

# **Proposed Plan Change 3**

## **Kārewarewa Urupā**

### **Section 32 Evaluation Report**

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- Appendix D. Iwi authority feedback on PC3

## Correction of minor errors

The Strategy, Operations and Finance Committee agreed to proceed with the notification of Plan Change 3 at a meeting on 12 September 2024, subject to the correction of minor errors. The following table identifies minor errors that have been corrected in this Section 32 Evaluation Report, following the 12 September Committee meeting.

Section of this report	Description of minor error	Description of correction made
Section 1.4	The bullet point that describes Section 6.0 of the report included an auto-text error that resulted in most of Section 5.0 of the report being copied into the section.	Auto-text error has been removed from the bullet point that describes Section 6.0.

## Abbreviations and acronyms

The following is a list of abbreviations and acronyms used throughout this document, and their meanings.

Abbreviation/acronym	Meaning
<b>Council</b>	Kāpiti Coast District Council
<b>District Plan or Plan</b>	Operative Kapiti Coast District Plan 2021
<b>HNZPTA</b>	Heritage New Zealand Pouhere Taonga Act 2014
<b>IPI</b>	Intensification Planning Instrument
<b>ISPP</b>	Intensification Streamlined Planning Process
<b>Iwi / Hapū</b>	Ngāti Toa Rangatira / Te Ātiawa ki Whakarongotai / Ngā Hapū o Ōtaki (Ngāti Raukawa ki te Tonga)
<b>LTP</b>	Kāpiti Coast District Council Long-Term Plan 2021-2041
<b>MDRS</b>	Medium Density Residential Standards
<b>Minister</b>	Unless otherwise noted, means the Minister for the Environment
<b>NES</b>	National Environmental Standards
<b>NPS</b>	National Policy Statement
<b>NPSET</b>	National Policy Statement for Electricity Transmission 2008
<b>NPS-FM</b>	National Policy Statement for Freshwater Management 2020
<b>NPS-HPL</b>	National Policy Statement for Highly Productive Land 2022
<b>NPS-IB</b>	National Policy Statement for Indigenous Biodiversity 2023
<b>NPS-REG</b>	National Policy Statement for Renewable Electricity Generation 2011
<b>NPS-UD</b>	National Policy Statement on Urban Development 2020 (published May 2022)
<b>NRP</b>	Natural Resources Plan for the Wellington Region 2023
<b>NZCPS</b>	New Zealand Coastal Policy Statement 2010
<b>Panel</b>	Independent Hearings Panel for Plan Change 2
<b>PC2</b>	Plan Change 2
<b>PC3 or Plan Change</b>	Plan Change 3 (this plan change)
<b>RMA or Act</b>	Resource Management Act 1991
<b>RPS</b>	Regional Policy Statement for the Wellington Region 2013
<b>SASM</b>	Site or area of significance to Māori

## Glossary

The following is a list of Te Reo Māori terms used throughout this document, and their meanings.

Word	Meaning
<b>Kaitiaki</b>	A person or agent who cares for taonga; may be spiritual or physical. Guardian, steward, but the meaning of kaitiaki in practical application may vary between different hapū and iwi. [District Plan definition]
<b>Kaitiakitanga</b>	The exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship. [RMA definition]
<b>Kōiwi</b>	Human remains.
<b>Mana whenua</b>	Customary authority exercised by an iwi or hapū in an identified area. [RMA definition]
<b>Pā</b>	Fortified village. [NRP definition]
<b>Tangata whenua</b>	In relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area. [RMA definition]
<b>Tikanga Māori</b>	Māori customary values and practices. [District Plan definition]
<b>Tino rangatiratanga</b>	Self-determination, sovereignty, self-government, Māori governance by Māori over Māori affairs. [District Plan definition]
<b>Tipuna/Tupuna</b>	Ancestors. [District Plan definition]
<b>Urupā</b>	(Māori) burial ground. [District Plan definition]
<b>Wāhi mahara</b>	Memorial place. [NRP definition]
<b>Wāhi tapu</b>	A site or an area which is sacred or spiritually meaningful to tangata whenua. Wāhi tapu may be associated with creation stories of tangata whenua, a particular event (such as a battle or ceremony); it may be where the whenua (placenta) was returned to the earth, or where a certain type of valued resource was found. [District Plan definition]

## 1.0 Purpose and overview

The Kāpiti Coast District Council (the **Council**) has prepared proposed Plan Change 3 (**PC3** or the **Plan Change**) to the Operative Kapiti Coast District Plan (the **District Plan** or the **Plan**) in accordance with Part 1 of Schedule 1 to the Resource Management Act 1991 (**RMA** or the **Act**).

### 1.1 Purpose of the Plan Change

The purpose of PC3 is to recognise and provide for Kārewarewa urupā as a site of significance to Māori.

### 1.2 Summary of the Plan Change

The Council is undertaking this plan change following the High Court's recent judicial review decision to quash (or cancel) the incorporation of Kārewarewa urupā into the District Plan as part of Plan Change 2 (**PC2**)<sup>1</sup>. This decision was not about the merits of scheduling the urupā in the District Plan, rather it was about whether the Council had the legal power to this as part of PC2. An outcome of the Court's decision is that protection of the urupā in the District Plan requires a separate 'ordinary' plan change under Part 1 of Schedule 1 to the RMA. PC3 is that plan change.

The following sections briefly describe the background to the urupā, its inclusion as part of PC2, and the of the Court's judicial review decision. This section concludes by summarising the effects of incorporating Kārewarewa urupā into Schedule 9 of the District Plan.

#### Kārewarewa urupā



Figure 1: extent of Kārewarewa urupā shown outlined in white.

Kārewarewa urupā is located to the east of the confluence of the Waikanae River and the Waimeha Stream (see Figure 1). It is a place of significant spiritual, cultural, and historic heritage value to

<sup>1</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* [2024] NZHC 1654. See: <https://www.courtsofnz.govt.nz/assets/cases/2024/2024-NZHC-1654.pdf>

tangata whenua. The history of the urupā and its significance are described in a report by the Waitangi Tribunal. This report is contained in Appendix A.

Kārewarewa urupā is a place of significant spiritual and cultural value to tangata whenua. In 1839, the historically important battle of Kuititanga occurred in the Waikanae district, and many of those who died in this battle were buried at the urupā. Te Ātiawa have described Kārewarewa urupā in the following terms:

*The area was then no longer appropriate for occupation or food cultivation and was thus abandoned and deemed waahi tapu. From the mid 19th century the site has been used as an urupā. Several very significant tūpuna of Te Ātiawa are recorded as being buried there, as well as Pākehā that had some connection to Te Ātiawa. Te Kārewarewa is still regarded as an urupā and waahi tapu.<sup>2</sup>*

In 1919, the block of land containing the urupā was partitioned off from a larger block of Māori freehold land. The block of land was sold to the Waikanae Land Company in 1969, who successfully applied to the then Horowhenua County Council to have the Māori cemetery designation that covered the urupā removed from the District Scheme. Since this time approximately half of the land has been subject to residential urban development, around Te Ropata Place, Barrett Drive and Marewa Place. 45 residential properties have been subdivided and developed in this area, alongside the road network comprising Barrett Drive, Marewa Place, Te Ropata Place, and Tamati Place. The remainder of the land (a large block of land located on Tamati Drive, a portion of the reserve accessed from the corner of Barret Drive and Marewa Place, and a smaller block of land at 6 Barrett Drive) has remained largely undeveloped. There is a history of kōiwi/human remains being discovered during prior development works at the urupā.

## Plan Change 2

Plan Change 2 was publicly notified by the Council in August 2022. PC2 was the Council's 'Intensification Planning Instrument'<sup>3</sup>, which incorporated the Medium Density Residential Standards into the District Plan. As part of this, it also proposed to recognise and provide for Kārewarewa urupā by incorporating it into Schedule 9 of the District Plan as a 'qualifying matter'. The effect of doing this would be to introduce restrictions on further development at the urupā, including by introducing a requirement to obtain a resource consent prior to undertaking any of a range of activities at the urupā (including land disturbance, additions and alterations to existing buildings, new buildings, and subdivision). The Council's reasons for incorporating the urupā into the District Plan as part of PC2 are described in the Council's Section 32 Evaluation Report for PC2<sup>4</sup>.

In March and April 2023, an Independent Hearings Panel (the Panel) conducted a hearing of submissions on PC2. This included hearing submissions on Kārewarewa urupā. On 20 June 2023, the Panel provided a report to the Council setting out its recommendations on PC2<sup>5</sup>. The Panel's findings on the values of the urupā are summarised at paragraph [159](a) and (b) of their report:

- (a) *The Kārewarewa Urupā Block values are historical, spiritual and cultural associated with the occupation of Te Ātiawa and events associated with that land. These are not solely burial values as an urupā but importantly include those values. That includes the remains of esteemed ancestors that engage the highest obligations for protection and care following Te Ātiawa's tikanga.*
- (b) *The Kārewarewa Urupā Block was demarcated and deemed sacred by Te Ātiawa elders since at least 1839 onwards as wāhi tapu.*

The Panel recommended that the Council incorporate Kārewarewa urupā into Schedule 9 of the District Plan, with adjustments to the south-western boundary in response to submissions made by Te

<sup>2</sup> Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*, p.5.

<sup>3</sup> The definition of 'Intensification Planning Instrument' is set out in section 80E of the RMA.

<sup>4</sup> Refer in particular to sections 6.1.4 and 8.3.3 of the Section 32 Evaluation Report for PC2. See: [https://www.kapiticoast.govt.nz/media/xmzfukmb/pc2\\_s32.pdf](https://www.kapiticoast.govt.nz/media/xmzfukmb/pc2_s32.pdf)

<sup>5</sup> Independent Hearings Panel on PC2. (2023). *Report of the Independent Hearings Panel on PC2*. See Appendix C.

Ātiawa ki Whakarongotai<sup>6</sup>. At its meeting on 10 August 2023, the Council accepted the Panel's recommendations on Kārewarewa urupā, and on 1 September 2023, the incorporation of Kārewarewa urupā into the District Plan became operative.

## Judicial review of Plan Change 2

In 2024, the Council's decision to incorporate Kārewarewa urupā into the District Plan as part of PC2 was judicially reviewed by the High Court. The judicial review was brought against the Council by the Waikanae Land Company, a landowner within the urupā area.

The judicial review was not about the merits of incorporating Kārewarewa urupā into Schedule 9 of the District Plan. Rather, the Court was asked to determine whether the Council had the legal power to do so as part of PC2. This is because PC2 was a unique 'one-off' plan change required by the government as part of its direction to councils across New Zealand to incorporate the Medium Density Residential Standards into their district plans. As an Intensification Planning Instrument, PC2 was subject to limitations on its scope set out in the Resource Management Act 1991 (RMA)<sup>7</sup>. The Court was asked to determine whether incorporating Kārewarewa urupā into Schedule 9 breached these limits.

The Court delivered its decision on 21 June 2024<sup>8</sup>. The Court found that the Council did not have the power to incorporate Kārewarewa urupā into the District Plan as part of PC2 in the manner that it did, because it was outside the scope of what could be included in an Intensification Planning Instrument under the RMA. As a result, the Court quashed (or cancelled) the scheduling of the urupā<sup>9</sup>. However, the Court also recognised that the Council could incorporate Kārewarewa urupā into the District Plan through an 'ordinary' plan change under Part 1 of Schedule 1 to the RMA<sup>10</sup>. PC3 achieves that purpose.

## Effect of incorporating Kārewarewa urupā into the District Plan

The spatial extent of the urupā, and the District Plan provisions associated with it, are the same as those recommended by the Independent Hearings Panel for PC2.

PC3 proposes to incorporate Kārewarewa urupā into Schedule 9 the District Plan (Sites and Areas of Significance to Māori)<sup>11</sup>. This means that land use activities and subdivision at the urupā would be subject to the objectives, policies, and rules set out in the District Plan's Sites and Areas of Significance to Māori (**SASM**) chapter<sup>12</sup>.

PC3 proposes that parts of the urupā that have not yet been developed will be subject to the 'wāhanga tahi' provisions of the SASM chapter, while parts that have already been developed will be subject to the 'wāhanga rua' provisions. The following table summarises the effect of these provisions on various activities:

Activity	Wāhanga tahi	Wāhanga rua
<b>Land disturbance/earthworks</b>	Rule SASM-R2 (permitted): Permitted land disturbance is limited to fencing of the perimeter of the site, subject to an accidental discovery protocol.	Rule SASM-R3 (permitted): Up to 10m <sup>3</sup> of land disturbance or earthworks is permitted per year, subject to an accidental discovery protocol.
	Rule SASM-R10 (restricted discretionary): Other land disturbance	Rule SASM-R11 (restricted discretionary): Other land disturbance

<sup>6</sup> The Panel's consideration of and recommendations on Kārewarewa Urupā are discussed at section 6 of the Independent Hearing Panel's Report on Plan Change 2. See: <https://www.kapiticoast.govt.nz/media/jrmofuz1/ihp-report-to-kapiti-coast-district-council-on-pc2.pdf>

<sup>7</sup> Under section 80E of the RMA.

<sup>8</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* [2024] NZHC 1654. See: <https://www.courtsofz.govt.nz/assets/cases/2024/2024-NZHC-1654.pdf>

<sup>9</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* at para [68].

<sup>10</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* at para [64](b).

<sup>11</sup> See: <https://eplan.kapiticoast.govt.nz/eplan/rules/0/246/0/0/0/217>

<sup>12</sup> See: <https://eplan.kapiticoast.govt.nz/eplan/rules/0/188/0/8863/0/217>



Activity	Wāhanga tahi	Wāhanga rua
	and earthworks require resource consent as a 'restricted discretionary activity', subject to an accidental discovery protocol.	and earthworks require resource consent as a 'restricted discretionary activity', subject to an accidental discovery protocol.
<b>Additions/ alterations of existing lawfully established buildings</b>	Rule SASM-R10 (restricted discretionary): Additions and alterations are not a permitted activity. They require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.	Rule SASM-R3 (permitted): Additions and alterations are permitted, subject to not including a basement or in-ground swimming pool.  Rule SASM-R11 (restricted discretionary): Other additions and alterations require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.
<b>Construction of new buildings</b>	SASM-R18 (non-complying): New buildings are not a permitted activity. They require resource consent as a 'non-complying activity'.	Rule SASM-R3 (permitted): New ancillary buildings are permitted, subject to not including a basement or in-ground swimming pool.  Rule SASM-R11 (restricted discretionary): Other new buildings require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.
<b>Subdivision</b>	SUB-DW-R10 (restricted discretionary): Subdivision of land that does not increase the number of allotments within which the site of significance is located requires resource consent as a 'restricted discretionary' activity.  SUB-DW-R15 (discretionary): Subdivision of land that increases the number of allotments within which the site of significance is located requires resource consent as a 'discretionary' activity.	SUB-DW-R10 (restricted discretionary): Subdivision of land that does not increase the number of allotments within which the site of significance is located requires resource consent as a 'restricted discretionary' activity.  SUB-DW-R15 (discretionary): Subdivision of land that increases the number of allotments within which the site of significance is located requires resource consent as a 'discretionary' activity.

These provisions provide for the effects of land use and subdivision on the values associated with the urupā to be managed by the District Plan.

