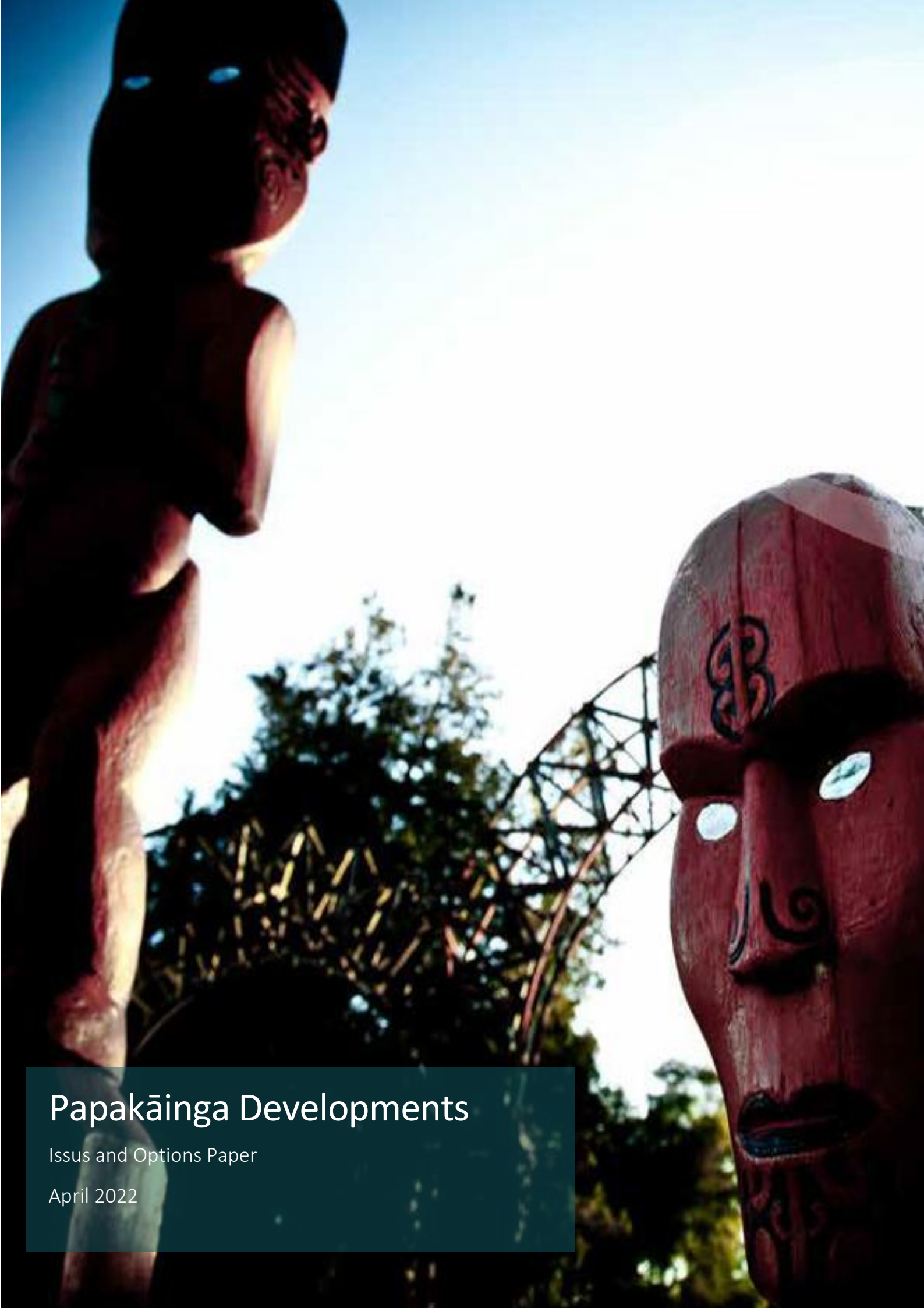




Papakāinga Developments

Issue and Options Paper

April 2022

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1.0 Introduction and Purpose

Recently Central Government, following a request from the Rotorua Lakes Council (RLC) to recognise an acute housing need in Rotorua, directed RLC to implement the new medium density residential standards (MDRS) into the district plan to 'significantly increase opportunities for housing'.

