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## 16.0 PAKAINGA AND MARAE SETTLEMENTS

### 16.1 Introduction

The term papakainga is often used to describe a cluster of homes provided on Maori land, and provided in a way which seeks to enhance whanau or hapu social intercourse. However in a broader sense, papakainga may include any buildings, facilities or structures which enable Maori to live sustainably on their land and could be anything from one house to a piece of land to a small settlement, including kaumatua housing, kohanga reo or cottage industries, recreational facilities, places of worship or urupa. Provision in the District Plan for the establishment of papakainga and marae settlements will assist in the nurturing of the relationship of Maori, their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

The Plan provides for papakainga and marae developments throughout the district. Residential and community-based activities on Maori land, are unlikely to lead to a loss of productive land or compromise environmental or amenity values due to the location and low density of such developments. Papakainga and marae settlements in this chapter shall be limited to land defined as Maori land under the Maori Land Act (Te Ture Whenua Maori) 1993.

Maori land is distinctive from land in General Title particularly in the sense that the "owners" of the land have an ancestral link, not only to the land, but to one another. It is appropriate to provide for this unique relationship by recognising that the social and ancestral relationships of the owners may enable them to resolve common residential issues internally.

As Maori land is spread throughout the district it is not appropriate to distinguish by zoning techniques. Rather, the owners of such lands may apply either the appropriate zone rules or may choose instead to utilise the provisions of this chapter.

It is anticipated that any papakainga or marae proposal will be considered by Council as one development proposal requiring at least one safe accessway, having one set of external boundaries for the measuring of height and noise standards and for the implementation of yard requirements to preserve the amenity values of adjacent properties outside the complex. Control of internal design and control of the amenity and living environment shall as far as possible, be returned to the people themselves as unlike other developments the individuals involved in papakainga and marae development have a stake in the land, which ties them together as whanau. Therefore any effects on the amenity of an area shall be assessed generally in terms of the effect beyond the boundaries of the site. A degree of autonomy is given over to the whanau to protect the amenity within their complex as they consider appropriate.

### 16.2 Issues

- 16.2.1 Use of zoning techniques alone as a method in the Plan, may not enable Maori to pursue a quality of life consistent with their cultural values and customs in relation to their traditional lands, waters, waahi tapu and other taonga.
- 16.2.2 Hapu wish to direct the use and development of their land in a way that is consistent with their cultural values and customs.
- 16.2.3 The effects of non-residential activities within a papakainga or marae complex, particularly noise and traffic, may be incompatible with the surrounding environment.

### 16.3 Objective (Papakainga)

1. Sustainable management of Maori land, consistent with the traditional and cultural relationships Maori may have with their ancestral lands, while ensuring appropriate health, safety and environmental standards are maintained.

*Principal reason (1): Papakainga and marae developments are a legitimate land-use which involve different issues to those of traditional European settlement. Provision for such settlements is necessary to fulfil a community need. The culture of Maori provides a different perspective with regard to the management of natural and physical resources. The objective seeks to uphold, within the limits of the Act, kaitiakitanga and the rangatiratanga rights of iwi. Policies shall, as far as possible be consistent with Maori values and preferences for the management of their resources.*

### 16.4 Policies (Papakainga)

1. Provide Maori the freedom to establish papakainga and marae activities on Maori land by recognising the significance of the location to Maori, consistent with their relationship with their ancestral lands and ensuring that any adverse effects on the environment are avoided, remedied or mitigated.
2. To enable Maori to direct the development of papakainga and marae complexes, subject to compliance with health, safety and environmental standards while ensuring that the physical needs of the settlement, in terms of water supply and waste disposal shall be met without adverse effects on the environment.

