



AGENDA FOR AN ORDINARY MEETING OF THE FRANKLIN DISTRICT COUNCIL TO BE HELD IN THE COUNCIL CHAMBERS ON THURSDAY 24 SEPTEMBER 2009 COMMENCING AT 11:00 AM.

Council:

The Mayor M Ball,
Councillors B Crompton, J Hayman, S Jackson, M Kay, D Lynch, J Morris,
D Morrison, L Petersen, M Ranchhod, J Rennie, D Robertson and P Sands.

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OPENING PRAYER

1. APOLOGIES

2. MINUTES OF COUNCIL

2.1 MINUTES OF THE ORDINARY MEETING OF THE FRANKLIN DISTRICT COUNCIL HELD ON THURSDAY 27 AUGUST 2009:

Recommendation of Chief Executive:

That the minutes of the Ordinary Meeting of the Franklin District Council held on Thursday 27 August 2009 be confirmed.

3. MINUTES OF COMMITTEES

3.1 MINUTES OF THE REGULATORY COMMITTEE HELD ON MONDAY 17 AUGUST 2009: (YELLOW)

Recommendation of Chief Executive:

That the minutes of the Regulatory Committee held on Monday 17 August 2009 be received.

3.2 MINUTES OF THE COMMISSIONER HEARING HELD ON TUESDAY 18 AUGUST 2009: (YELLOW)

Recommendation of Chief Executive:

That the minutes of the Commissioner Hearing held on Tuesday 18 August 2009 be received.

3.3 MINUTES OF THE STRATEGY AND POLICY COMMITTEE HELD ON THURSDAY 20 AUGUST 2009: (GREEN)

Recommendation of Chief Executive:

That the minutes of the Strategy and Policy Committee held on Thursday 20 August 2009 be received.

3.4 MINUTES OF THE ACTIVITY AND MONITORING COMMITTEE HELD ON THURSDAY 10 SEPTEMBER 2009: (PINK)

Recommendation of Chief Executive:

That the minutes of the Activity and Monitoring Committee held on Thursday 10 September 2009 be received.

4. MINUTES OF COMMUNITY BOARDS

4.1 MINUTES OF THE MEETING OF THE WAIUKU/AWHITU COMMUNITY BOARD HELD ON MONDAY 17 AUGUST 2009: (BLUE)

Recommendation of Chief Executive:

That the minutes of the meeting of the Waiuku/Awhitu Community Board held on Monday 17 August 2009 be received.

4.2 MINUTES OF THE MEETING OF THE ONEWHEREO/TUAKAU COMMUNITY BOARD HELD ON MONDAY 14 SEPTEMBER 2009: (GOLD)

Recommendation of Chief Executive:

That the minutes of the meeting of the Onewhero/Tuakau Community Board held on Monday 14 September 2009 be received.

5. REQUEST TO NOTIFY PROPOSED PLAN CHANGE 25 AND VARIATION 3 TO RURAL PLAN CHANGE 14 (THE HAZARDS, STORMWATER, ESPLANADE RESERVES AND EARTHWORKS PLAN CHANGE) AND THE PARTIAL WITHDRAWAL OF PLAN CHANGES 14, 22 AND 23

Report of Consultant Planner: (File D230-014):

See Attachment 1.

For more information on this report, please call Mark Tollemache 09 846 4555.