### 1.3 Status of the District Plan

The District Plan became operative on 30 June 2021. Since this time, the following changes to the District Plan have been made, or are in the process of being made:

Plan Change	Description	Status
1A	Accessible car parking provisions	Operative (1 August 2024)
1B	Managing liquefaction risk for new buildings	Operative (31 October 2022)

Plan Change	Description	Status
1C	Cycle parking provisions	Operative (1 August 2024)
1D	Reclassification of Arawhata Road, Tutanekai Street and Ventnor Drive	Council decision publicly notified (10 July 2024)
1E	Rural indigenous biodiversity incentives	Draft consultation closed (31 October 2022)
1F	Modification of indigenous vegetation and update to key indigenous tree species list	Council decision publicly notified (10 July 2024)
1K	Electoral signage	Council decision publicly notified (10 July 2024)
1L	Council site rezoning	Council decision publicly notified (10 July 2024)
2	Intensification	Operative (1 September 2023 and 1 November 2023)

#### 1.4 Structure of this Section 32 Evaluation Report

This Section 32 Evaluation Report has been prepared in accordance with the requirements of section 32 of the RMA.

The overarching purpose of section 32 is to ensure that any proposed district plan provisions are robust, evidence-based and the most appropriate means to achieve the purpose of the Act. The Council is required to undertake an evaluation of any proposed district plan provisions before notifying those provisions and to publicly notify the section 32 evaluation report (this report) alongside the proposed provisions. The section 32 evaluation report provides the reasoning and rationale for the proposed provisions and should be read in conjunction with those provisions.

To achieve this purpose, the report is structured as follows:

- **Section 2.0 Statutory and policy direction** provides an analysis of the statutory and policy context relevant to the proposed Plan Change.
- **Section 3.0 Resource Management Issue Analysis** provides an analysis of the resource management issues relevant to the proposed Plan Change.
- **Section 4.0 Scale and Significance & Quantification of Benefits and Costs** provides an assessment of the scale and significance of the anticipated environmental, economic, social and cultural effects associated with the proposed Plan Change and identifies whether it is reasonable to quantify the costs and benefits of the proposed provisions.
- **Section 5.0 Description of Proposal** provides a description of the proposed amendments to the District Plan proposed by this Plan Change.
- **Section 6.0 Examination of objectives** includes an examination of the objective of the Plan Change it identify whether it is appropriate for achieving the purpose of the RMA.
- **Section 7.0 Evaluation of Provisions** evaluates the proposed provisions, and reasonable alternatives to achieve the proposed objectives, including the costs, benefits, effectiveness and efficiency of the proposed provisions, and the risk of acting or not acting.
- **Section 8.0 Additional information for qualifying matters** sets out the additional information for qualifying matters required by section 77J(3) of the RMA.

## 2.0 Statutory and policy direction

Section 74 of the RMA sets out the matters to be considered by the Council in preparing and changing the District Plan, section 75 of the RMA sets out the contents of district plans, including the higher-order planning documents that must be given effect to, and section 77G sets out the Council's ongoing duty to incorporate the Medium Density Residential Standards into the District Plan.

This section of the report sets out the statutory and policy direction that is relevant to the Plan Change, in accordance with sections 74, 75 and 77G of the RMA.

### 2.1 Functions of the Council

Under s74(1)(a) of the RMA, the Council must prepare and change the District Plan in accordance with its functions under section 31 of the RMA.

The functions of the Council under section 31 of the RMA that are relevant to this Plan Change include:

Section	Relevant function
31(1)(a)	<i>the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district</i>
31(1)(b)	<i>the control of any actual or potential effects of the use, development, or protection of land</i>

### 2.2 Part 2 of the RMA

Under s74(1)(b) of the RMA, the Council must prepare and change the District Plan in accordance with the provisions of Part 2 of the RMA. A section 32 evaluation must include an evaluation of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, as follows:

#### 5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In achieving this purpose, all persons exercising functions and powers under the RMA also need to:

- Recognise and provide for the matters of national importance identified in section 6;
- Have particular regard to the range of other matters referred to in section 7; and
- Take into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi in section 8.

#### 2.2.1 Section 6 of the RMA (matters of national importance)

The section 6 matters that are relevant to this Plan Change include:

Section	Relevant matters
6(e)	<p><i>the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga</i></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori improves the extent to which the District Plan recognises and provides for the relationship between tangata whenua, their ancestral lands, and their wāhi tapu.</p>
6(f)	<p><i>the protection of historic heritage from inappropriate subdivision, use, and development</i></p> <p>Sites and areas of significance to Māori (including wāhi tapu) are identified as historic heritage features in the District Plan. Recognising and providing for Kārewarewa urupā as a site of significance to Māori improves the extent to which the District Plan recognises and provides for the protection of historic heritage from inappropriate subdivision, use, and development.</p>

### 2.2.2 Section 7 of the RMA (other matters)

The section 7 matters that are relevant to this Plan Change include:

Section	Relevant matters
7(a)	<p><i>kaitiakitanga</i></p> <p>Providing for Kārewarewa urupā as a site of significance to Māori recognises that tangata whenua are kaitiaki and supports tangata whenua to exercise kaitiakitanga in relation to the urupā.</p>
7(aa)	<p><i>the ethic of stewardship</i></p> <p>Providing for Kārewarewa urupā as a site of significance to Māori supports current and future landowners to exercise stewardship in relation to the urupā by:</p> <ul style="list-style-type: none"> <li>enabling current and future landowners to be aware of the urupā and its significance to tangata whenua; and</li> <li>controlling land use and subdivision at the urupā, so that the effects of these activities on the tangible and intangible values associated with the urupā can be appropriately managed.</li> </ul>
7(g)	<p><i>any finite characteristics of natural and physical resources</i></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori recognises that the site, and its tangible and intangible values, are a finite and irreplaceable resource of significance to tangata whenua.</p>

### 2.2.3 Section 8 of the RMA (the principles of the Treaty of Waitangi)

The principles of the Treaty of Waitangi (Te Tiriti o Waitangi) that are particularly relevant to this plan change include:

Principle	Relevant matters
Tino rangatiratanga	While this Plan Change does not, on its own, provide for tino rangatiratanga in relation to the urupā, it supports tino rangatiratanga by recognising that the urupā is a site of spiritual and cultural significance to tangata whenua.
Active protection	This Plan Change supports the active protection of the interests of tangata whenua by controlling land use and subdivision at the urupā, so that the

Principle	Relevant matters
	effects of these activities on the tangible and intangible values associated with the urupā can be appropriately managed.
Participation and partnership	<p>Tangata whenua have sought, over an extended period of time and with significant effort, the recognition and protection of Kārewarewa urupā as a wāhi tapu site in the District Plan, most recently through PC2. This Plan Change recognises the desire expressed by tangata whenua to see Kārewarewa urupā recognised and provided for as a site of significance to them in the District Plan.</p> <p>In addition to the consultation undertaken with tangata whenua as part of the preparation of PC2, the Council also sought feedback from tangata whenua on a draft version of this Plan Change, as part of preparing the plan change.</p>

## 2.3 National Direction and the National Planning Standards

Section 74(ea) of the RMA requires the Council to prepare and change the District Plan in accordance with any National Policy Statement, the New Zealand Coastal Policy Statement, and the National Planning Standards. Section 75(3) of the RMA requires that the District Plan give effect to any National Policy Statement, the New Zealand Coastal Policy Statement and the National Planning Standards. In addition, section 74(f) of the RMA requires the Council to prepare and change the District Plan in accordance with any regulation (including National Environmental Standards).

The following sections outline the parts of National Direction that are relevant to the Plan Change.

### 2.3.1 National Policy Statements and the New Zealand Coastal Policy Statement

The following operative National Policy Statements and New Zealand Coastal Policy Statement apply to the Council's overall functions under section 31 of the RMA:

- National Policy Statement on Electricity Transmission 2008 (**NPSET**)<sup>13</sup>;
- New Zealand Coastal Policy Statement 2010 (**NZCPS**)<sup>14</sup>;
- National Policy Statement for Renewable Electricity Generation 2011 (**NPS-REG**)<sup>15</sup>;
- National Policy Statement for Freshwater Management 2020 (**NPS-FM**)<sup>16</sup>;
- National Policy Statement on Urban Development 2020 (**NPS-UD**)<sup>17</sup>;
- National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**)<sup>18</sup>;
- National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**)<sup>19</sup>.

The following National Policy Statements are relevant to the plan change:

- The NZCPS;
- The NPS-UD.

### 2.3.2 NZCPS

Kārewarewa urupā is located within the coastal environment identified in the operative District Plan<sup>20</sup>. The following provisions of the NZCPS are relevant to the Plan Change:

<sup>13</sup> See: <https://environment.govt.nz/assets/Publications/Files/nps-electricity-transmission-mar08.pdf>

<sup>14</sup> See: <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/nz-coastal-policy-statement-2010.pdf>

<sup>15</sup> See: <https://environment.govt.nz/assets/Publications/Files/nps-reg-2011.pdf>

<sup>16</sup> See: <https://environment.govt.nz/assets/publications/National-Policy-Statement-for-Freshwater-Management-2020.pdf>

<sup>17</sup> See: <https://environment.govt.nz/assets/publications/National-Policy-Statement-Urban-Development-2020-11May2022-v2.pdf>

<sup>18</sup> See: <https://environment.govt.nz/assets/publications/National-policy-statement-highly-productive-land-sept-22-dated.pdf>

<sup>19</sup> See: <https://environment.govt.nz/assets/publications/biodiversity/National-Policy-Statement-for-Indigenous-Biodiversity.pdf>

<sup>20</sup> The Council may consider the appropriateness of the mapping and extent of the coastal environment in the operative District Plan as part of an upcoming coastal environment plan change.

NZCPS provision	Relevant matters
Objective 3	<p><i>To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:</i></p> <ul style="list-style-type: none"> <li>• <i>recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;</i></li> <li>• <i>promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;</i></li> <li>• <i>incorporating mātauranga Māori into sustainable management practices; and</i></li> <li>• <i>recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.</i></li> </ul> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori gives effect to Objective 3 of the NZCPS.</p>
Objective 6	<p><i>To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:</i></p> <ul style="list-style-type: none"> <li>• <i>the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;</i></li> </ul> <p>...</p> <ul style="list-style-type: none"> <li>• <i>historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.</i></li> </ul> <p>The use of the wāhanga tahi and wāhanga rua provisions to recognise and provide for Kārewarewa urupā enables people and communities to provide for their social, economic, and cultural wellbeing by appropriately recognising the need to protect the values of the urupā, while also providing for a reasonable level of further development to occur where existing uses have been lawfully established.</p>
Policy 2	<p><b><i>The Treaty of Waitangi, tangata whenua and Māori heritage</i></b></p> <p><i>In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:</i></p> <p><i>(a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;</i></p> <p><i>(b) involve iwi authorities or hapu on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;</i></p> <p><i>(c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;</i></p> <p><i>(d) ...</i></p> <p><i>(e) take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapu</i></p>

NZCPS provision	Relevant matters
	<p><i>and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and</i></p> <p><i>(i) where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and</i></p> <p><i>(ii) consider providing practical assistance to iwi or hapu who have indicated a wish to develop iwi resource management plans;</i></p> <p><i>(f) provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:</i></p> <p><i>(i) bringing cultural understanding to monitoring of natural resources;</i></p> <p><i>(ii) providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;</i></p> <p><i>(iii) having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiapure, mahinga mataitai or other non-commercial Māori customary fishing; and</i></p> <p><i>(g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:</i></p> <p><i>(i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and</i></p> <p><i>(ii) provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pa or fishing villages.</i></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori gives effect to Policy 2 of the NZCPS because:</p> <ul style="list-style-type: none"> <li>• It recognises the cultural and traditional relationship of tangata whenua with the urupā;</li> <li>• Iwi authorities have been involved in the preparation of this Plan Change, both through their input into PC2, and through the provision of feedback on a draft version of this Plan Change;</li> <li>• The identification and protection of Kārewarewa urupā is consistent with iwi management plans, in particular <i>Whakarongotai o te moana, Whakarongotai o te wā</i>, the Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai;</li> <li>• Providing for the management of the effects of land use and subdivision in relation to the urupā, through the District Plan, supports tangata whenua to exercise kaitiakitanga in relation to the urupā;</li> </ul>

NZCPS provision	Relevant matters
	<ul style="list-style-type: none"> <li>It provides for the identification, assessment, protection, and management of areas or sites of significance or special value to Māori, including the urupā.</li> </ul>

### 2.3.3 NPS-UD

Kārewarewa urupā is located within an urban environment, as defined in the NPS-UD. The following provisions of the NPS-UD are relevant to the plan change:

NPS-UD provision	Relevant matters
Objective 1	<p><i>New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori supports the development of a well-functioning urban environment, by recognising that the protection of the values associated with the urupā from inappropriate land use and development provides for the cultural wellbeing of tangata whenua, both now and into the future.</p>
Objective 5	<p><i>Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).</i></p> <p>Refer to section 2.2.3 (Section 8 of the RMA) for a description of how this Plan Change gives effect to Objective 5 of the NPS-UD.</p>
Policy 9	<p><i>Local authorities, in taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments, must:</i></p> <ul style="list-style-type: none"> <li><i>(a) involve hapu and iwi in the preparation of RMA planning documents and any FDSs by undertaking effective consultation that is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and</i></li> <li><i>(b) when preparing RMA planning documents and FDSs, take into account the values and aspirations of hapu and iwi for urban development; ...</i></li> </ul> <p>Tangata whenua, through iwi authorities, have been involved in the preparation of this Plan Change, both through their input into PC2, and through the provision of feedback on a draft version of this Plan Change.</p>

### 2.3.4 National Environmental Standards

In addition to the NPSs there are nine National Environmental Standards (**NES**) currently in force:

- NES for Air Quality 2004;
- NES for Sources of Human Drinking Water 2007;
- NES for Electricity Transmission Activities 2009;
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
- NES for Telecommunication Facilities 2016;
- NES for Freshwater 2020;
- NES for Marine Aquaculture 2020;
- NES for Storing Tyres Outdoors 2021;
- NES for Commercial Forestry 2023.



There are no NES relevant to the Plan Change.

### 2.3.5 National Planning Standards

Section 75(3)(ba) requires that the District Plan give effect to a national planning standard. The Operative District Plan implements the National Planning Standards 2019<sup>21</sup>.

The method for incorporating Kārewarewa Urupā into the District Plan as part of this Plan Change is consistent with the National Planning Standards.

## 2.4 Regional Policy Statements and Plans

### 2.4.1 Regional Policy Statement

Section 75(3)(c) of the RMA requires that the District Plan give effect to any regional policy statement. The relevant regional policy statement that applies to the district is the Regional Policy Statement for the Wellington Region 2013 (the **RPS**)<sup>22</sup>.

