



**NOTICE OF MEETING OF THE
RESOURCE MANAGEMENT & REGULATORY
COMMITTEE**

I hereby give notice that the Resource Management and Regulatory Committee meeting of the Papakura District Council is to be held on:

DATE: Tuesday 10th November 2009

TIME: 1.00 pm

VENUE: Council Chambers
35 Coles Crescent
PAPAKURA

T Stratton
CHIEF EXECUTIVE OFFICER

MEMBERSHIP:

Chairperson	Clr Conroy
Deputy Chairperson	Clr Jones
	HWM Penrose
	Clr Auva'a
	Clr Catchpole
	Clr Goldsmith
	Clr O'Connor
	Clr Piggott
	Clr Pringle

(Quorum 4 members)

(The reports and recommendations contained in this Order Paper are not necessarily Council Policy and should not be taken as Council Policy, or opinion)

PAPAKURA DISTRICT COUNCIL

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PAPAKURA DISTRICT COUNCIL

**AGENDA FOR THE MEETING OF THE RESOURCE MANAGEMENT AND
REGULATORY COMMITTEE TO BE HELD IN THE COUNCIL CHAMBERS,
35 COLES CRESCENT, PAPA KURA ON TUESDAY 10TH NOVEMBER 2009
COMMENCING AT 1.00 P.M.**

1. APOLOGIES

2. CONFIRMATION OF MINUTES

- (a) That the Minutes of the Resource Management and Regulatory Committee Meeting held on Tuesday 13th October 2009 be confirmed.

3. DEPUTATIONS AND PETITIONS

4. PLAN CHANGES

(a) STATUS SCHEDULE OF PROPOSED DISTRICT PLAN CHANGES - SUMMARY

REPORTING OFFICER: Nathanael Savage
Senior Policy Planner

ATTACHMENT: Plan Change Schedule as of October 2009
(Attachment No. 1)

PURPOSE OF THE REPORT

The purpose of the report is to update the Council on the status of all proposed public and private District Plan Changes.

BACKGROUND

The Papakura District Council has been progressing a number of Plan Changes to the Operative Papakura District Plan. Such plan changes include both public and private changes.

NARRATIVE

The attached schedule of proposed public and private District Plan Changes is provided for information purposes.

RECOMMENDATIONS

1. That the information be received.

5. OTHER PLANNING MATTERS

6. REGULATORY AND ENFORCEMENT

(a) SUBMISSION OF PAPAURA DISTRICT COUNCIL ON PRIVATE PLAN CHANGE 8, PARAREKAU ISLAND COUNTRY-SIDE LIVING ZONE

REPORTING OFFICER: L Houston
Senior Policy Planner - Strategic

ATTACHMENT: Submission
(Attachment No. 2)

PURPOSE OF THE REPORT

This reports seeks the endorsement of a submission by Papakura District Council on Private Plan Change 8; Pararekau Island Country-side Living Zone.

BACKGROUND

At its meeting held on 21 July 2009 the Council considered an assessment in terms of clauses 23 and 25 of the First Schedule to RMA, of the application for private plan change request by Karaka Harbourside Estate Limited for the rezoning of land at Pararekau Island for country-side living purposes.

The assessment concluded that the request was not in accordance with sound resource management practice. It was recommended that the request should be rejected because it would make the District Plan not be consistent with the Auckland Regional Policy Statement. The assessment was also that the request did not contain sufficient information to enable Council to approve the request, and that other options for processing the plan change request under clause 25 did not apply.

Also on 21 July 2009 Council heard a deputation from the applicant's solicitors which outlined a legal view that the test for accepting a private plan change request, for public notification, need not be as high as had erroneously been applied for this particular request.

Council subsequently resolved to accept and approve and proceed to notify the request under clause 25 2(b) of the First Schedule of the RMA and that the officers work with the applicant to prepare the notification.

Officers proceeded to work with the applicant on the plan change and the applicant made some amendments to the plan change request, plan change and section 32. At its meeting held on 22 September 2009 Council resolved to notify (the amended) private plan change request from Karaka Harbourside Estate Limited for the rezoning of Pararekau Island, and part Kopuahingahinga Island (Lees' Islands).

NARRATIVE

The plan change as requested was publicly notified on 30 September 2009, the period for submissions closes on Friday 13 November 2009.