<u>Statute</u>	Local Government Act 2002, Resource Management Act 1991
<u>Directional Statement</u>	District Development, page 6 District Environment, page 7 District Wellbeing, page 8
<u>LTCCP</u>	Not applicable
<u>Policy/Delegations</u>	Not applicable
<u>Monitoring</u>	By Report
<u>Budget Impact</u>	Not applicable
<u>On Account</u>	Not applicable

EXECUTIVE SUMMARY

- The purpose of this report is to seek the approval of Council to notify Proposed Plan Change 25 to the operative Franklin District Plan and Variation 3 to Rural Plan Change 14 (collectively termed the Hazards, Stormwater, Esplanade Reserves and Earthworks Plan Change (Plan Change 25/Hazards Plan Change/the Plan Change)).
- As a consequence of approving notification of the Hazards Plan Change, it is recommended that partial withdrawal of the provisions in Proposed Plan Changes 14, 22 and 23 be undertaken so that these plan changes are aligned. The partial withdrawals of Plan Changes 14, 22 and 23 must be notified in accordance with Clause 8D of the First Schedule of the Resource Management Act 1991 (RMA).

BACKGROUND

On 28 June and 21 August 2007, Council endorsed the development of a Plan Change to address matters relating to natural hazards to fulfil the requirements of the Civil Defence Emergency Management Act 2002 [Resolutions 2007/6/41 and F2007/8/7]. A plan change to enable Council to meet its statutory requirements for natural hazard management was also identified in the Work Programme for the Resource Management Policy Team.

By notifying a Hazards Plan Change, the Council is responding to a directive of the Auckland Regional Civil Defence Emergency Management Plan 2005. This Plan directs local authorities, like Franklin District Council, to initiate Plan Changes to strengthen natural hazard management in the District and to create a better alignment and consistency with regional approaches. Council staff began reviewing the natural hazards provisions of the operative District Plan in 2007.

During November and December 2007, Council sought public comment on the Natural Hazards Plan Change Discussion Document (dated November 2007). This was pre-consultation and not a formal process. The content of the Discussion Document was endorsed by Council on 21 August 2007. The Discussion Document provided an overview of District Plan issues relating to hazards, stormwater, esplanade reserves, earthworks and Council's statutory requirements. Draft amendments were also proposed to the objectives, policies and methods of the District Plan and public comment on these provisions was sought.

Written comments on the Natural Hazards Plan Change Discussion Document were received from:

- Environment Waikato
- Auckland Regional Council
- Three members of the public.

These comments were analysed by staff and discussions occurred with both of the Regional Councils. Those matters raised by the public were considered when drafting the plan change. Staff then began preparation of a plan change and accompanying section 32 evaluation. Part of this evaluation involved re-assessing matters identified as of potential concern during the consultation on the Discussion Document.

The evaluation of current provisions in the District Plan, detailed discussions during the development of Plan Change 24 (Pokeno), and meetings with appellants on Rural Plan Change 14 have identified a number of matters (such as stormwater management and earthworks) where hazards need to be managed. These matters have been taken into account in drafting this Plan Change.

The issues identified in the evaluation were the need for consistency of approach and methods across the District. This applies particularly to interpretation and administration issues. One result is the proposed introduction of a District-wide rule to manage earthworks, to replace the 15 different operative or proposed rules which currently fulfil this management function. Introduction of a single rule will require the partial withdrawal of Plan Changes 14, 22 and 23 relating to earthworks provisions, so that a District-wide approach can be implemented.

Content of Proposed Hazards Plan Change 25

The following matters are proposed to be addressed by the Hazards Plan Change:

- Identification of Council's roles and responsibilities for hazard management.
- Consideration of factors that exacerbate natural hazards.
- Amendments to Part 7 (Issues, Objectives, Policies and Methods) to accurately reflect the effects of natural hazards.
- Amendments to Part 11 (Issues, Objectives, Policies and Methods for acquiring esplanade reserves).
- Introduction of a District-wide standard for earthworks.

The proposed changes address:

- Management of development in floodplains.
- Management of development on unstable land.

- Management of clean-fills.
- Management of earthworks.
- Use of setbacks from water.
- Use of esplanade reserves to manage natural hazards.
- Identification of natural hazards.
- Management of stormwater.
- Corrections to categorise activities as Restricted Discretionary instead of Discretionary (Restricted Assessment).

