

Manawatu District Plan

Proposed Plan Change 64: Boarding, Breeding and Training Kennels

Section 32 Report

April 2019

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PROPOSED PLAN CHANGE 64: BOARDING, BREEDING AND TRAINING KENNELS

Part I – District Plan Review

1 PROPOSED AMENDMENTS TO THE DISTRICT PLAN

Proposed Plan Change 64 includes amendments as follows:

- Introduction of a new section to Chapter 3 entitled: 3H: Boarding, Breeding and Training Kennels which includes a new issue, objective, policies and permitted activity and discretionary activity rules for the management of boarding, breeding and training kennels:
 - Permitted Activities:
 - Boarding, breeding and training kennels for up to and including 5 dogs in the Rural Zones;
 - Boarding, breeding and training kennels for up to and including 2 dogs in the Residential and Village Zones.
 - Discretionary Activities:
 - Boarding, breeding and training kennels which are permitted activities but do not meet the permitted activity performance standards;
 - Boarding, breeding and training kennels in the Rural Zone for 6 or more dogs;
 - Boarding, breeding and training kennels in the Residential and Village zones for 3 or more dogs;
 - Boarding, breeding and training kennels in all other zones, or not otherwise provided for.
- The requirement for a Noise Management Plan to be submitted for discretionary activities.
- Removal of the existing definition of ‘kennels’ in the District Plan.
- Insertion of a new definition for ‘boarding, breeding and training kennels’.
- Consequential amendments to existing definitions which already contain reference to kennels (inserting the words ‘boarding, breeding and training’ before the word ‘kennels’) as follows:
 - Farm Buildings
 - Farming
 - Home Occupation
 - Intensive Farming
- Consequential amendment to remove ‘Rule 3.5.1 (vii) kennels’ from the list of discretionary activities in the Rural Zone.
- Consequential amendment to the Explanation for the Rural Zone and Nodal Areas in Section 4 of the District Plan to remove reference to kennels as a non-complying activity in the Nodal Areas.

- Amendments to Section 3B Car Parking standards for ‘boarding kennels’ so that boarding kennels of ‘six or more dogs’ are required to meet parking standards of ‘no less than four car parking spaces’, and for breeding and training kennels including rehoming kennels of six or more dogs to require ‘one park per staff member’.

Appendix 1 contains the amendments to the District Plan as part of Proposed Plan Change 64.

Part II – Assessment Report

1 INTRODUCTION

The Manawatu District Council (“the Council”) has prepared Plan Change 64 (“PC 64”) to the Operative Manawatu District Plan (“the Operative Plan”) for notification under the provisions of the Resource Management Act 1991 (“the RMA”).

This report has been prepared in accordance with section 32(5) of the RMA. It represents a summary of the evaluation of alternatives, costs and benefits undertaken by the Council in respect to the proposed District Plan provisions as required under section 32(1).

In summary, the Council must establish that the plan change is the most appropriate way to achieve the purpose of the Act including that the proposed changes are the most appropriate means available to achieve Council’s objectives – when compared against alternative methods available, including doing nothing.

2 PURPOSE OF PROPOSED PLAN CHANGE 64

The purpose of PC 64 is to enable the Council to better fulfil its obligations under the RMA by developing a more appropriate and reasonable framework to manage kennel activities which have the potential to create environmental effects.

The plan change proposes to remove existing inefficient rules, including the existing definition of kennels, which relates to the requirement for a resource consent (discretionary activity or non-complying activity) to keep more than two dogs on a property. The Council’s Dog Control Bylaw (2014) will continue to regulate the keeping and control of dogs as required under the Dog Control Act (1996), while Plan Change 64 focuses on boarding, breeding and training of dogs.

The plan change ensures that the policy framework for managing boarding, breeding and training kennels is the most efficient and effective way to achieve the sustainable management of natural and physical resources in the Manawatu District.

These matters and the reasoning behind PC 64 are detailed and evaluated in this report.

3 OPERATIVE DISTRICT PLAN REVIEW

The current District Plan became operative in December 2002. Section 79 of the RMA requires Council to commence a review of its District Plan every 10 years. Amendments to the RMA clarify that whole plans need not be reviewed. A Council may choose to review plans in part.

The Council has elected to undertake the review of the District Plan in sections (i.e. a ‘sectional’ review). The reason for this approach is to lessen the administrative burden of reviewing an entire District Plan within the statutory timeframes. This approach enables the public to make comment at a more manageable and topic-specific scale. Council is conscious of the need to maintain a holistic view of the future to ensure that research and consultation for related components of the Plan still achieve a high level of integration. Key focuses for the review process are ensuring local context, a high degree of alignment of regulatory provisions and ensuring that the context and scale of the work is appropriate to the issues raised.

The Council has completed, or is in the process of completing a number of plan changes as part of the sectional District Plan Review. The following plan changes are relevant to Plan Change 64:

Draft Plan Change 53 (Rural Zone Review)

Under the current District Plan provisions, 'kennels' is provided for in the Rural Zone as a discretionary activity, and defaults to a non-complying status in all other zones. Clause 3 consultation was undertaken in 2016 on a review of the Rural Zone (Draft Plan Change 53) which encompassed a review of the definition of kennels. Plan Change 53 reviewed the provisions of the Pens Housing Animals rules (amongst others), which are currently applied to consent applications for kennels. These rules include setbacks for yards and separation distances from the activity to front/other yards and from any residential or village zone. Council then elected to place this plan change on hold to prioritise Plan Change 51 (Residential Review and Growth Precinct 4) so that the urban growth issues could be addressed at an earlier stage.

Plan Change 55 (District-Wide Rules)

Plan Change 55 is part operative. A new District Plan Chapter 3 was created which covers: Network Utilities, Transport, Noise, Earthworks, Signs, Temporary Activities, and Relocated Buildings. As part of this plan change, the parking standards were amended for 'kennels', as previously, there had only been car parking spaces listed for 'catteries'. Plan Change 55 inserted 'Boarding Kennels' after 'catteries', so that applications for boarding kennels would be required to meet car parking standards as a permitted activity.

4 STATUTORY AND LEGISLATIVE FRAMEWORK FOR THE REVIEW

4.1 Resource Management Act 1991

Section 74 Matters to be considered by territorial authority

Section 74 of the RMA 'Matters to be considered by territorial authority' requires the Council to prepare and change the District Plan in accordance with functions under section 31, the purpose of the RMA in section 5 and the other matters under sections 6, 7 and 8, as follows:

s74 (1)

- a) its functions under section 31; and*
- b) the provisions of Part 2; and*
- c) a direction given under section 25A(2); and*
- d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
- e) its obligation to have particular regard to an evaluation report in accordance with section 32; and*
- (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
- f) any regulations.*

Section 31 Functions of territorial authorities under the RMA

Territorial Authorities have the following functions under the RMA:

"31 Functions of territorial authorities under this Act

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:

(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—

(i) the avoidance or mitigation of natural hazards; and

(ii) [Repealed]

(iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:

(iii) the maintenance of indigenous biological diversity:

(c) [Repealed]

(d) the control of the emission of noise and the mitigation of the effects of noise:

(e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:

(f) any other functions specified in this Act.

(2) The methods used to carry out any functions under subsection (1) may include the control of subdivision.”

Section 5 Purpose

The Council is given these functions for the purpose of promoting the sustainable development of natural and physical resources, which is defined in section 5(2) of the RMA as:

“In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

Sections 6 Matters of National Importance

Section 6 matters to be recognised and provided for of relevance to this Plan Change is:

(h) the management of significant risks from natural hazards.

Section 7 Other Matters

Section 7 of the Act identified other matters that must be given regards to. The provisions of relevance to this Plan Change are:

“(b) the efficient use and development of natural and physical resources:

(c) the maintenance and enhancement of amenity values:

(f) maintenance and enhancement of the quality of the environment:

PC64 is considered to have given particular regard to the above matters leading to the inclusion of specific provisions in proposed Chapter 3H.

Section 8 Treaty of Waitangi

PC 64 does not propose to alter any sites that are known to be of particular significance to iwi. Therefore the plan change is considered to be consistent with the provisions of Section 8 of the RMA.

Section 72 Purpose of District Plans

Section 72 of the RMA states:

“The purpose of the preparation, implementation and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act.”

The following provisions of section 76 of the Act are also relevant:

(1) A territorial authority may, for the purpose of –

(a) Carrying out its functions under this Act; and

(b) Achieving the objectives and policies of the plan, - include rules in a district plan.

.....

(3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

In order to achieve sustainable management not only must any adverse effects be avoided, remedied or mitigated but the potential of natural and physical resources must be sustained to meet the reasonably foreseeable needs of future generations.

The rules and assessment criteria for the establishment of boarding, breeding and training kennels in proposed Section 3H of the District Plan have been drafted with these statutory obligations in mind. The existing framework for kennels in the District Plan has been reviewed and the more restrictive and broader definition of kennels is proposed to be removed, so that the Council can better fulfil its obligations under the RMA.

PC 64 is therefore considered consistent with promoting the purpose of the RMA.

5 OTHER MATTERS CONSIDERED

5.1 National Policy Statements, National Planning Standards

There is no relevant National Environmental Standard or National Policy Statement that relates to kennels.

5.2 Regional Policy Statements / Regional Plan

Section 75(3) of the RMA requires that all District Plans give effect to any regional policy statement. The Regional Policy Statement is the main vehicle for interpreting and applying the sustainable management requirements of the Act in a local context, and in this regard, guides the development of lower tier plans, including the Manawatu District Plan.

Horizons Regional Council's Regional Policy Statement has been replaced by the One Plan. The One Plan contains specific policies that direct the District Plan Review in the review and creation of District Plan provisions.

There are no provisions or guidance in the Manawatu-Wanganui Regional Policy Statement or Regional Plans specific to the management of dog kennels. However, PC 64 proposes provisions for boarding, breeding and training kennels for all zones in the District Plan, including the Flood Channel Zones, which fall under Chapter 9 Natural Hazards of the Regional Policy Statement.

5.2.1 Natural Hazards

Chapter 9 "Natural Hazards" of the Regional Policy Statement outlines the responsibilities for natural hazard management, including:

Policy 9-1: Responsibilities for natural hazard management

...

(c) Territorial Authorities must be responsible for:

i) developing objectives, policies and methods (including rules) for the control of the use of land to avoid or mitigate natural hazards in all areas and for all activities except those areas and activities described in (b)(ii) above, and

ii) identifying floodways (as shown in Schedule J) and other areas known to be inundated by a 0.5% annual exceedance probability (AEP) flood event on planning maps in district plans, and controlling land use activities in these areas in accordance with Policies 9-2 and 9-3.

The Flood Channel Zones listed in the District Plan provide a framework for addressing land use and subdivision activities in order to avoid or mitigate natural hazards. The Natural Hazards objectives and policies in the Regional Policy Statement will need to be considered when developing a planning framework for the establishment of kennels in the Flood Channel Zones.

A more comprehensive review of the Flood Channel Zones is still to be undertaken by the Council as part of the District Plan Review, and this review will ensure consistency with the One Plan provisions.

5.3 Relevant Regulations/Codes/Industry Standards

There are a number of codes or industry standards that are relevant to the assessment of kennels. The Ministry of Primary Industries (MPI) is responsible for the development and management of animal welfare policy in New Zealand and works within the legislative framework provided by the Animal Welfare Act 1999. MPI has developed the following codes of welfare and regulations which are relevant to Plan Change 64:

- **Code of Welfare for Dogs (2018):** The code of welfare for dogs sets out the requirements for persons in charge of dogs, including minimum standards related to kennelling:

"The purpose of this Code is to provide information to the owners and persons in charge of dogs about the standards they must achieve in order to meet their obligations under the Animal Welfare Act 1999.

