



**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 8th September 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, PAPAKURA ON TUESDAY 8TH SEPTEMBER 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 11th August 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 September 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.

4. PLAN CHANGES

(b) PAPAKURA DISTRICT PLAN – CLAUSE 20A CHANGES

REPORTING OFFICER: Nathanael Savage
Senior Policy Planner

ATTACHMENT: Summary of proposed cl20A changes
District Plan text as amended by cl20A changes

(Attachment No. 2)

PURPOSE OF THE REPORT

The purpose of this report is to seek the endorsement of thirteen minor changes to the District Plan to rectify minor errors identified as part of the continuous monitoring of the effectiveness of the operative Papakura District Plan.

BACKGROUND

Clause 20A to the First Schedule of the Resource Management Act 1991 (“the Act”) (see below) gives Local Authorities the power to make minor corrections to operative District Plans without further formality.

Clause 20A, First Schedule, Resource Management Act 1991

“A local authority may amend, without further formality, an operative policy statement or plan to correct minor errors”

Under Clause 20A, an operative plan may be amended to correct minor errors without the need to prepare a plan change, thereby avoiding costs and delays; however amendments are limited to correcting errors in the plan and cannot change the effect of the provision being amended. It should be noted that as this is a new power there have been no cases that provide legal guidance on what changes might be considered to be “minor”.

NARRATIVE

Clause 20A allows Council to fix minor errors identified as part of the continuous monitoring of the District Plan without undue formality. Officers have identified errors that are considered to be minor and which can now be amended without the need for a full plan change process. These amendments need to be adopted by Council. Following adoption by Council the amendments will be incorporated into the next District Plan update.

There are thirteen Clause 20A amendments being recommended to Council for approval. A summary of these changes is attached to this report, followed by replacement pages for the District Plan, as amended by the Clause 20A changes.

Over time it is expected that further minor errors will be identified. These will be reported as and when practicable.

CONCLUSION

The Resource Management Act 1991 allows Local Authorities to fix minor errors in operative District Plans without the need for a full Plan Change process. Thirteen minor errors in the operative Papakura District Plan have been identified. It is recommended that Council approve amendments pursuant to Clause 20A to rectify these errors as per the attachments to this report.

RECOMMENDATIONS

1. That the information be received.
2. That pursuant to Clause 20A of the First Schedule of the Resource Management Act 1991, Council approve under seal the Clause 20A amendments numbered 59 to 71 to the Operative Papakura District Plan, described in the attachments to this report.

5. OTHER PLANNING MATTERS

6. REGULATORY AND ENFORCEMENT

(a) ANNUAL REPORT DISTRICT LICENSING AGENCY

REPORTING OFFICER: Steve Hull
Secretary, District Licensing Agency
June Walden
Licensing Inspector

ATTACHMENT: Annual Report Papakura District Licensing Agency

(Attachment No. 3)

PURPOSE OF THE REPORT

The purpose of this report is to obtain Council endorsement of the Annual Report to the Liquor Licensing Authority.

BACKGROUND

The principal role of the District Licensing Agency is to deal with all applications for new and renewal of On, Off and Club Licences together with all General and Club Managers' Certificates, Special Licences and Temporary Authorities.

This report is required on an annual basis to satisfy requirements under the Sale of Liquor Act 1989 stating that an annual report is to be submitted to the Liquor Licensing Authority within three months of the end of the financial year.

NARRATIVE

Please refer to the attached report of the District Licensing Agency.

CONCLUSION

This has been another very productive year with CLEG, from the agency point of view. The licensees are still willing to work in with CLEG and we are sorting out issues promptly and have the backing of the managers and security on the high risk premises. It has also been noted, there is more awareness in the community around liquor issues as they are contacting the agency more frequently and making their views known. With the night monitoring a far greater control has been obtained with the high risk premises which is reflecting back in the community with less complaints being received regarding these.

