ-R2 Māori Purpose Activity does in sub-clause 1.a. Therefore, my interpretation of the outcome being sought by this submission point is to change the Permitted Activity threshold for when a Development Plan is required - to more than 10 Papakainga housing. That is, to provide a Permitted Activity pathway for 10 or less Papakainga houses without the need for a whānau, hapū or iwi development plan. Because of the relationship between MPZ-R2.1.a and MPZ-S1, I believe there is scope within the submission to address the rule. I believe the outcome sought by the submission could be achieved by a change to the rule rather than the standard.
97. MPZ-R2 Māori Purpose Activity provides for Māori Purpose Activities to be a Permitted activity where:
- a. papakainga housing does not exceed 10 residential units per site (sub-clause 1.a), and
 - b. the activity complies with MPZ-S1 Whanau, Hapu or Iwi Development Plan.

98. Papakainga is an activity included within the definition of 'Māori purpose activities'. The PDP definition for Papakainga –
- means the development of one or more houses to support traditional Māori cultural living on Māori Land or Treaty Settlement Land.*
99. The current approach in the ODP under Rule 15A.10.4 Papakainga is consistent with my interpretation of the outcome requested by this submission point, with no requirement to provide a development plan when the papakainga comprises of no more than 10 individual units per site.
100. As mentioned previously, a search has been undertaken of Council's records for Building Consents and Resource Consents regarding the establishment of papakainga in Kaipara District over the last 13 years (life of the ODP). That record search has confirmed that 26 papakainga houses across three sites have been established as Permitted activities, this includes a current papakainga application. There have been some building compliance issues with unconsented residential units being established, but this has been for individual units rather than as part of a papakainga. No issues with the establishment of papakainga housing has been identified by Council staff. Therefore, the absence of a development plan requirement to date has not resulted in any known problems or issues.
101. However, I appreciate the merits of having a Development Plan provided. It is beneficial to have the spatial identification of the matters listed in MPZ-S1.1.a-f. I note that to be a Permitted activity, a development or master plan is required when undertaking any of the Māori Purpose Activities on a site in the MPZ, not just papakainga housing. However, some of the listed Māori Purpose Activities could be established as a Permitted activity under other MPZ rules, for example MPZ-R3 Residential Unit, MPZ-R4 Minor Residential Unit or MPZ-R7 Commercial Activity.
102. I question whether the Development Plan information is warranted for 1, 2 or 3 houses per site, given this is a low density of built development and associated effects (e.g. servicing, amenity, character) in a location that is essentially, a rural environment. By way of comparison, GRUZ-R3 Residential Units provides for a maximum of three residential units per site provided the site is 36ha or more in area, and GRUZ-R4 Minor Residential Units provides for one MRU per site. This results in a total of three principal residential units and one minor residential unit could be established on a site of 36ha or more. While not a Permitted baseline, this does provide a like for like comparison when considering the number of dwellings per site in the MPZ, a rural environment. There are currently 397 LINZ Property Titles ('sites') that spatially fall within the Proposed District Plan's Māori Purpose Zone ranging in size from under 1000m² to over 3,100ha. On balance, I consider that the requirement for a development plan is justifiable when the papakainga housing numbers are 4 or more.

103. A comparison between the two housing rules in the MPZ is considered warranted to ensure recommended amendments across the two housing rules achieve the purpose of the MPZ. The two housing rules are papakainga MPZ-R2.1.a and residential units MPZ-R3. **Table 2** below compares the permitted activity pathways of these two housing rules as notified in the PDP compared to when amended according to my recommendations.

Table 2: Permitted Activity Comparison between MPZ-R2.1.a and MPZ-R3

	MPZ-R2.1.a Papakainga	MPZ-R3 Residential Unit
Proposed District Plan As notified	Up to 10 residential units per site with a Development Plan. No site size requirements and no limitation on density (residential unit/ha).	1 residential unit / 12ha + 1 minor residential unit (MPZ-R4).
Proposed District Plan Recommended amendments	Up to 3 residential units per site, no Development Plan needed. No site size requirements and no limitation on density (residential unit/ha). 4-10 residential units per site with a Development Plan. No site size requirements and no limitation on density (residential unit/ha).	1 residential unit / 4ha + 1 minor residential unit (MPZ-R4).