The following provisions of the RPS are relevant to the plan change:

RPS provision	Relevant matters
Objective 15	<p><b><i>Historic heritage is identified and protected from inappropriate modification, use and development.</i></b></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori provides for the identification and protection of the urupā from inappropriate modification, use, and development.</p>
Policy 21	<p><i>Identifying places, sites and areas with significant historic heritage values – district and regional plans</i></p> <p>Identifying Kārewarewa urupā as a site of significance to Māori in the District Plan is consistent with the direction in Policy 21(d) of the RPS to identify places with significant tangata whenua values, being that the place is cared or important to Māori for spiritual, cultural, or historical reasons.</p>
Policy 22	<p><i>Protecting historic heritage values – district and regional plans</i></p> <p>Recognising Kārewarewa urupā as a site of significance to Māori, and providing for the wāhanga tahi and wāhanga rua provisions of the SASM chapter of the District Plan to apply to land use and subdivision in relation to the urupā, is consistent with giving effect to the direction in Policy 22(a) of the RPS to protect the significant values of the urupā from inappropriate subdivision, use, and development.</p>
Objective 28	<p><b><i>The cultural relationship of Māori with their ancestral lands, water, sites, wāhi tapu and other taonga is maintained.</i></b></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori provides for the maintenance of the cultural relationship of Māori with their wāhi tapu.</p>
Policy 49	<p><i>Recognising and providing for matters of significance to tangata whenua – consideration</i></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori is consistent with the direction in Policy 49(a) and (d) of the RPS, that the</p>

<sup>21</sup> See: <https://environment.govt.nz/assets/publications/national-planning-standards-november-2019-updated-2022.pdf>

<sup>22</sup> See: <https://www.gw.govt.nz/assets/Documents/2023/02/RPS-Full-Documents-Edited-December-2022-Updated.pdf>

RPS provision	Relevant matters
	Council recognise and provide for the exercise of kaitiakitanga and places with significant spiritual or cultural historic heritage value to tangata whenua.

## 2.4.2 Proposed Regional Policy Statement

Section 74(2)(a)(i) of the RMA requires that the Council have regard to any proposed regional policy statement when preparing or changing the District Plan. Proposed Change 1 to the RPS<sup>23</sup>, which was notified in August 2022, is a proposed regional policy statement.

The following provisions of the proposed RPS are relevant to the plan change:

Proposed RPS provision	Relevant matters
Objective 22	<p><b><i>Urban development, including housing and infrastructure, is enabled where it demonstrates the characteristics and qualities of well-functioning urban environments, which:</i></b></p> <p>...</p> <p><b><i>(h) enable Māori to express their cultural and traditional norms by providing for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga; ...</i></b></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori supports the development of a well-functioning urban environment, by recognising that the protection of the values associated with the urupā from inappropriate land use and development provides for the cultural wellbeing of tangata whenua, both now and into the future.</p>
Policy UD.2	<p><b><i>Enable Māori cultural and traditional norms – consideration</i></b></p> <p><b><i>When considering an application for a resource consent, notice of requirement, or a plan change of a district plan for use or development, particular regard shall be given the ability to enable Māori to express their culture and traditions in land use and development, by as a minimum providing for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.</i></b></p> <p>Recognising and providing for Kārewarewa urupā as a site of significance to Māori is consistent with the direction set out in this policy because managing the effects of urban development on the values associated with the urupā provides for, as a minimum, the relationship between tangata whenua and wāhi tapu.</p>

## 2.4.3 Regional Plans

Section 75(4)(b) of the RMA requires that the District Plan must not be inconsistent with a regional plan. The relevant regional plan that applies to the district is the Natural Resources Plan for the Wellington Region 2023 (NRP)<sup>24</sup>.

The NRP manages the effects of activities in relation to coastal and freshwater bodies. The NRP identifies the 'Kārewarewa Lagoon', located immediately to the north-west of Kārewarewa urupā, as a site of significance to Te Ātiawa ki Whakarongotai in schedule C2 (see Figure 2). Schedule C2

<sup>23</sup> See: <https://www.gw.govt.nz/assets/Documents/2022/08/Proposed-RPS-Change-1-for-the-Wellington-Region.pdf>

<sup>24</sup> See: <https://www.gw.govt.nz/assets/Documents/2023/07/Natural-Resource-Plan-Operative-Version-2023-incl-maps-compressed.pdf>

identifies the following significant values associated with Kārewarewa Lagoon: wāhi tapu, urupā, pā, and wāhi mahara.

This Plan Change is consistent with the NRP.



Figure 2: Map from the NRP showing the location of 'Kārewarewa Lagoon', immediately to the north-west of Kārewarewa urupā.

#### 2.4.4 Proposed Regional Plans

Section 74(2)(a)(ii) of the RMA requires that the Council have regard to any proposed regional plan when preparing or changing the District Plan. Proposed Change 1 to the NRP was notified in October 2023<sup>25</sup>, and is a proposed regional plan.

Proposed Change 1 to the NRP is principally concerned with the implementation of the NPS-FM in the Te Whanganui-a-Tara and Te Awarua-o-Porirua whaitua. This Plan Change is not inconsistent with the Proposed Change 1 to the NRP.

#### 2.5 Plans or proposed plans of adjacent territorial authorities

Section 74(2)(c) of the RMA requires that the Council have regard to the extent to which the District Plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

The Plan Change is not inconsistent with any operative or proposed district plan in the Wellington Region or Horowhenua District.

#### 2.6 Relevant plans or strategies prepared under other Acts

Section 74(2)(a)(i) of the RMA requires that the Council have regard to management plans and strategies prepared under other Acts. There are no plans or strategies prepared under other Acts that are relevant to this Plan Change.

#### 2.7 Iwi Management Plans

Section 74(2A) of the RMA requires that the Council take into account any relevant planning document that is recognised by an iwi authority and lodged with the Council (otherwise referred to as

<sup>25</sup> See: <https://www.gw.govt.nz/assets/Documents/2023/10/Full-Plan-Provisions-including-Clause-16-changes-made-on-6-December-2023.pdf>

iwi management plans). There are four iwi management plans that have been lodged with the Council:

- Proposed Ngāti Raukawa te au ki te Tonga Ōtaki River and Catchment Iwi Management Plan (2000);
- Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Ati Awa ki Whakarongotai Inc (2001);
- Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12 (2012);
- Whakarongotai o te moana o te wai Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai (2019).

The following iwi management plans are particularly relevant to this Plan Change:

Iwi Management Plan	Relevant Provisions
<p>Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12 (2012)</p>	<p>Input from tangata whenua was an important part of developing the District Plan. Te Haerenga Whakamua is a representation of this input and provides a series of suggested kaupapa and tikanga that was taken into account as part of preparing the District Plan.</p> <p>The following tikanga set out in Te Haerenga Whakamua<sup>26</sup> are particularly relevant to this Plan Change:</p> <ul style="list-style-type: none"> <li>• <b>Adverse effects to wāhi tapu must be avoided.</b> Wāhi tapu must be identified on the heritage register before they can be protected in the District Plan.</li> <li>• <b>Wāhi tapu identified on the heritage register must be afforded a level protection of protection (in consultation with tangata whenua) in the District Plan.</b> The modification or disturbance of an archaeological site or wāhi tapu will not be approved unless sufficient evidence is provided as to the benefit to both tangata whenua and the wider community.</li> </ul> <p>Regard has been given to these tikanga as part of the preparation of this Plan Change.</p>
<p>Whakarongotai o te moana o te wai Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai (2019)</p>	<p>This document identifies the key kaupapa, huanga and tikanga values, objectives and policies of Te Ātiawa ki Whakarongotai to guide kaitiakitanga. The document is internally focused in order to support the kaitiaki practice of the iwi, but also to inform other agencies.</p> <p>The huanga (objectives) and tikanga set out in the Kaitiakitanga Plan that are particularly relevant to this Plan Change include<sup>27</sup>:</p>

<sup>26</sup> Moore, P., Royal, C., & Barnes, A. (2012). *Te Haerenga Whakamua*, p.65.

<sup>27</sup> Ātiawa ki Whakarongotai. (2019). *Whakarongotai o te moana o te wai Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai*, pp.22-23.

Iwi Management Plan	Relevant Provisions
	<ul style="list-style-type: none"> <li>• Wāhi tapu, tikanga, and kōrero tuku iho are respected and protected.</li> <li>• The role of mana whenua as kaitiaki is recognised and upheld in any management of cultural heritage issues.</li> <li>• Wahi tapu sites are mapped so that kaitiaki can ensure any potential effects of development on them are avoided.</li> <li>• Kaitiaki determine measures for providing necessary protection for wāhi tapu, wāhi tupuna and archaeological sites.</li> </ul> <p>Regard has been given to these huanga and tikanga as part of the preparation of this Plan Change.</p>

## 2.8 Medium Density Residential Standards (MDRS)

Section 77G of the RMA sets out the ongoing obligation for the District Plan to incorporate the Medium Density Residential Standards (**MDRS**) into every relevant residential zone in the district. The MDRS are the requirements, conditions, and permissions set out in Schedule 3A to the RMA. The relevant residential zones in the Kāpiti Coast district are the General Residential Zone and the High Density Residential Zone.

Kārewarewa urupā is located within the General Residential Zone, which must otherwise incorporate the MDRS. However, section 77G(6) provides that the Council may make the requirements, conditions, and permissions set out in Schedule 3A less enabling of development, if authorised to do so under section 77I of the RMA.

Section 77I similarly provides that the Council may make the requirements, conditions, and permissions set out in Schedule 3A less enabling of development only to the extent necessary to accommodate a 'qualifying matter'. Sites and areas of significance to Māori are a qualifying matter under section 77I(a), on the basis that recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance under section 6(e). In addition to this, recognising and providing for the protection of historic heritage from inappropriate subdivision, use, and development is a matter of national importance under section 6(f) of the RMA.

The following elements of this Plan Change are less enabling of development than the requirements, conditions, and permissions set out under Schedule 3A of the RMA:

Requirement, condition, or permission under Schedule 3A of the RMA	Element of this plan change that is less enabling of development
<p><i>Clause 2(1): It is a permitted activity to construct or use a building if it complies with the density standards in the district plan (once incorporated as required by section 77G).</i></p>	<p>The construction and use of buildings will be a:</p> <ul style="list-style-type: none"> <li>• Non-complying activity in wāhanga tahi areas (SASM-R18);</li> <li>• A restricted discretionary activity un wāhanga rua areas (SASM-R11).</li> </ul>
<p><i>Clause 3: Subdivision requirements must (subject to section 106) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of</i></p>	<p>The subdivision of land that increases the number of allotments will be a discretionary activity (SUB-DW-R15).</p>

Requirement, condition, or permission under Schedule 3A of the RMA	Element of this plan change that is less enabling of development
<i>residential units in accordance with clauses 2 and 4.</i>	

Because sites and areas of significance to Māori in the General Residential Zone are a qualifying matter, this evaluation report is required to include additional information relating to qualifying matters set out under section 77J(3) of the RMA. This information is contained in section 8.0 of this report.

## 2.9 Other Acts

The Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**) is relevant to this Plan Change.

The purpose of the HNZPTA is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

Part 3 of the HNZPTA provides for the protection of archaeological sites. Under section 6 of the HNZPTA, archaeological site means:

*subject to section 42(3),-*

*(a) any place in New Zealand, including any building or structure (or part of a building or structure), that—*

*(i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*

*(ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*

*(b) includes a site for which a declaration is made under section 43(1)*

Section 42 of the HNZPTA requires that archaeological sites must not be modified or destroyed without an archaeological authority granted by Heritage New Zealand Pouhere Taonga.

Regardless of whether it is identified as a site of significance to Māori in the District Plan, Kārewarewa urupā is an archaeological site under the HNZPTA, which means that any works that may modify or destroy the site cannot occur without an archaeological authority. This process is administered by Heritage New Zealand and does not involve the Council.

## 2.10 Other matters

For the avoidance of doubt, the following matters that the Council must have regard to under sections 74 and 75 of the RMA are not considered to be relevant to this Plan Change:

- Entries on the New Zealand Heritage List/Rārangi Kōrero (section 74(2)(b)(ia));
- Regulations relating to ensuring sustainability, of the conservation, management, or sustainability of fisheries resources (section 74(2)(b)(iii))
- Section 98 of the Urban Development Act 2020 (section 74(2)(b)(iv));
- Any emissions reduction plan (section 74(2)(d));
- Any national adaptation plan (section 74(2)(e));
- Water conservation orders (section 75(4)(a)).

### 3.0 Resource Management Issue Analysis

#### 3.1 Resource management issue

The resource management issue that this Plan Change responds to is the need to recognise and provide for Kārewarewa urupā as a site of significance to Māori.



Figure 3: extent of Kārewarewa urupā shown outlined in white.

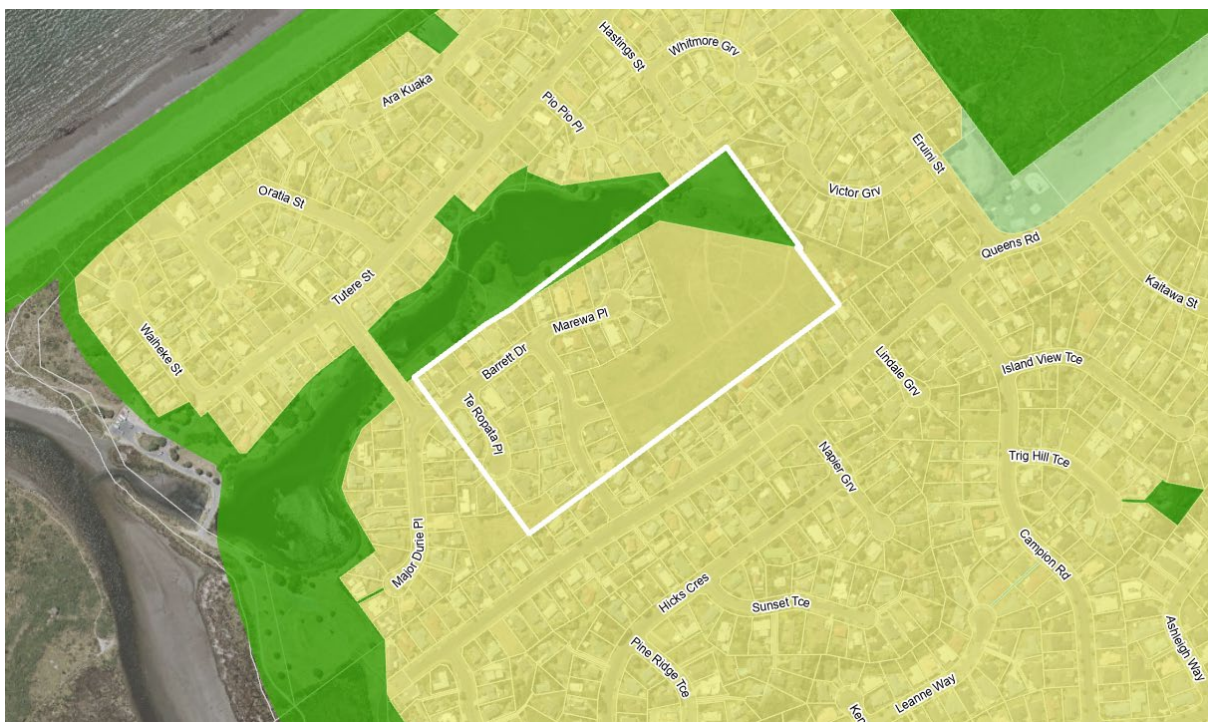


Figure 4: extent of Kārewarewa urupā shown outlined in white. The General Residential Zone is shown in yellow, and the Natural Open Space Zone is shown in green.