The code applies to all persons responsible for the welfare of dogs, including dog breeders, those who show dogs, keep dogs as companions (pets), and use dogs for sport, as working animals, or for any other reason."

- **Code of Welfare for Temporary Housing of Companion Animals (2018):** *"This code sets out minimum standards for housing design and construction and care of animals in*

temporary housing facilities, including any facility that receives companion animals which require temporary housing away from their usual place of keeping... This Code of Welfare is intended for all persons responsible for the welfare of animals in a temporary housing facility for companion animals, including animals in boarding establishments, animal welfare centres and pounds, quarantine/isolation facilities and pet shops."

- **Animal Welfare Regulations: Dogs (2018):** Changes were made to the Animal Welfare Act in 2015 to give Ministry of Primary Industries the ability to prepare regulations on animal welfare issues. A range of Animal Welfare Regulations came into force in October 2018. In relation to dogs, the regulations cover the following areas, many of which have come straight from the codes of welfare: dogs in vehicles; travelling on vehicles (e.g. on back of utes); collars; muzzles, tethers and docking.
- **Health and Welfare Standards, New Zealand Greyhound Racing Association Incorporated, 1 August 2018 (also known as GRNZ Welfare Code or Code of Welfare).**

The Health and Welfare Standards state:

"These GRNZ Health and Welfare Standards specify the duty of care required to meet the physical, health and behavioural needs of greyhounds under the jurisdiction of GRNZ. This document supplements the Animal Welfare (Dogs) Code of Welfare, which is applicable to ALL dogs in New Zealand and must be read and adhered to in conjunction with these GRNZ specific standards.

These Standards apply to all persons licensed by GRNZ, according to the Rules of Racing, who are responsible for the welfare of GRNZ registered greyhounds through to, but not including, the rehomed greyhounds after their retirement from all GRNZ activities."

5.4 Dog Control Policy (2014)

The Dog Control Act 1996 requires the Council to adopt a Dog Control Policy (which was adopted in 2014) to give effect to that Act by having regard to:

- "The need to minimise stress, danger or nuisance to the community;*
- The need to avoid inherent danger in allowing dogs to have unlimited access to public places that are frequented by children, whether or not the children are accompanied by adults;*
- The importance of enabling, as far as practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs;*
- The exercise and recreational needs of dogs and their owners."*

5.5 Dog Control Bylaw (2014)

The Council is required to prepare a Dog Control Bylaw to give effect to the Dog Control Policy, and the most recent bylaw was adopted in 2014. The Council has commenced its required 5 yearly review of its bylaws, including the Dog Control Bylaw (2014). The Dog Control Bylaw states that:

- "9.1.** No more than two dogs may be kept on rateable properties less than 2000m² in size;

- 9.2. On rateable properties more than 2000m² in size, more than 2 dogs may be kept but the owner must comply with all the requirements of the Dog Control Act 1996.”

These provisions were drafted to align with the current District Plan provisions (i.e. threshold of more than 2 dogs), and the threshold for property size seeks consistency with future provisions for section size and a differentiation between urban and rural land use.

Dog owners are able to apply to the Council for an exemption from the above requirements (9.1 and 9.2) where there is:

- *“Insufficient space on the rateable property to house, confine or restrain the dog; and*
- *The occupier whose boundary adjoins the proposed area for housing, restraining or confining the dog does not object on reasonable grounds to the granting of an exemption, provided that such person may withdraw consent at any time if:*
 - (a) The dog is creating a nuisance; or*
 - (b) The occupier sells their property.*

The Council may attach any terms or conditions to exemptions that it considers appropriate.”

The Council’s Dog Control Bylaw prescribes minimum standards for the keeping and control of dogs so that this activity does not become a nuisance or threat to public health and safety. The Multiple Dog Permit, administered under the Dog Control Bylaw, is also a tool to enable the Council to ensure that owners with more than 2 dogs in urban areas (i.e. Residential and Village Zones) undertake better care and control of their dogs.

The Council’s Dog Control Bylaw (2014) is currently under review as part of its five-yearly review cycle.

6 BACKGROUND TO PLAN CHANGE

The aim of PC 64 is to review the existing policy framework for how kennels are managed in the Manawatu District, and to propose a new section for managing boarding, breeding and training kennels in the District. The broad nature of the existing rules in the District Plan includes pet owners as well as boarding, breeding and training kennels with more than two dogs to apply for a discretionary or non-complying resource consent. However, many dog owners have not sought resource consent and many may be unaware of this requirement.

The Council has received complaints from neighbours of kennels relating to dogs barking and noise from associated activities of kennels. Complaints have been lodged particularly where there is nuisance created by multiple dogs on properties, and where the kennels and/or training runs are in close proximity to neighbouring dwellings.

The assessment of complaints received by the Council from neighbours of kennels has identified that the establishment of kennels in close proximity to other residential activities has the potential to cause adverse noise effects. The Council’s acoustic consultant, Nigel Lloyd, states that the noise from dogs barking is not appropriately managed through the use of District Plan noise limits, as the noise of dogs barking seldom breaches those limits. However, the noise is still nuisance that needs to be managed through other mechanisms, such as the careful location and design of kennels and associated activities including training/exercise areas.

The Dog Control Bylaw (2014) will continue to regulate the keeping and control of dogs as required under the Dog Control Act (1996). PC 64 seeks to enable the Council to better fulfil its obligations under the RMA by developing a more appropriate and reasonable policy framework to manage the kennel activities which have the potential to create adverse effects.

7 REGULATORY AND POLICY CONTEXT

7.1 District Direction – LTP 2018-2028

At the District level, the Manawatu District Council’s Long Term Plan 2018-2028 (“LTP”) identifies the following key issue that is relevant to PC 64:

“Under the Regulatory Group Heading:

Population Growth: The anticipated growth in population and households between 2018 and 2028 will result in an increased demand of the following services:

- Animal Control – due to greater number of dogs and a growth in breeding and training of greyhounds”.

There has been an increase in the number of greyhound dogs registered with the Council over the last decade. In 2006, there were 43 greyhounds registered, which increased to 377 greyhounds registered in the 2017/18 registration year. Note that this number only shows dogs that have been registered within the Manawatu District.

7.2 Operative Manawatu District Plan Framework

The operative District Plan uses zones to manage land uses across the district where activities are grouped into similar categories under various headings including Rural, Residential, Industrial, Recreation or Business Zones. In the Manawatu District Plan, all resource management issues have been grouped together, as are the objectives and policies. The rules are then divided into the various zones.

Recent plan changes have sought to change the overall format of the District Plan, where issues, objectives, policies and methods for each zone or activity are instead included together, rather than separated into different sections. There has also been a new Chapter 3 formed, which encompasses district-wide rules relating to Network Utilities, Transport, Noise, Earthworks, Signs, Temporary Activities, and Relocated Buildings.

Resource Management Issues

The overarching resource management issues for the Manawatu District are outlined in Section 2 –Significant Resource Management Issues facing the District. These issues establish the intent of the District Plan at a strategic level. The overarching resource management issues that are relevant to PC 64 are:

“Issue 1)

The District’s people need to be able to provide for their social and economic and cultural well-being and for their health and safety, without having extra barriers created by unnecessary restrictions in the District Plan.

Issue 5)

Past land uses, developments, signs and surface water uses have not always fitted into their surroundings without causing problems such as:

d) Smoke, dust, odours or fumes which have an adverse effect upon people’s health, neighbourhood amenities and the environment as a whole.

h) Pressure from newly established “sensitive” activities, such as residential uses, for established operations which have a level of perceived nuisance to be curtailed or closed down.

Issue 8)

The District is prone to natural hazards, especially flooding, and to associated property damage.

Issue 13)

Water and energy use is often very wasteful, and more efficient use needs to be encouraged. Disposal of solid waste which cannot be re-used or recycled needs to be managed in a more sustainable way."

These issues provide context for the District Plan, but are not being changed as part of this plan change.

Objectives and Policies

The approach to the management of boarding, breeding and training kennels in the operative District Plan is not comprehensive. In the Rural, Residential and Village Zones, objectives and policies relate to enhancing character and amenity, and managing potential conflict between rural land uses. The policies which specifically mention 'dogs' are found in the Residential and Village Zones, and relate to problems associated with dogs and other wandering, dangerous or noisy animals.

Section 2 Definitions:

In Chapter 2 of the District Plan, **kennels** are defined as:

"any site used for housing more than two dogs, excluding farm working dogs and puppies".

Under *Rule B3 Discretionary Activities, B3.5.1 Rural Zones except for Nodal Areas, vii) Kennels* are listed as a discretionary activity in the Rural Zone. Any consent applications need to be assessed against the discretionary assessment matters in Rule 1.3.4. Relevant assessment matters include:

"1.3.4 Assessment of Discretionary Activity Applications

A) In assessing discretionary activities Council will have regard to matters including the following:

- i) Subject to Part II of the Act, the matters specified in Section 104 of the Act.*
- ii) Compliance or otherwise with standards applying to similar permitted or controlled activities.*
- iii) The environmental results sought by this Plan for the zones concerned.*
- iv) Any potential detraction from the amenities of the area through odour, smoke, noise, or other noxiousness whether from the operation itself or any ancillary aspect.*
- v) The degree to which proposed buildings would detract from the visual amenities of the area.*
- vi) Parking needs will be assessed against staff numbers, likely numbers of patrons and their mode of travel. Regard will be had to how often it is used, the availability of on-street parking, and the impact of using on-street parking upon other users of the road.*
- vii) Vehicle crossings shall be assessed in terms of the sight distance and driveway spacing guidelines contained in Appendix 3B.3, and the seal widening and formation standards contained in Appendix 3B.3.*
- viii) Whether there is sufficient and adequate provision for the collection or disposal of solid waste, including tailings.*

- x) Compliance or otherwise with any relevant NZ Standards, regulations or Industry Guidelines.
- xi) Any danger to people from hazardous goods and natural hazards, including any risk assessments, contingency plans and proposals to mitigate such hazards.
- xii) The potential possibility of any animals escaping on to adjoining properties, roads, or public places.
- xiii) Whether any exterior lighting is to be used or installed which would tend to annoy people nearby.
- xvi) Any detrimental effect of the proposal upon the operation or future development of any other existing permitted use in the vicinity. This includes whether the proposal requires a level of amenity which is incompatible with the operation and management of any such permitted use.
- xix) The degree of separation proposed between any building or pen housing animals and any building, boundary or road. Council may increase or relax the separation distance where on the grounds of public health, amenity, intensity of use, odour, visibility, noxiousness or other reasons it is appropriate to do so. The separation distances proposed by the Pork Industry Board's Code of Practice shall be used as a guideline for assessing the adequacy of separation around any proposed pig farming operation. "

Kennels in other zones fall to the default non-complying rule in the District Plan:

"Rule A2

2.1 NON-COMPLYING ACTIVITIES

Any subdivision or land use activity which is not categorised by this Plan as being a permitted, controlled, discretionary, restricted discretionary, or prohibited activity shall be a non-complying activity."

Kennels are also referred to in the explanation for section 4.3.4 Potential Conflict Between Rural Land Uses:

"Some land uses that are discretionary activities in the rest of the Rural Zone may be more appropriate as non-complying activities in nodal areas. Activities like intensive farming, landfills, rural industries and kennels are potentially incompatible with the rural-residential housing that can be expected to develop in such areas over time".