Variation 3 to Proposed Rural Plan Change 14 and Partial Withdrawal of Proposed Plan Changes 14, 22 and 23

Because Rural Plan Change (RPC) 14 is still going through its statutory process, a variation is required to ensure consistency and alignment with the outcomes sought by the Hazards Plan Change. This alignment will be achieved by implementing Variation 3 to proposed RPC 14 (Variations 1 and 2 to RPC 14 covered matters in Proposed Plan Changes 22 and 23 respectively).

Partial withdrawals from Proposed Plan Changes 14, 22 and 23 of the earthworks provisions (see Attachments 1-1.1) in favour of Plan Change 25 represent the most efficient and effective approach to implementing Council's statutory responsibilities for the management of hazards and earthworks, and will aid in the public understanding and administration of the District Plan by having one District-wide rule instead of the current situation where there are 15 different rules. A partial withdrawal of Plan Changes 14, 22 and 23 must be notified in accordance with Clause 8D of the First Schedule of the RMA. This includes stating reasons for the withdrawal and these are included in the recommendations at the end of this report.

Attachment 1.3 is the section 32 report for the proposed Plan Change, and Attachment 1.29 is proposed Plan Change 25.

The Hazards Plan Change has been provided for as part of the agreed work programme for the District Planning Unit.

ASSESSMENT

Options

Council has the option of not proceeding with the Hazard Plan Change. However, this is not considered to be a practicable option because of the associated risks of not acting now. These risks include the lack of hazard management and the potential for development to establish in areas prone to hazards, lack of consistency in the implementation of requirements for esplanade reserves and the lack of consistency in the management of earthworks in the District and potential for adverse effects on the environment. These deficiencies in the operative District Plan have, in the

past, made it more difficult for Council to administer the Plan and for members of the public to understand and use the Plan.

The other option of proceeding with the Hazard Plan Change as soon as possible is supported as it is an appropriate and practicable response to legislative requirements in order to avoid the abovementioned risks and improve practice during an interim period (likely to be several years) before new plans become operative under successor authorities.

LEGAL AND LEGISLATIVE IMPLICATIONS

Consistency with Council Policy/Plans

The proposed Hazards Plan Change 25, the proposed variation to RPC 14, and the partial withdrawal of the earthworks provisions from Plan Changes 14, 22 and 23 are consistent with the overall strategy and policy directions of Council, and will improve the administration and interpretation of the district planning framework.

Application of Significance Policy and Decision-Making Provisions

The matter is considered significant under the Council's Policy on Significance 2009. The report is consistent with the decision-making provisions set out in the Local Government Act 2002.

Application of the Local Government (Tamaki Makaurau Reorganisation) Act 2009

Section 31 of the above Act does not apply to the matters under consideration in this report.

CONCLUSIONS

The proposed Hazards Plan Change 25, the proposed variation to RPC 14, and the partial withdrawal of the earthworks provisions from Plan Changes 14, 22 and 23 will enable Council to appropriately address its statutory requirements in respect to hazards management. It will also simplify the administration of Franklin's district plan and make it a better document. This is an important consideration during the transition period, during which responsibilities for district planning will be transferred to successor planning authorities.

RECOMMENDATIONS OF CONSULTANT PLANNER:

- a. That the report be received.
- b. That Council notifies Proposed Plan Change 25 to the operative Franklin District Plan and Variation 3 to Proposed Plan Change 14 (collectively termed The Hazards, Stormwater, Esplanade Reserves and Earthworks Plan Change), and calls for public submissions in accordance with the First Schedule of the Resource Management Act 1991.
- c. That prior to notification of the Hazards Plan Change 25, and in accordance with Clause 8D of the First Schedule of the Resource Management Act 1991, Council resolves to withdraw those parts of Plan Changes 14, 22 and 23 listed in Attachment 1 for the following reasons:

- Withdrawal of the earthworks provisions in Plan Changes 14, 22 and 23 are necessary to implement Proposed Plan Change 25 to the Operative Franklin District Plan and Variation 3 to the Rural Plan Change 14 (The Hazards, Stormwater, Esplanade Reserves and Earthworks Plan Change).
 - Partial withdrawal will enable the replacement of multiple earthworks rules across individual zones, with a single District-wide rule that can be more easily administered to manage the effects of earthworks.
 - The partial withdrawals (earthworks provisions only) will enable the remaining provisions of Proposed Plan Changes 14, 22 and 23 to remain unaffected.
- d. That prior to notification of Hazards Plan Change 25, Council notifies the partial withdrawal of Plan Changes 14, 22 and 23.

6. PLAN CHANGE 22: CLAUSE 16 AMENDMENTS

Report of Policy Planner [D230-022]:

Attachment 2.

For more information on this report, please call Linda Albertyn, phone 237 1361.

<u>Statute</u>	Resource Management Act 1991 (RMA)
<u>LTCCP</u> (ref Community Outcome or Activity Plan)	Growing the Franklin Economy
<u>Policy/Delegations</u>	Delegations Manual – Group Manager Strategic
<u>Monitoring</u>	Not applicable
<u>Budget Impact</u>	None
<u>On Account</u>	Not applicable

EXECUTIVE SUMMARY

- Plan Change 22 was notified in 2007 and a decision was released in 2009.
- This report recommends minor changes pursuant to the RMA Schedule 1, clause 16 (2).

BACKGROUND

Plan Change 22 was notified in 2007. A hearing was held in 2008, and a decision released in 2009. The RMA Schedule 1, Part 1, clause 16 (2) states that a local authority may make an amendment, without further formality, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.

ASSESSMENT

Schedule 1, clause 16 (2) of the RMA provides Council with the scope to make minor amendments to a proposed plan. The following is a list of minor

amendments, which, if applied to Plan Change 22, would enhance its clarity and consistency, and would not result in any substantive change to provisions. It is therefore recommended that the following minor amendments be made to the Plan Change 22 documents:

- Amend the land use and infrastructure maps to show amended electricity and gas information, as per Map 1 (see Attachment 2.1) and Map 2 (see Attachment 2.2). Make corresponding amendments to other Part 54.11 maps where required.
- Amend diagrams 2 and 4 to show the maximum building height and remove the building from the Rural Zone side of Whangarata Road (diagram 4), as per Attachments 2.3 and 2.4.
- Add the structure plan boundary to the Franklin District Plan map/s for Plan Change 22, as per Map 3 (see Attachment 2.5) and make corresponding changes to proposed Part 54.11 maps and Plan Change 14 maps.
- Change the phrase “Recreation Zone” to “open space system”.

FINANCIAL IMPLICATIONS

There are no financial implications.

LEGAL AND LEGISLATIVE IMPLICATIONS

Consistency with Council Policy/Plans

The recommendations are not inconsistent with any Council policy or plan.

Application of Significance Policy and Decision-making Provisions

The matters in this report are not considered significant in terms of Council's Policy on Significance 2009.

Application Of The Local Government (Tamaki Makaurau Reorganisation) Act 2009

Section 31 of the above Act does not apply to the matters under consideration in this report.

CONCLUSION

A decision on Plan Change 22 was released in 2009. The RMA provides Council with the scope to make minor amendments to a plan change prior to the plan change becoming operative. It is recommended that minor amendments, as set out in this report, be made to Plan Change 22.

RECOMMENDATIONS OF POLICY PLANNER:

- a. That the report be received.
- b. That, pursuant to Schedule 1 clause 16 (2) of the Resource Management Act 1991, Council endorses amendments to Plan Change 22 as follows:
 - Amend the land use and infrastructure maps to show amended electricity and gas information, as per Map 1 (see Attachment 2.1) and Map 2 (see Attachment 2.2). Make corresponding amendments to other Part 54.11 maps where required.
 - Amend diagrams 2 and 4 to show the maximum building height and remove the building from the Rural Zone side of Whangarata Road (diagram 4), as per Attachments 2.3 and 2.4.
 - Add the structure plan boundary to the Franklin District Plan map/s for Plan Change 22, as per Map 3 (see Attachment 2.5) and make corresponding changes to proposed Part 54.11 maps and Plan Change 14 maps.
 - Change the phrase “Recreation Zone” to “open space system”.