### 3.1.1 Kārewarewa urupā

Kārewarewa urupā is located to the east of the confluence of the Waikanae River and the Waimeha Stream to the south-west of the suburb of Waikanae Beach (see Figure 3). It is set within a residential setting generally comprising single storey (or in some cases two-storey) detached residential buildings on moderately sized sites. The underlying landscape is characterised by gently undulating topography typical of the dune landscape of which Waikanae Beach is a part.

Kārewarewa urupā is a place of significant spiritual and cultural value to tangata whenua. In 1839, the historically important battle of Kuititanga occurred in the Waikanae district, and many of those who died in this battle were buried at the urupā. Te Ātiawa have described Kārewarewa urupā in the following terms:

*The area was then no longer appropriate for occupation or food cultivation and was thus abandoned and deemed waahi tapu. From the mid 19th century the site has been used as an urupā. Several very significant tūpuna of Te Ātiawa are recorded as being buried there, as well as Pākehā that had some connection to Te Ātiawa. Te Kārewarewa is still regarded as an urupā and waahi tapu.<sup>28</sup>*

In 1919, the block of land containing the urupā was partitioned off from a larger block of Māori freehold land. The block of land was sold to the Waikanae Land Company in 1969, who successfully applied to the then Horowhenua County Council to have the Māori cemetery designation that covered the urupā removed from the District Scheme (see Figure 5). Since this time approximately half of the land has been subject to residential urban development, around Te Ropata Place, Barrett Drive and Marewa Place. 45 residential properties have been subdivided and developed in this area, alongside the road network comprising Barrett Drive, Marewa Place, Te Ropata Place, and Tamati Place. The remainder of the land (a large block of land located on Tamati Drive, a portion of the reserve accessed from the corner of Barret Drive and Marewa Place, and a smaller block of land at 6 Barrett Drive) has remained largely undeveloped. There is a history of kōiwi/human remains being discovered during prior development works at the urupā.

The history of the urupā and its significance are described in detail in a report by the Waitangi Tribunal. This report is discussed further in section 3.2.1, and the report is contained in full in Appendix A.

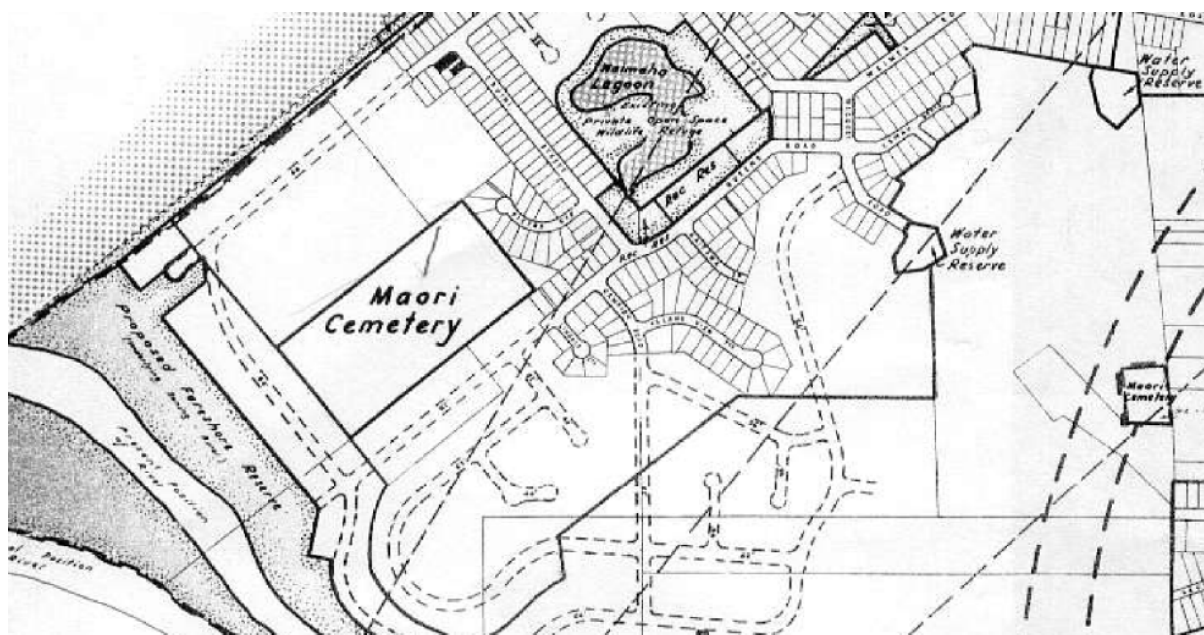


Figure 5: Horowhenua County District Scheme map. Source: Waitangi Tribunal (2020), p.26.

<sup>28</sup> Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*, p.5.



### 3.1.2 Operative District Plan provisions

The urupā is principally located within the General Residential Zone, with the northern corner being located in the Natural Open Space Zone.

The area is not identified as a site of significance to Māori in the operative District Plan. As such, the following activities are generally permitted to occur within the area:

Activity	General Residential Zone	Natural Open Space Zone
<b>General permitted activities (subject to standards)</b>	<ul style="list-style-type: none"> <li>• Rule GRZ-R2: Residential activities</li> <li>• Rule GRZ-R4: Shared and group accommodation and supported living accommodation</li> <li>• Rule GRZ-R8: Arable farming and the keeping of animals</li> <li>• Rule GRZ-R10: Home businesses and home craft occupations</li> <li>• Rule GRZ-R35: Papakāinga on land held under Te Ture Whenua Māori Act 1993</li> </ul>	<ul style="list-style-type: none"> <li>• Rule NOSZ-R3: Recreation, community, and cultural activities.</li> <li>• Rule NOSZ-R9: Species protection and conservation management works.</li> <li>• Rule NOSZ-R10: Landscaping.</li> </ul>
<b>Fences and walls</b>	<ul style="list-style-type: none"> <li>• Rule GRZ-R3: Fences and walls up to 2 metres tall (or 1.8 metres tall adjacent to the Natural Open Space Zone) are permitted.</li> </ul>	<ul style="list-style-type: none"> <li>• Rule NOSZ-R1: Fences and walls between 1.2 metres and 1.8 metres (depending on permeability) are permitted.</li> </ul>
<b>Permeable surfaces</b>	<ul style="list-style-type: none"> <li>• Rule GRZ-R1: At least 30% of the site must be permeable.</li> </ul>	<ul style="list-style-type: none"> <li>• N/A.</li> </ul>
<b>New buildings and structures, and alterations to existing buildings and structures</b>	<ul style="list-style-type: none"> <li>• Rule GRZ-R33: New buildings and structures, and alterations to existing buildings and structures, are permitted subject to the following standards:               <ul style="list-style-type: none"> <li>○ No more than 3 residential units or retirement units per site.</li> <li>○ Must be generally no more than 11 metres in height.</li> <li>○ Must not project beyond a 60° recession plane measured from a point 4 metres vertically above the ground level.</li> <li>○ Set back between 1 metres and 1.5 metres from the boundary.</li> <li>○ Maximum building coverage of 50% of the net site area.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Rule NOSZ-R6: New buildings and structures, and alterations to existing buildings and structures, are permitted subject to the following standards:               <ul style="list-style-type: none"> <li>○ Maximum building coverage of 2%</li> <li>○ Maximum gross floor area of any building of 350m<sup>2</sup></li> <li>○ Maximum height of 6 metres</li> <li>○ Minimum yard setback of 5 metres from the General Residential Zone</li> <li>○ Buildings and structures must not project beyond a 45° recession plane measured from a point 2.1 metres vertically above the ground level.</li> </ul> </li> </ul>

Activity	General Residential Zone	Natural Open Space Zone
	<ul style="list-style-type: none"> <li>○ Outdoor living space of at least 20m<sup>2</sup>.</li> <li>○ Outlook space from each habitable room.</li> <li>○ 20% of the street-facing building façade is glazing.</li> <li>○ Minimum landscaped area of 20% of the developed site.</li> </ul>	
<b>Earthworks</b>	<ul style="list-style-type: none"> <li>● Rule EW-R2: Earthworks (excluding for approved building platforms) subject to the following standards: <ul style="list-style-type: none"> <li>○ Earthworks must not be undertaken on slopes greater than 28°.</li> <li>○ Earthworks must not be undertaken within 20 metres of a waterbody.</li> <li>○ Earthworks must not disturb more than 50m<sup>3</sup> of land per subject site within a 5 year period and must not alter the original ground level by more than 1 metre vertically.</li> <li>○ General standards for surface runoff, and management of silt, sediment, and erosion.</li> <li>○ An accidental discovery protocol being followed.</li> </ul> </li> <li>● Rule EW-R3: Earthworks for approved building platforms that do not extend more than 2 metres beyond the foundation line of the building, subject to: <ul style="list-style-type: none"> <li>○ General standards for surface runoff, and management of silt, sediment and erosion.</li> <li>○ An accidental discovery protocol being followed.</li> </ul> </li> </ul>	
<b>Subdivision</b>	<ul style="list-style-type: none"> <li>● Rules SUB-DW-R25 and SUB-RES-R33: subdivision to create new allotments is a controlled activity, subject to standards.</li> </ul>	<ul style="list-style-type: none"> <li>● SUB-OS-R60: subdivision to create new allotments is a discretionary activity.</li> </ul>

### 3.1.3 Plan Change 2

At its meeting on 21 October 2021, the Strategy and Operations Committee of the Council endorsed the preparation of a plan change for a “new waahi tapu listing for Kārewarewa Urupā in Waikanae Beach, to align with the findings of the Waitangi Tribunal report: Kārewarewa Urupā Report”<sup>29</sup>.

Subsequent to this, in December 2021 the government passed the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, which required the Council to prepare and publicly notify by 20 August 2022 an Intensification Planning Instrument (IPI) that, amongst other matters, incorporated the Medium Density Residential Standards (MDRS) into the District Plan. This plan change became known as PC2. Kārewarewa Urupā as a site of significance to Māori was incorporated into the preparation of PC2 on the basis that the urupā was predominantly located in the General Residential Zone, which would otherwise be subject to the MDRS. The Council included the proposal to incorporate Kārewarewa urupā into Schedule 9 of the District Plan (Sites and Areas of Significance to Māori) when it consulted with the community on a draft version of PC2 in April and May 2022. After considering feedback received on draft PC2, the Council decided to incorporate

<sup>29</sup> Refer to committee resolution SAOCC2021/51. See: [https://kapiticoast.infocouncil.biz/Open/2021/10/SAOCC\\_20211021\\_MIN\\_2321.PDF](https://kapiticoast.infocouncil.biz/Open/2021/10/SAOCC_20211021_MIN_2321.PDF)

Kārewarewa urupā into proposed PC2. The Council's reasons for incorporating the urupā into the District Plan as part of PC2 are described in the Council's Section 32 Evaluation Report for PC2<sup>30</sup>.

PC2 was publicly notified by the Council on 19 August 2022. The Government's amendments to the RMA required the Council to use the Intensification Streamlined Planning Process (ISPP), the purpose of which was to provide for an expeditious planning process<sup>31</sup>. The principal differences between the ISPP and an 'ordinary' plan change under Part 1 of Schedule 1 are:

- The process must be completed no later than the date directed by the Minister for the Environment. For PC2, the Council was directed to publicly notify its decisions no later than 20 August 2023 (one year after it was notified)<sup>32</sup>.
- The Council was required to appoint an independent hearing panel to conduct a hearing and make recommendations back to the Council on the plan change and submissions.
- The Council could accept or reject the recommendations of the Independent Hearings Panel, but if it rejected any recommendations, these would be referred to the Minister for the Environment for a decision.
- The decisions of the Council or the Minister could not be appealed to the Environment Court.

The Council received 219 primary submissions on PC2 (containing 1,295 decisions requested by submitters), and 99 further submissions (containing 1,099 further decisions requested). Of these, 7 primary submissions (containing 9 decisions requested) and 4 further submissions (containing 19 decisions requested) were related to Kārewarewa urupā.<sup>33</sup> The final day of the hearing on PC2 (3 April 2023) was dedicated to hearing submissions on Kārewarewa urupā.

Submissions were heard by an Independent Hearings Panel in March and April 2023, who provided its recommendations on submissions and the provisions of PC2 in a report to the Council on 20 June 2023.<sup>34</sup> Section 6 of the Panel's report sets out its consideration of Kārewarewa urupā. The Panel recommended that Kārewarewa urupā be incorporated into Schedule 9 of the District Plan, with amendments to the location of the south-western boundary in response to the submission of Ātiawa ki Whakarongotai.

The Council accepted the Panel's recommendation on Kārewarewa urupā when it made its decisions on PC2 on 10 August 2023. The Council publicly notified its decisions on PC2 on 19 August 2023. PC2, including the incorporation of Kārewarewa into Schedule 9 of the District Plan, became operative in part on 1 September 2023<sup>35</sup>, although the rules in PC2 had legal effect from the date on which the Council publicly notified its decisions<sup>36</sup>.

### 3.1.4 Judicial review of PC2

In 2024, the Council's decision to incorporate Kārewarewa urupā into the District Plan as part of PC2 was judicially reviewed by the High Court. The judicial review was brought against the Council by the Waikanae Land Company, a landowner within the urupā area.

The judicial review was not about the merits of incorporating Kārewarewa urupā into Schedule 9 of the District Plan. Rather, the Court was asked to determine whether the Council had the legal power to do so as part of PC2. This is because PC2 was a unique 'one-off' plan change required by the government as part of its direction to councils across New Zealand to incorporate the Medium Density

<sup>30</sup> Refer in particular to sections 6.1.4 and 8.3.3 of the Section 32 Evaluation Report for PC2. See: [https://www.kapiticoast.govt.nz/media/xmzfukmb/pc2\\_s32.pdf](https://www.kapiticoast.govt.nz/media/xmzfukmb/pc2_s32.pdf)

<sup>31</sup> The ISPP is described in Part 6 of Schedule 1 to the RMA.

<sup>32</sup> For context, the timeframe for publicly notifying a decision on 'ordinary' plan changes under Part 1 of Schedule 1 is 2 years from public notification of the plan change.

<sup>33</sup> Submissions and further submissions relevant to Kārewarewa urupā are set out in Appendix B.

<sup>34</sup> The Panel's report is contained in Appendix C.

<sup>35</sup> With the exception of the Panel's recommendation [13](b)(1), which the Council rejected. This related to the rezoning of an area of land requested by a submitter. The Minister decided on this matter on 4 October 2023. This matter is unrelated to this Plan Change.

<sup>36</sup> Section 86B(1) of the RMA.

Residential Standards into their district plans. As an Intensification Planning Instrument, PC2 was subject to limitations on its scope set out in the Resource Management Act 1991 (RMA)<sup>37</sup>, and the Court was asked to determine whether incorporating Kārewarewa urupā into Schedule 9 breached these limits.

The Court delivered its decision on 21 June 2024<sup>38</sup>. The Court found that the Council did not have the power to incorporate Kārewarewa urupā into the District Plan in the manner that it did, because it was outside the scope of what could be included in an Intensification Planning Instrument under the RMA. As a result, the Court quashed (or cancelled) the scheduling of the urupā<sup>39</sup>. However, the Court also recognised that the Council could incorporate Kārewarewa urupā into the District Plan through an ‘ordinary’ plan change under Part 1 of Schedule 1 to the RMA<sup>40</sup>. PC3 achieves that purpose.