8 PROPOSED CHANGES TO THE DISTRICT PLAN

Plan Change 64 is a review of the provisions that apply to kennels for the whole District. The Plan Change proposes a new Chapter 3H in Chapter 3 District-Wide Rules for boarding, breeding and training kennels. Chapter 3H identifies a resource management issue, an objective, policies and rules for the management of boarding, breeding and training kennels in the District. The plan change deletes the existing definition of 'kennels' in the District Plan and inserts a new definition for 'boarding, breeding and training kennels' (refer to Appendix 1 for the full plan change provisions).

8.1 Proposed Definition

The definition proposed in the plan change is:

"Boarding, Breeding and Training Kennels

means the use of any land and/or buildings where board for a fee (which may include overnight or during the day) is provided or intended to be provided for dogs, or the breeding

and/or training of dogs for direct or indirect commercial gain, and includes rehoming kennels. Farm working dogs and puppies up to three months of age, are excluded.”

There are a number of components to the proposed definition:

- a. Boarding kennels;
- b. Breeding and training kennels;
- c. Rehoming kennels;
- d. Exclusion of farm working dogs and puppies up to three months of age.

The current definition of kennels is very broad and because of its general nature, encompasses dogs owned for commercial and domestic purposes (e.g. pets), and is set at a very low threshold of ‘more than two dogs’. This definition has caused compliance issues for the Council where there are a significant number of dog owners who would fall under this definition, but they are likely to be unaware of the need for either a discretionary or non-complying resource consent. If the Council fully enforced this rule, it would require a significant amount of resources to identify the dog owners, and then work with them so that they became legally established (i.e. submitting and processing a resource consent application). The Council has decided to review this kennels definition at an earlier stage than the review of the wider Rural Zone (Plan Change 53), so that clarity is provided to dog owners about which activity requires a resource consent.

A key purpose of Plan Change 64 is to enable the Council to better fulfil its obligations under the RMA by developing a more appropriate and reasonable framework to manage the activities which have the potential to create environmental effects. There are commonly ‘boarding’, ‘breeding’ and ‘training’ kennels, and ‘rehoming kennels’, with some kennels including more than one activity, for example, greyhound kennels may include both breeding and training activities.

Boarding kennels provide a service in the community where dog owners can leave their dogs during the day and/or overnight. In his report, Mr Lloyd states that boarding kennels house other people’s dogs in strange surroundings, and can generate different levels of noise on different days.

The Council has experienced an increase in the number of breeding and training kennels over the last 10 years, including greyhound kennels. There are also rehoming kennels in the District where dog numbers vary but can be high, where dogs are brought in from other places to be rehomed. These kennels can include other activities such as training facilities.

The Council has received complaints from neighbours of kennels where noise associated with the keeping of dogs has caused nuisance to neighbours, particularly where there are multiple dogs on a site in close proximity to residential activities.

The proposed definition refocuses the District Plan to boarding, breeding and training kennels, rather than the general ‘housing’ of dogs, which will assist in reducing uncertainty between the Dog Control Bylaw (2014) and the District Plan. The proposed definition is targeted at the activities where potential adverse effects may arise, and where there are dogs numbers over and above what is likely to be a domestic scale of dog ownership. Large kennels, whether boarding, breeding, training or rehoming, are more likely to be of a commercial nature, and provide some sort of business for the owner. The term ‘direct or indirect commercial gain’ is to clarify that the domestic ownership of dogs (e.g. pets) is not generally covered under this definition as the Dog Control Bylaw and Dog Control Act covers the general ownership of dogs. Also, with breeding, training and rehoming kennels, there may not be a direct exchange of money for services, but there may be some sort of commercial gain exchanged, such as the splitting of racing stakes or drop off fees.

The definition excludes farm working dogs and puppies up to three months of age, which is recommended by Mr Lloyd, and these exclusions are also the status quo. Farm working dogs are excluded from the proposed (and current) definition because the working dogs are incidental to the operation of the farming activity, which in the rural areas of the district where the majority of working dogs are located, is a permitted activity (e.g. Rural Zones and Flood Channel Zones). Nuisance issues from working dogs can be dealt with through the Dog Control Bylaw (2014).

The proposed definition also excludes puppies from the rules as it is difficult to quantify the number of puppies expected at any one time, and the puppies are usually sold and off the property by three months of age.

8.2 Parking Standards

The Plan Change also includes a number of consequential amendments to the existing provisions in the District Plan for consistency, including amending definitions which already contain the word 'kennels' to 'boarding, breeding and training kennels', and consequential amendments to the car parking standards.

Prior to the drafting of Plan Change 55 (District-Wide Rules) the Council undertook a review of the parking standards in the District Plan. Parking standards for 'boarding kennels' were included as part of this review as there had previously been no relevant category for Kennels, except for Catteries. Plan Change 55 inserted a parking standard for Boarding Kennels to provide "no less than four car-parking spaces". However, given the focus of larger scale kennels of over six dogs, Plan Change 64 proposes to insert "for six or more dogs" after Boarding Kennels, so that the standard of "no less than four car-parking spaces" is only required for boarding kennels of six or more dogs. This is consistent with the focus of the plan change on larger scale kennels and is more reflective of parking demand.

There is currently no corresponding parking standard for "breeding, training or rehoming kennels", so Plan Change 64 proposes a parking standard for 'breeding and training kennels, including rehoming kennels of six or more dogs', where there are staff members (i.e. one park to be provided per staff member). This standard reflects the nature of breeding, training and rehoming kennels, where there is unlikely to be a high need for car parking unless the facility includes staff members.

9 CHRONOLOGY AND CONSULTATION

9.1 District Plan Review Discussion Document 2010

A range of consultation and information sharing initiatives have been undertaken since the commencement of the District Plan Review in 2009. A discussion document which covered all significant resource management issues was publicly notified in July – September 2010. The discussion document included discussion on rural areas, including rural subdivision, farming activities, and what issues or conflicts may occur within the rural areas. The topic of kennels was not specifically identified in this discussion document.

The Council ran open days for the discussion document. One submitter raised an issue about the kennels definition and suggested a maximum of 10 dogs within the Rural Zone. The concern did not relate to 'boarding kennels'.

9.2 Plan Change 53: Rural Review

Plan Change 53: Rural Review (2015-16), included a review of the management of kennels in the Rural Zone. A review of the feedback has shown that there was no specific feedback on how kennels should be managed in the District, or when a resource consent should be

required for the keeping of dogs. In 2016, Plan Change 53 was put on hold so that the Council could focus on the priority urban growth Plan Change 51 (Residential Zone Review and Growth Precinct 4).

9.3 Plan Change 64

The Council has received complaints about multiple dogs on properties in close proximity to residential dwellings, which has raised issues around the workability of the existing District Plan rule for kennels. Due to the compliance issues that the Council is facing with the kennels provisions, in 2017, the Council approved work to commence a review of these provisions. This work has resulted in the preparation of PC 64 which aims to develop a more effective framework to enable the Council to better fulfil its obligations under the RMA, independently of Plan Change 53.

PC 64 was presented to the Council workshop committee on the following dates:

- I. **7 December 2017:** to outline the need for the plan change at this time;
- II. **7 June 2018:** to seek approval to finalise and consult on the draft plan change, including the consultation approach;
- III. **7 February 2019:** update following Clause 3 consultation, and also to outline the next steps for public notification of a proposed plan change.

As part of the Clause 3 process, the Council held two information sessions on the 4th and 5th December 2018. Kennel operators from boarding, breeding and training kennel facilities, were invited to attend these sessions to discuss the Draft PC 64 provisions. At least 50 emails were sent to kennel operators or key contacts from the various dog breeding organisations. The purpose of these information sessions was to have an open discussion on the plan change provisions, to seek their views on the provisions and any possible issues, and to also provide information to them about what the plan change would mean for them. A wide range of dog owners were invited to attend these sessions, including:

- Kennel operators from boarding, breeding and training facilities (some of which already have resource consent to operate);
- People who are registered with Dogs NZ for purposes including breeding;
- Other people who the Council knew about who owned multiple dogs.

Approximately twenty people attended each session.

Following the information sessions, the Draft Plan Change 64 document, Fact Sheet and feedback form were included on the Council's Have Your Say website between 3 December 2018 and 18 January 2019. Emails were sent to key stakeholders, Nga Manu Taiko (the Council's Marae Consultative Committee), mandated iwi authorities, and statutory agencies, providing information about the plan change. Information about the plan change was also included on the Council's Facebook page, on the Neighbourly website, and at the front counter of the Council Offices.

The Fact Sheet included the following questions to help guide feedback:

- Is the number of dogs that are permitted set at an appropriate level for each zone?
- What sorts of kennels and associated activities should be included?
- Are there any other issues that need to be addressed?

No feedback has been received from Nga Manu Taiko or the mandated iwi authorities. The Council received comment from eight parties during the Clause 3 consultation process. The issues that were raised during the information sessions and the feedback received during this process is summarised in Appendix 2.

9.4 Supporting Technical Evidence

The Council has commissioned a noise report from the Council's acoustic consultant, Nigel Lloyd, which outlines the issues surrounding dog kennel noise and how the effects should be dealt with in the District Plan.

Other supporting reports and studies that have informed the development of PC 64 include:

- i. Long Term Plan 2018-2028, Manawatu District Council;
- ii. Draft Plan Change 53: Rural Zone Review;
- iii. Parking Standards Review (2014);
- iv. Internal staff review of other Council documents, in particular:
 - a. Dog Control Bylaw (2014);
 - b. District Plan Review Discussion Document (2010);
 - c. Other recent changes to the District Plan, including Plan Change 55 (District-Wide Rules);
- v. Review of 15 district plans from around New Zealand to identify how other councils manage dog kennel facilities.

Noise Report

Nigel Lloyd of Acousafe Consulting and Engineering Ltd was engaged by the Council to undertake a review of the existing provisions of the District Plan in relation to noise, including the activity of kennels. Mr Lloyd states that compliance with the District Plan noise rules does not guarantee that noise associated with dogs barking will not be a nuisance, and that other controls are appropriate to use for the management of noise created by dog kennel activities. Mr Lloyd has included recommendations on how kennels should be managed in the District Plan in relation to noise. His report is included as Appendix 3.

10 EVALUATION OF ALTERNATIVES AND PREFERRED OPTION

Section 32 of the RMA sets out the requirements for preparing and publishing evaluation reports. A proposed plan change must be evaluated firstly in terms of whether the objectives are the most appropriate way to achieve the purpose of the RMA, and secondly whether the provisions are the most appropriate way to achieve the objectives of the plan change.

To assist in determining whether the alternative is appropriate, the effectiveness and efficiency of the alternative should be considered. The assessment must contain a level of detail that corresponds to the scale and significance of the anticipated effects.

The costs and benefits of the environmental, economic, social and cultural effects anticipated should be identified and assessed. Where practicable, these should be quantified. Any opportunities for economic growth and employment (and whether these are anticipated to be provided or reduced by the change) must also be assessed. In considering the alternative methods, it is necessary to consider different planning methods to achieve the purpose of the RMA, including retaining the status quo, non-regulatory methods, and the proposed plan change.

This section of the report considers alternatives to the proposed option of introducing new objectives, policies and rules relating District wide. The following options evaluated are:

1. Option One – Proposed Plan Change 64 as outlined earlier in this report in Part I – District Plan Review: 1 Proposed amendments to the District Plan.