As part of the deputation to Council on 21 July 2009, the applicant's solicitors contended that shortcomings in the application could be "addressed" through the notification and hearings process. Council officers further advised that a submission by Council would be an appropriate vehicle by which to address aspects of the plan change request. It was indicated that the submission would cover aspects of the plan change as requested that needed further assessment in terms of being sound resource management practice, consistency with Part 5 of the RMA, information found to be lacking in the application particularly in respect of matters that might affect future operations of Council (services and facilities) and any relevant community advocacy matters.

The submission attached to this report raises these matters for consideration in the planner's report and by the Plan Change Hearings Panel.

As notification of the plan change occurred before the Resource Management Amendment Act 2009 came into effect on 1 October the plan change will not proceed along the "streamlined and simplified" processes now set out in the Resource Management Act 2001 (RMA). It may be that submissions on the plan change may not be ready to be heard until a time just before, or possibly after, the establishment of the Auckland Council in October 2010. Councillors who might wish to sit on the hearing panel (under either scenario) should excuse themselves from any debate and the consideration of this submission. The names of Councillors not present for the debate and consideration of the submission will be recorded.

CONCLUSION

Private Plan Change 8; Pararekau Island Country-side Living, is open for submissions. As a private plan change it is appropriate for Council to make a submission on the plan change in respect of matters of sound resource management and consistency with Part 5 of RMA, aspects of the plan change that have implications for operational activities of Council and also general community advocacy matters.

It is recommended that the submission as shown in Attachment 1 be endorsed.

It is appropriate that Councillors who would wish to be available to sit on a Panel to hear submissions on the Proposed Private Plan Change do not involve themselves in the discussion of this item.

RECOMMENDATIONS

1. That the information be received.
2. That the submission of Papakura District Council to Private Plan Change 8; Pararekau Country-side Living Zone, as set out in Attachment 1 be endorsed.

6. REGULATORY AND ENFORCEMENT

(b) REGULATORY SERVICES REPORT FOR SEPTEMBER 2009

REPORTING OFFICER: Graeme McCarrison
Director Regulatory Services

ATTACHMENT: Statistical Data
Food Grading List of Premises

(Attachment No. 3)

PURPOSE OF THE REPORT

The purpose of this report is to provide the Committee with information on Regulatory Services operations.

BACKGROUND

The Regulatory Services operation has seven primary functions being Building Consents, Resource Consents, Environmental Health Inspections, Liquor Licensing, Animal Control, Noise Control and Parking Control and each is reported on separately within this report. Detailed information is provided on each functional area in the attachment to this report. The first section of the attachment provides comparative data for Building, Environmental Health and Liquor and a graph that shows monthly Building statistics dating back to August 2008.

The second section relates to Resource Consents and is divided into four key parts related to the number of applications received and processed, monitoring and compliance, significant on-going matters and applications and finally matters before the Environment Court.

The third, fourth and fifth sections concern Animal Control, Noise Control and Parking Control respectively.

NARRATIVE

Building Consents September 2009

The key building performance statistics for the month are as follows:

- For the month of September 2009 there were 46 consents issued and the average number of days to issue these consents was 12 days. There were 9 amendments issued during the month. 100% of consents were issued within 20 working days. For the YTD 149 consents were issued with 100% being issued within 20 working days. The average number of days to process these consents was 11.5 days. In September in the previous year 44 consents were issued with 100% of these being processed within 20 working days. The average number of days to process the consents in the previous year was 9 days.
- The total value of consents issued in September was \$7.1 million which compares to \$4.1 million in the same month in the previous year.
- 42 consent applications were received in September 2009 compared to the 56 received in the same month in the previous year.

- There were 52 Land Information Memoranda issued in September compared to 36 in the same month last year.

Swimming Pools

In September 2009 a total of 45 properties were visited to check swimming pool fencing compliance and 14 failed the initial inspection. The failed inspections generally related to maintenance items such as repairs to gates, fences and window restrictors.

Environmental Health

Details of Current Food Grades

All food premises have had their inspections for re-grading completed. The next round of grading inspections will take place in November/December 2009. One premise has been graded D (The Rewena Bread Basket). While the Environmental Health Officer has been working with the owners in order to resolve the issues, the latest information received is that the premises are being vacated. All gradings can be viewed on the Papakura District Council website and are attached to this report.

Enforcement Issues

During the month of September 2009, 53 complaints were received. These complaints related to various issues including noisy stereos, pests, food premises and general nuisance from rubbish related matters. There were 8 complaints relating to overgrown properties and noise issues where the Environmental Health Officer was working with the owners in order to resolve these matters.