## 3.2 Sources of information

Several sources of information have been considered as part of the preparation of PC3. These include:

- The Waitangi Tribunal Report: “The Kārewarewa Urupā Report”.
- Information from PC2 relevant to Kārewarewa urupā.
- The Independent Hearings Panel’s report on PC2.

Each of these sources of information are briefly described in the following sections.

### 3.2.1 The Waitangi Tribunal Report

The Kārewarewa Urupā Report, published by the Waitangi Tribunal in 2020, is contained in Appendix A.

The Kārewarewa Urupā Report was prepared by the Waitangi Tribunal in response to a claim lodged by Te Ātiawa / Ngā Ātiawa ki Kāpiti as part of the Tribunal’s Porirua ki Manawatu inquiry. The report is a “pre-publication” report released in advance of the Tribunal’s main iwi report, however the Tribunal notes that its findings and recommendations will not change in the final publication.

The Tribunal found that the traditional, historical, and archaeological evidence is clear that the block of land is an urupā, and that the urupā has “great significance in cultural and spiritual terms” for Ātiawa ki Whakarongotai.<sup>41</sup>

The report traverses several issues and topics related to the urupā, including:

- The history of the site as an urupā, and its significance as a wāhi tapu to Ātiawa ki Whakarongotai;
- The history of the land as Māori land in the late 19<sup>th</sup> and early 20<sup>th</sup> century, including its award to Ātiawa, its partitioning from the main block of land as a ‘cemetery’, including a court order that the land be made ‘absolutely inalienable’;
- The circumstances (including the statutory framework for Māori land) that led to the sale of the urupā to the Waikanae Land Company in 1968-1969;
- The decision by the Horowhenua County Council on the application of the Waikanae Land Company to remove the ‘Maori Cemetery’ designation that applied to the site in the Horowhenua District Scheme in 1970;

<sup>37</sup> Under section 80E of the RMA.

<sup>38</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* [2024] NZHC 1654. See: <https://www.courtsofnz.govt.nz/assets/cases/2024/2024-NZHC-1654.pdf>

<sup>39</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* at para [68].

<sup>40</sup> *Kāpiti Coast District Council v Waikanae Land Company Ltd* at para [64](b).

<sup>41</sup> Waitangi Tribunal. (2020). *The Kārewarewa Urupā Report*, p. 7.

- Initial development of the land in the 1970's;
- Resumption of development works in 1990 to 2000, including the discovery of kōiwi, the application of the Historic Places Act 1993 to the site, and subsequent attempts by Ātiawa to protect the urupā from further development.

The spatial extent of Kārewarewa Urupā proposed by PC3 is consistent with that set out in the Kārewarewa Urupā report.

### 3.2.2 Information from PC2 relevant to Kārewarewa urupā

The Council received a wide range of information relevant to Kārewarewa urupā as part of the preparation and development of PC2. This information is set out in Appendix B and includes:

- Feedback received from the public on incorporating Kārewarewa urupā into the District Plan as part of draft PC2;
- Written feedback received from iwi authorities on draft PC2;
- The Section 32 Evaluation Report for PC2, as it relates to Kārewarewa urupā;
- Submissions and further submissions on proposed PC2, as they relate to Kārewarewa urupā;
- The Council officer's planning evidence for PC2, as it relates to Kārewarewa urupā;
- Written and oral statements and evidence relevant to Kārewarewa urupā presented by submitters at the hearing on PC2;
- The Council officer's written reply to matters raised in the hearing on PC2.

This information has been considered as part of the preparation of PC3.

### 3.2.3 The report of the Independent Hearings Panel on PC2

In March and April 2023, an Independent Hearings Panel (the Panel) conducted a hearing of submissions on PC2. This included hearing submissions on Kārewarewa urupā. On 20 June 2023, the Panel provided a report to the Council setting out its recommendations on PC2. The Panel's report is contained in Appendix C.

Section 6 of the report sets out the Panel's consideration of the Council's proposal to incorporate Kārewarewa urupā into Schedule 9 of the District Plan as part of PC2. The report discusses a range of matters relating to the urupā, including (but not limited to):

- The range of submissions on the proposal to incorporate Kārewarewa urupā into Schedule 9 of the District Plan.
- The Waitangi Tribunal Report.
- The evidence about the values associated with the urupā presented at the hearing.
- The level of restriction proposed by the Council, and whether this was proportional to the values.
- The significance of the 'Maori Cemetery' designation included in the Horowhenua County Council District Scheme, and the significance of its removal in 1970 (including the process by which it was removed).
- Whether or not including Kārewarewa urupā as part of PC2 was *ultra vires*.

The Panel's findings on the values of the urupā are set out at paragraph [159] of their report, and include the following:

- (a) *The Kārewarewa Urupā Block values are historical, spiritual and cultural associated with the occupation of Te Ātiawa and events associated with that land. These are not solely burial values as an urupā but importantly include those values. That includes the remains of esteemed ancestors that engage the highest obligations for protection and care following Te Ātiawa's tikanga.*
- (b) *The Kārewarewa Urupā Block was demarcated and deemed sacred by Te Ātiawa elders since at least 1839 onwards as wāhi tapu.*

The Panel summarised its overall consideration of Kārewarewa urupā at paragraph [9] of its report:

*There is no doubt that the cultural values of the Kārewarewa Urupā Block are, for Te Ātiawa, significant and have endured irrespective of legal and development processes and changes following the acquisition of the land by the Waikanae Land Company in 1968. These values warrant recognition, and we have carefully evaluated the competing equities of the situation as part of our overall evaluation of the proportionality of the Council's recommended planning measures.*

The Panel subsequently recommended that the Council incorporate Kārewarewa urupā into Schedule 9 of the District Plan, with a modification to the south-western boundary in response to the submission of Te Ātiawa ki Whakarongotai. The extent and provisions for Kārewarewa urupā proposed to be incorporated into the District Plan through PC3 are the same as those recommended by the Panel for PC2.

The information contained in the Panel's report is relevant to PC3.

### **3.3 Consultation**

#### **3.3.1 Pre-notification consultation with Ministers**

Clauses 3(1)(a) and (b) of Schedule 1 to the RMA requires the Council to consult with the Minister for the Environment and any other Ministers of the Crown who may be affected by the proposed plan change, during the preparation of the proposed plan change.

The Council sought feedback from the Minister for the Environment, the Minister for Housing, and the Minister for Māori Crown Relations: Te Arawhiti by providing them with a draft of the proposed plan change on 7 August 2023.

The Council received no feedback from the Ministers.

#### **3.3.2 Pre-notification consultation with iwi authorities**

Clause 3(1)(d) of Schedule 1 to the RMA requires the Council to consult with tangata whenua, through iwi authorities, during the preparation of the proposed plan change. In addition to this, clause 4A of Schedule 1 requires that the Council provide iwi authorities with a draft of the proposed plan change before notifying it and have particular regard to any advice received from those iwi authorities.

The Council sought feedback from Te Rūnanga o Toa Rangatira (on behalf of Ngāti Toa Rangatira), Te Ātiawa ki Whakarongotai Charitable Trust, and Ngā Hapū o Ōtaki by providing them with a draft of the proposed plan change on 7 August 2023.

The Council has received written feedback in support of PC3 from all iwi authorities. This feedback is contained in Appendix D.

### 3.3.3 Pre-notification consultation with the public

The Council has sought to prepare and notify PC3 in a timely manner, because of the vulnerability of Kārewarewa urupā to inappropriate subdivision, land use, or development. Because of this, no pre-notification consultation has been undertaken with the public prior to the notification of PC3.

Notwithstanding this, the Council engaged with the public on the proposal to incorporate Kārewarewa urupā into Schedule 9 of the District Plan as part of PC2, and the feedback received from the public on PC2 continues to be relevant to PC3. This includes:

- The Council directly contacted landowners within the area proposed to be identified as Kārewarewa urupā and sought their feedback on the proposal as part of the Council consulting on a draft version PC2. Feedback was on the draft proposal to incorporate Kārewarewa urupā into the District Plan was received from 10 parties.
- When PC2 was publicly notified, the Council directly notified landowners within the area. Several parties submitted on the proposal to incorporate Kārewarewa urupā into Schedule 9 of the District Plan, including 7 primary submissions and 4 further submissions. 5 submitters spoke to their submissions at the hearing for PC2.

References to this information are included in Appendix B. The information received from the public as part of PC2 is relevant to PC3 and has been considered as part of its preparation. The public will have the opportunity to submit on PC3 once it has been publicly notified.

## 4.0 Scale and Significance & Quantification of Benefits and Costs

This section of the report assesses the level of detail required for the purposes of this evaluation, including the nature and extent to which the benefits and costs of the proposal have been quantified.

### 4.1 Scale and Significance

Section 32(1)(c) of the RMA requires that this report contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.

The level of detail undertaken for this evaluation has been determined by assessing the scale and significance of the environmental, economic, social and cultural effects anticipated through introducing and implementing the proposed provisions (i.e. objectives, policies and rules) relative to a series of criteria. These criteria provide a framework for determining the scale and significance of the Plan Change.

Based on this the scale and significance of anticipated effects associated with this proposal are identified below:

Criteria	Scale/Significance			Comment
	Low	Moderate	High	
Basis for change			✓	The purpose of PC3 is to recognise and provide for the significant values associated with Kārewarewa urupā. The proposal is based on sound evidence, including the report by the Waitangi Tribunal, and feedback and submissions received from tangata whenua and landowners. After hearing submissions and evidence on Kārewarewa urupā, the Independent Hearings Panel for PC2 made factual findings on the merits of incorporating Kārewarewa urupā into the District Plan and recommended that the Council do so.
Addresses a resource management issue			✓	Kārewarewa urupā is a place of cultural and spiritual importance to tangata whenua that is not currently recognised in the District Plan and is at risk from inappropriate subdivision, use, and development.  PC3 recognises and provides for the relationship between the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, which is a matter of national importance under section 6(e) of the RMA. It also recognises and provides for the protection of historic heritage from inappropriate subdivision, use, and development, which is a matter of national importance under section 6(f) of the RMA.
Degree of shift from the status quo			✓	PC3 provides for a notable shift in the status quo as it relates to the level of development enabled on the site. The District Plan currently enables the MDRS on the part of the site that



Criteria	Scale/Significance			Comment
	Low	Moderate	High	
				is within the General Residential Zone. PC3 would substantially restrict further development on the part of the site that has not yet been developed (identified as wāhanga tahi) and would generally only enable alterations to existing uses on sites that have already been developed (identified as wāhanga rua).
Who and how many will be affected/ geographical scale of effect/s	✓			Parties affected by PC3 are generally limited to the owners and occupiers of land within the spatial extent of the urupā.  Tangata whenua with ancestral connections to the urupā will also be affected by the change.
Degree of impact on or interest from tangata whenua			✓	There is a high degree of interest from tangata whenua. Iwi authorities support the plan change.
Timing and duration of effect/s			✓	PC3 will have immediate legal effect when it is publicly notified, and ongoing effects once it becomes operative.
Type of effect/s		✓		PC3 is restrictive, rather than enabling. As such, the effects of PC3 are likely to be intangible, rather than tangible.  PC places restrictions on land disturbance and development within the spatial extent of Kārewarewa urupā. These restrictions vary depending on the location. Within the area identified as wāhanga tahi, the restrictions are greater, and include restrictions on new buildings, earthworks, land disturbance, and subdivision. Within the area identified as wāhanga rua, the restrictions are lesser. While earthworks, land disturbance, and subdivision are restricted, alterations to existing buildings are provided for.
Degree of risk and uncertainty	✓			There is a low degree of risk and uncertainty associated with PC3. There is certain and sufficient information about Kārewarewa urupā, and its values to tangata whenua, to justify acting.

Overall, the scale and significance of the proposed provisions is considered to be moderate to high for the reasons outlined above.

Consequently, this evaluation report should contain a moderate to high level of detail and analysis related to the evaluation of the proposed provisions.

## 4.2 Quantification of Benefits and Costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal are to be quantified.

Due to the nature of the resource management issue being addressed by PC3, which includes both tangible and intangible values and effects, it is not practicable to quantify all benefits or costs associated with the plan change. As such, the identification of benefits and costs associated with this plan change is principally qualitative.

Notwithstanding this, some potential non-monetary costs associated with the plan change have been estimated as part of providing the additional information required under the RMA to justify qualifying matters. This information is set out in section 8.0 of this report.

## 5.0 Description of Proposal

PC3 proposed to incorporate Kārewarewa urupā into the District Plan, as recommended by the Independent Hearings Panel for PC2. This requires amendments to Schedule 9 of the District Plan (Sites and Areas of Significance to Māori), as well as amendments to the District Plan maps.

Sites within Schedule 9 are subject to the provisions of the Sites and Areas of Significance to Māori (SASM) chapter in Part 2 – Districtwide Matters of the District Plan. The SASM chapter is a district-wide overlay in accordance with the National Planning Standards. This means that, where a site is identified in Schedule 9, the provisions of the SASM chapter apply to it in addition to the provisions of the underlying zone.

PC3 proposes to amend Schedule 9 of the District Plan as follows (with additions to the schedule shown underlined):

District Plan ID	Name	Type	Iwi	Key access and view points	Wāhanga
<u>WTSx1</u>	<u>Kārewarewa Urupā</u>	<u>Urupā</u>	<u>Āti Awa</u>		<u>Tahi</u>
<u>WTSx2</u>	<u>Kārewarewa Urupā</u>	<u>Urupā</u>	<u>Āti Awa</u>		<u>Rua</u>

PC3 also proposes to amend the “Historical, Cultural, Infrastructure and Districtwide” District Plan map series to add Kārewarewa urupā to the District Plan maps, as show in Figure 6:



Figure 6: the extent of Kārewarewa urupā proposed to be incorporated into Schedule 9 of the District Plan. The area shown in red is proposed to be subject to the District Plan’s ‘wāhanga tahi’ provisions. The area shown in grey is proposed to be subject to the District Plan’s ‘wāhanga rua’ provisions.