2. Option Two – Status Quo

10.1 Option One: Plan Change 64

Option One – Plan Change 64
<p>This option involves removing the existing definition of kennels and associated rules in the District Plan and inserting a new policy framework to manage kennel activities that:</p> <ol style="list-style-type: none">1) Inserts a new definition for boarding, breeding and training kennels in the District Plan to provide clarity on which activities are covered by the proposed rules.2) Deletes the current definition for kennels, which applies to the housing of more than two dogs, excluding working dogs and puppies.3) Boarding, breeding and training kennels for five or less dogs are permitted activities in the Rural Zone, subject to limited performance standards.4) Boarding, breeding and training kennels for two or less dogs are permitted activities in the Residential and Village zones.5) Uses a number threshold of six or more dogs in the Rural Zones to identify when a discretionary resource consent is required.6) Uses a number threshold of three or more dogs in the Residential and Village zones to identify when a discretionary resource consent is required.7) A Noise Management Plan is required to be submitted for discretionary activities.8) Categorises boarding, breeding and training kennels in the Industrial, Business, Recreation, Manfeild Park, and Special Development zones, as discretionary activities.9) Provides an objective and policy framework for boarding, breeding and training kennels, to be assessed at the discretionary activity level.
<p>Benefits</p> <p>Enables the Council to better fulfil its obligations under the RMA by developing a more appropriate and reasonable policy framework to manage the activities which have the potential to create adverse environmental effects, rather than a blanket rule which requires a discretionary resource consent for more than two dogs (Rural Zone), and a non-complying activity for more than two dogs in all other zones, which is currently the case.</p> <p>Provides a specific issue, objective, and a suite of policies to guide decision-making for resource consent applications for boarding, breeding and training kennels.</p> <p>The discretionary status used is the same as the status quo for the Rural Zone, except that the number threshold is higher, with ‘six or more dogs’ requiring a resource consent, instead of ‘more than two dogs’.</p> <p>Reduces uncertainty between the Dog Control Bylaw (2014) and the District Plan by refocusing the District Plan away from the general ownership of dogs (which is what the Bylaw manages) to the effects of boarding, breeding and training kennels for dogs.</p> <p>Addresses an enforcement issue for the Council where there are high rates of non-compliance with the current District Plan rules for kennels. There will be a reduction in the number of people who require a resource consent for the keeping of dogs.</p> <p>Provides certainty for kennel owners and neighbours at an earlier stage than what would have been provided as part of Plan Change 53 (which was put on hold in 2016) about when a resource consent is required for the keeping of dogs.</p>

Enables the consideration of the One Plan provisions where boarding, breeding and training kennels require a discretionary resource consent to operate in the Flood Channel Zone.

Enables the Council to act more proactively by giving certainty to the community about what is permitted, particularly in situations where complaints have been received where there are multiple dogs owned on properties which are in close proximity to other residential activities.

Costs

Administrative costs of implementing the plan change at an earlier stage than as part of the Rural Zone Review (Plan Change 53), which was placed on hold in 2016.

Identification of a potentially large number of dog kennel facilities and owners who may have been unaware of the need for a resource consent under the existing District Plan rules. Once the plan change becomes operative, the Council will need to follow up and work with kennel owners whose facilities are currently not legally established (i.e. they do not have resource consent to operate) under the new rules. This will require resources by the Council's compliance and consents teams to identify and work with kennel owners who do not currently have resource consent to operate. However, the number of kennel owners who will require resource consent to operate will be significantly lower than under the current provisions in the District Plan.

Efficiency

This option represents the most efficient response in the management of boarding, breeding and training kennels in the Manawatu District. The current provisions for kennels in the District Plan are not working efficiently because the definition for kennels is very broad and encompasses pet owners as well as other kennel facilities including for boarding, breeding and training of dogs. The definition of kennels includes a low number threshold of more than two dogs, which captures a large number of dog owners, many of whom would be unaware of the need for a resource consent for owning three or more dogs. The activity status for owning three or more dogs is set at a discretionary level for the Rural Zone, and 'non-complying' for all other zones. The current definition of kennels has resulted in compliance issues for the Council, because the Council has not proactively enforced the rules. A review of the provisions for kennels is needed to provide certainty and clarity to dog owners about when a resource consent is required for owning dogs.

The plan change provides a more focused policy framework to enable any adverse effects to be considered and managed accordingly, i.e. activities where there is the potential to create adverse effects on amenity, i.e. larger kennels where boarding, breeding or training of dogs, or rehoming kennels, is undertaken.

The plan change assists in removing uncertainty and duplication of the Dog Control Bylaw and District Plan for smaller kennels, leaving the bylaw to continue to regulate the keeping and control of the general ownership of dogs, as required under the Dog Control Act (1996), and refocuses the District Plan to boarding, breeding and training kennels for dogs.

All rules relevant to boarding and breeding and training kennels will be in one chapter, including the relevant policy framework, which creates efficiencies for plan users by not having to flick between different chapters in the District Plan.

The plan change provides consistency with recent plan changes as part of the wider District Plan Review, including Plan Change 55 (District Wide Rules).

The standalone nature of the new Chapter 3H seeks to ensure that when subsequent changes get made to other parts of the plan, that Chapter 3H does not need to be reviewed again at that time.

Effectiveness

The new provisions enable the Council to better fulfil its obligations under the RMA by developing a planning framework to manage the activities which have the potential to create environmental effects on amenity of the surrounding area, including noise, visual, and odour issues. The plan change aims to increase the effectiveness of the District Plan by targeting boarding, breeding and training kennels of six or more dogs in rural areas, where there may be the potential for adverse effects to occur, rather than ‘general’ dog owners of more than two dogs. In Mr Lloyd’s report, he states that a threshold of six or more dogs is considered as a reasonable criterion beyond which special arrangements need to be made for the care and exercise of the animals and where the likelihood for noise nuisance increases significantly.

The proposed provisions are effective because they provide clear rules to determine activity status and a framework to guide greater clarity to decision-makers and applicants. The discretionary activity status is used to manage potential adverse effects on potentially affected noise sensitive activities. The discretionary status is considered an effective consent activity level to address potential adverse effects from boarding, breeding and training kennels on the character and amenity of the surrounding environment.

Opportunities for Economic Growth

Compared to the current District Plan provisions, there will be a reduction in the number of dog owners who will require a resource consent for the owning and keeping of dogs for boarding, breeding and training purposes.

Risk of Acting or not Acting

There is sufficient information to act as proposed. By not acting, the Council would be required to enforce the current provisions in the District Plan so that all dog owners in the District with more than two dogs (excluding working dogs and puppies) are legally established.

Appropriateness

The proposed changes under this option are appropriate and will ensure that those kennel activities which have the potential to create adverse environmental effects need to apply for a resource consent only, rather than general dog owners with more than two dogs. Dog owners are still required to comply with the Council’s Dog Control Bylaw, as well as Animal Welfare codes and regulations (which are relevant to all dog owners).

10.2 Option Two: Status Quo

Option Two: Status Quo

This option involves enforcing the current District Plan provisions relating to kennels, which includes:

- 1) Enforcement of the current definition for kennels which includes: *“means any site used for housing more than two dogs, excluding farm working dogs and puppies”*.
- 2) *Rule B3 Discretionary Activities, B3.5.1 Rural Zones except for Nodal Areas, vii) Kennels*, would continue to apply. Any consent applications for kennels with more than two dogs would be assessed against the discretionary assessment matters in Rule 1.3.4.
- 3) Kennels for more than two dogs in other zones fall to the default non-complying rule in the District Plan: Rule 2.1 in Rule A.2 – Rules Applying Throughout the District.

- 4) This option would require the Council to identify the kennel owners with more than two dogs in the district (excluding working dogs and puppies) and to work with them so that they can become legally established through a resource consent process.
- 5) The current definition of kennels does not differentiate between kennels of a commercial or domestic nature.
- 6) There are no objectives or policies specific to the management of kennels.

Benefits

A plan change would not be needed and there would not be any administrative costs associated with drafting and processing the plan change.

There would not need to be any education for decision-makers and the community about the introduction of new rules. (Noting however that there appears to be a lack of awareness currently about the breadth of the existing provisions).

Dog kennels for more than two dogs in the Residential Zone, Village Zone and Nodal Areas are able to be considered at a high level of scrutiny (non-complying activity status), given the smaller section sizes and higher levels amenity expected in those zones.

In the Industrial, Business, Manfeild Park, Special Development, and Recreation Zones, kennels for more than two dogs are assessed as a non-complying activity, reflecting the fact that these zones have been identified for specific purposes, rather the housing of dogs.

Costs

The current approach to managing kennels is very broad as the rules relate to commercial and domestic situations, and the number threshold is set at a very low level (more than 2 dogs), irrespective of zone or location. This blanket approach does not take into account scale or size of an activity, and whether the dogs are owned in a commercial-type arrangement, or for domestic pets.

A large number of dog owners fall under the requirement for needing a discretionary resource consent (Rural Zone) or a non-complying resource consent (in all other zones and Nodal Areas).

The Council would be required to enforce the current rules which would apply to a large number of dog owners in the Manawatu District, irrespective of whether the kennel activity has the potential to create adverse environmental effects.

The Council could face a risk of criticism and legal challenge by other parties if it does not enforce the existing rules for kennels, particularly given that issues have been raised in relation to adverse noise effects from multiple dogs properties.

Following up with kennel operators who would require consent, and then working with these owners to gain (or otherwise) resource consent, would require a significant input of resources by the Council, in particular, the Council’s compliance and consents teams.

Efficiency

Requiring a more stringent resource consent for a low number of dogs (i.e. three or more) where there are unlikely to be adverse environmental effects is not considered an efficient way to achieve the RMA.

This inefficiency is reflected by the compliance and enforcement issues that the Council is facing in relation to the existing rules for kennels. There would currently be a large number of dog owners who would fall under the requirement for needing a resource consent, but

may or may not be aware of the need for consent, and their activities may not be at a scale where adverse environmental effects are likely.

This option is not an efficient way to achieve the purpose of the RMA because a large number of smaller scale kennel operators (of between 3-5 dogs) would be required to apply for a resource consent, rather than only the larger scale kennel operators. Smaller scale kennels and dog owners are still subject to the Dog Control Bylaw.

The current District Plan provisions classify kennels (more than two dogs) as non-complying activities in all zones other than the Rural Zone as the activity falls to the default non-complying rule. This approach is not considered efficient in achieving the purpose of the RMA because it does not take into account the importance of the scale of the kennels, and results in a significant number of dog owners requiring a non-complying resource consent for three or more dogs. The non-complying activity status is useful in situations where the potential adverse effects are likely to be great but the activity does not warrant prohibition, and where it is intended that consents only be granted in exceptional circumstances. The use of non-complying activity status for kennels which are defined as more than two dogs in all zones except the Rural Zone does not represent an appropriate and reasonable way to managing kennels.

This option does not help to reduce uncertainty that occurs between the District Plan and Dog Control Bylaw (both of which focus on the general ownership of dogs).

Effectiveness

Dog owners of three or more dogs would be required to apply for a discretionary or non-complying resource consent which would result in a large number of dog owners being assessed as part of a resource consent process. However, for small scale kennels of 3-5 dogs, the discretionary assessment matters (Rule 1.3.4) are relevant, and matters that would be assessed as part of a non-complying application (e.g. relevant zone objectives and policies) are relevant.

The current provisions for kennels in the District Plan are not being fully enforced by the Council because the definition for what constitutes a kennel is very broad and set at a low number threshold. This has placed the Council in a difficult position as the requirement for a discretionary or non-complying resource consent for three or more dogs could be considered as unreasonable, and not fit for purpose, particularly in a rural environment.

Opportunities for Economic Growth

There will be an economic impact on the smaller sized kennels (3-5 dogs) who will be required to apply for either a discretionary or non-complying resource consent.