RLC is currently preparing their Housing Plan Change to implement the MDRS and their Future Development Strategy (FDS). Through recent consultation and the work that has been undertaken to develop the Rotorua Housing Strategy - He Papakāinga, He Hapori Taurikura, papakāinga development was identified as a key objective and focus area for RLC.

At the recent hui on the Housing Plan Change and FDS, there was clear feedback from iwi and hapū that the current district plan framework for papakāinga development has not delivered the level of housing required. The provisions are also seen as a barrier and deterrent when iwi and hapū look to establish Papakāinga and Kaumātua housing on their whenua. The Housing Plan Change represents an opportunity for Council to review the current papakāinga provisions.

The purpose of this document is to detail the key issues and challenges for papakāinga development in Rotorua, and identify high level options to address these within the scope of the Housing Plan Change and beyond. These were discussed at recent hui with various iwi and hapū representatives held 14 March 2022 and a further follow up hui on 31 March 2022.

2.0 What is Papakāinga and why is it Important?

The meaning of papakāinga can vary from a cultural and historical view. Traditionally, the literal meaning of papakāinga is, 'a nurturing place to return to'. However, in the context of district planning provisions and this issues and options paper, papakāinga is generally considered as 'development of a communal nature on ancestral land owned by Māori.'

Papakāinga developments can be complex. A lot of people and organisations are involved and it can be hard to get agreement and financing to start developments. The barriers to papakāinga are addressed in more detail in Section 6.

Papakāinga is important as it is a key method for delivering housing and communal solutions for tangata whenua within Rotorua and is central to upholding the principles of Te Tiriti o Waitangi.

3.0 Iwi & Hapū in the Rotorua Lakes District

Tangata whenua have a rich tapestry of cultural traditions, histories and relationships to places, lands, water bodies and coastal areas throughout the Rotorua Lakes District. RLC recognise the unique relationship tangata whenua hold with their ancestral whenua, and the administrative barriers that can impede papakāinga development.

3.1 Iwi Authorities

RLC's relationship with tangata whenua has been established through ongoing engagement and has been expressed through relationship agreements and recognition of tangata whenua (who

hold mana over their rohe) as a result Treaty settlement processes. In this regard, the following are the iwi authorities recognised by RLC within the District:

- Ngāti Kea/Ngāti Tuara
- Ngāti Māhino
- Ngāti Pīkiao
- Ngāti Rangiteaorere
- Ngāti Rangitiki
- Ngāti Rangiwēhē
- Ngāti Rongomai
- Ngāti Tahu/Ngāti Whāoa
- Ngāti Tararua
- Ngāti Tūwharetoa (Bay of Plenty)
- Ngāti Unenukukopako
- Ngāti Whākaue
- Tapuika
- Tūhoe
- Tūhourangi

Notwithstanding the above, the following is a list of the iwi and hapū groups who are currently involved in the work that is being undertaken on the Rotorua Housing Plan Change and the FDS:

- Te Maru o Ngāti Rangiwēhē and Te Tahuhu o Tawakeimoa Trust
- Ngāti Rangiteaorere Koromātua Council
- Ngāti Pīkiao Iwi Trust
- Ngāti Tahu Ngāti Whāoa Rununga Trust
- Ngāti Rongomai Iwi Trust
- Ngāti Makino Iwi Authority
- Te Mana o Ngāti Rangitiki
- Ngāti Tararua Iwi Trust
- Te Rununga o Ngāti Kea Ngāti Tuara Trust
- Ngāti Tūwharetoa Ngāti Te Ngakau Hapu Trust
- Te Komiti Nui o Ngāti Whākaue
- Ngāti Ngarāranui Iwi Trust
- Owhata Marae at Hineomoa Point
- Ngāti Whākaue Environmental Group
- Te Tatau o Te Arawa
- Te Rununga o Ngāti Kea Ngāti Tuara Trust
- Tūhourangi Tribal Authority
- Ngāti Roro o Te Rangī Hapu Trust
- Ngāti Unenukukopako Iwi Trust
- Pukeroa Oruawhata Trust/Ngāti Whākaue Tribal Lands
- Tiki Te Kohu Ruamano Ahu Whenua Trust
- The Proprietors of Part Owhatiura South 5 Incorporated
- Owhata 2b Ahu Whenua Trust
- Papaīouru at Ohinemutu
- Tunohopu at Ohinemutu
- Hinemihi at Ngapuna
- Hurungaterangi Marae, Ngāpuna
- Tumahaurangi Marae at Te Koutu
- Te Tatau Pounamu
- Te Arawa Lakes Trust

