



## Statement of Proposal

### Summary of Proposal to Review the Control of Dogs Bylaw

This statement of proposal discusses the proposed form of the Dog Control Bylaw review and recommends a draft reviewed bylaw to undergo the special consultation process as outlined within the Local Government Act 2002. The Local Government Act 2002 requires Council to consult with the community using the special consultative procedure prior to adopting a new, modifying or reviewing a Bylaw. Council officers have reviewed the Control of Dogs Bylaw and are of the view that a bylaw remains necessary for the reasons outline in the next section.

### Purpose of the bylaw

The purpose of the Control of Dogs Bylaw has not significantly changed since its adoption in 1997 and subsequent review in 2007 and includes but is not limited to the following:

- a) to promote the responsible management of dogs in public places
- b) to provide for the recreational needs of dogs and their owners
- c) to minimise the potential for dogs to cause harm, distress or nuisance to the community, animals and wildlife.

### Rationale for the bylaw

This statement of proposal is prepared pursuant to sections 83, 83AA, 86, and 155 of the Local Government Act 2002.

When the Local Government Act 2002 was passed, Parliament placed a requirement on all local authorities to review their bylaws by 30 June 2008 or within five years from the date of their making, whichever is the later. Once reviewed, the bylaws are to again be reviewed within a further 10 years. If a Bylaw is not reviewed in accordance with the Local Government Act 2002 it lapses after two years.

For the current Dog Control Bylaw 2011 this became eligible for review on 9<sup>th</sup> October 2017 and the review must be completed by 9<sup>th</sup> October 2019.

The review is a legislative requirement of the Local Government Act 2002 (LGA). Once reviewed, the bylaw will stay in force for another 10 years, unless reviewed earlier. The review involves publicly notifying the proposed Bylaw.

## What has changed from the 2007 Bylaw?

Council is not proposing any significant changes to the existing bylaw, the review has highlighted a few redundant clauses where the organizational structure has changed since 2007, the removal of unnecessary wordiness and the inclusion of new reserve areas where dogs are prohibited or must be on a leash.

## Your feedback is encouraged

Council encourages any person or organisation with an interest in the proposed Dog Control Bylaw to consider it and give feedback.

Copies of the full Statement of Proposal and the draft bylaw available from Council's website, [www.cdc.govt.nz](http://www.cdc.govt.nz), and at the Main Office 28 Holloway I Street, Carterton.

Council prefers that all submissions are in writing. They must be received at Council's office no later than **4pm on Friday 29th September 2017**.

**Note:** This section constitutes the Summary Statement of Proposal for the purposes of Section 83(1) (a) (ii) of the Local Government Act 2002.

## **Introduction**

This Statement of Proposal discusses the reviewed Control of Dogs Bylaw and recommends the draft bylaw to undergo the special consultation process as outlined within the Local Government Act 2002. The Local Government Act 2002 requires Council to consult with the community using the special consultative procedure prior to adopting/modifying or reviewing a Bylaw, even if after the review the Local Authority decides to continue the bylaw without any amendments.

This Statement of Proposal includes a draft copy of the reviewed Control of Dogs Bylaw, the reasons for the proposal; and a report of the relevant determinations by the Council under section 155 of the Local Government Act 2002.

The review is a legislative requirement of the Local Government Act 2002 (LGA). Once reviewed, the bylaw will stay in force for another 10 years unless reviewed earlier. The review involves publicly notifying the proposed bylaw.

The purpose of this bylaw is to balance the recreational needs of dogs and their owners with appropriate controls to minimise the potential for harm, distress or nuisance that may be caused by dogs within the district.

A draft of the proposed bylaw has been prepared by the Council for consultation in terms of section 86 and section 83 of the LGA 2002. The bylaw will be made by the Council using powers contained in sections 145 of the Local Government Act 2002. In accordance with section 86(2) of the LGA 2002 the Council, when making a bylaw, is required to include in the Statement of Proposal:

- (a) a draft of the bylaw proposed
- (b) the reasons for the proposed bylaw
- (c) a report of any relevant determinations by the Council under section 155 of the LGA 2002.

### **1. Draft of reviewed bylaw**

A draft of the reviewed Control of Dogs Bylaw 2017 is attached as **Appendix 1** to this Statement of Proposal.

### **2. Reasons for proposal**

Carterton District Council in 1997 elected to create a Control of Dogs Bylaw in order to balance the recreational needs of dogs and their owners with appropriate controls to minimise the potential for harm, distress or nuisance that may be caused by dogs.