As a result of PC3, subdivision, use, and development within Kārewarewa urupā will be subject to the provisions of the SASM chapter. This includes one policy, which is as follows:

<b>SASM-P1</b>	<i>Waahi Tapu</i>
<p><i>Waahi tapu and other places and areas significant to Māori and their surroundings will be protected from inappropriate subdivision, development, land disturbance, earthworks or change in land use, which may affect the physical features and non-physical values of the place or area.</i></p> <p>The Council will work in partnership with the relevant <i>iwi authority</i> for the ongoing and long term management and protection of <i>waahi tapu</i>. Relevant <i>iwi authorities</i> will be consulted on all <i>resource consent</i> applications affecting <i>waahi tapu and other places and areas significant to Māori</i> identified in the Schedule of Sites and Areas of Significance to Māori (Schedule 9).</p>	

Sites within Kārewarewa urupā will also be subject to the rules of the SASM chapter, which vary depending on whether the site is within the wāhanga tahi overlay, or the wāhanga rua overlay. The following table summarises the rules for various activities within these areas:

Activity	Wāhanga tahi overlay	Wāhanga rua overlay
<b>Land disturbance/ earthworks</b>	Rule SASM-R2 (permitted): Permitted land disturbance is limited to fencing of the perimeter of the site, subject to an accidental discovery protocol.	Rule SASM-R3 (permitted): Up to 10m <sup>3</sup> of land disturbance or earthworks is permitted per year, subject to an accidental discovery protocol.
	Rule SASM-R10 (restricted discretionary): Other land disturbance and earthworks require resource consent as a 'restricted discretionary activity', subject to an accidental discovery protocol.	Rule SASM-R11 (restricted discretionary): Other land disturbance and earthworks require resource consent as a 'restricted discretionary activity', subject to an accidental discovery protocol.
<b>Additions/ alterations of existing lawfully established buildings</b>	Rule SASM-R10 (restricted discretionary): Additions and alterations require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.	Rule SASM-R3 (permitted): Additions and alterations are permitted, subject to not including a basement or in-ground swimming pool.
		Rule SASM-R11 (restricted discretionary): Other additions and alterations require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.
<b>Construction of new buildings</b>	SASM-R18 (non-complying): New buildings require resource consent as a 'non-complying activity'.	Rule SASM-R3 (permitted): New ancillary buildings are permitted, subject to not including a basement or in-ground swimming pool.
		Rule SASM-R11 (restricted discretionary): Other new buildings require resource consent as a 'restricted-discretionary activity', subject to an accidental discovery protocol.

Activity	Wāhanga tahi overlay	Wāhanga rua overlay
Subdivision	SUB-DW-R10 (restricted discretionary): Subdivision of land that does not increase the number of allotments within which the site of significance is located requires resource consent as a 'restricted discretionary' activity.	
	SUB-DW-R15 (discretionary): Subdivision of land that increases the number of allotments within which the site of significance is located requires resource consent as a 'discretionary' activity.	

These rules will provide for the consideration of the actual or potential effects of subdivision, land use, and development on the values associated with Kārewarewa urupā when considering notification or substantive decisions on any resource consent application within the urupā. With respect to notification of consent applications, the Council will be required to consider whether the adverse effects of the activity on tangata whenua are minor or more than minor, and if so, notify tangata whenua (through the relevant iwi authority) of the consent application.

Section 86B(3) provides that rules that protect historic heritage have immediate legal effect. This means that the rules that apply to Kārewarewa urupā as set out in PC3 will have immediate legal effect from the date that PC3 is publicly notified.

## 6.0 Examination of Objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal (proposed District Plan Change) are the most appropriate way to achieve the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

An examination of the proposed objective along with a reasonable alternative is set out below. The following set of criteria is used as a framework for examining the appropriateness of the objective:

1. Relevance (i.e. Is the objective related to addressing resource management issues and will it achieve one or more aspects of the purpose and principles of the RMA?)
2. Usefulness (i.e. Will the objective guide decision-making? Does it meet sound principles for writing objectives (i.e. does it clearly state the anticipated outcome?)
3. Reasonableness (i.e. What is the extent of the regulatory impact imposed on individuals, businesses or the wider community? Is it consistent with identified tangata whenua and community outcomes?)
4. Achievability (i.e. Can the objective be achieved with tools and resources available, or likely to be available, to the Council?)

While not specifically required by section 32 of the RMA, in some instances alternative objectives are also considered to ensure that the proposed objective(s) are the most appropriate to achieve the purpose of the RMA.

### 6.1 Objective for PC3

This Plan Change does not propose to change any existing objectives or add any new objectives to the District Plan. Rather, the objective of this Plan Change is the purpose of the Plan Change<sup>42</sup>.

The proposed objective, along with an alternative objective, are set out below:

<b>Objective of the plan change</b>	To recognise and provide for Kārewarewa urupā as a site of significance to Māori.
<b>Alternative objective</b>	Do not recognise and provide for Kārewarewa urupā as a site of significance to Māori.

The following table examines both objectives using the framework set out above:

	<b>Objective of the plan change (recognise and provide for Kārewarewa urupā)</b>	<b>Alternative objective (do not recognise and provide for Kārewarewa urupā)</b>
<b>Relevance</b>		
Addresses a relevant resource management issue	<b>Yes.</b> The objective recognises and provides for the values associated with Kārewarewa urupā by managing subdivision, use, and development of land as it relates to those values.	<b>No.</b> The alternative objective does not have regard to the values associated with Kārewarewa urupā, and does not provide for the management of subdivision, use, and development in relation to those values.
Assists the Council to undertake its	<b>Yes.</b> The objective is consistent with the Council's functions under	<b>No.</b> The alternative objective is not consistent with the Council's functions under section 31(1)(a) of

<sup>42</sup> See the definition of 'objectives' under section 32(6) of the RMA.

	<b>Objective of the plan change (recognise and provide for Kārewarewa urupā)</b>	<b>Alternative objective (do not recognise and provide for Kārewarewa urupā)</b>
functions under s31 RMA	sections 31(1)(a) and (b) of the RMA.	the RMA, because it does not achieve integrated management of the effects of the use, development, or protection of land as it relates to Kārewarewa urupā.
Gives effect to higher-order planning documents	<p><b>Yes.</b> The objective gives effect to:</p> <ul style="list-style-type: none"> <li>Objectives 15 and 28, and Policies 21, 22, and 49 of the RPS;</li> <li>Objectives 1 and 5, and Policy 9 of the NPS-UD;</li> <li>Objectives 3 and 6, and Policy 2 of the NZCPS;</li> <li>Sections 6(e), 6(f), 7(a), 7(aa), 7(g), and 8 of the RMA.</li> </ul>	<p><b>No.</b> The alternative does not recognise or provide for the values associated with Kārewarewa urupā, and does not give effect to the direction set by higher order planning documents in relation to these values.</p>
<b>Usefulness</b>		
Guides decision-making	<p><b>Yes.</b> The objective recognises the existence of Kārewarewa urupā and provides a clear policy and rule framework for activities in relation to the urupā.</p>	<p><b>Uncertain.</b> The alternative objective does not require the Council to make resource consent decisions in relation to Kārewarewa urupā. However, it may lead to confusion in the overall decision-making framework, as the site will continue to be subject to permitted activity accidental discovery protocol standards under the District Plan, and any future land disturbance would still require an archaeological authority under the HNZPTA.</p>
<b>Reasonableness</b>		
Will not impose unjustifiably high costs on the community / parts of the community	<p><b>Yes.</b> While the objective imposes costs on parts of the community, these are not unjustifiably high in light of the significance of the values associated with Kārewarewa urupā.</p>	<p><b>No.</b> Not recognising and providing for Kārewarewa urupā will continue to expose the urupā to potentially significant adverse effects as a result of inappropriate subdivision, use, or development. This is likely to lead to unjustifiably high costs to tangata whenua that have ancestral connection to the urupā.</p>
Acceptable level of uncertainty and risk	<p><b>Yes.</b> There is certain and sufficient information about the extent and values associated with Kārewarewa urupā to recognise and provide for it in the District Plan.</p>	<p><b>Uncertain.</b> Not recognising and providing for Kārewarewa urupā in the District Plan despite the information available to the Council creates uncertainty as it may give the impression that the urupā is not</p>

	<b>Objective of the plan change (recognise and provide for Kārewarewa urupā)</b>	<b>Alternative objective (do not recognise and provide for Kārewarewa urupā)</b>
		there, or that it does not have significant value.
<b>Achievability</b>		
Consistent with identified tangata whenua and community outcomes	<b>Yes.</b> Recognising and providing for Kārewarewa urupā in the District Plan is supported by iwi authorities and is consistent with relevant iwi planning documents.	<b>No.</b> Not recognising and providing for Kārewarewa urupā would be contrary to the desired outcomes expressed by tangata whenua.
Realistically able to be achieved within the Council's powers, skills and resources	<b>Yes.</b> The Council already administers policies and rules in relation to sites and areas of significance to Māori.	<b>Yes.</b> To the extent that not recognising and providing for Kārewarewa urupā would create no additional obligations on Council in relation to resource consents.

Based on the examination set out above, the objective for the Plan Change is considered to be the most appropriate way to achieve the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

## 6.2 Operative District Plan objectives that are relevant to the Plan Change

In addition to the objective of the Plan Change as set out in the previous section, the following operative District Plan objectives are also relevant to the Plan Change:

<b>Objective</b>	<b>Relevance</b>
<b>DO-01 Tangata whenua</b>	<p>This objective seeks that the Council work in partnership with the tangata whenua of the District in order to maintain kaitiakitanga of the District's resources.</p> <p>PC3 is consistent with this objective because it recognises and provides for Kārewarewa urupā and the values associated with the urupā. It provides for the relationship between tangata whenua and the urupā and recognises the role of tangata whenua as kaitiaki of sites of significance within the District.</p>
<b>DO-03 Development Management</b>	<p>This objective seeks enable more people to live in the District's urban environments, while accommodating identified qualifying matters that constrain development.</p> <p>PC3 is consistent with this objective. While the area subject to PC3 is part of the District's urban environment, wāhi tapu and sites of significance to Māori are also a qualifying matter under the RMA and the NPS-UD. PC3 accommodates a qualifying matter by managing subdivision, use, and development in a manner that recognises and protects the values associated with the urupā.</p>
<b>DO-07 Historic Heritage</b>	<p>This objective seeks to protect historic heritage in the District, including by:</p> <ul style="list-style-type: none"> <li>Recognising and protecting tangata whenua historic heritage including wāhi tapu and other places and areas of significance to Māori; and</li> </ul>



Objective	Relevance
	<ul style="list-style-type: none"> <li>• Providing for the appropriate use and development of natural and physical resources with historic heritage values, while ensuring any adverse effects are avoided, remedied, or mitigated.</li> </ul> <p>PC3 is consistent with this objective because it recognises and protects Kārewarewa urupā and the values associated with it from inappropriate subdivision, use, and development. PC3 protects the part of the urupā that has not yet been developed by placing restrictions on the further development of those parts of the urupā. PC3 continues to provide for appropriate use of the parts of the urupā that have already been developed, by continuing to provide for a modest amount of development associated with existing residential uses.</p>

## 7.0 Evaluation of Provisions

Under s32(1)(b) of the RMA, reasonably practicable options to achieve the objective of the Plan Change need to be identified and examined. This section of the report evaluates the proposed provisions, as they relate to the objective. The analysis used to inform this process is outlined in section 3.0 of this report.

For each potential approach an evaluation has been undertaken relating to the costs, benefits, and the certainty and sufficiency of information (as informed by section 3.0 of this report) in order to determine the effectiveness and efficiency of the approach, and whether it is the most appropriate way to achieve the relevant objective(s).

The Council has considered the following potential options to achieve the objective of the Plan Change:

- **Option 1: Proposed approach.** Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.
- **Option 2: Status quo.** Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).
- **Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).** Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:
  - Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;
  - Limiting subdivision within the area by introducing minimum allotment size and shape requirements.

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

Costs	Benefits	Risk of Acting / Not Acting if there is uncertain or insufficient information
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• <b>Impacts on character and amenity values associated with undeveloped land proposed to be scheduled as <i>wāhanga tahi</i>.</b> The restrictions on development associated with the <i>wāhanga tahi</i> provisions creates a risk that the land may be left unmaintained, which may have adverse impacts on the character and amenity values of the area and surrounding sites.</li> <li>• <b>Opportunity costs – ability to undertake environmental improvements on land proposed to be scheduled as <i>wāhanga tahi</i>.</b> The restrictions on land disturbance associated with the <i>wāhanga tahi</i> provisions may restrict or prevent natural environment improvements, such as the planting of trees or other vegetation, from occurring on the site.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• <b>Opportunity costs – lost development potential on <i>wāhanga tahi</i> land.</b> The <i>wāhanga tahi</i> provisions</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• <b>Reducing risk of inappropriate disturbance of kōiwi/human remains.</b> The proposed provisions reduce the risk of further inappropriate disturbance of physical kōiwi/human remains that may be present in the area, that may otherwise occur as a result of the level of development provided for by the provisions of the underlying General Residential Zone. Any physical disturbance that may occur is appropriately managed through permitted activity standards, or through a resource consent process.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• <b>Increase certainty and reduced risk of unexpected costs.</b> The proposed provisions provide certainty and transparency that the area is likely to be considered an archaeological site that requires an archaeological authority under the Heritage New Zealand Pouhere Taonga Act. This reduces the risk of unexpected costs (including time and</li> </ul>	<p>It is considered that there is certain and sufficient information on which to base the evaluation of proposed provisions because:</p> <ul style="list-style-type: none"> <li>• Engagement with iwi has identified that the proposed provisions are supported by iwi;</li> <li>• There is sufficient information to support the evaluation (as outlined in section 3.2 of this report) including the Waitangi Tribunal’s report on Kārewarewa Urupā, information gathered (including feedback from the community) as part of the preparation of PC2, and the recommendations of the Independent Hearings Panel on PC2.</li> </ul>

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

are sufficiently restrictive that they would be likely to prevent the development of land for housing. This would result in economic opportunity costs in the form of forgone potential development returns to the landowner(s). It is noted that opportunity costs would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).

- **Opportunity costs – reduced development potential on wāhanga rua land.** The *wāhanga rua* provisions will restrict the ability to construct additional residential units as a permitted activity within the *wāhanga rua* area. This would result in economic opportunity costs to landowners in the form of forgone development potential. However, landowners would still be able to undertake alterations to existing buildings in *wāhanga rua* areas to the extent provided for by the density standards in the underlying General Residential Zone. For example,

compliance costs) associated with obtaining an archaeological authority in an unplanned manner, or costs associated with enforcement action for undertaking land disturbance without an archaeological authority.

- **Reduced costs to iwi.** Recognising and providing for Kārewarewa urupā in the District Plan is likely to reduce time and resourcing costs imposed on Te Ātiawa ki Whakarongotai, who have had to provide advice in an ad-hoc manner over a number of years on the location, extent and values associated with Kārewarewa Urupā.
- **Other economic growth/employment related benefits (RMA s32(2)(a)(i)-(ii)).** No direct or indirect economic growth or employment related benefits have been identified in relation to the proposed provisions.

**Social**

- **Certainty as to the status of the land for current and future landowners.** Scheduling Kārewarewa Urupā in the District Plan provides certainty for current and future landowners as to the status of the land, and its history as an urupā. This

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

existing buildings within *wāhanga rua* areas would be able to add additional storeys, or undertake horizontal extensions, so long as they comply with the permitted activity standards for development in *wāhanga rua* areas outlined in the rules of the SASM chapter. It is noted that opportunity costs would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).

- **Consenting and compliance costs.** The proposed provisions impose a range of consenting compliance costs on landowners or developers for land disturbance or development in the scheduled area. Costs may also be imposed on Council and iwi in terms of advising on and processing applications. These costs include costs for obtaining resource consents, and additional costs associated with complying with accidental discovery protocols (although costs associated with accidental discovery protocols are

is particularly beneficial for future landowners, who, in the absence of any recognition in the District Plan, may not otherwise be aware that the area is an urupā.