	INITIALS
Report writer	LA
Peer review	SJ
Support Officer (GM or CE)	SD

7. CLASSIFICATION OF COUNCIL OWNED LAND AS RECREATION RESERVE

Report of Open Spaces Unit Manager (File R600-K04-01, P525-03-C01, PR4491.530)

See Attachment 3.

For more information on this report, please call Greg Lowe, phone 237 1355.

<u>Statute</u>	Reserves Act 1977
<u>LTCCP</u> (ref Community Outcome or Activity Plan)	Open Space and Amenities Activity Plan
<u>Policy/Delegations</u>	Section 16, Reserves Act 1977
<u>Monitoring</u>	Not applicable
<u>Budget Impact</u>	Not applicable
<u>On Account</u>	Not applicable

EXECUTIVE SUMMARY

- The purpose of this report is for Council to classify three pieces of land pursuant to Section 16 of the Reserves Act 1977 (the Act):

- 13.069 hectares of land adjacent to the Karaka Sportspark Recreation Reserve (described as part Lot 1 DP 85956 or Lot 2 DP 404288).
- 0.540 hectares of land situated at 20 Kitchener Road, Waiuku (Lot 20 DP 114571).
- 0.1723 hectares of land situated at 20 Kitchener Road, Waiuku (Lot 3 DP 114571).
- The classification is required to enable the three lots to be administered by Franklin District Council for the purposes of a recreation reserve.
- This report recommends that Council approve the classification of all three parcels of land.

BACKGROUND

Karaka Sportspark Recreation Reserve

Council purchased approximately 13.069 hectares of land (described as part of Lot 1 DP 85956 or lot 2 DP 404288) adjacent to the existing Karaka Sportspark Recreation Reserve in late 2007, for the purposes of expanding the existing park and creating an enhanced sports and recreation hub for the area (see Attachment 3).

The land now needs to be classified reserve under Section 16 of the Act. This will enable Council to amalgamate the land purchased with the title for the existing sportspark, creating one title in accordance with the subdivision consent condition (S07181). This classification will need to be subject to the current grazing lease between Franklin District Council and Norfolk Downs Limited.

Centennial Park Reserve

Lot 20 DP 114571 and Lot 3 DP 114571 were vested in the Waiuku Borough Council pursuant to section 306(3) of the Local Government Act 1974 as a recreational reserve in 1991. However, neither lot has been classified.

These lots (see Attachment 3.1) require classification so that Franklin District Council can administer them as a recreation reserve and is able to lease part of Centennial Park (Lot 20 DP 114571) to Glenbrook Vintage Railway for construction of the railway at a future date.

Under Section 16 of the Act, Council may classify land as reserve via a Council resolution. No public notice or gazetting process is required.

ASSESSMENT

Under the Act, Council must determine what the most appropriate classification for the land is.

Karaka Sportspark Recreation Reserve

Given that the land was purchased to be developed as a sports park, the most appropriate classification is Recreation Reserve. Section 17 of the Act describes a Recreation Reserve as being:

“for the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.”

The existing sports park is already classified as a Recreation Reserve.

Centennial Park

This land was vested to Council as recreation reserve and has continued to be developed and used by the community for a variety of recreational uses for many years. To assist future development of the reserve, formalising the classification is required.