The current Control of Dogs Bylaw 2007 has proved itself to be very effective at controlling the behavior of dogs and their owners in the district and accordingly only minor changes are being proposed in order to update the bylaw to better reflect the structure of the organisation, remove wordiness and update new reserve areas where dogs are prohibited or are required to be leashed.

## 2.1 Background/legislative framework

Section 155 of the Local Government Act 2002 sets out requirements for the making and reviewing of bylaws. In addition to the general provisions about decision making, the Council, when considering a bylaw, must:

- Determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue.
- Determine whether the bylaw is in the most appropriate form.
- Determine whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. If there are implications under that Act, the bylaw must be amended to remove any inconsistencies.

## 3. Relevant determinations under Section 155 LGA 2002

The requirements of section 155 have been considered.

A Bylaw is an effective and enforceable mechanism by which to deal with dog nuisances in the district. Accordingly it is an appropriate way to address a perceived problem.

The proposed bylaw is considered in the most appropriate form of bylaw and neither inconsistent with nor raises any implications with the New Zealand Bill of Rights Act 1990.

## 4. Distribution of Summary of Statement of Proposal

This proposal will be distributed in accordance with section 83 of the LGA 2002 on the following basis:

- a) The Council will advertise twice in the Wairarapa News advising that the proposal exists and inviting submissions.
- b) The Chief Executive and Mayor will encourage the media to take an interest in the matter and report the bylaw and supporting information as widely as possible.

## 5. Timetable for consultation

The following dates represent the key times in the consultation programme:

Wednesday 30 <sup>th</sup> August 2017	Council adopts first resolution of special consultative procedure
Wednesday 6 <sup>th</sup> September 2017	First advertisement in Wairarapa News
Wednesday 20 <sup>th</sup> September 2017	Second advertisement in Wairarapa News
Friday 29 <sup>th</sup> September 2017	Submissions close at 4pm
Wednesday by 8 <sup>th</sup> November 2017	Submissions heard by the Hearings Committee
Wednesday 22 <sup>nd</sup> November 2017	Council confirms Hearings Committee decision and adopts bylaw

Wednesday 29<sup>th</sup> November 2017

Public notice of final decision

Wednesday 1<sup>st</sup> December 2017

Bylaw comes into effect subject to above



**CARTERTON**  
DISTRICT COUNCIL

### **Inspection of Documents and obtaining copies**

Copies of this proposal, the draft bylaw and the supporting reports may be inspected and a copy obtained, at no cost, from:

- a) Council offices at 28 Holloway Street, Carterton
- b) Council website – [www.cdc.govt.nz](http://www.cdc.govt.nz)

### **Right to make Submissions and be heard**

Any person or organisation has a right to be heard in regard to this proposal and the Council would encourage everyone with an interest to do so.

The Council prefers that all parties intending to make a submission set those submissions out in writing and submit them to the Carterton District Council, PO Box 9, Carterton 5743, no later than 4pm on Friday 29<sup>th</sup> September 2017. The Hearings Committee will then convene a hearing, which it intends to hold on Wednesday 8<sup>th</sup> November 2017 at which any party who wishes to do so can present their submission in person.

Equal weight will be given to written and verbal submissions.

The Council will permit parties to make verbal submissions (without prior written material) or to make a late submission only where it considers that special circumstances apply.

Every submission made to the Council will be acknowledged in accordance with the Act, will be copied and made available to the public and every submission will be heard in a meeting which is open to the public.

Section 82 of the Local Government Act sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the legislation.

### **Making an Effective Submission**

Written submissions can take any written form (e.g. email, letter).

An effective submission makes reference to the clause(s) of the draft bylaw you wish to submit on, states why the clause is supported or not supported and states what change to the clause is sought.

Dave Gittings

**Manager Planning & Regulatory**

**APPENDIX 1** Control of Dogs Bylaw for Consultation



## Control of Dogs Bylaw

### Short title

This bylaw is the Carterton District Council Dog Control Bylaw (2017)

### Purpose

The purpose of this bylaw is to balance the recreational needs of dogs and their owners with appropriate controls to minimise the potential for harm, distress or nuisance that may be caused by dogs.

The objectives of this bylaw are:

- a) to promote the responsible management of dogs in public places
- b) to provide for the recreational needs of dogs and their owners
- c) to minimise the potential for dogs to cause harm, distress or nuisance to the community, animals and wildlife.