104. Under the PDP, both rules provide a different consenting pathway for housing in the MPZ, for example, the need for a Development Plan in the case of papakāinga or the area of a site in the case of residential units. If the number of houses to be established is three or less, then the amended rules provide similar consenting pathways, except there are no site size requirements for papakainga and no limitation of the number of residential units per hectare (density). I consider that the similarities between the two amended housing rules will have a positive effect in providing options for establishing houses on Māori land and therefore delivers to the enabling objective of the MPZ.

9.3 Recommendation for Topic 7

105. I recommend submission point 367.66 is accepted in part, that MPZ-S1 Whanau, Hapu or Iwi Development Plan is not amended, rather that MPZ-R2 Māori Purpose Activity sub-clause 1.b is amended to allow 3 or less papakainga houses to be exempt from complying with MPZ-S1 and are therefore not required to provide a Whanau, Hapu or Iwi Development Plan, as shown below and in **Appendix B**.

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

10. Topic 8: Consistency and Clarity

10.1 Introduction

106. There are two submissions containing four submission points that are considered under Topic 8 that all relate to consistency and clarity of rules and standards in the Māori Purpose Zone chapter. These submissions primarily seek to ensure that the PDP's rule or standards are either consistent across different zones or that there is additional clarity. The following rule or standard have been submitted on:

- a. MPZ-S5.2.d Setbacks from a Coastal Marine Area - exemption for Infrastructure
- b. MPZ new rule – demolition of buildings
- c. MPZ new rule – relocation of buildings
- d. MPZ-R4 Minor Residential Unit

10.2 MPZ-S5.2.d Setbacks from a Coastal Marine Area - exemption for Infrastructure

107. In the PDP there are standards for the setback requirements from the Coastal Marine Area (**CMA**) for the following zones: General residential zone (**GRZ**), General rural zone (**GRUZ**), Rural lifestyle zone (**RLZ**), Commercial zone (**COMZ**), Heavey industrial zone (**HIZ**), Light industrial zone (**LIZ**), Natural open space zone (**NOSZ**), Open space zone (**OSZ**), Sports and active recreation zone (**SARZ**), Mangawhai hills special purpose zone (**MHSPZ**) and Māori purpose zone. The standard in each zone has an exemption that the CMA setback does not apply to infrastructure. In the MPZ standard, the infrastructure exemption is MPZ-S5.2.d.
108. Chorus et al (26.88) requests the removal of the exemption for infrastructure from the CMA setback standard. The reason given is that an exemption for infrastructure may cause confusion because the Infrastructure Chapter (within Part 2 – District-wide matters) states that no zone rule within Part 3 – Area-specific matters apply to infrastructure. This submitter has made the same submission point to the equivalent CMA setback standard in every zone listed in the paragraph above.

10.3 Analysis

109. The s32 Evaluation Report for the MPZ does not include any analysis or assessment of individual rules or standards.
110. I concur with the submitter's reasoning and that the inclusion of the setback standard exemption for infrastructure may cause confusion and also creates an inconsistency with the overall intent of the PDP. In one part of the PDP it states that the rules in the zones do not apply to infrastructure, but in the zone chapters it implies that they do. I recommend accepting this submission point as it applies to the Māori Purpose Zone, and therefore for MPZ-S5.2.d to be deleted, as shown in Appendix B.
111. Discussion has been undertaken with the reporting planners for the other zone chapters this submission relates to, and a consistent approach has been agreed upon to recommend the deletion of this exemption from the CMA setback standard for infrastructure across all applicable zones.