Risk of Acting or Not Acting

There is sufficient information to act at this time.

Appropriateness

It is not considered appropriate to implement this option due to the restrictive nature of the existing provisions for kennels. The current definition of kennels is very broad and includes dogs owned for commercial as well as domestic purposes, and it is at a very low threshold of more than two dogs. This blanket approach does not take into account the scale of a proposal because the rules apply to any kennels with more than two dogs. This approach is not an appropriate way to achieve the purpose of the RMA.

Preferred Option

To change the District Plan as outlined in Option One above to include a specific section for boarding, breeding and training kennels in Chapter 3 District-Wide Rules.

10.3 Implementation of Preferred Option

Section 32(1)(a) of the RMA requires an assessment of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. The intention of this plan change is to ensure that the District Plan is consistent with the purpose of the RMA.

Section 32(1)(b) of the RMA requires an assessment on whether the provisions in the proposal are the most appropriate way to achieve the objectives by:

- (a) Identifying other reasonably practicable options for achieving the objectives; and
- (b) Assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
- (c) Summarising the reasons for deciding on the provisions.

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the proposed changes.

10.4 Assessment Of Proposed Objectives, Policies And Rules

10.4.1 Assessment of Objective 1

Objective 1

To ensure the establishment and operation of boarding, breeding and training kennels do not result in adverse effects on the character and amenity values of the surrounding environment.

There are a range of boarding, breeding and training kennels for dogs that operate within the Manawatu District area. The management and operation of kennels has the potential to result in adverse effects on the character and amenity values of the surrounding environment, in particular noise and odour from the kennel activities. The operative District Plan lacks a specific objective for managing boarding, breeding and training kennels.

The intention of Objective 1 is to ensure that adverse effects on the character and amenity from boarding, breeding and training kennels are avoided, remedied or mitigated. This objective sits over a policy framework for the establishment and operation of kennels, and enables people and the community to provide for their economic and social wellbeing, while ensuring that adverse effects on character and amenity values from the establishment and operation of kennels are avoided, remedied or mitigated. By providing a framework to manage adverse effects on amenity values, this objective also enables people and communities to provide for their health and safety. This is consistent with the provisions of the RMA.

Objective 1

To ensure the establishment and operation of boarding, breeding and training kennels do not result in adverse effects on the character and amenity values of the surrounding environment.

Policies

- 1.1. To ensure the effects of boarding, breeding and training kennels on the amenity values and character of the area in which the activity is located are managed through the provision of yard setbacks, separation distances and screening between proposed kennels and **noise sensitive activities**, particularly within 500 metres of the dog kennel site.
- 1.2. To manage adverse effects from boarding, breeding and training kennels on the character and amenity values of the surrounding area through the appropriate design and layout of the site and buildings, and the operation and management of the kennels.
- 1.3. To assess each application for boarding, breeding and training kennels recognising the size and layout of the site, the number of dogs proposed and distance of the kennels to noise sensitive activities.
- 1.4. To ensure the design and layout of the kennel site and buildings incorporates features to reduce the adverse effects of dogs barking on **noise sensitive activities** that may affect outdoor amenity or indoor sleep disturbance, including:
 - a. The extent to which the design of kennel buildings insulates against night-time noise of barking dogs;
 - b. Physical design measures, including setbacks and screening;
 - c. The extent to which the design and layout of the kennels will prevent dogs in their normal runs from becoming visually and acoustically excited by activities associated with the kennels or from outside stimuli from neighbouring land;
 - d. Group housing for compatible dogs (where practical).
- 1.5. To require boarding, breeding and training kennel applicants to prepare a noise management plan which sets out the noise management measures for the site including but not limited to:
 - a. Location and times of kennel activities, including training and exercise areas, when dogs will be enclosed at night, and hours of operation of the facility;
 - b. Management actions, including how complaints will be managed; the techniques that will be used to manage noisy dogs, and how communication with neighbours will be maintained.
- 1.6. To ensure that boarding, breeding and training kennels adequately provide for the management and disposal of waste from the operation of the kennel activity, particularly in regard to potential adverse effects associated with odour.
- 1.7. For the Flood Channel Zones, to ensure the location and design of any structure on site will not impede or divert the flow of flood waters.

Guidance Note:

When considering flood flow paths, the Council will have particular regard to expert flood hazard advice provided by Horizons Regional Council.

Evaluation of Efficiency and Effectiveness Taking Account of Benefits, Costs and Risk

Efficiency and Effectiveness

The plan change inserts a new policy framework for the management of boarding, breeding and training kennels. The new policies sit together in Chapter 3H, to provide specific policy guidance for boarding, breeding and training kennels in all zones, which is not provided as part of the current District Plan provisions. The current relevant District Plan policies are spread throughout the District Plan zone/issue chapters which relate to character and amenity of the zones, conflicts between rural dwellings and rural activities, and noisy dogs.

The proposed policies outline the importance of physical design measures and operational and management actions in managing adverse effects from boarding, breeding and training kennels on noise sensitive activities and on the character and amenity of the surrounding environment. While noise from kennel activities is a key effect that needs to be managed, there may also be other nuisance effects, including odour from kennel waste, glare from buildings or signage, that also need to be considered as part of a proposal for kennels.

Overall, the policy framework will enable the establishment of kennels while ensuring that any potential adverse effects in terms of noise, character and amenity values will be avoided, remedied or mitigated. Therefore, the proposed policies are an effective and efficient way of achieving Objective 1.

Benefits and Costs

The current District Plan does not include specific policies for the assessment of proposals for kennels. Including policy guidance for boarding, breeding and training kennels will provide plan users with greater certainty for what effects are of concern and the expectation of the Council. The new policy framework is not considered to increase costs for applicants as the current District Plan provisions have still enabled consideration of effects, particularly noise and other nuisance issues, as part of kennel proposals. However, the proposed policies seek to provide a clearer framework for the consideration of kennels.

Consideration of these policies will enable people and communities to provide for their economic and social wellbeing and health and safety, while ensuring potential adverse effects are avoided, remedied or mitigated. These policies are considered to be the most efficient and effective means to achieve Objective 1.

Risk

The risk of not acting will result in the Council having to implement the existing provisions in the District Plan, where the definition of kennels is very broad. People who own more than two dogs (excluding working dogs and puppies) would be required to apply for either a discretionary consent in the Rural Zone or a non-complying resource consent for all other zones. There is currently no specific policy guidance for kennels, however there are a number of assessment matters for discretionary activities in the operative District Plan that can be applied to kennels. However, by not acting, a significantly higher number of dog owners would have to apply for a resource consent to keep more than two dogs, whether or not there is the potential for adverse effects. There is sufficient information with which to act.

Alignment with Objective 1

The purpose of the proposed policies is to provide guidance for the consideration of boarding, breeding and training kennels throughout the district. The policies relate to yard setbacks, separation distances, and screening; appropriate design and layout of the site and buildings, and operation and management of the kennels; size of the proposed kennels and site; design and layout of the buildings and site in managing adverse effects on noise sensitive activities; the preparation of a noise management plan; consideration of waste management and disposal from the kennels, and flood channel zone guidance.

Overall, it is considered that the above policies are consistent with achieving the outcomes sought by Objective 1, and therefore the RMA.

Key Provisions	Rule Provisions
<p>3H.4.1 Permitted Activities</p> <p>The following are Permitted Activities provided that they comply with the standards in Rule 3H.4.2 below:</p> <p>a. Boarding, breeding and training kennels for up to and including 5 dogs in the Rural Zones;</p> <p>Boarding, breeding and training kennels for up to and including 2 dogs in the Residential and Village Zones.</p>	<p>3H.4.2 Standards for Permitted Activities</p> <p>The permitted activities specified in Rule 3H.4.1 a) and b) above must comply with the following standards:</p> <p>a. Building Envelope</p> <ul style="list-style-type: none"> i. In the Residential Zone and Village Zone: Maximum height 9m ii. In the Rural Zone: Maximum height 20m iii. All parts of a building must be contained within a 45 degree plane commencing at 2.8 metres above ground level inclined inwards at right angles in plan. See Figure 3H.1 below. iv. The height recession plane in condition a. iii. above does not apply to: <ul style="list-style-type: none"> a. Eaves b. Solar panels and water heaters c. Antennas, aerials or chimneys d. Gable roof ends, if the total area of that part of the building above the height recession plane does not exceed 1/3 of the gable end height.

Height Recession Plane

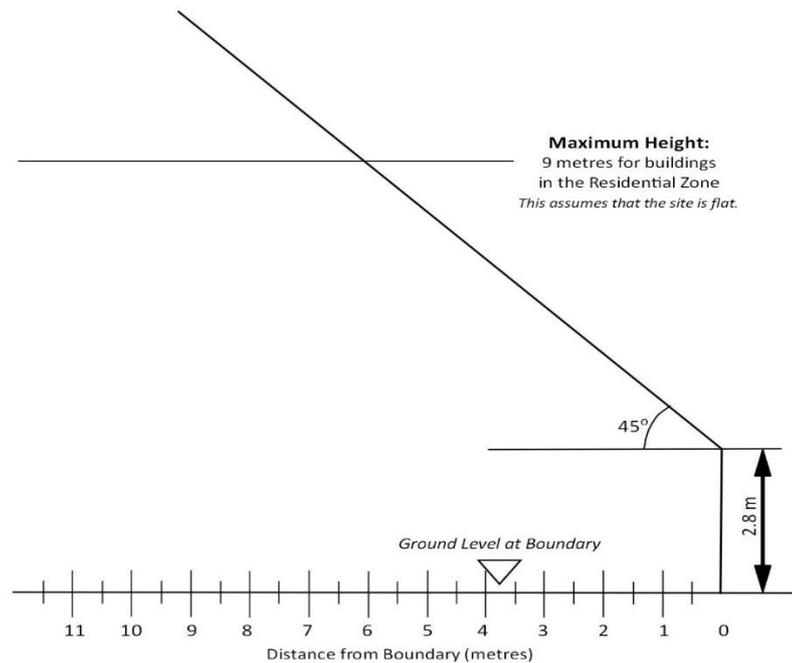


Figure 3H.1

In the Rural Zone, the following standards apply:

- v. No part of any building, structure, mast, tree or other object shall penetrate any of the climb surfaces, transitional surfaces, horizontal surfaces or conical surfaces associated with Milson Airport or Feilding Aerodrome. These surfaces are shown in Appendix 3B and Appendix 3C. Where two or more surfaces intersect, the lower shall apply.

NB: Special height controls also apply in the vicinity of the Ohakea Airfield. (Refer Appendix 7B).

b. Yard and Separation Distances

Buildings and structures associated with boarding, breeding and training kennels must comply with the following setbacks:

- i. In the Rural Zone:
 - a. From any Residential Zone or Village Zone – 100m
 - b. Front yards – 10m
 - c. Other yards – 30m
 - d. From the top of the bank of the Oroua River or Kiwitea Stream – 20m

	<p>e. From the top edge of any other public drain or watercourse – 10m</p> <p>ii. In the Residential Zone and Village Zone:</p> <p>a. From all yard boundaries – 3m</p> <p>b. From the bank of the Oroua River or Kiwitea Stream – 20m</p> <p>c. From the top edge of any other public drain or watercourse 10m</p> <p>d. Within the National Grid Yard in Growth Precinct 1 (Appendix 9A) – 12m from the outer visible edge of a National Grid support structure (tower). All fences must be located a minimum of 5m from the support structure, network utility structure, road sign or safety sign.</p> <p>Guidance Note for 3H.4.2 b. ii. e:</p> <p>Buildings and structures need to demonstrate compliance with the requirements of NZECP34:2001.</p> <p>c. Noise</p> <p>Compliance with Rule 3C.4.2.</p> <p>d. Signs</p> <p>Compliance with Rules 3E.4.1 and 3E.4.2.</p> <p>e. Glare</p> <p>Compliance with Rule 3B.4.4.</p>
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Alignment with Objective

Nigel Lloyd of Acousafe Consulting and Engineering Ltd was engaged by Council to undertake a review of the noise provisions in relation to dog kennels in the District.