### Interpretation

the Act	The Dog Control Act 1996
Continuous Control	Means the act of a dog being kept under the control of a person to prevent that dog causing a nuisance or a danger to other persons, animals, damage to property and includes a dog on a leash.
District	Means the Carterton District.
Leash	Means a lead which is capable of restraining the dog.
Person	Means the owner or such other person who has a dog in their possession or control.
Public Place	(a) means a place that at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of a place is



lawfully entitled to exclude any person or object from that place, and

- (b) Includes any aircraft, hovercraft, ship or ferry or vessel, train or vehicle carrying or available to carry passengers for reward.

Disability Assist Dog has the same meaning as section 2 of the Dog Control Act 1996 and generally means any dog certified to assist a person with a visual, hearing, mobility or other disability

### **Prohibited Public Places**

Dogs shall be prohibited in the areas of the District specified as:

- a) The children's play area of Carrington Park
- b) The children's play area of Howard Booth Park
- c) The public Swimming Baths in Pembroke Street
- d) The Landfill in Dalefield Road

Nothing in this clause shall apply to any disability assist dog or any dog which is used by the Police or any security guard in the course of their respective functions and duties and to any dog which is secure in or restrained on any vehicle.

### **Dogs in Public Places on a Leash**

Dogs shall, unless restrained on a leash, be prohibited in those areas of the District specified as:

- a) The Central Business area of Carterton in High Street from the Victoria/ Wakelin Street Intersection at the south end, terminating at High Street North, being the far boundary of the Society of St Vincent de Paul grounds on the western side and the property currently occupied by Wright Pools & Spas, on the eastern side, a distance of 106 metres from the Belvedere / Park Road intersection.
- b) Memorial Square
- c) Cemetery
- d) Camping Ground
- e) Bird's Park

### **Dogs in All Other Public Places**

In all public places other than those in which dogs are prohibited or required to be on a leash, dog owners must use or carry a leash and dogs must be under continuous control of a person at all times. Dogs found in a contravention of these Bylaws may be seized or impounded by an authorised officer forthwith.

### **Dog Exercise Areas**

No specific dog exercise areas are defined. There are sufficient open spaces around the district in parks and reserves and on low traffic rural road verges where it is appropriate for dogs to be exercised.

## **Minimum standards of Accommodation of Dogs**

The owner of any dog shall provide adequate accommodation for the dog. Kennels are to be provided on a hard surface, provide shelter from the elements and be free from dampness. Kennels are to be kept in a clean condition.

## **Dogs Causing or Becoming a Nuisance or Injurious to Health**

The owner of the dog or owner or occupier of any premises whereupon any dog or dogs are customarily kept shall take adequate precaution to prevent the dog or dogs or the keeping thereof from becoming a nuisance or injurious health.

If in the opinion of the Council's Dog Control Officer the dog or dogs or the keeping thereof on premises has become or is likely to become a nuisance or injurious to health, the Council, the Dog Control Officer or any person duly authorised on that behalf of the Council, may by notice, in writing require the owner or occupier of the premises within a time specified in such notice to do all or any of the following:

- a) Reduce the number of dogs kept on the premises.
- b) Construct, alter or reconstruct or otherwise improve the kennels or buildings used to house or contain dogs.
- c) Require such dog or dogs to be tied up or otherwise confined.
- d) Take such other action as the Council deems necessary to minimise or remove the likelihood of nuisance or injury to health.

Any person to whom notice is given under the preceding provisions of this clause who fails to comply with such notice within the time therein specified shall be guilty of an offence against this part of this bylaw.

## **Barking Dogs**

No owner of any dog in the district or owner, or occupier of any premises shall suffer or permit such dog to bark in such a manner or for such a period as to be persistent, loud barking or howling.

## **Defecating dogs and removal of faeces**

The owner of any dog that defecates in a public place or on land or premises other than that occupied by the dog owner shall immediately remove the faeces. This excludes working dogs being used to drive stock on roads, Police and security dogs, hearing ear dogs, guide dogs and companion working assistance dogs in the course of their functions and duties.

## **Restriction on Diseased Dogs**

Any dog which is infected with mange, distemper or other infectious disease, shall not be taken or lead in any public place.

## **Maximum number of Dogs within the Urban zone area**

No owner or any other person in charge of or in control of any dog shall keep, confine, control or harbour more than two dogs over the age of three months on any one property within the urban area of the Carterton District except with the written consent of the Council and in accordance with any conditions thereof.

Applications to keep more than two dogs on any one property in the urban area shall be in the form as contained in the first schedule hereto and subject to the payment of an administrative application fee approved by resolution of Council.

### **Offences and Penalties**

Every person who fails to comply with this bylaw commits an infringement offence under Schedule 1 of the Dog Control Act 1996 and may be served with an infringement notice and be liable to pay an infringement fee.