RECOMMENDATIONS

1. That the information be received.
2. That the Committee endorse the Annual Report of the District Licensing Agency.

6. REGULATORY AND ENFORCEMENT

**(b) OBJECTION TO NOISE ABATEMENT
NOTICE FOR “DEACON” AT 8 OREGON
PLACE, PAPA KURA**

REPORTING OFFICER: Graeme McCarrison
Director Regulatory Services

ATTACHMENT: Report on Noise Abatement Notice dated 4
August 2009

Letter of objection from Christopher
Abernethy dated 11 May 2009

(Attachment No. 4)

PURPOSE OF THE REPORT

The purpose of the report is for the Committee to hear and determine the objection against the issuing of the Noise Abatement Notice that was served on “Deacon” at 8 Oregon Place, Papakura on 11 May 2009.

BACKGROUND

The offending dog “Deacon” domiciled at 8 Oregon Place, Papakura is owned by Christopher Abernethy. “Deacon is a two year old Male German Shepherd and was issued a Noise Abatement by Council on 11 May 2009. Under Section 55 (1) of the Dog Control Act 1996 provides Council with the ability to issue a Noise Abatement Notice where a dog control officer or dog ranger has received a complaint and has reasonable grounds for believing that a nuisance is being created by the persistent and loud barking or howling of any dog, the dog control officer or dog ranger may –

- (a) Enter at any reasonable time upon the land or premises, other than a dwelling house, on which the dog is kept, to inspect the conditions under which the dog is kept; and
- (b) Whether or not the dog control officer or dog ranger makes such entry, give the owner of the dog a written notice requiring that person to make such reasonable provision on the property to abate the nuisance as shall be specified in the notice or, if considered necessary, to remove the dog from the land or premises.

The owner of a dog issued with a Noise Abatement Notice may, within 7 days of the receipt of the notice, object in writing to the territorial authority against the requirements of that notice.

The Noise Abatement Notice was hand delivered to Christopher Abernethy on 11 May 2009. The owner of the dog wrote a letter dated 11 May 2009 objecting to the notice, see attached.

Under Section 55 (3) the Council is required to consider the objection and may confirm, modify, or cancel the notice.

When considering an objection to a Noise Abatement Notice, to confirm, modify or cancel the notice, the Council must have regard to the following:

- (a) the evidence which formed the basis for the notice; and
- (b) the matters relied on in support of the objection; and
- (c) any other relevant matters.

NARRATIVE

The owner of "Deacon" will present information supporting the objection to the Noise Abatement Notice. Ken Muir will be available to answer any questions regarding the complaints leading up to the issue of the notice.

The grounds for the objection include:

- (a) That the dog owner has taken all the necessary steps to ensure "Deacon" does not cause a noise nuisance.
- (b) He is walking the dog daily and is confined to the back of the property with limited visual access to the front during the day.
- (c) If the owner is away overnight, he has arranged for a dog sitter to come in or take the dog to a family members to have it looked after.
- (d) At night the dog sleeps inside the house.
- (e) The dog owner has purchased an anti-barking collar which he ensures he has on whenever the dog is left alone.
- (f) That the recent complaints are unfounded or over exaggerated.

The key details refer to the attached report by ACSL dated 4 August 2009 of the complaints that lead to the issue of the Noise Abatement Notice for "Deacon" includes:

- (a) Numerous excessive barking complaints received over the period 10 April 2008 to 24 July 2009 from various neighbours.
- (b) A section 55 bark warning letter was sent to the dog owner on 5 September 2008 and 15 September 2008.
- (c) Monitoring of the noise was conducted by the investigating Animal Control Officer and the dog was heard to be barking excessively.
- (d) The main complainants have not completed a Bark Monitor Form as they are shift workers.
- (e) The dog owner initially acknowledged that there was an issue with the barking that needed to be addressed.
- (f) Seven complaints of excessive barking have been received since the noise abatement notice was served on 11 May 2009.