*Refer to Regional Discharges Plan and Gisborne District Council's Guidelines for On Site Wastewater Treatment and Disposal in the Gisborne District.*

*Explanation (1): The primary aim of the policy is to enable Maori to adequately house and sustain themselves in a culturally appropriate way. The policy recognises that papakainga and marae settlements are an essential means for Maori to pursue the traditional relationship with their land. The policy encourages and strengthens this relationship by enabling settlement on Maori land provided there are no significant adverse effects on the environment.*

*Explanation (2): This policy recognises that papakainga is a unique form of primarily residential settlement, essential to enable Maori to pursue their traditional relationships, particularly with their land. It is intended that Maori be given freedom, to determine the details of such settlements, limited only by the wider community's need to ensure that basic health, safety and environmental standards are met. Marae activities are generally more community based, and this policy is intended to facilitate the landowners control of development, limited only by the wider community's need to ensure that basic health, safety and environmental standards are met.*

*Principal reason (1 and 2): Sections 6(e), 7(c) and 7(f) of the Act.*

### 16.5 Objective (Surrounding Environment)

2. Maintain or enhance the amenity values of lands adjoining Maori land.

*Principal reason (2): The Act defines "amenity values" as "those natural and physical qualities and characteristics of an area that contribute to peoples appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes". Within the district there are townships, suburbs and neighbourhoods, coastal and rural areas with differing physical characters. This character is affected by activities on adjoining properties. The objective seeks to protect the amenity values of land within the district which adjoins Maori land.*

## 16.6 Policies (Surrounding Environment)

3. Manage any adverse effects on the amenity values of the surrounding environment by ensuring that:
  - buildings and structures are located, and activities are conducted so as to avoid, remedy or mitigate any adverse effect on the adjoining landowners;
  - the form and scale of buildings are compatible with that of buildings or landscapes in the immediate vicinity of the complex;
  - the character and amenity of the environment is maintained or enhanced;
  - the location, scale and nature of the proposal are compatible with the surrounding environment.
4. Manage the effects of traffic generated by activities by:
  - ensuring that adequate on-site vehicle parking and manoeuvring areas are provided for all activities, either individually or communally;
  - ensuring that the level of traffic potentially generated by the proposal can be accommodated without compromising the safety of traffic and residents on the district's roads;
  - giving consideration to the nature of adjacent roads, to ensure that entry, exit and manoeuvring of vehicles can be conducted safely from all sites;
  - ensuring that the layout of on-site parking will not detract from the visual quality of the surrounding environment.
5. Limit activities on papakainga and marae complexes to those which will not alter the existing background noise level for residents outside the papakainga or marae complex.
6. Control the adverse effects of fumes, smell, dust, glare and light on adjacent properties.
7. Preserve access to daylight and privacy for adjoining properties by ensuring that new buildings or structures will not cause loss of sunlight, daylight or privacy to adjoining sites.
8. Control the effects of non-residential activities by:
  - ensuring that all reasonable steps have been taken to avoid nuisance and that the amenity of the surrounding environment is protected;
  - ensuring that the location of any activity on a site avoids, remedies or mitigates any adverse effect on the adjoining properties;
  - the provision of fencing and landscaping which safeguards the privacy and visual amenity of the surrounding area;
  - ensuring that any outdoor storage associated with a non-residential activity does not adversely affect the surrounding environment;
  - ensuring that the hours of operation of any activity will not adversely affect the amenity of the surrounding environment particularly with regard to noise and traffic generation.

*Explanation (3): Tangata whenua wish to maximise their freedom to use their ancestral lands as they choose for a range of residential and non-residential activities. It is the intention of the Plan to enable this to occur, provided there is no adverse effect upon the amenity of the surrounding area.*

*Principal reason (3): The community generally, values highly, the amenity of the various environments within the district, whilst also wishing to ensure that the use and development of properties is not unduly restricted. The test being whether the activity will adversely affect the environment.*

*Explanation (4): The Plan will ensure that traffic likely to be generated by an activity will not adversely affect the amenity of the surrounding area. Principal reason (4): The policy is intended to protect the amenity of properties adjoining Maori land, from the potential adverse effects of traffic.*

*Explanation (5): Each area within the district has varying noise levels and tolerance to noise. Activities which would reduce these amenity values are not considered appropriate. Principal reason (5): Noise is a particularly important amenity consideration. The policy will ensure that specific measures are implemented to minimise the potential effect of noise created by activities in papakainga or marae areas.*