In his report, Mr Lloyd recommends that kennels of six or more dogs (excluding puppies) be a discretionary activity. His report also states that “the housing of five or less dogs in the Rural Zone is akin to a domestic scale activity which is appropriately controlled by permitted activity standards, including the setbacks for ‘Pens Housing Animals’”.

The number threshold of five or less dogs is proposed for permitted activities as kennels for six or more dogs have been identified as a number where more organised infrastructure for kennels, e.g. special housing and exercise arrangements, is likely to be required to keep the dogs, and the activity is more likely to be moving from domestic scale to more of a commercial nature, where there are more likely to be adverse effects that need to be managed.

The inclusion of the permitted activity rule and related performance standards provides clear guidance about which kennel activities are permitted. By not clearly identifying what

is permitted, there is likely to be confusion about how smaller scale kennels should be assessed in the District Plan.

The permitted activity rules acknowledge that smaller scale kennels are likely to be similar to a domestic scale kennel, and the likelihood of adverse effects on the amenity and character of the surrounding environment is considered to be low. The permitted activity rule provides clarity to kennel operators and plan users for when a kennel is permitted or when it falls to a discretionary activity.

Noise issues associated with dogs barking in smaller kennels (i.e. five or less dogs) can still be managed through the Council's Dog Control Bylaw (2014). Therefore it is considered appropriate to set a permitted activity level at five or less dogs, subject to meeting the reasonable and relevant performance standards.

Relevant performance standards from the existing District Plan Rural, Residential, and Village Zones have been included as part of the permitted activity rule as they are identified as being important performance standards for all permitted activities in these zones. They are also appropriate for managing issues that are likely to be relevant to smaller boarding, breeding and training kennels. The Council has recently reviewed rules associated with noise, signs and glare as part of Plan Change 55 (District-Wide Rules). These rules are now located in Chapter 3 of the District Plan and are considered relevant for the management of boarding, breeding and training kennels.

The proposed permitted activities are still required to meet the noise rules (Rule 3C.4.2 in Chapter 3). However, in his report Mr Lloyd states that incessant or repeated long-term barking of dogs can cause annoyance even though it complies with reasonable noise performance standards. Therefore, dog kennel noise may not be appropriately controlled by reference to the District Plan noise limits, but instead with other control measures. For the smaller scale kennels, the yard and separation distance rules that are already included in the District Plan for Pens Housing Animals are deemed appropriate. Noise from dogs barking can still be addressed under the Dog Control Bylaw (2014).

Given its spatial nature, the Rural Zone is considered an appropriate zone for the establishment of kennels, as the sites are generally larger in size and impacts on noise sensitive activities are likely to be less than in a more intensively developed location. Kennels of five or less dogs are more likely to be of a domestic scale and noise nuisance issues can be managed through the Dog Control Bylaw (2014).

Plan Change 64 also includes as a permitted activity, boarding, breeding and training kennels of up to and including two dogs in the Residential and Village Zones. This rule ensures that it is clear that small boarding, breeding and training kennels in these zones are permitted and do not fall to the discretionary status. This rule also enables small scale dog breeders to be a permitted activity. The threshold of two dogs aligns with the Council's Dog Control Bylaw (2014), which enables the keeping of up to two dogs on sections up to 2000m² in urban areas, and also signifies that small scale boarding, breeding and training kennels are unlikely to create adverse effects on character and amenity values of the surrounding environment. If noise issues are raised, then the Dog Control Bylaw can be used to manage any nuisance.

By enabling smaller scale kennels to be a permitted activity enables a more efficient approach to managing dog kennels as it focuses the District Plan to where the adverse effects are more likely to occur, rather than the current blanket approach in all zones of more than two dogs.

Overall the permitted activity rules and performance standards are consistent with and give effect to proposed Objective 1.

Key Provisions	Rule Provisions
<p>3H.4.3 Discretionary Activities</p> <p>The following activities are discretionary activities with respect to boarding, breeding and training kennels:</p> <ul style="list-style-type: none"> a) Boarding, breeding and training kennels in Rule 3H.4.1 which do not meet the performance standards in Rule 3H.4.2; b) Boarding, breeding and training kennels in the Rural Zone for 6 or more dogs; c) Boarding, breeding and training kennels in the Residential and Village zones for 3 or more dogs; d) Boarding, breeding and training kennels in all other zones or not otherwise provided for. 	<p>Performance Standard for boarding, breeding and training kennels that are discretionary activities under Rule 3H.4.3 above:</p> <ul style="list-style-type: none"> a. The following information must be submitted to Council on lodgement of an application under this rule for boarding, breeding and training kennels: <ul style="list-style-type: none"> i. A noise management plan prepared by a suitably qualified person(s) who has knowledge and experience in dog behaviour. <p>Determination Clause</p> <p>In determining whether to grant a resource consent and what conditions to impose, the Council will, in addition to the objectives and policies of the relevant zone and Chapter 3 District Wide Rules, assess any application in terms of the following assessment criteria:</p> <ul style="list-style-type: none"> 1.1. The degree of non-compliance with the particular performance standards that the proposed boarding, breeding or training kennel fails to meet. 1.2. The degree to which the proposed mitigation methods will avoid or mitigate the adverse effects on noise sensitive activities.
<p>Alignment with Objective</p>	
<p>Nigel Lloyd of Acousafe Consulting and Engineering Ltd was engaged by Council to undertake a review of the noise provisions in relation to dog kennels in the District.</p> <p>In his report, Mr Lloyd recommends that kennels of six or more dogs (excluding puppies) be a discretionary activity with a number of matters to be assessed. Six or more dogs in kennels is considered a reasonable threshold beyond which special arrangements are required for the care and exercise of animals, and where the likelihood for noise nuisance increases.</p> <p>Proposed Rule 3H.4.3 includes four types of discretionary activities:</p> <ul style="list-style-type: none"> • Boarding, breeding and training kennels in Rule 3H.4.1 which do not meet the performance standards in Rule 3H.4.2; • Boarding, breeding and training kennels in the Rural Zone for 6 or more dogs; • Boarding, breeding and training kennels in the Residential Zone and Village Zone for 3 or more dogs; 	

- Boarding, breeding and training kennels in all other zones, or activities otherwise not provided for.

The discretionary status can be used where an activity is not suitable in all locations in a zone, or where activities are not suitable in most locations in a zone or part of a zone but may be suitable in a few locations (www.qualityplanning.org.nz).

Boarding, breeding and training kennels in the Rural, Residential and Village Zones that do not meet the permitted activity performance standards are proposed to fall to discretionary, which is an appropriate level of assessment as it enables the adverse effects to be managed on a case by case basis.

The current District Plan provisions for kennels in the Rural Zone uses the discretionary consent level, so the activity status proposed for larger kennels in the Rural Zone is the status quo. However, the existing District Plan definition of 'kennels' sets a low threshold of 'more than two dogs', as compared to Plan Change 64 which uses a higher threshold of 'six or more dogs'. Plan Change 64 provides for a more efficient approach to managing kennels whereby instead of focusing on small and large dog kennels, the proposed rules focus on the scale of activity which has the potential to create adverse effects, rather than a blanket rule for domestic and commercial kennels.

Kennels that are larger and more commercial in nature may need additional staff and infrastructure such as signage, car parking for staff and/or customers, and special arrangements for housing and the care and exercise of the dogs. Other issues that may need to be considered are the hours of operation of the activity, including when certain activities will take place so that adverse effects on noise sensitive activities can be managed. A discretionary activity rule for larger scale kennels is appropriate as the discretionary status enables the effects to be managed on a case by case basis.

In the Residential and Village Zones where there are higher expectations of the level of amenity, the discretionary activity status is appropriate for boarding, breeding and training kennels of more than 3 dogs as the potential for adverse effects on noise sensitive activities is higher. A threshold of 3 or more dogs is also consistent with the Council's Dog Control Bylaw (2014).

The discretionary rule includes a performance standard which requires applicants to submit a Noise Management Plan prepared by a suitably qualified person who has knowledge and experience in dog behaviour. Guidance for what should be included in the Noise Management Plan is outlined in Policy 1.5, and include:

- a. Location and times of kennel activities, including training and exercise areas, when dogs will be enclosed at night, and hours of operation of the facility;
- b. Physical design measures including setbacks and screening;
- c. Management actions, including how complaints will be managed; the techniques that will be used to manage noisy dogs, and how communication with neighbours will be maintained.

A Noise Management Plan requires applicants to think about noise management measures and how the activity can be managed to ensure noise effects are addressed.

Boarding, breeding and training kennels in all other zones (e.g. Industrial, Business, Manfeild Park, Special Development, and Recreation Zones) are proposed to be discretionary activities, and this rule also captures any other boarding, breeding or training kennel not otherwise provided for.

The majority of policies to be used for the assessment of the discretionary activities are located at the front of Chapter 3H, as well as the policies in relevant zones and Chapter 3 District-Wide Rules. There are two additional assessment criteria provided which are relevant in guiding assessment of permitted activities which do not meet relevant permitted performance standards and also looking at effectiveness of mitigation measures in managing adverse effects on noise sensitive activities.

This rule is consistent with Objective 1 as it is an efficient and effective approach to managing adverse effects from boarding, breeding and training kennels on the character and amenity of the surrounding environment.

11 STATUTORY EVALUATION

Section 5: Purpose of the Act

Proposed Plan Change 64 enables people to provide for their economic wellbeing by enabling the establishment and operation of boarding, breeding and training kennels in the District. The plan change will also enable social benefits for the community insofar as the provision of boarding, breeding and training kennels satisfies a demand for facilities which enable the boarding, breeding and training of dogs. The plan change enables the establishment and operation of boarding, breeding and training kennels while managing any adverse environmental effects. In this respect, Proposed Plan Change 64 is consistent with Part 2 of the RMA.

Section 6: Matter of National Importance

The only section 6 matter that is relevant to the plan change is section 6 (h): The management of significant risks from natural hazards, which relates to the establishment and operation of boarding, breeding and training kennels in the Flood Channel Zones of the District. The Plan Change provides for boarding, breeding and training kennels in the Flood Channel Zone to be discretionary activities, to ensure that any adverse effects on flood paths are appropriately managed. Horizons Regional Council will also be involved in any consent application for boarding, breeding and training kennels in the Flood Channel Zones.

Section 7: Other Matters

Sections 7(b), (c) and (f) are relevant to the plan change. The plan change provides a policy and rule framework where potential adverse environmental effects associated with boarding, breeding and training kennels are to be avoided, remedied or mitigated. Well designed and managed kennels can make an efficient use or development of natural and physical resources, whether it be land and buildings which already exist on a site, or the use of vacant land, so long as adverse effects are appropriately managed. The plan change also seeks to ensure that amenity values and the quality of the environment are maintained or enhanced through mitigation measures that ensure potential adverse effects on the environment are avoided, remedied or mitigated.

Section 8 Treaty of Waitangi

There are no Section 8 matters that have been identified as being relevant to Plan Change 64.

Other Matters to be Considered

The RMA requires consideration to also be given to other statutory documents where these are relevant. Those documents relevant to this plan change are already identified earlier in this report.