When considering an objection, the Council is required to consider the information related to the reasons for issuing a Noise Abatement Notice.

A letter was received appealing the issuing of the notice dated 11 May 2009. The dog owner has indicated that the dog has been wearing an anti-bark collar and that they are doing all they can to minimise the noise nuisance.

Scott Whitley, Customer Services Manager, ACSL Group has spoken with two of the complainants since the issue of the Noise Abatement Notice. It is the complainants' opinion that the barking has declined substantially and that the dog owner has improved the confinement, fencing and control of the dog at the property. Both complainants are in favour of the Noise Abatement Notice being rescinded; however feel that it should be re-issued in the future if the barking noise level comes back to the previous level.

It is therefore considered appropriate that the Noise Abatement Notice issued on 11 May 2009 is rescinded for the following reasons:

- (a) The owner of "Deacon" has improved the confinement, fencing and control of the dog at the property.
- (b) The barking levels have improved considerably.
- (c) The owner has purchased an anti-bark collar which he ensures is on the dog whenever the dog is alone.
- (d) When the owner is away he ensures the dog is looked after by a family member.

It is the recommendation of ACSL Group that the Noise Abatement Notice is rescinded under the condition that any further substantiated complaints of excessive barking will result in the notice being re-issued to the dog owner.

CONCLUSION

"Deacon", a two year old male German Shepherd following excessive barking complaints received was issued a Noise Abatement Notice under Section 55 (1) of the Dog Control Act 1996 by Council on 11 May 2009.

It is recommended that the objection by Christopher Abernethy of 8 Oregon Place, Papakura to have the Noise Abatement Notice rescinded be approved under the condition that any further substantiated complaints of excessive barking will result in the notice being re-issued to the dog owner.

RECOMMENDATIONS

- 1. That the information be received.
- 2. That the objection under Section 55 (2) of the Dog Control Act 1996 to the issuing of a Noise Abatement Notice under Section 55 for "Deacon" at 8 Oregon Place, Papakura be rescinded under the condition that any further substantiated complaints of excessive barking will result in the notice being re-issued to the dog owner.

6. REGULATORY AND ENFORCEMENT

**(c) NOTICE OF REQUIREMENT FOR HINGAIA
PRIMARY SCHOOL AND EARLY
CHILDHOOD EDUCATION CENTRE
DESIGNATION – RECOMMENDATION OF
HEARING PANEL**

REPORTING OFFICER: Marian Whitehead
Senior Resource Consents Planner

ATTACHMENT: Report and recommendation of the Hearing
Panel

(Attachment No. 5)

PURPOSE OF THE REPORT

The purpose of this report is to present to Council the recommendation of the Hearing Panel that heard submissions on the notice of requirement for a Primary School and Early Childhood Education Centre at Hingaia.

BACKGROUND

Council received a notice of requirement for a Primary School (Years 1-8) and Early Childhood Education Centre designation from the Minister of Education in October 2008. The primary school and early childhood education facility is proposed at 171 Hingaia Road. The land to be designated is a 4.3990 ha lot with frontage onto Hingaia Road and a proposed new collector road which is part of the Hingaia Structure Plan.

Layout and design of buildings on the site have yet to be decided and are not included in the requirement. Infrastructure and services to the site will also need to be provided prior to development. The Minister of Education will be required to submit an Outline Plan of Works to Council which cover these matters before the site is developed.

The application was notified on 22 April 2009 and submissions closed on 22 May 2009. Four submissions were received. The Resource Management and Regulatory Committee appointed a hearings panel at its meeting on 9 July 2009. The hearing was held on 13 July and adjourned until 18 August in order to receive additional information.

NARRATIVE

Under delegations 3 and 4 of the Papakura District Council Regulatory Delegations, hearing panels are set up by the Resource Management and Regulatory Committee to hear applications such as designations and to then advise Council of their recommendation.