10.4 MPZ New Rules – Demolition of Buildings and Relocation of Buildings

112. Kaipara District Council (222.15 and 222.28) requests that two new rules are created in the MPZ for the demolition of buildings and for the relocation of buildings. The reason given for both new rules are so the MPZ is consistent with other zones, e.g. GRZ-R2, COMZ-R11, HIZ-R2 and LIZ-R2 for the demolition of buildings and GRZ-R5 for the relocation of buildings. This submitter made the same submission point regarding demolition of buildings to Natural open space zone, Open

space zone, Sports and active recreation zone, Rural lifestyle zone and General rural zone, and made the same submission point regarding relocation of buildings to General rural zone and Rural lifestyle zone.

10.5 Analysis

113. The s32 Evaluation Report for the MPZ does not include any analysis or assessment of individual rules or standards.
114. Regarding the relocation of buildings, it is considered appropriate for there to be a permitted activity pathway included in the PDP for this activity in the MPZ. I recommend the drafting of the new rule to be similar to the drafting of GRZ-R5 Relocation of buildings with two exceptions to reflect the rural nature of the MPZ.
115. First, the standards that must be met to be a Permitted Activity (sub-part 1.a in the new rule) are those from MPZ-R1 Buildings and Structures (being MPZ-S2 to MPZ-S7). These are considered appropriate to apply to the new MPZ rule for the relocation of buildings, rather than including residential-type standards similar to what are in GRZ-R5. This means that standards for height, height in relation to boundary, setback from the boundary, setbacks from the CMA, setbacks for reverse sensitivity, building coverage and impermeable surfaces will apply to relocated buildings.
116. Second, to treat both residential and non-residential relocated buildings the same. GRZ-R5.1.b includes a requirement that a relocated dwelling must be previously designed, built and used as *a dwelling*. This is not considered warranted in the MPZ as a building being established on a site has the same effects whether it has a residential or non-residential purpose. The purpose of this rule is to manage the effects of the building being relocated to a site, not to manage the effects from the use of that building.
117. The submission point requests a new rule consistent with other zones. I consider that the proposed drafting of the new MPZ rule for the relocation of buildings is within scope of that submission point because the drafting is broadly consistent, but not identical, to reflect nuances between the rural and urban zones.
118. For the demolition of buildings, I also consider it appropriate for there to be a permitted activity pathway included in the PDP for this activity in the MPZ. The drafting of the new rule most appropriately based on GRZ-R2 but without the inclusion of 'structures' for two reasons. First, submission point 222.15 excludes 'structures'. Second, the PDP definition of 'structures' is the same meaning as in section 2 of the RMA, which is wider than buildings, being anything that is made by people and fixed to the ground. Therefore, excluding 'structures' is consistent with the scope of submission point 222.15, and it is a more logical outcome for the new rule in the context of the MPZ.

119. I recommend accepting both submission points 222.15 and 222.28, and two new rules for the relocation of buildings and the demolition of buildings are included in the MPZ, as shown in Appendix B.

120. Discussion has been undertaken with the reporting planners for the other zone chapters that both of these submission points relate to, and a consistent approach has been agreed upon across all applicable zones.

10.6 MPZ-R4 Minor Residential Unit

121. Kaipara District Council (222.32) requests that the Minor Residential Unit (**MRU**) rule in a number of zones including MPZ is reviewed to achieve consistency for ease of implementation, including a review of the distance from the principle residential unit. The other PDP zones that a similar submission point has been made to by submitter 222 are Māori purpose zone, General rural zone, Rural lifestyle zone, General residential zone and Trifecta special purpose zone-large lot residential area.

10.7 Analysis

122. In principle, a consistent approach across the rural-type zones is supported because they have a broadly similar land use outcomes – that being MPZ, GRUZ and RLZ. Compared to the GRZ which has a different density and a different overall land use outcome being provided for, I concur with the submitter's reasoning and consistency changes to the MRU rule in the MPZ is supported.