*Explanation (6): Activities shall be permitted to establish, provided the existing amenity of the surrounding area is maintained or improved by the presence of the activity. Principal reason (6): The community values highly the amenity of the various environments within the district, and wishes also to ensure that the use and development of properties is not unduly restricted. The test being whether the activity will adversely affect the environment.*

*Explanation (7): Privacy and access to daylight have been identified by the community as important factors contributing to the amenity of the district. Controls which will limit the location and design of buildings will preserve these amenities, whilst providing for new developments. Principal reason (7): The policy seeks to ensure that future development is not permitted at the expense of valued amenities such as privacy and access to daylight.*

*Explanation (8): Provision is made for individuals to work from home and for compatible non-residential activities. The test of compatibility must be whether the activity will have any adverse effect on the neighbouring environment. Principal reason (8): The community has indicated a greater degree of tolerance of non-residential activity than in the past, provided that such activity does not adversely affect the amenity of the area.*

## 16.7 METHODS OF IMPLEMENTATION

### 16.7.1 Advocacy

1. Advocate and inform the community about Council processes, through the development of an Information Booklet, identifying Council's requirements and incorporating a step-by-step process to obtain the necessary Council consents to undertake papakainga and marae development.

*Principal reason (1): Information included in the Plan and additional information booklets will act to increase the community's knowledge and understanding of, the resource consent process with regard to papakainga and marae development.*

### 16.7.2 Regulation

1. Rules - Develop rules which identify and protect the amenity values of the residential environment.

*Principal reason (1): It is desired that owners of Maori land be allowed maximum freedom and flexibility to use and develop their properties as they see fit, in accordance with their traditional and cultural relationship with their ancestral lands. However it is recognised that settlement patterns, impact on the environment in terms of amenity values.*

*It is considered that rules which protect the amenity values of the particular sites by limiting the potential adverse effects of activities, will best achieve an appropriate compromise between personal and cultural freedom and protection of amenity values of an area. Rules will be implemented to protect the environment from the potential adverse effects of waste disposal in areas which are not reticulated, and to protect the particular amenity values of such areas.*

## 16.8 RULES FOR PAKAINGA AND MARAE SETTLEMENTS

### Note

Activities shall comply, where relevant, with the regional or district rules specified in Chapter 3-Cultural Heritage, Chapter 4-Natural Heritage, Chapter 5-Natural Hazards, and Chapter 6-Land, Chapter 7-Beds of Lakes and Rivers, Chapter 8-Utilities, Chapter 9-Contaminated Sites, Chapter 9A-Hazardous Substances, Chapter 10-Signs and Chapter 14 – Financial Contributions.

### General Rules

The following General Rules shall apply to all permitted activities on land defined as Maori land under the Maori Land Act 1993 (Te Ture Whenua Maori) 1993.

16.8.1 Rules for each overlay apply in addition to the rules of this Chapter. For the purposes of clarity, where conflict arises, rules for overlays (Chapter 3-Cultural Heritage, Chapter 4-Natural Heritage, Chapter 5-Natural Hazards, and Chapter 6-Land) will have precedence over provisions in this Chapter.

16.8.2 All activities shall comply with rules specified in Chapter 11-Noise and Vibration and Chapter 15-Roads, Accessways and Parking.

### 16.8.3 Noise and Vibration

a) Activities on Maori land shall comply with rules for noise and vibration specified in Chapter 11-Noise, for the underlying zone pertaining to that land.

### 16.8.4 Nuisance

a) A heavy vehicle may only arrive or depart a site or street adjacent to a residential zone, between the hours of 0700 -2200. No other activity associated with such vehicles shall be conducted outside 0700 -2200 hours unless the activity satisfies the rules in this Plan.

b) No barricade or structure shall be placed on any property, so as to unreasonably prevent or inhibit entry by the police or any authorised officer of the Consent Authority.

### Note:

Activities shall be in accordance with relevant rules contained in the Regional Air Quality Management Plan.