**Cultural**

- **Protection of cultural values.** Recognising and providing for Kārewarewa Urupā in the District Plan provides a significant benefit to current and future generations of tangata whenua, including Te Ātiawa ki Whakarongotai, by protecting the cultural values associated with the site (including its significance as an urupā, significance as a resting place for tupuna, and its significance in relation to historic battles that occurred within the area) from further adverse effects associated with land disturbance and development.
- **Recognition of the relationship of Te Ātiawa ki Whakarongotai with ancestral land and wāhi tapu.** Recognising and providing for Kārewarewa Urupā in the District Plan provides a significant benefit to past, present and future generations of Te Ātiawa ki Whakarongotai, as it recognises the relationship between Te

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

likely to be imposed under the Heritage New Zealand Pouhere Taonga Act regardless of whether the land is scheduled as a wāhi tapu in the District Plan).

- **Other economic growth/employment related costs (RMA s32(2)(a)(i)-(ii)).** There is likely to be economic growth and employment related opportunity costs as a result of housing development that does not occur as a result of the proposed provisions.

**Social**

- **Reduction in housing development capacity.** The proposed provisions are likely to lead to a reduction in theoretical plan-enabled residential development capacity (estimated at 318 residential units), although this will not have a material impact on the ability for the District Plan to provide for sufficient residential development capacity (see section 8.0 for analysis). However, impacts on housing development capacity would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an

Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu sites and recognises their role as kaitiaki.

- **Protection of heritage values.** Recognising and providing for Kārewarewa Urupā in the District Plan benefits current and future generations by protecting the heritage and archaeological values of the site from further adverse effects associated with land disturbance and development.
- **Supporting stewardship of cultural and historic resources.** By raising awareness of the history of the site and its status as an urupā, the provisions support current and future owners of the land to exercise care and stewardship over a valuable cultural and historic resource. In particular, the provisions provide for landowners to engage with Te Ātiawa ki Whakarongotai, as kaitiaki, in the event of the accidental discovery of kōiwi/human remains.

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).

**Cultural**

- **Land disturbance on wāhanga rua sites.** The proposed provisions still enable a modest amount of land disturbance, subject to standards, on sites proposed to be scheduled as *wāhanga rua*. Land disturbance risks disturbing the tangible and intangible cultural and heritage values associated with the site (including the potential disturbance of kōiwi) and may have further adverse impacts on the relationship between Te Ātiawa ki Whakarongotai and the site.

**Effectiveness**

The proposed provisions are the most effective method of achieving the objectives of the plan and the purpose of the RMA because:

- They protect Kārewarewa Urupā, including its cultural and heritage values, and physical kōiwi/human remain that may be present in the area, from further inappropriate land disturbance and development;
- They provide current and future landowners with an awareness of the historical use and values associated with the site;

**Efficiency**

The proposed provisions are the most efficient method of achieving the objectives of the plan and the purpose of the RMA because:

- While the provisions impose costs on landowners, they will provide for significant benefits to current and future generations by protecting the cultural and heritage values associated with the site from inappropriate land disturbance and development, and by recognising the relationship between Te Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu;

**Option 1: Proposed approach.**

Recognise and provide for Kārewarewa Urupā as a wāhi tapu site by adding the site to Schedule 9 of the District Plan, as outlined in section 5.0 of this report.

- The provisions recognise the relationship between Te Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu sites, and their role as kaitiaki;
- Appropriate levels of land disturbance or development can be managed through permitted activity standards or resource consent processes.

- The provisions provide certainty for current and future landowners as to the status of the land as a wāhi tapu site;
- The provisions provide for an appropriate level of development to occur on sites that have already been developed;
- The provisions support efficient regulation by improving the alignment between the District Plan and regulation of the area as an archaeological site that is already occurring under the Heritage New Zealand Pouhere Taonga Act.

**Overall evaluation**

The proposed provisions are the most appropriate method of achieving the objectives of the plan and the purpose of the RMA because:

- The provisions are the most effective and efficient method of protecting the cultural and heritage values associated with Kārewarewa urupā from further inappropriate land disturbance and urban development that is otherwise enabled by the provisions of the underlying General Residential Zone;
- The provisions recognise and provide for the relationship between Te Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu, and recognise their role as kaitiaki;
- The provisions provide certainty for current and future landowners as to the status of the area as a wāhi tapu site, and enable current and future landowners to be aware of the historical use of the site, the cultural and heritage values of the site, and the significance of the site to tangata whenua;
- The provisions provide for appropriate levels of land disturbance and development to be managed through permitted activity standards or resource consent processes;
- It is consistent with District Objectives DO-O1, DO-O3, and DO-O7;
- Recognising and providing for Kārewarewa Urupā gives effect to Objectives 15 and 28, and Policies 21, 22, and 49 of the RPS.
- Recognising and providing for Kārewarewa Urupā gives effect to Objectives 3 and 6, and Policy 2 of the NZCPS, and Objectives 1 and 5 and Policy 9 of the NPS-UD;
- The provisions enable Council to fulfil its obligations under sections 6(e), 6(f), 7(a), 7(aa), 7(g), and 8 of the RMA.



<b>Option 2: Status quo.</b>		
Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).		
<b>Costs</b>	<b>Benefits</b>	<b>Risk of Acting / Not Acting if there is uncertain or insufficient information</b>
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• <b>Further disturbance of kōiwi/human remains.</b> Under the level of development enabled by the provisions of the operative District Plan, there is an increased risk of disturbing or uncovering physical kōiwi/human remains that may be present in the area.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• <b>Compliance costs.</b> Regardless of whether the area is recognised as a wāhi tapu site under the District Plan, the area is already recognised as an archaeological site under the Heritage New Zealand Pouhere Taonga Act. Because of this, any land disturbance or development in the area is likely to require an archaeological authority from Heritage New Zealand.</li> <li>• <b>Costs associated with accidental discovery.</b> Under the level of development enabled by the provisions of the operative District Plan, there is a risk of increased levels of land</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• <b>Environmental improvements on undeveloped land.</b> Development of the undeveloped part of the area may enable environment improvements and may avoid, remedy, or mitigate adverse impacts on character and amenity values that could occur if the land is kept in an undeveloped and unmaintained state.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• <b>Land development.</b> Development of the land could provide economic benefits to current landowners, by enabling landowners to develop their land in an economically efficient manner. However, economic benefits would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).</li> <li>• <b>Other economic growth/employment related benefits (RMA s32(2)(a)(i)-(ii)).</b> Development of the land, where it is authorised to occur, could provide for local</li> </ul>	<p>It is considered that there is certain and sufficient information on which to base the evaluation of proposed provisions because:</p> <ul style="list-style-type: none"> <li>• Engagement with iwi has identified that the proposed provisions are supported by iwi;</li> <li>• There is sufficient information to support the evaluation (as outlined in section 3.2 of this report) including the Waitangi Tribunal's report on Kārewarewa Urupā, information gathered (including feedback from the community) as part of the preparation of PC2, and the recommendations of the Independent Hearings Panel on PC2.</li> </ul>

**Option 2: Status quo.**

Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).

<p>disturbance or development occurring without an archaeological authority, and increased risk of accidental discovery during construction. Costs associated with this include delays to construction, costs associated with obtaining an archaeological authority, and potential enforcement action costs.</p> <ul style="list-style-type: none"><li>• <b>Other economic growth/employment related costs (RMA s32(2)(a)(i)-(ii)).</b> No direct or indirect economic growth or employment related costs have been identified in addition to those noted above.</li></ul> <p><b>Social</b></p> <ul style="list-style-type: none"><li>• <b>Uncertainty for current and future landowners.</b> Providing for the level of development enabled by the operative District Plan, while continuing to not recognise or provide for Kārewarewa Urupā, is likely to increase the number of people who may come to live within and own land within the urupā. Without recognition in the District Plan, people may be unaware of the historical use of the site, and the cultural and heritage values associated with it. This would also increase the number of people</li></ul>	<p>economic growth and employment as a result of the construction associated with development.</p> <p><b>Social</b></p> <ul style="list-style-type: none"><li>• <b>Enabling housing development capacity.</b> Development of the land to the level of development provided for by the operative District Plan would support the district to provide a sufficient supply of housing to meet the needs of current and future generations. However, due to the size of the site, its contribution to housing development capacity is likely to be modest in the context of the total development capacity of the District's urban environments (see section 8.0 for analysis). It is noted that housing development capacity would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).</li></ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"><li>• No direct or indirect cultural benefits have been identified for this option.</li></ul>	
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**Option 2: Status quo.**

Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).

and landowners affected by any future restrictions placed on the use and development of the land, where it is recognised as wāhi tapu site in the future.

**Cultural**

- **Adverse impacts on cultural values.**  
Maintaining the level of development enabled by the operative District Plan is likely to result in costs to current and future generations of tangata whenua (including Te Ātiawa ki Whakarongotai) as a result of the irreversible damage, loss or destruction of cultural values associated with the site (including its significance as an urupā, its significance as a resting place for tupuna, and its significance as a site in relation to historic battles that occurred in the area).
- **Adverse impacts on the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu.**  
Te Ātiawa ki Whakarongotai have indicated that the threat that further development might occur on Kārewarewa Urupā is an ongoing matter of concern for the iwi.

**Option 2: Status quo.**

Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).

Continuing to enable the level of development provided for by the operative District Plan is likely to result in significant adverse impacts on the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu. It also does not recognise the role of Te Ātiawa ki Whakarongotai as kaitiaki.

- **Adverse impacts on heritage values.** Continuing to enable the level of development provided for by the operative District Plan is likely to result in costs to current and future generations through the irreversible damage, loss or destruction of heritage and archaeological values associated with the site.

**Effectiveness**

This option is not an effective method of achieving the objectives of the plan and the purpose of the RMA because:

- It does not recognise the significance of Kārewarewa Urupā to tangata whenua or provide for the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu. It also does not recognise the role of Te Ātiawa ki Whakarongotai as kaitiaki.

**Efficiency**

This option is not an efficient method of achieving the objectives of the plan and the purpose of the RMA because:

- While benefits to current landowners by enabling development, it is likely to impose significant costs on current and future generations of tangata whenua;
- While it enables residential development capacity, the quantum of capacity enabled is not significant in the context of the District;

**Option 2: Status quo.**

Do not recognise or provide for Kārewarewa Urupā as a wāhi tapu site. Subdivision, use, and development would continue to be enabled based on the application of the General Residential Zone provisions (which incorporate the MDRS).

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• It does not recognise the information about the location and significance of the urupā, as outlined in the Waitangi Tribunal Report and the Independent Hearings Panel’s report on PC2.</li> <li>• It enables development without providing measures to protect the cultural or heritage values associated with Kārewarewa Urupā from inappropriate subdivision, use and development.</li> </ul> | <ul style="list-style-type: none"> <li>• It is also likely to impose costs and uncertainty on future landowners and residents who may not be aware that the area is an urupā, who may not wish to live on an urupā, and who may have to bear the increased costs associated with future restrictions (should the area be recognised as an urupā in Schedule 9 of the District Plan in the future).</li> </ul> |
|---|---|

**Overall evaluation**

This option is not an appropriate method of achieving the objectives of the plan and the purpose of the RMA because:

- It does not protect the cultural and heritage values associated with Kārewarewa Urupā from inappropriate subdivision, use and development;
- It does not take into account the views of tangata whenua, does not recognise or provide for the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu, and does not recognise the role of Te Ātiawa ki Whakarongotai as kaitiaki;
- It does not recognise the information about the location and significance of the urupā, as outlined in the Waitangi Tribunal Report and the Independent Hearings Panel’s report on PC2.
- It maintains uncertainty about the status of the site, and this uncertainty is likely to adversely impact current and future landowners and residents;
- It is not consistent with District Objectives DO-O1, DO-O3, and DO-O7;
- It does not give effect to Objectives 15 and 28, and Policies 21, 22, and 49 of the RPS;
- It does not give effect to Objectives 3 and 6, and Policy 2 of the NZCPS, and Objectives 1 and 5 and Policy 9 of the NPS-UD;
- It does not enable the Council to fulfil its obligations under sections 6(e), 6(f), 7(a), 7(aa), 7(g), and 8 of the RMA.

<b>Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).</b>		
<p>Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:</p> <ul style="list-style-type: none"> <li>Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;</li> <li>Limiting subdivision within the area by introducing minimum allotment size and shape requirements.</li> </ul>		
<b>Costs</b>	<b>Benefits</b>	<b>Risk of Acting / Not Acting if there is uncertain or insufficient information</b>
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The environmental costs associated with this option are similar to Option 2, except the scale or likelihood of the costs are reduced as a result of the reduced level of development provided for by this option.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The economic costs associated with this option are similar to Option 2, except the scale or likelihood of the costs are reduced as a result of the reduced level of development provided for by this option.</li> <li><b>Opportunity costs – foregone development potential.</b> Reducing the level of development enabled within the area, this option would result in economic opportunity costs to landowners in the form of forgone development potential, although the</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The environmental benefits associated with this option are similar to Option 2.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>The economic benefits associated with this option are similar to Option 2, except the scale or likelihood of the benefits are reduced as a result of the reduced level of development provided for by this option.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>The social benefits associated with this option are similar to Option 2, except the scale or likelihood of the benefits are reduced as a result of the reduced level of development provided for by this option.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>No direct or indirect cultural benefits have been identified for this option.</li> </ul>	<p>It is considered that there is certain and sufficient information on which to base the evaluation of proposed provisions because:</p> <ul style="list-style-type: none"> <li>Engagement with iwi has identified that the proposed provisions are supported by iwi;</li> <li>There is sufficient information to support the evaluation (as outlined in section 3.2 of this report) including the Waitangi Tribunal’s report on Kārewarewa Urupā, information gathered (including feedback from the community) as part of the preparation of PC2, and the recommendations of the Independent Hearings Panel on PC2.</li> </ul>

**Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).**

Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:

- Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;
- Limiting subdivision within the area by introducing minimum allotment size and shape requirements.

impact of this would be less than the impact associated with Option 1. However, opportunity costs would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).

**Social**

- The social costs associated with this option are similar to Option 2, except the scale or likelihood of the costs are reduced as a result of the reduced level of development provided for by this option.
- **Reduction in housing development capacity.** Reducing the level of development enabled within the area, this option would result in foregone housing development capacity for the district, although the impact on housing development capacity would be less than the impact associated with Option

**Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).**

Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:

- Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;
- Limiting subdivision within the area by introducing minimum allotment size and shape requirements.

1. However, impacts on housing development capacity would only be realised to the extent that development is able to obtain necessary approvals under other Acts (particularly an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014).

**Cultural**

- The economic costs associated with this option are similar to Option 2. The cultural costs are unlikely to be notably reduced as a result of providing for lower density development, as Te Ātiawa ki Whakarongotai have indicated that any further development at the site is a matter of concern for iwi.

**Effectiveness**

This option is not an effective method of achieving the objectives of the plan and the purpose of the RMA because:

- While this option takes into account the existence of Kārewarewa Urupā, it does not recognise the significance of Kārewarewa Urupā

**Efficiency**

This option is not an efficient method of achieving the objectives of the plan and the purpose of the RMA because:

- While there are benefits to current landowners by enabling development (albeit reduced compared to Option 2), it is likely to



**Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).**

Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:

- Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;
- Limiting subdivision within the area by introducing minimum allotment size and shape requirements.

to tangata whenua or provide for the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu. It also does not recognise the role of Te Ātiawa ki Whakarongotai as kaitiaki.