Summary

Considering the above assessment, and taking into account other discussion and assessment in this report, the proposed changes sought by Plan Change 64 are consistent with the Council's statutory obligations under the RMA.

This plan change will enable people and the community to provide for their economic and social wellbeing while recognising and managing the potential environmental effects on surrounding land uses, particularly in relation to noise sensitive activities. The plan change removes inefficient and ineffective provisions in the District Plan that require owners of more than two dogs to apply for a discretionary or non-complying resource consent to house dogs in the district. The current District Plan provisions have created compliance and enforcement issues for the Council, which have resulted in the need for this plan change to be prepared at an earlier stage than the wider review of the Rural Zone.

Plan Change 64 enables the Council to better fulfil its obligations under the RMA by developing a more appropriate and reasonable policy framework to manage activities that have the potential to create environmental effects. The plan change also reduces uncertainty between the Council's Dog Control Bylaw (2014) and the District Plan, by refocusing the District Plan to activities associated with the boarding, breeding and training facilities, rather than the general ownership of dogs.

This evaluation has been undertaken in accordance with Section 32 of the RMA in order to identify the need, benefits and costs arising from Plan Change 64 and the appropriateness of the proposed approach having regard to its effectiveness and efficiency relative to other means of achieving the purpose of the RMA. The evaluation demonstrates that the proposed plan change meets the requirements of Section 32 of the RMA.

Insert the following new Section 3H in Chapter 3:

3H BOARDING, BREEDING AND TRAINING KENNELS

3H.1 Introduction

The Manawatu District caters for a range of dog kennel facilities for the boarding, breeding and training of dogs. However, boarding, breeding or training kennels for dogs have the potential to create adverse effects on the character and amenity values of the surrounding environment. Careful siting, design and management is needed for the operation of boarding, breeding and training kennels to ensure that potential adverse effects on the character and amenity values of the surrounding environment, in particular on residential activities, are appropriately managed.

Dog owners also have a legal requirement to comply with the Council's Dog Control Bylaw under the Dog Control Act 1996, and also the relevant codes of welfare and regulations under the Animal Welfare Act 1999.

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3H.2 Resource Management Issues

The following resource management issue has been identified in relation to boarding, breeding and training kennels:

1. Boarding, breeding and training kennels have the ability to result in adverse effects on the character and amenity values of the surrounding environment.

3H.3 Objectives and Policies

Objective 1

1. To ensure the establishment and operation of boarding, breeding and training kennels do not result in adverse effects on the character and amenity values of the surrounding environment.

Policies

- 1.1. To ensure the effects of boarding, breeding and training kennels on the amenity values and character of the area in which the activity is located are managed through the provision of yard setbacks, separation distances and screening between proposed kennels and **noise sensitive activities**, particularly within 500 metres of the dog kennel site.

- 1.2. To manage adverse effects from boarding, breeding and training kennels on the character and amenity values of the surrounding area through the appropriate design and layout of the site and buildings, and the operation and management of the kennels.
- 1.3. To assess each application for boarding, breeding and training kennels recognising the size and layout of the site, the number of dogs proposed and distance of the kennels to noise sensitive activities.
- 1.4. To ensure the design and layout of the kennel site and buildings incorporates features to reduce the adverse effects of dogs barking on **noise sensitive activities** that may affect outdoor amenity or indoor sleep disturbance, including:
 - a. The extent to which the design of kennel buildings insulates against night-time noise of barking dogs;
 - b. The extent to which the design and layout of the kennels will prevent dogs in their normal runs from becoming visually and acoustically excited by activities associated with the kennels or from outside stimuli from neighbouring land;
 - c. Group housing for compatible dogs (where practical).
- 1.5. To require boarding, breeding and training kennel applicants to prepare a noise management plan which sets out the noise management measures for the site including but not limited to:
 - a. Location and times of kennel activities, including training and exercise areas, when dogs will be enclosed at night, and hours of operation of the facility;
 - b. Physical design measures, including setbacks and screening;
 - c. Management actions, including how complaints will be managed; the techniques that will be used to manage noisy dogs, and how communication with neighbours will be maintained.
- 1.6 To ensure that boarding, breeding and training kennels adequately provide for the management and disposal of waste from the operation of the kennel activity, particularly in regard to potential adverse effects associated with odour.
- 1.7 For the Flood Channel Zones, to ensure the location and design of any structure on site will not impede or divert the flow of flood waters.

Guidance Note:

When considering flood flow paths, the Council will have particular regard to expert flood hazard advice provided by Horizons Regional Council.

3H.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone. Rules in the other sections in Chapter 3 also apply to boarding, breeding and training kennels.

Guidance Note:

Dog owners are also required to meet the requirements under the Council's Dog Control Bylaw (2014) or any subsequent updates. A permit to keep dogs may also be required under this bylaw.

3H.4.1 Permitted Activities

The following are **Permitted Activities** provided that they comply with the standards in Rule 3H.4.2 below:

- a. Boarding, breeding and training kennels for up to and including 5 dogs in the Rural Zones;
- b. Boarding, breeding and training kennels for up to and including 2 dogs in the Residential and Village Zones.

3H.4.2 Standards for Permitted Activities

The permitted activities specified in Rule 3H.4.1 a) and b) above must comply with the following standards:

- a. **Building Envelope**
 - i. In the Residential Zone and Village Zone: Maximum height 9m
 - ii. In the Rural Zone: Maximum height 20m
 - iii. All parts of a building must be contained within a 45 degree plane commencing at 2.8 metres above ground level inclined inwards at right angles in plan. See Figure 3H.1 below.
 - iv. The height recession plane in condition a. iii. above does not apply to:
 - a. Eaves
 - b. Solar panels and water heaters
 - c. Antennas, aerials or chimneys
 - d. Gable roof ends, if the total area of that part of the building above the height recession plane does not exceed 1/3 of the gable end height.

Height Recession Plane

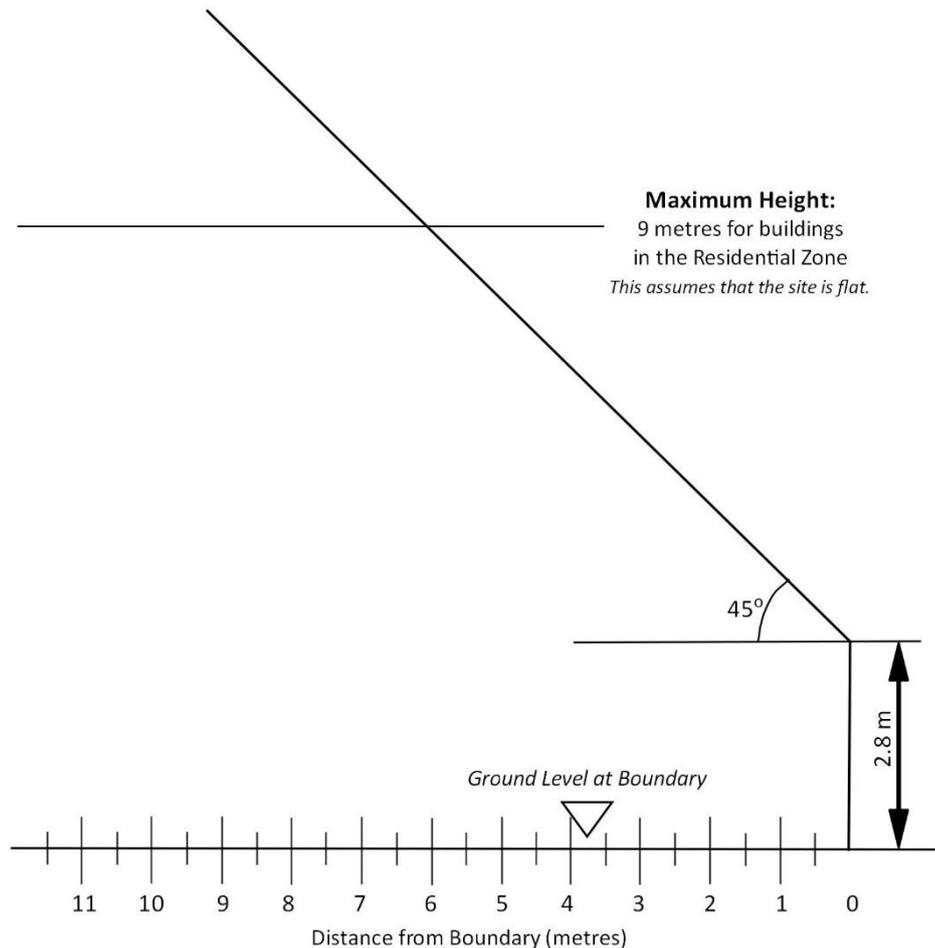


Figure 3H.1

In the Rural Zone, the following standards apply:

- v. No part of any building, structure, mast, tree or other object shall penetrate any of the climb surfaces, transitional surfaces, horizontal surfaces or conical surfaces associated with Milson Airport or Feilding Aerodrome. These surfaces are shown in Appendix 3B and Appendix 3C. Where two or more surfaces intersect, the lower shall apply.

NB: Special height controls also apply in the vicinity of the Ohakea Airfield. (Refer Appendix 7B).

b. Yard and Separation Distances

Buildings and structures associated with boarding, breeding and training kennels must comply with the following setbacks:

i. In the Rural Zone:

- a. From any Residential Zone or Village Zone – 100m
- b. Front yards – 10m
- c. Other yards – 30m
- d. From the top of the bank of the Oroua River or Kiwitea Stream – 20m
- e. From the top edge of any other public drain or watercourse – 10m

ii. In the Residential Zone and Village Zone:

- a. From all yard boundaries – 3m
- b. From the bank of the Oroua River or Kiwitea Stream – 20m
- c. From the top edge of any other public drain or watercourse – 10m
- d. Within the National Grid Yard in Growth Precinct 1 (Appendix 9A) – 12m from the outer visible edge of a National Grid support structure (tower). All fences must be located a minimum of 5m from the support structure, network utility structure, road sign or safety sign.

Guidance Note for 3H.4.2 b. ii. e:

Buildings and structures need to demonstrate compliance with the requirements of NZECP34:2001.

c. Noise

Compliance with Rule 3C.4.2.

d. Signs

Compliance with Rules 3E.4.1 and 3E.4.2.

e. Glare

Compliance with Rule 3B.4.4.

3H.4.3 Discretionary Activities

The following activities are discretionary activities with respect to boarding, breeding and training kennels:

- a. Boarding, breeding and training kennels in Rule 3H.4.1 which do not meet the performance standards in Rule 3H.4.2;
- b. Boarding, breeding and training kennels in the Rural Zone for 6 or more dogs;
- c. Boarding, breeding and training kennels in the Residential and Village zones for 3 or more dogs;
- d. Boarding, breeding and training kennels in all other zones or not otherwise provided for.

Performance Standard for boarding, breeding and training kennels that are discretionary activities under Rule 3H.4.3 above:

- a. The following information must be submitted to Council on lodgement of an application under this rule for boarding, breeding and training kennels:
 - i. A noise management plan prepared by a suitably qualified person(s) who has knowledge and experience in dog behaviour.

Determination Clause

In determining whether to grant a resource consent and what conditions to impose, the Council will, in addition to the objectives and policies of the relevant zone and Chapter 3 District Wide Rules, assess any application in terms of the following assessment criteria:

- 1.1. The degree of non-compliance with the particular performance standards that the proposed boarding, breeding or training kennel fails to meet.
- 1.2. The degree to which the proposed mitigation methods will avoid or mitigate the adverse effects on noise sensitive activities.