3.2 Hapū and Iwi Management Plans

A number of iwi and hapū management plans have been lodged with RLC. Under the Resource Management Act 1991 (**RMA**), these plans must be “taken into account when making changes to the District Plan.”¹ RLC has received the following hapū and iwi management plans:

- He Mahere Pūtahitanga
- Ngāti Tahu Ngāti Whāoa

¹ Section 74(2A) Resource Management Act 1991.

- Ngāti Rangitihi
- Te Rautaki Taiao A Raukawa. Raukawa Environment Management Plan 2015
- Tapuika Environmental Management Plan 2014
- Ngāti Kea Ngati Tuara Iwi Environmental Management Plan 2016
- Ngāti Pikiao Iwi Management Plan 1997
- Te Tūāpapa o ngā Wai o Te Arawa - Te Arawa Cultural Values Framework
- Ngāti Rangiwewehi Iwi Environmental Management Plan 2012
- Tuhourangi Tribal Authority Enhanced Iwi Environmental Resource Management Plan July 2011
- Te Taio o Te Whatuoranganuku - Ngāti Tamateatutahi - Ngāti Kawiti Hapū Environmental Management Plan 2015
- Whakamarohitia ngā wai o Waikato Te Arawa River Iwi Trust Environmental Plan 2021

Throughout these documents, papakāinga development is a key theme. This demonstrates that papakāinga is a key priority for iwi and hapū that needs to be recognised and taken into account when considering the relevant planning framework.

3.3 Whenua Māori in Rotorua

The Rotorua Lakes District has a significant quantity of whenua Māori compared to the rest of the country. The distribution of whenua Māori in the District is shown in the map below:

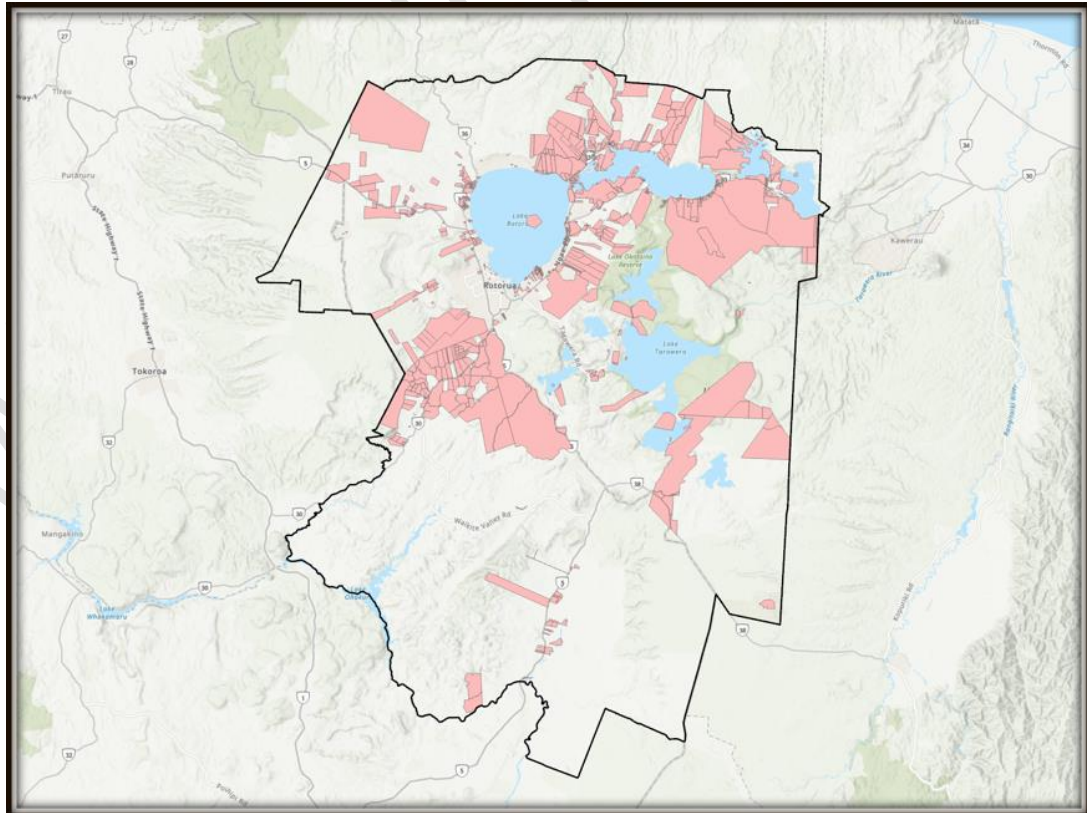


Figure 1 – Map showing location and amount of whenua Māori in the Rotorua Lakes District

Currently there are approximately 53 million hectares which equates to 20 per cent of the District's land area (13 per cent within the urban area and 20 per cent of the rural area). In total there are 1,439 Māori owned blocks, varying in size from larger rural lots and smaller urban allotments. The median size of each block is 3,385m².

4.0 Statutory Context

4.1 Complex Legislative Landscape

Papakāinga development sits within a complex legislative and policy framework, which incorporates the RMA (and subsequent national policy directions, regional and district plans), Te Ture Whenua Māori Act, and a range of other government legislation and policy instruments. This report is predominantly focussed on the RMA statutory context, however, the broader legislative landscape is discussed below, ultimately highlighting the role of territorial authorities and how they can enable the development of papakāinga on whenua Māori (Māori land).

4.2 Resource Management Act 1991

Sections 6, 7 and 8 form part of the relevant matters that need to be recognised, provided for, and taken into account in achieving the purpose of the RMA. These matters also form the basis for managing the resource of whenua Māori.

The RMA also requires local authorities to consult tangata whenua and take into account any relevant planning documents recognised by an iwi authority when preparing a policy statement or plan. Local authorities must also provide iwi authorities with a copy of the relevant draft proposed policy statement or plan, allow iwi authorities adequate time and opportunity to consider the draft document and provide any advice, and have particular regard to any advice received from those iwi authorities on the draft document. Section 32 evaluation reports must summarise all advice reviewed from iwi authorities on the proposal, and how the proposal responds to that advice.

4.3 National Planning Standards

The National Planning Standards (Planning Standards) require councils to include a chapter in their plans for tangata whenua / mana whenua related content. This chapter may contain information that recognises the relevant iwi and hapū groups, outline any relationships, iwi and hapū planning documents, and any participation arrangements.

The Planning Standards also include the option for a Māori Purpose Zone that can be used to provide for a range of activities that specifically meet the needs of Māori, including papakāinga, and marae on Māori-owned land. The introduction of a Māori Purpose Zone is identified as a potential option in Section 6.0.

4.4 Te Ture Whenua Māori Act 1993

Te Ture Whenua Māori Act 1993 (**TTWM Act**) is the primary legislation administering whenua Māori. It aims to balance the protection of whenua Māori for future generations with the ability to use and develop land to meet the aspirations of whānau. For the purpose of TTWM Act, a range of land status are recognised and defined in section 129(2) as:

- Māori customary land
- Māori freehold land
- General land owned by Māori
- General land
- Crown land
- Crown land reserved for Māori.

Whenua Māori can be managed by different governance structures, both formal and informal. The TTWM Act identifies six governance structures available to Māori to assist with managing their whenua. The most common governance structure being adopted for this purpose are Māori Trusts. The most common types of whenua Māori trusts are outlined below:

- Māori Land Trust – Where blocks of land are held in a trust with appointed trustees whose responsibility is to make decisions about the land for the benefit of all of the owners.
- Ahu Whenua Trust – This is the most common Māori land trust, and is designed to promote the use and administration of the land in the interest of the owners. These trusts are often used for commercial purposes.
- Whānau Trust – Combines the shares in whenua Māori from a group of related owners, or an individual, into one holding legally owned by the whānau trust.
- Pūtea Trust – Allows the landowners of small and uneconomic interest in land to pool their interests together.
- Whenua Tōpū Trust – Iwi or hapū based trusts that are designed to facilitate the use and administration of the land in the interest of the iwi or hapū. This type of trust is also used for receiving Crown land as part of any settlement.