Section 171 of the Resource Management Act 1991 requires that Council makes a recommendation to the Minister of Education on the notice of requirement.

Hearing Panel Recommendation

The Hearing Panel has considered the matters raised in submissions on this notice of requirement, and has taken into account:

- The evidence and comments provided at the hearing; and
- The Planner's Report to the Hearing Panel.

The Hearing Panel recommends that Council confirms the notice of requirement and imposes conditions. The Hearing Panel report in full is attached to this report.

CONCLUSION

Following consideration of the submissions lodged, the Hearing Panel has recommended that Council confirms the notice of requirement and imposes conditions that are contained within their report.

RECOMMENDATIONS

1. That the information be received.
2. That the attached recommendation of the Hearings Panel on the notice of requirement by the Minister of Education for:
 - the construction, undertaking, establishment, management, operation, and maintenance of early childhood and primary school facilities; and
 - every use of the land for education purposes where the relevant education authority constructs, undertakes, establishes, manages, operates, or maintains land for such work or use

at 171 Hingaia Road being described as Part Lot 2 DP 201220 shown as Section 1 on SO 393559, be adopted as the Council recommendation to the Minister of Education, pursuant to section 171(2) of the Resource Management Act 1991.

6. REGULATORY AND ENFORCEMENT

(d) REGULATORY SERVICES REPORT FOR JULY 2009

REPORTING OFFICER: Graeme McCarrison
Director Regulatory Services

ATTACHMENT: Statistical Data
Food Grading List of Premises
(Attachment No. 6)

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 April 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 July 2009

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

- For the month of July 2009 there were 69 consents issued and the average number of days to issue these consents was 11.3 days. There were 6 amendments issued during the month. 100% of consents were issued within 20 working days. In July in the previous year 53 consents were issued with 98% of these being processed within 20 working days. The average number of days to process the consents in the previous year was 9.8 days.
- The total value of consents issued in July was \$8.6 million which compares to \$4.0 million in the same month in the previous year.
- 66 consent applications were received in July 2009 compared to the 57 received in the same month in the previous year.

Swimming Pools

In July 2009 a total of 57 properties were visited to check swimming pool fencing compliance and 19 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 are currently having their inspections for re-grading completed. There are 4 premises and some revisits to be completed. These will be completed by the end of August 2009. All gradings can be viewed on the Papakura District Council website and are attached to this report.

Enforcement Issues

During the month of July 2009, 57 complaints were received. These complaints related to various issues including noisy stereos, pests, food premises and general nuisance from rubbish related matters. All of the complaints relating to food premises were of a minor nature and have now been resolved. There are four outstanding issues which relate to a rubbish accumulation and an overgrown section. The Environmental Health Officer is currently working with the owners in order to resolve these matters.

Liquor Licensing

During the month of July 2009 there were a total of 43 applications received which were made up of the following:

1.	General Manager's Certificate	9
2.	Renewal General Manager's Certificate	7
3.	Off Licence – Renewal	3
4.	Club Manager's Certificate	1
5.	On Licence	1
7.	Club Licence – Renewal	1
8.	Special Licence	20
9.	Temporary Authority	1
		—
		43

The new On-Licence applied to an existing Restaurant that had a change of ownership. Night monitoring is to begin early September with the intention of viewing some of the more frequented premises.

Resource Consents July 2009

In July, 20 resource consents were processed and 27 were received. The average number of days to process these consents was 32.5 days. In July, 100% of the consents processed were issued within the statutory timeframes.

Complaints and Resource Consent Monitoring:

During July 2009, 43 complaints were received and 25 of the complaints have been resolved successfully with the remaining complaints being under investigation.

In July 2009, 23 new resource consents became due for monitoring checks and 12 were signed off as completed during the month.

Resource Consent Matters:

201 & 211 Opaheke Road

Council's legal team is currently negotiating with the lawyers for the property owners to get the desired outcome. Council may have to re-issue abatement notices on all the property owners in order to recoup costs.