123. A review of the minor residential unit rules in the MPZ, GRUZ and RLZ identifies one component of the rule that requires an amendment to achieve consistency between these zones – activity status under MPZ-R4.2, GRUZ-R4.2 and RLZ-R3.2. Currently in the GRUZ rule and the RLZ rule, the activity status changes from Permitted to Discretionary if the standards for the number of MRU exceeds one per site or if the gross floor area exceeds 90m². Currently in the MPZ rule the activity status changes from Permitted to Non-Complying if either of these two standards are breached. The s32 evaluation report does not provide any reasons why the MPZ should have a different activity status when these two Permitted Activity thresholds are not achieved. Without a clear reason or rationale for the different activity status, I recommend that the activity status in MPZ-R4.2 is amended from Non-complying to Discretionary where a standard is breached to be consistent with the GRUZ and the RLZ.

124. The 90m² GFA is more lenient than the 70m² GFA in the NES DMRU. The NES provides for district plan rules or standards to be more lenient (refer regulation 9). I consider it appropriate to not amend the GFA from what was notified in the PDP because this outcome delivers to the MPZ enabling intent and better aligns with MPZ-O1 and MPZ-O2. I note that this may not be consistent

with the recommendation by the reporting officers for the GRUZ, RLZ and GRZ, which will be addressed at hearings later this year.

125. It is noted that there are other parts of the rule that are not consistent, however the recently released Resource Management (National Environmental Standard for Detached Minor Residential Units) Regulation 2025 (**NES DMRU**) will result in amendments that remove those inconsistencies. As the NES DMRU is a national direction, this is not a decision for the Hearing Commissioners, however I bring this to the attention of the Commissioners as changes to give effect to the NES-DMRS will be included in the amendments to all applicable MRU rules in all zones of the PDP in this and future hearings.

126. All of the MRU rules in the PDP must not duplicate nor be inconsistent with the NES-DMRU. Amendments have been made to MPZ-R4 and included in **Appendix B**. To summarise the amendments, the activity status change is as discussed in the paragraph above. The NES DMRU changes are to include in the rule title that MPZ-R4 does not apply to DMRU that are permitted by the NES DMRU. The body of MPZ-R4 has two sub-sections and all matters of discretion deleted because they are inconsistent with the NES DMRU, as follows:

- MPZ-R4.b The minor residential unit shares vehicle access with the principal residential unit.
- MPZ-R4.c The separation distance between the minor residential unit and the principal residential unit is no greater than 50m.
- MPZ-R4.3-4 Activity status and matters of discretion.

127. As the NES only regulates detached MRU, consideration has been given to ensuring all MRU situations are provided for (i.e. attached and detached) between the NES DMRU and the District Plan rule. This is consistent with Regulation 11 of the NES DMRU. The consenting pathway for *detached* MRU is:

- a. comply with the NES requirements;
- b. if not achieved then comply with the District Plan rule;
- c. if not achieved then resource consent is required.

128. The consenting pathway for *attached* MRU is: comply with the District Plan rule; if not achieved then resource consent is required.

129. I recommend accepting this submission point as it applies to the Māori Purpose Zone, and therefore for MPZ-R4 Minor Residential Unit to be amended, as shown in Appendix B.

10.8 Recommendations for Topic 8

130. It is my recommendation to accept submission point 26.88 and therefore for MPZ-S5 CMA Setback sub-clause 2.d to be deleted, as shown below and in **Appendix B**.

MPZ-S5	Setbacks from a coastal marine area
<p>1. Buildings, accessory buildings and structures must be setback at least:</p> <p style="margin-left: 20px;">a. Buildings, accessory buildings and structures must be setback 25m from the edge of a coastal marine area.</p> <p>2. The setbacks in MPZ-S5 do not apply to:</p> <p style="margin-left: 20px;">a. Buildings and structures that are permitted under the Natural Character chapter;</p> <p style="margin-left: 20px;">b. Where there is a legally formed and maintained road;</p> <p style="margin-left: 20px;">c. Fences; <u>and</u></p> <p style="margin-left: 20px;">d. Infrastructure provided by a network utility operator; and</p> <p style="margin-left: 20px;">e. Structures associated with vehicle or pedestrian access.</p>	<p>3. Activity status when compliance not achieved: Restricted Discretionary</p> <p>4. Matters over which discretion is restricted:</p> <p style="margin-left: 20px;">a. The design and siting of the building or structure with respect to effects on the natural character, landscape, ecological, public access and cultural values of the waterbody;</p> <p style="margin-left: 20px;">b. The impacts on existing and future esplanade reserves, esplanade strips, and public access to the coastal margins;</p> <p style="margin-left: 20px;">c. screening, planting and landscaping on the site; and</p> <p style="margin-left: 20px;">d. Natural hazard risks.</p>