Despite there being a number of management or governance structures available to Māori landowners, the majority of whenua Māori titles in New Zealand do not have a management structure in place.

5.0 Current Approach to Papakāinga

5.1 Rotorua District Plan

The Rotorua District Plan (**RDP**) provides for Papakāinga and kaumātua flats through a district wide chapter, allowing for Papakāinga in all zones.

The RDP provides for two resource consenting pathway options for papakāinga and kaumātua flats:

- (1) As a permitted activity subject to performance standards that requires:
 - (a) Compliance with performance standards of the zone, including density (except provision is made for kaumātua flats at one dwelling 150m²;
 - (b) The activity to be located on land that adjoins or is adjacent to a Marae, and is on Māori multiple-owned land, or otherwise under the jurisdiction of the Māori Land Court; and

- (c) The land to be vested in trustees whose authority is defined in a Trust Order or other empowering instrument to ensure that the land remains vested in the trustees without power of sale and the occupation or beneficial interest in the land shall be restricted; or
- (2) As a restricted discretionary activity where the high-level principles of the development are established through a 'development plan', and subsequent development is permitted where it is in accordance with the approved development plan. This approach enables the principles of the development to be established prior to detailed design.

Initial engagement workshops with iwi and hapū on the Housing Plan Change and FDS has identified that the current district plan provisions are problematic when endeavouring to undertake papakāinga developments. In particular, the requirement for the development to be adjacent to a Marae in order to be deemed a permitted activity has been deemed a barrier to papakāinga.

5.2 Rotorua Housing Strategy

Papakāinga and Kōeke housing were identified as a key focus area as part of the Housing Strategy. A work program has been identified that will seek to ensure significant development of Papakāinga in the Rotorua District.

The following actions have been identified as part of the Rotorua Housing Strategy:

- Develop a papakāinga framework including:
 - Establishing a Te Arawa papakāinga development company to build capacity and capability;
 - Provide development expertise to assist landowners to achieve their papakāinga goals;
 - Develop three papakāinga master plans; and
 - Identify funding and financing mechanisms for papakāinga development.

5.3 Papakāinga Hypothetical Case Study

Following the initial Hui to discuss Papakāinga, one of the Iwi representatives who have a block of land on the shores of Lake Rotoiti, and who are looking to develop their land for papakāinga, offered to, in partnership with Rotorua Lakes Council use their development as a case study of how effective the current district plan provisions currently are. It is anticipated through this case study that Council will be able to identify whether the current provisions are fit for purpose and whether they enable the level of develop that is needed.

6.0 Key Issues

A number of issues and challenges faced by iwi and hapū regarding the development of papakāinga in the Rotorua District have been identified through both recent Hui for the Housing Plan Change and also through engagement that was undertaken for the development of the Rotorua Housing Strategy. It is important to note that the RLC is considering the current Papakainga framework and in the context of the whole district including both the urban and rural areas.

The Rotorua Lakes Council Resource Consents team have also seen a recent increase in interest from Iwi pursuing the development of their land however expressing concerns over the current framework to be able to do so.

Key issues are summarised in no particular order in **Table 1** below.

Table 1: Summary of key issues associated with papakāinga development in the Rotorua District.

Key Issue	Comment(s)
With many returning home to Rotorua, the demand for housing and in particular Papakāinga and Kōeke ("elder") housing is increasing.	Within the current COVID environment Rotorua and in particular Te Arawa have seen an increase in our people wanting to return home. At present there is a housing shortage which could be addressed through better enablement of Papakāinga and Kaumātua housing in the RDP.
Difficulty in complying with the current permitted rules for Papakāinga in the Operative Rotorua District Plan.	As discussed above, Iwi and hapū have expressed concerns over the current rule framework, in particular the requirement for Papakāinga to be established adjoining a Marae. Many Iwi and Hapu representatives have stressed the need for the provisions to provide a more enabling framework that supports their development aspirations.
Current definition in the district plan for Papakāinga Housing is limited and does not provide for associated activities.	The current definition of Papakāinga Housing states <i>"the provision of more than two household units on Maori land for tangata whenua who have "mana whenua" status and includes Kaumātua housing."</i> Feedback from iwi and hapū at recent engagement events demonstrated that there was a need to broaden this definition to include activities that are ancillary to papakāinga housing.
Multiple ownership of Whenua Māori	Māori land ownership is governed by TTWM. The current ownership model necessitates a number of landowners and trustees to work together and reach consensus as to how best to develop their whenua. While the uptake of trusts and other governance structures have improved over time, multi ownership can create issues in terms of obtaining financing for development and reaching consensus on development aspirations for whenua Māori.