Liquor Licensing

During the month of September 2009 there were a total of 39 applications received which were made up of the following:

1.	General Manager's Certificate	4
2.	Renewal General Manager's Certificate	3
3.	Off Licence	3
4.	Off Licence – Renewal	3
5.	Club Managers Certificate	1
6.	Club Manager's Certificate - Renewal	2
7.	On Licence – Renewal	3
8.	Special Licence	19
9.	Temporary Authority	1
		—
		39

The three new applications for Off-Licences are the result of a change of ownership at all three premises. A recent CPO (Controlled Purchase Operation) resulted in 9 premises being visited and two of those premises selling liquor to underage people. They were the Super Liquor Store in Takanini and the Jolly Farmer Liquor Store in Drury. The penalty for both these premises was that they are to close for one day, that day being a Friday and the Managers both had their certificates suspended for three weeks. Night monitoring is to begin during September and October with the intention of viewing some of the more frequented premises.

Resource Consents September 2009

In September, 29 resource consents were processed and 32 were received. For the YTD 70 consents were issued and 97% of these consents were issued within the statutory timeframes. The average number of days to process these consents was 17.6 days. In September all of the consents processed were issued within the statutory timeframes.

Complaints and Resource Consent Monitoring:

During September 2009, 27 complaints were received and 16 of the complaints have been resolved successfully with the remaining complaints still currently under investigation.

In September 2009, 24 new resource consents became due for monitoring checks and 28 were signed off as completed during the month.

Resource Consent Matters:

201 and 211 Opaheke Road

In December 2008 Council issued an abatement notice requiring the owner to remove the old car bodies and vehicles stored on the site. The matter has recently been back before the Environment Court. As a result all the parties including a scrap metal dealer met on site to establish what exactly Council requires to be removed.

155 Hamlin Road

The property is zoned Rural Papakura under the District Plan. The sleepout/storage on this property has been turned into a second household unit contrary to the rules of the District Plan. The owners employed a resource consent planner to apply for resource consent for the non-complying dwelling onsite. The stay on the abatement remains in place until the application has been received and processed by Council.

Significant Resource Consent Applications:

Motocross, Ardmore Quarry Road

The Environment Court mediation was held on 22 May 2009. Agreement on the main issues (and in particular on noise and frequency of use) was not reached. Council has undertaken further noise monitoring and the results have been distributed to the parties of the appeal. The parties are currently assessing the noise report and a further report to the Court is required. The parties have been asked to consider whether they would like to pursue further Court assisted mediation or go straight to a Court Hearing.

Retail development, Pictor Street/Clevedon Road

A new application has been lodged so that it can be determined with regard to the amendments to the Resource Management Act which came into force on 1 October 2009. This is currently under consideration.

190 Flanagan Road, Drury

An application for Resource Consent has been received to establish a drilling contractor's depot and engineering/repair operation for farming machinery and equipment on the above land. The application was notified on a limited basis until 26 June 2009. Following submissions received as part of the notification process, the applicant has agreed to commission a noise assessment. This noise report has been received and subsequently assessed. Further information has been requested seeking clarification and assessment of the likely noise against the requirement of the noise standards set out in Rural Plan Change 13.

Animal Control

Annual visits to properties have commenced and of the total during September 43 dogs were impounded compared to 76 in September 2008. 30 of the impounded dogs were unregistered and 1 was unclaimed.

Officers visited 268 properties to ensure pressure is kept on dog owners to register their dogs which were the highest property visits for the current year and infringements were the highest at 85.

Noise Control

Complaints received about excessive noise for September were 185 compared to 217 in August. 39 excessive noise notices were issued in September compared to 51 in August. One lot of equipment was seized and Police attendance was required three times during the month.

Parking Control

367 infringement notices were issued in total for September compared to 627 in August 2008. 12 infringements were issued for disabled parking offences. There were 38 school patrols undertaken this month and 60 recreation/all reserve patrols carried out as a result of complaints. Truck patrols were increased to 14 this month due to residents' concerns about trucks being parked unsafely.