CONSULTATION

The Karaka land purchase for the purposes of a sports park was identified in the 2006-2016 Long Term Council Community Plan (LTCCP), and the development of the land as a sports park was included in the 2009-2019 LTCCP. In addition, open days have been held and media releases regarding the future development of the land as a sportspark have been issued. The public have therefore been made very well aware that the purpose of the land purchase was to provide a sportspark.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

LEGAL AND LEGISLATIVE IMPLICATIONS

Application of Significance Policy and Decision-Making Provisions

The matters in this report are not considered significant in terms of Council's Policy on Significance 2009.

Consistency with Council Policy/Plans

The purchase and development of the land at Karaka for a sports park is consistent with the goals and key actions for the Recreation and Open Space Plan 2005, and the Reserves Acquisition and Development Plan 2007, as is the ongoing development proposed for Centennial Park, Waiuku.

Application Of The Local Government (Tamaki Makaurau Reorganisation) Act 2009

Section 31 of the above Act does not apply to the matters under consideration in this report.

CONCLUSIONS

Classification of the 13.069 hectares of land (described as part lot 1 DP 85956 or lot 2 DP 404288) adjacent to the existing Karaka Sportspark as Recreation Reserve under the Act is consistent with the purpose for which Council acquired the land. It will enable the land to be amalgamated with the existing park title, in accordance with the subdivision consent condition.

Classification of the 0.54 hectares of land (Lot 20 DP 114571) and of the 0.1723 hectares of land (Lot 3 DP 114571) situated at 20 Kitchener Road, Waiuku as Recreation Reserve under the Act is consistent with the purpose of vesting both lots to the Waiuku Borough Council in 1991, and with the current activities on the land.

RECOMMENDATIONS OF OPEN SPACES UNIT MANAGER:

- a. That the report be received.
- b. That pursuant to Section 16 (2A) of the Reserves Act 1977, Council classifies part of Lot 1 DP 85956 (also described as Lot 2 DP 404288), comprising 13.069 hectares, as Recreation Reserve, as defined in Section 17 of the Reserves Act 1977, subject to the grazing lease between Franklin District Council and Norfolk Downs Limited.
- c. That pursuant to Section 16 (2B) of the Reserves Act 1977, notice of the classification of part Lot 1 DP 85956 (also described as Lot 2 DP 404288) be given to the Commissioner.
- d. That pursuant to Section 16(2A) of the Reserves Act 1977, Council classifies Lots 3 and 20 DP 114571 as Recreation Reserve, as defined in Section 17 of the Reserves Act 1977.
- e. That pursuant to Section 16 (2B) of the Reserves Act 1977, notice of the classification of Lots 3 and 20 DP 114571 be given to the Commissioner.

	INITIALS
Report writer	GL
Peer review	IA
Support Officer (GM or CE)	SD

8. PUBLIC EXCLUDED

Recommendation of Chief Executive:

That the public be excluded from the following parts of the proceedings of this meeting, namely:

8.1 Local Government (Auckland) Amendment Act 2004 (LGAAA) Appeals – Update on Appeals: Franklin Growth Areas

8.2 Plan Change 22: Council Direction to Advance Appeal

8.3 Plan Change 23 Appeals: Delegation and Direction

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered:	Reason for passing this resolution in relation to each matter:	Ground(s) under section 48(1) for the passing of this resolution:
8.1 Local Government (Auckland) Amendment Act 2004 (LGAAA) Appeals – Update on Appeals: Franklin Growth Areas	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation where a right of appeal lies to a Court or Tribunal against the final decision of the local authority.	s48(1)d s48(2)a(i)
8.2 Plan Change 22: Council Direction to Advance Appeal	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation where a right of appeal lies to a Court or Tribunal against the final decision of the local authority.	s48(1)d s48(2)a(i)
8.3 Plan Change 23 Appeals: Delegation and Direction	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation where a right of appeal lies to a Court or Tribunal against the final decision of the local authority.	s48(1)d s48(2)a(i)

S Davis
CHIEF EXECUTIVE