131. It is my recommendation to accept submission point 222.15 and therefore for a new rule to be added to the MPZ for the demolition of buildings, as shown below and in **Appendix B**.

<u>MPZ-RX</u>	<u>Demolition of a building</u>
<p>1. <u>Activity status: Permitted</u></p>	<p>2. <u>Activity status when compliance not achieved: Not Applicable</u></p>

132. It is my recommendation to accept submission point 222.28 and therefore for a new rule to be added to the MPZ for the relocation of buildings, as shown below and in **Appendix B**.

MPZ-RX	Relocation of buildings
<p>1. Activity status: Permitted</p> <p>Where:</p> <ul style="list-style-type: none"> a. <u>The building complies with standards MPZ-S2 to MPZ-S7 inclusive;</u> b. <u>A building inspection report shall accompany the Building Consent application, identifying reinstatement work required to the building's exterior; and</u> c. <u>All work required to reinstate the exterior of the building, including the siting on permanent foundations, shall be completed within 12 months of the building being delivered to the site.</u> 	<p>2. Activity status when compliance not achieved: Restricted Discretionary</p> <p>3. Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. <u>Reinstatement work needed, timetable for reinstatement and placement on permanent foundations, and bond to secure this work;</u> b. <u>Management of reinstatement work, including site maintenance and screening of the building during reinstatement; and</u> c. <u>The matters of discretion of any infringed standard MPZ-S2 to MPZ-S7 inclusive.</u>

133. It is my recommendation to accept in part submission point 222.32 and therefore for MPZ-R4 Minor Residential Unit to be amended, as shown below and in **Appendix B**.

MPZ-R4	Minor residential unit <u>not permitted by the National Environmental Standards for Detached Minor Residential Units (NES DMRU)</u>
<p>1. Activity status: Permitted</p> <p>The establishment of a new, or alteration to, or addition to an existing minor residential unit.</p> <p>Where:</p> <ul style="list-style-type: none"> a. There is no more than one minor residential unit per site; <u>and</u> b. The minor residential unit shares vehicle access with the principal residential unit; c. The separation distance between the minor residential unit and the principal residential unit is no greater than 50m; and d. The minor residential unit has a maximum GFA of 90m²; excluding decks and any garage or carport. 	<p>2. Activity status when compliance not achieved with MPZ-R4.1.a or MPZ-R4.1.d: <u>Discretionary Non-Complying</u></p> <p>3. Activity status when compliance not achieved with MPZ-R4.1.b or MPZ-R4.1.c: Restricted Discretionary</p> <p>4. Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. Impacts on the transport network and the safe design of site entry and exit; b. Measures to manage adverse effects on the amenity values of other sites including shading, dominance, privacy and access to sunlight/daylight; and c. Scale, design and location of buildings within the site to mitigate potential reverse sensitivity effects.

11. Topic 9 Definitions

11.1 Introduction

134. Te Uri o Hau (367.3 and 367.4) requests amendments to the 'Māori Purpose Activities' and 'Papakainga' definitions. Fonterra further submitted in support of both primary submission points (104.3 and 104.4). The submission seeks that the papakainga definition is amended to include:

An activity undertaken to support traditional and contemporary Māori cultural living for tangata whenua to use and develop on:

a. Māori land;

b. Treaty Settlement Land;

c. Land which is the subject of proceedings before the Māori land court to convert the land to Māori land; or

d. General land owned by Māori where it can be demonstrated that there is an ancestral link identified.