- This option does not effectively protect the cultural or heritage values associated with the site, because it enables land disturbance and development to occur without regard to the irreversible impacts on those values, or the impacts on tangata whenua.

impose significant costs on current and future generations of tangata whenua;

- While it enables residential development capacity, the quantum of capacity enabled is not significant in the context of the district (and in any case less than compared to Option 2);
- This option is likely to result in a confusing regulatory framework that lacks transparency and does not guide appropriate decision making. Reducing development density in the area without recognising Kārewarewa urupā means that it will not be clear to District Plan users why development density has been reduced. This option also does not provide clear policy direction to decision-makers on resource consents for development within the area.
- It also imposes costs and uncertainty on future landowners and residents who may not be aware that the area is an urupā, who may not wish to live on an urupā, and who may have to bear the increased costs associated with future restrictions (should the area be recognised as an urupā in Schedule 9 of the District Plan in the future).

**Overall evaluation**

This option is not an appropriate method of achieving the objectives of the plan and the purpose of the RMA because:

- It does not protect the cultural and heritage values associated with Kārewarewa Urupā from inappropriate subdivision, use and development;
- While it does take into account the existence of Kārewarewa Urupā, it does not recognise or provide for the relationship of Te Ātiawa ki Whakarongotai with their ancestral land and wāhi tapu, and does not recognise the role of Te Ātiawa ki Whakarongotai as kaitiaki;

**Option 3: Provide for lower density development provisions in the area (but do not identify Kārewarewa urupā as a wāhi tapu site).**

Take Kārewarewa Urupā into account through providing for lower density development provisions at the site, rather than recognising it as a wāhi tapu site in Schedule 9. This could include:

- Limiting the density of development within the area, including by reducing the number of permitted residential units per site, and reducing building coverage;
- Limiting subdivision within the area by introducing minimum allotment size and shape requirements.

- It maintains uncertainty about the status of the site, and this uncertainty is likely to adversely impact current and future landowners and residents;
- It is likely to lead to a confusion and inefficient regulatory and policy framework that does not guide appropriate decision-making;
- It is not consistent with District Objectives DO-O1, DO-O3, and DO-O7;
- It does not give effect to Objectives 15 and 28, and Policies 21, 22, and 49 of the RPS;
- It does not give effect to Objectives 3 and 6, and Policy 2 of the NZCPS, and Objectives 1 and 5 and Policy 9 of the NPS-UD;
- It does not enable the Council to fulfil its obligations under sections 6(e), 6(f), 7(a), 7(aa), 7(g), and 8 of the RMA.

## 8.0 Additional information for qualifying matters

Under section 77G(6) of the RMA, the Council may provide for District Plan provisions to be less enabling of development than the requirements of the MDRS, where a qualifying matter exists.

Section 77I of the RMA provides for the following matters as qualifying matters:

- (a) a matter of national importance that decision makers are required to recognise and provide for under section 6:*
- (b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:*
- (c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:*
- (d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:*
- (e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:*
- (f) open space provided for public use, but only in relation to land that is open space:*
- (g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:*
- (h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:*
- (i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:*
- (j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.*

Where a plan change proposes to accommodate a qualifying matter, section 77J(3) of the RMA requires that this evaluation report do the following:

- (a) demonstrate why the territorial authority considers—*
  - (i) that the area is subject to a qualifying matter; and*
  - (ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and*
- (b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and*
- (c) assess the costs and broader impacts of imposing those limits.*

This information is set out in the following sections of this report.

### 8.1 Section 77J(3)(a): justification for the qualifying matter

The Waitangi Tribunal report states that the traditional, historical, and archaeological evidence is clear that the block of land is an urupā, and that the urupā has “great significance in cultural and spiritual terms” for Ātiawa ki Whakarongotai. In addition to this, the Independent Hearings Panel for PC2 found that:

*The Kārewarewa Urupā Block values are historical, spiritual and cultural associated with the occupation of Te Ātiawa and events associated with that land. These are not solely burial values as an urupā but importantly include those values. That includes the remains of esteemed ancestors that engage the highest obligations for protection and care following Te Ātiawa’s tikanga.*<sup>43</sup>

Based on the information available to the Council, the existence of the urupā and the values associated with it are a matter that the Council must recognise and provide for under section 6(e) of the RMA (which provides for the relationship between Māori and their culture and traditions with their ancestral land, sites, and wāhi tapu).

In addition to this, wāhi tapu are historic heritage features under the provisions of the District Plan, as well as the definition of ‘historic heritage’ outlined in section 2 of the RMA. On this basis, wāhi tapu are also a matter that Council must recognise and provide for under section 6(f) of the Act (which provides for the protection of historic heritage from inappropriate subdivision, use, and development).

On this basis, incorporating Kārewarewa urupā into Schedule 9 of the District Plan is a qualifying matter under the following provisions of the Act:

- *S771(a): a matter of national importance that decision makers are required to recognise and provide for under section 6.*

The spatial extent of the proposed additions to Schedule 9 of the District Plan are the same as the area identified as the urupā block in the Waitangi Tribunal Report, and as recommended by the Independent Hearings Panel on PC2 (see ).

Kārewarewa Urupā is predominantly located within the General Residential Zone (which is required to incorporate the MDRS). As an urupā, the site is sensitive to development that involves the disturbance of land or the construction of buildings. This is because land disturbance and building construction may have significant adverse effects on the tangible and intangible cultural and heritage values associated with the site (including the potential to encounter or otherwise disturb kōiwi). The prospect that further development might occur at the urupā is a cause of deep concern for Te Ātiawa ki Whakarongotai, and this concern is described most clearly by Te Ātiawa themselves, in section 1.1.1 of the Waitangi Tribunal Report.

On this basis, the level of development permitted by the MDRS is considered to be inappropriate to occur at the urupā. It is therefore appropriate to provide restrictions on development in order to provide for the Kārewarewa Urupā as a qualifying matter. Schedule 9 of the District Plan describes appropriate levels of development in relation to various types of wāhi tapu site. The descriptions associated with *wāhanga tahi* and *wāhanga rua* categories are most relevant to the types of land located at Kārewarewa Urupā. These categories are described in the following table (from Schedule 9):

<b>Wāhanga</b>	<b>Type</b>	<b>Key development threats</b>	<b>Sensitivity to development</b>	<b>Desired level of protection</b>
<b>Wāhanga tahi</b>	Urupā (Māori burial grounds) and parekura (battlefield)	Land disturbance, earthworks	High – sites are largely unoccupied/ undeveloped.	High – rules intended to provide a high level of protection as there is a high risk land disturbance will encounter kōiwi.

<sup>43</sup> Independent Hearings Panel on PC2. (2023). *The Report of the Independent Hearings Panel on PC2*, at para. [159](a). See Appendix C.

Wāhanga	Type	Key development threats	Sensitivity to development	Desired level of protection
Wāhanga rua	Urupā (Māori burial grounds), pā (village), papakāinga (place of settlement)	Land disturbance, earthworks, construction of new buildings and alterations, additions and relocations of existing building, and network utilities	Moderate – land is modified and currently occupied by residents and/or businesses	Moderate – rules intended to allow for a reasonable level of development to occur provided land disturbance volumes are reasonably low and discovery protocols are followed

As set out in section 7.0 of this report, the levels of development evaluated as being appropriate in relation to the urupā are:

- For undeveloped land, the level of development provided for by the *wāhanga tahi* provisions;
- For land that has already been developed, the level of development provided for by the *wāhanga rua* provisions.

## 8.2 Section 77J(3)(b): impact on the provision of development capacity

Under PC3, the construction of new residential units in a *wāhanga tahi* area is a non-complying activity, and the construction of new residential units in a *wāhanga rua* area is a restricted discretionary activity (see section 5.0). While additional dwellings could be developed in the *wāhanga rua* area as a restricted discretionary activity, for the purposes of identifying the potential impact of the qualifying matter on the provision of development capacity, it is assumed that both *wāhanga tahi* and *wāhanga rua* areas would not contribute to residential development capacity.

The total area of General Residential Zone proposed to be added to Schedule 9 measures approximately 7.1 hectares. This includes:

- 3.2 hectares located in *wāhanga tahi*;
- 3.9 hectares located in *wāhanga rua*.

The following table identifies the impact of adding Kārewarewa Urupā to Schedule 9 of the District Plan on plan-enabled residential development capacity:

	Additional theoretical plan-enabled residential development capacity (additional residential units)		Difference (forgone additional residential development capacity as a result of accommodating the qualifying matter)
	Level of additional development otherwise enabled by the General Residential Zone provisions (residential units)	Level of additional development provided for by the wāhanga tahi and wāhanga rua provisions (residential units)	
Within the <i>wāhanga tahi</i> area	228 residential units (note 1)	0 residential units	318 residential units
Within the <i>wāhanga rua</i> area	90 residential units (note 2)		
<b>Notes:</b>			
<p>Note 1: To calculate a theoretical yield for the purposes of identifying the impact of the qualifying matter on the provision of development capacity, the number outlined above is derived by applying a notional density of one residential unit per 140m<sup>2</sup> site area. This is based on the Ministry for the Environment’s fact sheet on the MDRS<sup>44</sup>. This is likely to be a high estimate, as it does not account for legal roads and public reserves that may be required to enable development of the area.</p> <p>Note 2: This number is based on an assumption that 2 additional residential units could be developed on each allotment (for a total of 3 per allotment) as a permitted activity under the General Residential Zone provisions. There are 45 developed allotments that are located wholly or partially within the <i>wāhanga rua</i> area.</p>			

For context, the area extent of General Residential Zone proposed to be covered by either the wāhanga tahi or wāhanga rua provisions (approximately 7.1 hectares) equates to approximately 0.3% of the total area of the General Residential Zone.

The District Plan enables a surplus housing supply of 18,785 residential units, according to the Council’s latest Housing and Business Development Capacity Assessment<sup>45</sup>. Because of this, providing for Kārewarewa urupā will not have a material impact on the ability for the District Plan to provide for sufficient residential development capacity.

### 8.3 Section 77J(3)(c): Assessment of the costs and broader impacts of the qualifying matter

Evaluation of the costs and broader impacts of the qualifying matter are set out in the evaluation of Option 1 in section 7.0 of this report. The identified costs include (in no particular order):

- Reduction in housing development capacity (although this will not have a material impact on the ability for the District Plan to provide for sufficient residential development capacity).
- Opportunity costs associated with reduced development potential on the sites subject to the provisions (noting that further development within the area is already subject to obtaining an archaeological authority under the Heritage New Zealand Pouhere Taonga Act).
- Opportunity costs associated with reduced ability to undertake amenity or other environmental improvements on undeveloped land.

<sup>44</sup> See Ministry for the Environment (2021). *Intensification Options – Factsheet*. See <https://environment.govt.nz/assets/what-government-is-doing/factsheet-mdrs-graphic.pdf>

<sup>45</sup> See: <https://wrlc.org.nz/wp-content/uploads/2023/10/HBA3-CHAPTER-5-Kapiti.pdf>

- Consenting, compliance, and enforcement costs.

The broader impacts of the qualifying matter include:

- Contributing to restoring the relationship between Te Ātiawa ki Whakarongotai and their ancestral land, sites, and wāhi tapu.
- Protection of tangible and intangible cultural, spiritual, and heritage values for past, present and future generations.
- Providing certainty for present and future generations of landowners and occupiers about the status of the land as a wāhi tapu, and a site of significance to Te Ātiawa ki Whakarongotai.

The costs of the qualifying matter are reasonable in light of the broader impacts, and in light of the sustainable management purpose of the RMA and the obligation to recognise matters of national importance under sections 6(e) and 6(f) of the RMA.

## 9.0 Conclusion

The purpose of PC3 is to recognise and provide for Kārewarewa urupā as a site of significance to Māori.

Kārewarewa urupā is a place of significant spiritual, cultural, and historic heritage value to tangata whenua. Te Ātiawa have described Kārewarewa urupā as being used as an urupā from the mid-19<sup>th</sup> century, with several significant tūpuna being buried there. The urupā was retained in Māori ownership until it was sold in 1969 to the Waikanae Land Company. At the time it was sold, the land was covered by a 'Maori Cemetery' designation in the Horowhenua County Council District Scheme. This designation was removed by the Horowhenua County Council in 1970 on the application of the Waikanae Land Company, who subsequently developed the land for housing. Kōiwi/human remains were discovered during development works in 2000. No further development has occurred since this time. Today, approximately half of the urupā has been developed for housing, with the remaining half being undeveloped.

The history of the urupā, and the values associated with it, are recorded in a report by the Waitangi Tribunal's report on Kārewarewa urupā, published in 2020. The Independent Hearings Panel for Plan Change 2 also examined the evidence of the existence and values associated with the urupā, and concluded that:

*There is no doubt that the cultural values of the Kārewarewa Urupā Block are, for Te Ātiawa, significant and have endured irrespective of legal and development processes and changes following the acquisition of the land by the Waikanae Land Company in 1968. These values warrant recognition.*

The Independent Hearings Panel for PC2 recommended that the Council incorporate Kārewarewa urupā into Schedule 9 of the District Plan as a site of significance to Māori. PC3 gives effect to that recommendation. PC3 is supported by Te Rūnanga o Toa Rangatira (on behalf of Ngāti Toa Rangatira), Te Ātiawa ki Whakarongotai Charitable Trust, and Ngā Hapū o Ōtaki.

The Council has evaluated three options for achieving the purpose of PC3. The evaluation demonstrates that incorporating Kārewarewa urupā into Schedule 9 of the District Plan is the most appropriate approach out of the options considered because:

- The provisions are the most effective and efficient method of protecting the cultural and heritage values associated with Kārewarewa urupā from further inappropriate land disturbance and urban development that is otherwise enabled by the provisions of the underlying General Residential Zone;
- The provisions recognise and provide for the relationship between Te Ātiawa ki Whakarongotai and their ancestral land and wāhi tapu, and recognise their role as kaitiaki;
- The provisions provide certainty for current and future landowners as to the status of the area as a wāhi tapu site, and enable current and future landowners to be aware of the historical use of the site, the cultural and heritage values of the site, and the significance of the site to tangata whenua;
- The provisions provide for appropriate levels of land disturbance and development to be managed through permitted activity standards or resource consent processes.

Recognising and providing for Kārewarewa urupā as a site of significance to Māori, as proposed by PC3, provides for the effects of subdivision, land use, and development on Kārewarewa urupā to be managed through the District Plan. This is consistent with the objectives of the District Plan, including objectives DO-O1, DO-O3, and DO-O7. It gives effect to the relevant policies set out in higher order planning documents, including the RPS, NZCPS, and NPS-UD. The provisions also enable Council to fulfil its obligations under sections 6(e), 6(f), 7(a), 7(aa), 7(g), and 8 of the RMA. On this basis, PC3 provides for the District Plan to achieve the sustainable management purpose of the RMA in relation to Kārewarewa urupā.



## **Appendix A. Kārewarewa Urupā Report (Waitangi Tribunal, 2020)**

## **Appendix B. Information from PC2 relevant to Kārewarewa urupā**

## **Appendix C. Independent Hearings Panel’s Report on PC2**

## Appendix D. Iwi authority feedback on PC3