A summary of the parking infringements is as follows:

	September
Registration	90
Warrant of Fitness	55
Footpath	65
Broken Yellow Lines	28
Restricted Parking	12
Disabled	12
Loading Zone	30
Bus Stop	9
No Stopping	21
Facing Wrong Direction	12

RECOMMENDATION

1. That the information be received.

6. REGULATORY AND ENFORCEMENT

(c) PROPOSED DOG POLICY AND DOG CONTROL BYLAW DELIBERATIONS

REPORTING OFFICER: Erin Clarke
Policy Advisor

ATTACHMENT: Proposed Dog Policy and Dog Control Bylaw
Summary of submissions to the Dog Policy
and Dog Control Bylaw
Copies of Submissions

(Attachment No. 4)

PURPOSE OF THE REPORT

The purpose of this report is to advise Council of the results of the submission process in relation to the proposed Dog Policy and Bylaw 2009 and seek Council's decisions on these submissions. Committee approval of the updated bylaw is also sought.

BACKGROUND

Papakura District Council currently has a Dog Policy and Bylaw adopted in 2004. The principal reason for this review was Council's requirement under the Local Government Act 2002 (LGA2002) to review bylaws made after 1 July 2003 within 5 years.

The principal laws for the management of dogs in New Zealand are contained in the Dog Control Act 1996. The Act requires Council to adopt a policy in respect of dogs in its district and to make the necessary bylaws to give effect to this policy.

At its meeting on 7 July 2009, the Resource Management and Regulatory Committee endorsed a proposed Dog Policy and Bylaw for public consultation.

Submissions were invited from the public from 13 July 2009 until 14 August 2009.

NARRATIVE

116 submissions were received in relation to the proposed Dog Policy and Bylaw. Officers accepted some late submissions. 108 of these were from dog owners and 8 from non dog owners.

The submissions can broadly be categorised as having been in relation to:

- Proposed on-leash areas
- Off leash areas
- Doggie Doos and Doggie Bins
- Registration and Licensing.

A workshop was held on 6 October 2009 to discuss the issues raised in the submission process and to seek Council direction with regard to specific elements of the proposed policy and bylaw.

The results of these discussions, along with further investigations undertaken by Council's Policy Advisor are outlined below.

Proposed On-leash Areas

The majority of submitters were happy with the additional on-leash areas Council had proposed. It should be noted however, that many submitters supported additional on-leash areas providing:

- Dogs were controlled
- Dog faeces was picked up by the dog owner
- Dangerous breeds were not allowed in public places

Conversely, a number of submitters opposed inclusion of the proposed on-leash areas because they consider that the above provisions are not currently enforced.

Multiple submitters suggested on-leash dogs should be allowed in all parks. Such a suggestion does not recognise that not all dog owners are responsible. There needs to be a balance between people's right to access a public place without fearing for their safety or having a dog conflict with sports fields/children's play activities, and providing a range of spatially distributed parks where responsible dog owners can comfortably and legally exercise/walk their dogs on a leash.

Central Park

- 99 submissions supported on leash dogs in Central Park
- 16 submissions opposed on leash dogs in Central Park

At Council's workshop concern was raised with regard to dogs being present at special events such as Christmas in the Park, and whether there was a means for dogs to be specifically prohibited for such occasions.

Formally changing the bylaw to deal with such one-off situations would arguably be inefficient and impractical. If such events were to become more frequent Council may wish to consider including a clause in the bylaw which allows Council to prohibit dogs in certain circumstances. There is no evidence of any problems currently.

The nature of public events means that people are likely to be transient throughout the event; and as such checking can be difficult.

Should the Council wish to pursue this matter an alternative would be to include a statement on event advertising which notes dogs are not permitted. While a person could not be prosecuted for bringing their dog to an event, they could be asked to leave.

Cemeteries

- 76 submissions supported on leash dogs in cemeteries
- 39 submissions opposed on leash dogs in cemeteries

The proposal to allow dogs in cemeteries drew a number of comments. These included concerns that to allow dogs in cemeteries was disrespectful and comments that dogs should only be exempt where their owner is visiting a specific grave or joining a graveside service where it is appropriate for the dog to attend (such as where its owner has died).

At its workshop, Council decided that dogs should remain prohibited from cemeteries, as has been the case in the current dog policy and bylaw. This decision has been reflected in the attached dog policy and bylaw via tracked changes.

Graham Tagg Park

As signalled during the workshop, the area known as Graham Tagg Park is now private land, so has been removed as an on leash area.

Southern Park, Rollerson Park, Drury Domain

The majority of submitters supported these parks being on leash areas.