Papakāinga may include (but not limited to) residential, social, cultural, economic, conservation and recreation activities, marae, wāhi tapu and urupā.

135. The rationale given in the submission is that the notified definition is limiting to what mana whenua practice as 'cultural activities' on Māori Land and Treaty Settlement Land. Both of these tenures are defined in the PDP as follows:

Māori Land

means any land defined and administered under Te Ture Whenua Māori Act 1993, including Māori Freehold, Māori Reservations, and Māori Customary Land.

Treaty Settlement Land

means Commercial Redress and Vested Cultural Redress Land owned by iwi or hapu through Treaty Claims Settlement legislation.

136. Being too prescriptive removes the ability to adapt tikanga Māori and cultural practices. The definition also when read alongside provisions of the MPZ limits a number of activities on Māori and Treaty settlement land to the activities listed under this definition.

11.2 Analysis

137. I note that ‘Māori Purpose Activities’ is a term that is only used in the MPZ and papakāinga is nested as an activity within that term, while ‘Papakainga’ is also used in the GRUZ chapter in rule GRUZ-R1 Papakainga Housing. It is considered appropriate that the definition of Papakainga is addressed in the MPZ s42A report given the importance of it to the use and development of Māori land.
138. I agree with the rationale that cultural practices and tikanga Māori should be able to adapt and change, and therefore should not be limited by a definition, particularly when included in a statutory document like a district plan. Regarding not limiting activities to those listed in the definition, I also concur with the intent of this submission point.
139. The way the PDP has been drafted, Māori Purpose Activities definition (refer paragraph 53) has the wider-ranging list of activities, while Papakainga definition is focused on housing. The objectives, policies and rules then use these terms accordingly. For example, MPZ-R2 Māori Purpose Activity.
140. The requested amendment to the definition of Papakainga contains four land type options for where Papakainga can be undertaken. I do not consider that these should be included in a definition for Papakainga. Rather, this should be determined as part of the zoning decisions, as in, what land is mapped as MPZ. The remainder of the requested Papakainga definition elements are considered to be largely included in the definition for ‘Māori Purpose Activities’, with the exception of conservation and recreation activities, and wahi tapu.
141. I consider that the intent of submission points 367.3 and 367.4 can be achieved with the following three amendments.
142. First, amend MPZ-P1 – Enabled a Range of Activities to include reference to s338(1) Te Ture Whenua Act 1993, as described in paragraphs 59-68, where there is also relevant discussion in relation to this submission point under Topic 3 Objectives and Policies.
143. Second, amend the definition of ‘Māori Purpose Activities’. The list of activities included in this definition are prefaced with the word – including, meaning the activities that follow are not exclusive or closed. To reinforce this and ensure the list of activities are not ‘locked’ to be only those listed activities, I consider it appropriate for the following text to be added to the introduction sentence of the definition for Māori Purpose Activities for clarification purposes –

Māori Purpose Activities – means the use and development of land and buildings for Māori cultural, community and living activities, including but not limited to:

...

144. And thirdly, I recommend that the following three activities are added to the listed activities for Māori Purpose Activities –

7. whare karakia (church);

8. conservation and recreation activities, and

9. wahi tāpu.

11.3 Recommendation for Topic 9

145. I recommend declining submission point 367.4 and not amend the definition of Papakainga.

146. I recommend accepting submission point 367.3 and amending the definition of Māori Purpose Activities, as shown below and in **Appendix B**.

<p>Māori Purpose Activities</p>	<p>means the use and development of land and buildings for Māori cultural, community and living activities, including:</p> <ol style="list-style-type: none"> 1. marae/pā; 2. papakāinga; 3. home business; 4. arts and cultural centres; 5. educational facilities; and 6. urupā; 7. whare karakia (church); 8. <u>conservation and recreation activities;</u> <u>and</u> 9. <u>wāhi tapu.</u>
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