Is there are a difference between Papakāinga and Kaumātua housing and should the district plan differentiate this?	The operative Rotorua District Plan considers both papakāinga and kaumātua housing separately. Recent feedback from iwi and hapū has outlined that kaumātua flats do not require differentiation and can be encompassed by Papakāinga. Iwi and hapū have expressed their desire to create sustainable neighbourhoods with a communal way of living where the focus will be in community wellbeing. It is important to note that there is no one single definition of papakāinga and many hapū have different interpretations.
Limited finance options available	Many iwi and hapū have said that there are limited financing options available for papakāinga, limiting the feasibility of developments.
Lack of infrastructure outside of the urban area.	Much of whenua Māori in the Rotorua District is located outside of the urban area where reticulated infrastructure is limited. While on-site servicing is an option, at the time of development the cost of providing such infrastructure can be prohibitive to papakāinga developments being established.
The need for project management guidance and support from beginning to end of the project.	With the development of papakāinga involving many agencies and requiring a number of consents, the process can be complicated and difficult for iwi and hapū. The need for greater support and guidance has been highlighted during our recent engagement hui. Feedback noted a need for greater support for iwi and hapū undertaking papakāinga developments, including a potential dedicated planning support person, and a project management approach where technical support is provided to co-ordinate various agencies and inputs.

7.0 Potential Options

7.1 Option Identification and Analysis

In considering the above issues and outcomes sought by iwi and hapū, we have outlined four potential options to amend the RDP. These options are set out in **Table 2** below.

Option 1 and 2 are options that could be considered in the scope of the Housing Plan Change. Option 3 and 4 would require more comprehensive review to be undertaken within the scope of a distinct papakāinga plan change, separate from the Housing Plan Change currently being undertaken.

The preferred option may be a combination of these options or a different approach identified following further engagement with iwi and hapū.

Table 2: Potential options and analysis.

Benefits	Costs
Option 1 “Bare Minimum”: this is essentially the do-nothing option and would keep papakāinga provisions as they are, and rely on the MDRS in urban areas to improve outcomes for papakāinga development.	
- Encourages long term planning through the papakāinga development plan requirement. - Community are familiar with the existing approach. - The MDRS could make papakāinga development more enabling on urban land.	- While there has been a recent increase in enquiries for papakāinga developments, in general there has been a low uptake and establishment of them within the current RDP rule framework. - The existing provisions have been identified by iwi and hapū as restrictive, including the requirements for papakāinga to be located adjacent to marae. - There are additional consenting and compliance costs for papakāinga developments under the existing regime.
Option 2 “Minor Changes”: some simple “quick win” changes are made to the papakāinga provisions as they relate to urban and rural land within the scope of the Housing Plan Change. This could include for instance, the deletion of the requirement to be in proximity to a marae, and introducing more enabling density requirements in rural areas.	
- Would retain the existing framework with minor changes, which the community are familiar with. - Can be achieved within the Housing plan change, in a relatively quick timeframe with minimal additional cost.	- Is limited to the scope of the Housing Plan Change, with the risk that issues are considered in isolation, without looking at the bigger picture and wider changes that may be required. - Rushing into changes now, could create issues for a comprehensive review of the papakāinga provisions later on.