Doggie Doos and Doggie Bins

Doggie Bins

A large number of submitters requested that doggie bins be installed – particularly around parks.

Council removed its specific doggie bins due to design problems. These were a lack of drainage, issues for contractors relating to weight and bags ripping, fire risk and the “heads” of the bins being stolen.

Once removed, the majority of these bins were replaced with standard bins. These do not have the prompt mechanism synonymous with the previous doggie bins, but are able to be utilised for the disposal of doggie litter along with other general rubbish.

At its workshop, Council requested that a sticker be added to standard litter bins to provide a prompt for dog owners and, further, that owners be informed of and reminded to use these bins for the disposal of doggie litter. This reminder will be included in future registration mailouts.

Doggie Doo Disposal – Enforcement

Some submitters queried whether Council could make it mandatory for dog owners to carry doggie bags.

Such a move would provide enforcement issues. For example, an owner may carry a bag, utilise this bag to pick up dog faeces, deposit it in a bin, and henceforth have no proof that a bag had been carried from the beginning. It is worth noting that Wellington City Council recently attempted to introduce this provision into their dog bylaw but it was withdrawn following wide public backlash.

Imposing an infringement fine for failure to pick up dog faeces would also be problematic in terms of enforcement. There is no infringement regime under the LGA as yet though one could be introduced. The only regime that therefore would apply is one that follows the appropriate LGA process, namely regulations under section 259(a) LGA 2002.

An alternative infringement mechanism could be found via the Litter Act. However, this again would be difficult to enforce.

It should be noted that Council has clearly signalled its expectation that owners pick up their dogs faeces under Policy 3 “Encourage Responsible Dog Ownership” clauses 3.2 c and d.

Off-leash areas

Multiple requests were received for more off-leash areas and/or specific fenced in dog exercise areas.

Officers advised Council at its recent workshop that there are currently no additional off leash areas which would be deemed appropriate. There is difficulty in identifying new areas which do not include sports fields, playgrounds or reserves.

The McLennan storm water area could be fenced and utilised as a dog exercise area in the future. This has been included as a resolution at the end of this report, for consideration by the new Auckland Council once this becomes a viable option.

Two submitters expressed concern at Brylee Reserve being an off-leash area due to its propensity to attract wildlife and the potential for conflict arising from exercising dogs in such an area. The Pahurehure Inlet Management Plan (PIMP) states it will “promote Brylee Reserve as an ‘eco-area’ for educational and conservation purposes”. Allowing the Reserve to be an off-leash area is in direct conflict with the PIMP. For this reason, Brylee Reserve has been removed as an off leash area in the attached Dog Policy/Bylaw.

Registration/Licensing

Licence fee reductions for pensioners, and those who desex their dogs were requested. Licence fees are adopted each year and are outside the scope of this bylaw making process. This matter should be referred to Council during the Annual Plan process.

A request was also made for the “Canine Good Citizen Programme” to be formally recognised by Council. Council resolved to do this at its Resource Management and Regulatory committee meeting on 13 October 2009, along with a resolution that completion of this programme would have the equivalent status of the Dog Owner Licence, including an owner’s right to a dog licence registration discount.

Further education will occur in relation to informing owners of their licence fee reduction options.

CONCLUSION

The public consultation period for the proposed Dog Policy and Bylaw was held over July and August 2009 attracting a number of submissions. Council considered some of the issues contained in these submissions at a recent workshop. Committee ratification of the attached dog policy and bylaw, along with the responses to submissions is sought. The recommendations will then be forwarded to the next Council meeting for final approval.

RECOMMENDATIONS

1. That the information be received.
2. That the attached summary of submissions; and in particular responses to submitters be approved.
3. That it be recommended to Council that the attached proposed Dog Policy and Bylaw 2009 be formally adopted.

7. NOTICES OF MOTION

8. CONFIDENTIAL

(a) LGAAA SPECIFIED COMMERCIAL APPEALS UPDATE

RECOMMENDATION

1. That Council move into public excluded session. The general subject matter to be considered, the reason for passing this resolution in relation to this matter and the specific grounds under s 7 (2) g and s. 7 (2) i of Local Government Official Information and Meetings Act 1987 are:

Item	Reason	Grounds
7(a) LGAAA Specified Commercial Appeals Update	To maintain legal professional privilege	s 7 (2) g
	To enable the Council to carry on, without prejudice or disadvantage, negotiations (including commercial or industrial negotiations).	s. 7 (2) i