*Refer to the Regional Air Quality Management Plan.*

### 16.8.5 Lighting and Glare

a) All exterior lighting shall be directed away from adjacent properties and roads so that the spill of light is contained within the external boundaries of the property.

b) Any welding activities (excluding construction activities) shall be screened so that they are not visible from residential or reserve zones and roads.

c) Activities shall not emit artificial lighting greater than:

i) 10 lux spill (horizontal and vertical) of light as measured at or within the boundary of any site zoned residential or the notional boundary of any rural dwelling;

ii) 20 lux spill (horizontal and vertical) of light as measured at or within the boundary of any property zoned commercial.

iii) 10 lux spill (horizontal and vertical) of light as measured within any road carriageway, other than from road lighting.

### 16.8.6 Height

- a) Buildings, parts of buildings, and structures (excluding chimneys, antennas and support structures) within a papakainga or marae complex shall be contained within recession planes commencing 2.75 metres above the external boundaries of the site. The angles of the recession plane at each external boundary shall be determined using the recession plane indicator:

**PROVIDED THAT** a building or structure may exceed the boundary of the recession plane by not more than one metre if the written consent of the adjoining property owners is obtained and submitted to the Consent Authority at the time a building consent is sought or prior to the commencement of the activity.

*Refer to 8.10 and Appendix 14 for additional height controls relating to the Airport.*

### 16.8.7 Roads, Accessways and Parking

- a) Roads, accessways and parking shall be provided in accordance with the rules specified in Chapter 15-Roads, Accessways and Parking:

**PROVIDED THAT** parking, loading and manoeuvring areas may be located communally within the papakainga complex.

Note:

For the purposes of clarity, parking for individual dwelling units need not be provided within the land exclusively attached to the dwelling unit, but may instead be located in another part of the complex, provided that the parking space is kept for the exclusive use of the occupants of the dwelling unit.

### 16.8.8 Wastewater Treatment

- a) Every dwelling unit and other buildings requiring such services shall be connected to a reticulated water and sewerage system where the system is no more than 30 metres from the boundary of the land and no more than 60 metres from the nearest part of the building containing the fixture; otherwise
- b) A wastewater treatment system in accordance with the Gisborne Regional Discharges to Land and Water Waste Management and Hazardous Substances Plan shall be installed to adequately service each of the activities likely to occur on the site either separately or communally, so as to avoid, remedy or mitigate any adverse effects on the environment.

*Refer to Regional Discharges Plan and Gisborne District Council's Guidelines for On Site Wastewater Treatment and Disposal in the Gisborne District.*

### 16.8.9 Building Length

- a) No building where it adjoins a residential or reserve zone shall be more than 15 metres long without having a vertical or horizontal offset in plan of at least 2 metres, or the written consent of the adjoining property owner shall be obtained and submitted to the Consent Authority at the time a building consent is sought.

### 16.8.10 Yards Distances

- a) Eaves, porches, bay or box windows, steps and chimneys may be located within 0.6 metres of any yard area.
- b) The minimum width of any yard adjacent to land which is not part of the papakainga or marae development shall be as follows:
- i) General Residential, Residential Protection or Inner Residential Zones:
- |              |             |            |
|--------------|-------------|------------|
| Front sites: | Front yard: | 4.5 metres |
|--------------|-------------|------------|

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	Other yards:	2.0 metres
Rear sites:	All yards:	3.0 metres

**PROVIDED THAT** a building may be erected closer to or on any "Other yard" boundary if the written consent of the adjoining property owner is obtained and submitted to the Consent Authority at the time a building consent is sought, or prior to the commencement of the activity.

ii) All other zones within the district:

	All yards:	4.5 metres
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**PROVIDED THAT** a building, other than buildings housing animals or birds, may be erected closer to or on any yard, other than a front yard, if the consent of the adjoining landowner is first obtained and the proposed building will not be within 9 metres of an existing residential building on an adjoining site.

#### **16.8.11 Outdoor Storage**

- a) Materials associated with any non-residential activity on a papakainga or marae site, which are to be stored outside shall not be visible from any residentially zoned property located outside the complex or multiply owned land.