Benefits	Costs
Simple changes have been identified that could make it immediately simpler to initiate papakāinga developments.	
Option 3 “District Wide Approach”: this would require the comprehensive review of the papakāinga provisions as part of a future plan change, seeking to undertake a district wide approach (e.g., a district wide chapter, with papakāinga provisions applying across each rural and urban zone).	
- Would make retain the existing framework with minor changes, which the community are familiar with. - Council, iwi and hapū can take a comprehensive approach to the review, and make holistic changes that address issues comprehensively. - Greater scope to achieve maximum flexibility for papakāinga developments.	- This would likely go beyond the scope of what could be achieved in the Housing plan change. - A separate process would be initiated which would have additional costs and will take significantly longer to complete.
Option 4 “Māori Purpose Zone”: this option is similar to Option 3 in that it would require a comprehensive review, but would include the use of a Māori Purpose Zone, which is enabled by the National Planning Standards. A Māori Purpose Zone could be used across all whenua Māori across the District, or for specific areas where development of whenua Māori should be identified for particular enablement.	
- Council, iwi and hapū can take a comprehensive approach to the review, and make holistic changes that address issues comprehensively. - Clear mapping of where more permissive rules would apply on whenua Māori which will be of benefit to iwi and hapū, but also surrounding land owners. - Greater scope to achieve maximum flexibility for papakāinga developments but also other activities on whenua Māori.	- This would likely go beyond the scope of what could be achieved in the Housing plan change. - A separate process would be initiated which would have additional costs and will take significantly longer to complete. - New approach, which the community would not be familiar with. - May not be appropriate given the significant extent of whenua Māori in Rotorua District, and targeted approach based on specific locations may be required.

7.2 Other Actions

Separate to the consideration of the above options for amendments to the RDP, RLC have also identified a number of other actions to assist with removing barriers to undertaking papakāinga development:

- (3) Papakāinga toolkit – RLC is committed to working in collaboration with other agencies to develop a toolkit that helps guide iwi and hapū when they are planning to develop their land.

This was raised at the recent engagement Hui and it was agreed that Council should progress this work. It is considered that this can be done in parallel to either of the above options.

- (4) Future Development Strategy – as outlined above, RLC have commenced work on the FDS, including preliminary engagement with iwi and hapū. It is possible that the site selection process can be used by Council in partnership with iwi and hapū to identify suitable sites for papakāinga development, commercial development by iwi trusts or where the use of the Māori Purpose Zone may be appropriate. It is considered that this can be done in parallel to either of the above options.
- (5) Infrastructure investment – recently through the Long Term Plan, RLC has committed to significant improvements and investment in rural areas. This is crucial in ensuring that there is adequate infrastructure for the development of whenua Māori in rural areas.

7.3 Preliminary Feedback from Iwi and Hapū

The options and other actions identified in Section 6.1 and 6.2 were presented to a number of iwi and hapū representatives in a targeted papakāinga workshop on 31 March 2022.

The feedback reinforced the issues identified in Section 5, but also a clear preference for a “hybrid to the options” combining elements of Options 2, 3 and 4. The consensus seemed to be that identifying some quick wins (Option 2) now in the scope of the Housing Plan Change would make an immediate difference for initiating papakāinga developments on whenua Māori. However, RLC should not lose sight of the bigger picture and should still initiate a wider review of the papakāinga provisions taking a comprehensive and holistic approach (Option 3 and 4). The explanation and identification of a Māori Purpose Zone as an option (Option 4), was well received and the further research of this option should be undertaken in partnership with iwi and hapū.

8.0 Conclusion

The Housing Plan Change presents a unique opportunity to reconsider the papakāinga provisions in the RDP. Papakāinga is significant for iwi, hapū and whanau in Rotorua, and presents an opportunity to address the Māori housing crisis and reconnect Māori to their ancestral lands.

There is a significant amount of whenua Māori in the Rotorua District. This land is located in both urban and rural areas. It is clear that the current RDP rules present barriers to papakāinga development. This is on top of a number of existing barriers outside of the RDP (e.g. multiple ownership, financing and a lack of infrastructure) that already discourage papakāinga developments from ever getting started.

A number of options exist to address these issues, including some immediate “quick wins” that could be initiated in the context of the existing Housing Plan Change with minimal additional cost or delay. A more comprehensive review of the papakāinga provisions is also advantageous to ensure that the provisions are considered holistically and improvements achieved over the long term. Other actions can also be undertaken outside of the RDP process which could also be of great assistance.

Preliminary feedback from iwi and hapū has reinforced the issues identified in this paper. This feedback has also favoured taking a hybrid approach to the development of options, with

immediate action now and a more long-term process of change being initiated for papakāinga provisions in the RDP.

WORKING DRAFT