Every person who fails to comply with this bylaw commits an offence under section 20(5) of the Dog Control Act 1996 and is liable on conviction to the penalty prescribed by section 242(4) of the Local Government Act 2002.

*For the purpose of clarity, many matters not covered by this bylaw are already covered by the Dog Control Act 1996, and breaches of those matters can result in the issuing of infringement notices (otherwise known as instant fines). The amounts for these infringements range from \$100 to \$750 and are set out in the Act.*

### **Fees**

The structure of dog control fees will be aligned with the Annual Plan process each year. Council's policy measures on which Annual Plan consideration will be based will include.

Calculation of an average base charge reached by the total budgeted costs of dog control divided by the estimated number of dogs in the district.

- a) A 50% rebate for guide dogs / hearing ear dogs / companion working assistance dogs.
- b) Discount for neutered dogs in the urban ward, as a preventive measure in terms of dog temperament, dog control, reduced wandering dogs and indiscriminate breeding.
- c) Any other factors that have a direct bearing on the incidence of the spread of cost and administering the activity.
- d) Substantial penalty fee in accordance with section 37(2)(t) of the Dog Control Act 1996 in recognition of the effect on cash flows and collection costs of late payments.

### **Classification of Owners**

Owners will be classified in accordance with the fee structure as set under the Annual Plan, e.g. neutered dogs. Owners with dogs in the probationary, menacing, dangerous and disqualified category will be classified in accordance with the procedures in the Act.

### **Probationary Owners, Owners of Menacing Dogs & Disqualified Owners**

Under Sections 21 to 33F of the Dog Control Act:

These sections will be used as a method of last resort and having clearly notified any offending dog owner of the implications.

All such dogs classified as menacing by breed, as under the Dog Control Amendment Act 2003, shall be required to be neutered.

All such dogs classified as menacing by deed (dogs that are considered to pose a threat, because of observed or repeated behaviour), as under the Dog Control Amendment Act 2003, shall be required to be neutered.

### **Issuing Infringement Notices**

The Act provides for infringement notices for certain offences under the Act. Infringement notices can be served at the time of the offence on the owner as defined in the Act and generally the person in charge of the dog. The infringement requires an infringement fee to be paid or for the owner to request a court hearing in respect of the alleged offence. Infringement fees are set out under schedule 1 of this bylaw.

Each Authorised Officer of the Council will have delegated authority to issue infringement notices in accordance with sections 65 and 66 of the Act. Immediate issue of infringement notices will occur where cases warrant. In other instances infringement fees and notices will be issued as an intermediary step between having given the appropriate warning or notice and cases of summary prosecution through the District Court in serious or persistent cases.

Council will establish a Hearings Committee with delegated power to act for purpose of hearing and determining a request from any person issued with an infringement notice under the Act.

## SCHEDULE 1

### Infringement Offences and Fees

Section	Description of Offence	Infringement fee
18	Wilful obstruction of a dog control officer or ranger	750.00
19(2)	Failure or refusal to supply information or wilfully providing false particulars	750.00
19A(2)	Failure to supply information or wilfully providing false particulars about a dog	750.00
20(5)	Failure to comply with any bylaw authorised by the section	300.00
23A(2)	Failure to undertake dog owner education programme or dog obedience course (or both)	300.00
24	Failure to comply with obligations of probationary owner	750.00
28(5)	Failure to comply with effects of disqualification	750.00
32(2)	Failure to comply with effects of classification of dog as dangerous dog	300.00
32(4))	Fraudulent sale or transfer of dangerous dog	500.00
33EC(1)	Failure to comply with effects of classification of dog as menacing dog	300.00
33F(3)	Failure to advise person of muzzle and leashing requirements	100.00
36A(6)	Failure to implant microchip transponder in dog	300.00
41	False statement relating to dog registration	750.00
41A	Falsely notifying death of dog	750.00
42	Failure to register dog	300.00
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc	500.00
48(3)	Failure to advise change of dog ownership	100.00
49(4)	Failure to advise change of address	100.00
51(1)	Removal, swapping or counterfeiting of registration label or disc	500.00
52(A)	Failure to keep dog controlled or confined	200.00
53(1)	Failure to keep dog under control	200.00
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water and shelter and to provide adequate exercise	300.00
54A	Failure to carry leash in public	100.00
55(7)	Failure to comply with barking dog abatement notice	200.00
62(4)	Allowing dog known to be dangerous to be at large un-muzzled or unleashed	300.00
62(5)	Failure to advise of muzzle and leashing requirements	100.00
72(2)	Releasing dog from custody	750.00