#### **16.8.12 Fencing**

- a) Any individual site within a multiply-owned property, where non-residential activities are conducted, shall be provided with a fence not less than 2.0 metres in height and solidly clad, along all external boundaries which adjoin any property zoned residential or reserve, unless the written consent of adjoining property owners is obtained to an alternative proposal, and submitted to the Consent Authority prior to the commencement of the non-residential activity.

#### **16.8.13 Land Adjacent to a State Highway**

- a) The written consent of Transit New Zealand shall be obtained for any proposal adjacent to or requiring access directly onto a state highway.

#### **16.8.14 Noise Impact Overlay**

- a) Within the Noise Impact Overlay, minimum site area for residential dwellings will be as required in accordance with the provisions for the underlying zone.

*Refer to Appendix 19  
- Airport Noise  
Boundaries.*

#### **16.8.15 Radiofrequency Radiation**

- a) All activities shall comply with the New Zealand Standard NZS2772.1 (1999) Radiofrequency Fields: Part 1 Maximum Exposure Levels - 3KHz - 300GHz and with NZS 6609.2:1990 - Radiofrequency radiation: Part 2: Principles and Methods of Measurements 300khz to 100ghz.
- b) All activities shall comply with the International Commission on Non-ionizing Radiation Protection (ICNIRP) Guidelines (1998)

## 16.9 Permitted Activities

The following activities shall be permitted activities provided they comply with the General Rules, where applicable:

### 16.9.1 Activities (excluding industrial and commercial and activities for which Rules 8.11.2.4 and 8.11.4.3 apply) on Maori land

## 16.10 Restricted Discretionary Activities

The following activities shall be restricted discretionary activities:

### 16.10.1 Activities (excluding industrial and commercial and activities for which Rules 8.11.2.4 and 8.11.4.3 apply) on Maori land which do not satisfy the General Rules for permitted activities in respect of:

- a) Vibration
- b) Nuisance
- c) Lighting and glare
- d) Height
- e) Building length
- f) Yards
- g) Roads, accessways and parking
- h) Outdoor storage
- i) Fencing
- j) Financial contributions, works and services

*Provided that:*

1. The activity shall comply with all rules (except 16.10.1(a) – 16.10.1(j) listed above) specified for a Permitted activity.

Council shall restrict its discretion to the matters a) - j) specified above:

### 16.10.2 Industrial and commercial activities (except activities for which Rule 8.1.4.3 applies) in respect of:

- a) Vibration
- b) Nuisance
- c) Location
- d) Lighting and glare
- e) Height
- f) Building length
- g) Yards
- h) Roads, accessways and parking
- i) Outdoor storage
- j) Landscaping
- k) Fencing
- l) Scale of operation
- m) Hours of operation
- n) Financial contributions, works and services

*Provided that:*

1. The activity shall comply with all rules (except 16.10.2(a) – 16.10.2(n) listed above) specified for a Permitted activity.

Council shall restrict its discretion to the matters a) - n) specified above

## **16.11 Discretionary Activities**

The following activities shall be discretionary activities:

### **16.11.1 Activities which do not satisfy the General Rules and are not provided for as Restricted Discretionary activities**

## **16.12 Non-Complying Activities**

The following activities shall be non-complying activities:

### **16.12.1 Activities which are not provided for as Permitted, Restricted Discretionary, Discretionary or Prohibited**

## **16.13 ANTICIPATED ENVIRONMENTAL RESULTS**

- a) Improved quality of life, for those Maori who participate, consistent with their cultural values and customs in relation to their traditional lands, water, sites, waahi tapu and other taonga.
- b) Maintenance of the character and amenity of the rural and residential zones.
- c) Adjacent land users should not be adversely affected.
- d) Improved sustainability and usefulness of the Maori land resource.
- e) Objectives, Policies and Rules in the Plan which enable sustainable management of the environment.
- f) A high degree of compliance with the requirements of the Plan and resource consent conditions.