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. Despite considerable effort on our part, this matter is now before the Environment Court but negotiations are on-going in an attempt to find resolution. The Judge has agreed to grant a stay on the abatement notice and to put an appeal on hold until 16 September 2009.

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 and further discussions between the parties are likely to be held in due course.

Retail development, Prictor Street/Clevedon Road

Council has received additional reports from the applicant in an attempt to satisfy information requirements. A Hearing was held on 30 July 2009 to determine whether notification of the application is required. Further information has been submitted by the applicant since the Hearing and this has been reviewed by Officers and further comments have been sent to the Commissioner. The decision on notification is awaited.

Hingaia School, Hingaia Road

A Notice of Requirement to designate land for a Primary School and Early Childhood Centre has been received from the Ministry of Education. The Notice of Requirement was notified on 22 April 2009 and four submissions were received, 2 in support and 2 in objection. A Hearing was held on 13 July 2009 and the recommendation of the Commissioners is subject to a separate report before this Committee.

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 with the period of notification running until 26 June 2009. Following submissions received as part of the notification process the applicant has agreed to commission a noise assessment. A Hearing will be arranged once the assessment has been received and reviewed.

Animal Control

During July 59 dogs were impounded compared to 64 in July 2007. 40 of the impounded dogs were unregistered and 19 were unclaimed.

Officers visited 184 properties to ensure pressure is kept on dog owners to register their dogs.

Noise Control

Complaints received about excessive noise for July were 172 compared to 128 in June. 49 excessive noise notices were issued in July compared to 47 in June. No equipment was seized and police attendance was not required during the month.

Parking Control

With additional patrols of disabled parking spaces 29 infringements were issued in comparison to the 51 that were issued in June. 643 infringement notices were issued in total for July compared to 1,144 in July 2008.

A summary of the parking infringements is as follows:

	July
Registration	180
Warrant of Fitness	126
Footpath	79
Broken Yellow Lines	54
Restricted Parking	33
Disabled	29
Loading Zone	45
Bus Stop	12
No Stopping	30
Facing Wrong Direction	23

RECOMMENDATION

1. That the information be received.

6. REGULATORY AND ENFORCEMENT

(e) BYLAW REVIEW HEARINGS

REPORTING OFFICER: Erin Clarke
Policy Advisor

ATTACHMENT: Summary of submissions from those who wish to be heard by the committee

Copies of submissions

(Attachment No. 7)

PURPOSE OF THE REPORT

The purpose of this report is to provide information on submissions received as part of the bylaw consultation process and an overview of the issues raised by submitters who wanted to be heard as part of the bylaw hearing.

BACKGROUND

Three proposed bylaws went out for public submission from 13 July 2009 to 14 August 2009. A number of submissions were received with some indicating they would like to speak to their submission before a hearing committee.

The proposed bylaws are:

- Dog Control Policy and Bylaw
- Speed Limits Bylaw
- Parking and Traffic Bylaw

NARRATIVE

One hundred and thirteen submissions were received relating to the proposed Dog Policy and Bylaw, four submissions relating to the proposed Parking and Traffic Bylaw and one submission in response to the proposed Speed Limits Bylaw.

The attached table provides a list of those submitters that wish to be heard, and provides a summary of the issues they have identified in the full submission documents (also attached).

Deliberations on all submissions received will occur at a later Resource and Regulatory Committee meeting. In addition, it should be noted that due to the high volume of submissions received relating to dogs, and the plethora of issues these highlighted, a workshop will be held prior to any further proposals on this matter being brought to Committee meeting.

CONCLUSION

Three bylaws were released for public consultation, with a number of submitters indicating they wished to be heard. This bylaw hearing will hear submitter views on the proposed Parking and Traffic Bylaw and proposed Dog Policy and Bylaw.

RECOMMENDATIONS

1. That the information be received.
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7. NOTICES OF MOTION

8. CONFIDENTIAL