Consequential Amendments to the Manawatu District Plan

Text that is proposed to be deleted is highlighted with ~~striketrough~~ font.

Text that is proposed to be inserted is ***italicised and underlined***.

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2 DEFINITIONS

Insert the following definition:

Boarding, Breeding and Training Kennels

means the use of any land and/or buildings where board for a fee (which may include overnight or during the day) is provided or intended to be provided for dogs, or the breeding and/or training of dogs for direct or indirect commercial gain, and includes rehoming kennels. Farm working dogs and puppies up to three months of age, are excluded.

Make the following consequential amendment:

FARM BUILDINGS:

means **buildings** used in connection with **farming** practices on the land concerned, such as hay barns, farm implement sheds, and greenhouses. It does not include

buildings used for accommodation, milking sheds, pens housing animals, **boarding, breeding and training kennels**, or for **intensive farming** activities.

Make the following consequential amendment:

FARMING:

means a land based activity, having as its main purpose the production of any livestock or vegetative matter except as excluded below. Farming includes:

- a. Grazing, cropping and the cultivation of land necessary and appropriate to normal agricultural and horticultural activity.
- b. Keeping farm working dogs and puppies.
- c. Keeping, raising or breeding pigs where the productive processes are not carried out within **buildings**, or not within closely fenced outdoor runs where the stocking density precludes the maintenance of pasture or ground cover.

Farming does not include:

- a. **Intensive farming.**
- b. **Pig farming.**
- c. Planting, tending and harvesting forests, woodlots, specialised tree crops or shelter belts.
- d. **Boarding, breeding and training kennels** or catteries.

Make the following consequential amendment:

HOME OCCUPATION:

means an occupation, craft, profession or service carried out in a dwelling unit or an associated accessory building, by an occupant of that dwelling that meets all of the following:

- a. Is incidental and secondary to the residential use of the property
- b. Is undertaken or operated by a member(s) of the household residing on the property where the home occupation occurs and can include up to a maximum of two (2) other persons who do not reside on the property
- c. Involves no exterior storage, display or other indication of the home occupation (other than advertising sign permitted by this Plan)
- d. Involves no visits, delivery or collection of goods, materials or wastes outside the hours of 7am to 8pm.
- e. Does not result in significant adverse effects including noise, odour, traffic movements.

The following activities are specifically excluded from home occupation:

- f. any industry
- g. any light industry
- h. catteries and **boarding, breeding and training k** kennels
- i. motor vehicle sales and servicing
- j. waste/recycling collection and storage.

Make the following consequential amendment:

INTENSIVE FARMING:

means the breeding or rearing of animals (including birds) where the productive processes are carried out year-round within **buildings**, or within closely fenced outdoor runs where the stocking density precludes the maintenance of pasture or ground cover. Intensive farming includes mushroom farming but does not include catteries, **pig farming, boarding, breeding and training kennels** or **aviaries**.

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Delete existing definition:

KENNELS:

~~“means any site used for housing more than two dogs, excluding farm working dogs and puppies”.~~

Insert and delete the following words:

4. Managing Land Use Effects

...

4.3.4 Potential Conflict Between Rural Land Uses

...

Explanation

Some land uses that are discretionary activities in the rest of the Rural zone may be more appropriate as non-complying activities in nodal areas. Activities like intensive farming, landfills, **and** rural industries ~~and kennels~~ are potentially incompatible with the rural-residential housing that can be expected to develop in such areas over time.

Insert the following amendments:

3 District Wide Rules

3B Transport

3B.4.5 Car Parking – Standards for Permitted Activities

...

Table 3B.1 – Car Parking Standards

Activity	Car parking Requirements
<u>Catteries, and Boarding Kennels for six or more dogs;</u>	No less than four car-parking spaces.
<u>Breeding and training kennels, including rehoming kennels, for six or more dogs</u>	<u>One park per staff member</u>

Delete the following clause:

RULE B3 – RURAL ZONES

3.5 DISCRETIONARY ACTIVITIES

3.5.1 Rural Zones Except Nodal Areas

- a. The following shall be discretionary activities in the Rural Zone, except in nodal areas:

...

vii) Kennels

Appendix 2: Proposed Plan Change 64 - Clause 3 Consultation Issues Identified in Feedback

Draft Plan Change 64 Clause 3 Consultation: Issues Raised	
<p>Breeding: What constitutes 'Breeding'? Does 'breeding' need to be separated out? How do you prove commercial breeders? What is the outcome that the Council is trying to achieve? Breeders fall into two categories: commercial breeding for a fee versus breeding to replenish bloodlines or replacement pups. Code of Ethics (MOU) for breeding exists between the Kennels Clubs and Dogs NZ registration. Could Council give some sort of recognition? Dogs NZ provided litter numbers per year for Manawatu District for registered dogs.</p>	
<p>Fee: What is intended by the word 'fee' in the definition? Money for a service? Does it include prize winnings/stakes? Need a definition of the word 'fee'. We would like you to consider inserting one to cover a broad range of possibilities or at least indicate that when considering the issue of assessing whether a fee is involved you will take a broad approach. Keeping dogs for commercial reasons can also include payment in kind (as a part of a syndicate) and hidden cash transactions that are difficult to track or account for.</p>	
<p>Puppies: Need to clarify if puppies are included in the definition? Puppies can cause incessant and extra noise which would rely on neighbours to complain.</p>	
<p>Show dogs: Would 'show' dogs be considered 'domestic'? These are first and foremost pets, and then show dogs.</p>	
<p>Retired breeders: What about dogs being retired from breeding (to domestic/pets).</p>	
<p>Swapping dogs: Potential loop hole: greyhound owners having 5 dogs or less but swapping them between other owners. New dogs make more noise due to unfamiliar surroundings. Enables owners to be commercially viable but don't require a resource consent to operate.</p>	
<p>Suggested changes to definition: Consider the following amendment: Means the use of any land and/or buildings for boarding, breeding or training of dogs for a fee <u>or any other pecuniary advantage</u>, and includes rehoming kennels where shelter is provided for safety stray or unwanted dogs <u>or for the temporary housing of dogs on behalf of another party</u>. The keeping of dogs for farming or domestic purposes are excluded.</p>	
<p>Suggested changes to definition: Consider the following amendment: <i>"means the use of any land and/or buildings for boarding, <u>purposeful</u> breeding or training of dogs, including the activity of fostering dogs for rehoming, and rehoming kennels where shelter is provided for stray and unwanted dogs. The keeping of dogs for farming or domestic purposes <u>incidental to a permitted activity in the Rural Zone is excluded</u>".</i></p>	
<p>Working dogs and rural environment Working dogs – both support and opposition for exclusion of this in the definition.</p>	

<p>What about other working dogs such as drug detection dogs, hunting dogs, dogs that are an invaluable business asset (Facebook comments).</p> <p>What about farm dogs who live residentially but work on farms around the district?</p> <p>Cows, motorbikes, working dogs, are noisier in the Rural Zone than kennels.</p>
<p>Miscellaneous comments</p>
<p>Concerns about poor engagement of MPI regarding Animal Welfare Act, so want to be involved to avoid ridiculous rules.</p>
<p>What about people who offer dog sitting/kennelling services on websites like Rover? Concerned that those people have not sought consent.</p>
<p>Need to know what people are expected to build for kennels.</p>
<p>What happens if a new house pops up next to a legally established kennel.</p>
<p>Will consent holders have to pay more money?</p>
<p>Number Threshold and types of dogs</p> <p>6 dogs isn't realistic.</p> <p>RDC has similar characteristics as MDC and both share services. Why not adopt 10 dogs (like RDC)?</p> <p>Do the owners' own pets get included in the total?</p> <p>If you own 3 unneutered dogs, you should go through the resource consent process.</p> <p>Rules are unrealistic. Can the wording be made more flexible. One-size fits all approach doesn't work. Would it be possible to have a table of different (common) kennel activities?</p>
<p>Draft 3H.4.6</p> <p>Agree with the requirement for a resource consent to have 6 or more dogs.</p> <p>Agree with all provisions for the Council to restrict its discretion and assessment criteria</p>
<p>Draft 3H.3: Objective 1, Policy 1.3 – include 'noise' as a nuisance effect.</p>
<p>Draft 3H.4.1 – note that Council intends to uplift the nodal areas.</p>
<p>Draft 3H.4.5 – need to make sure there are matters of control for activities within the FC Zones.</p>
<p>Draft 3H.4.9 (non-complying rule): need to make sure this doesn't capture vet clinics who also have dogs boarding overnight. Most are located in the Outer Business Zone.</p>
<p>Draft 3H.4.6 Agree with all provisions for the Council to restrict its discretion and assessment criteria</p>
<p>Guidance Note: (Requirement for a permit to keep dogs)</p> <p>Support this – presume this refers to people being fit and proper to keep dogs based on their background, behaviour, previous breaches, etc.</p>
<p>Draft 3H.4.2 (b) 100m separation distance</p> <p>Agree but this is an absolute minimum and not be subject to Council discretion. No one should be keeping dogs for boarding, breeding and training within 100 meters of another property with residents and/or stock. Should this also include the requirement to be screened off so dogs in kennels are not distracted and stock, animals and people in the neighbouring property are not disturbed as well?</p> <p>The keeping of dogs for purposes of boarding, breeding and training should be restricted to areas where the impact on neighbouring properties and the amenity value of the area should not be compromised.</p> <p>Running such facilities should not be a 'home-based' option, particularly where it is in close proximity to dwellings or farming activities including livestock rearing.</p>
<p>Draft 3H.4.5 (note this section relates to controlled activities for the Flood Channel Zone)</p> <p>Imposing of conditions to mitigate effects should not override the 100m rule. We think it is good common sense for Council to consider mitigation strategies but the distance factor should remain. In our case mitigations have been in place by our neighbours on the behest of the Council with some effect. However, as dogs and facilities have been screened off it has become easier for the dog owners to swap out dogs and vary numbers being kept on an ongoing basis. This has meant variations</p>

in noise levels remain. In our situation the kennels are 30m from our boundary and even less to our far neighbours. This is far too close and will never be able to be rectified by mitigations.

Kennel owners to be licensed or meet defined criteria

The owners of boarding, breeding and training kennels should be licensed or meet defined criteria so that they meet a fit and proper criteria, which should meet a high standard so that owners must reach and maintain a high standard of compliance with provisions set. Non-compliance requires penalties bigger than abatement and should include exclusion from applying in the future and financial penalties for non-compliance.

We don't see any penalty section for non-compliance particularly for recidivist breeders/owners. Are Council going to rely on issuing notices of discontinuance and if owners persist prosecution? Why can't owners guilty of deliberately breaching these provisions be blacklisted and fined? Could you please have a look at accountability and liability provisions so that these changes have some teeth please.

Horizons Regional Council/Flood Channel provisions

Acknowledges MDC's intention to review the Flood Channel Zone provisions and areas. Has some concerns that the continued reliance on the Flood Channel Zones to give effect to One Plan Policy 9-2 probably means there are areas likely to be inundated during a 0.5% AEP where this issue is not able to be considered. Acknowledge the difficulty of trying to create a more extensive and flexible response that would remain consistent with the rest of the district plan until those Flood Channel Zone provisions are reviewed.

There may need to be a consequential amendment to Rule 1.3.1 D) Reservation of Control so it specifically references the new Rule 3H.4.3.

No problem with the use of the One Plan definition for *Flood hazard avoidance*, but note that this is essentially an incorporation of part of the One Plan by reference. We just thought we'd share that we've found this approach to have some quite big problems associated with it, especially when the original is updated or superceded.

Codes of Welfare and Regulations – Animal Welfare

MPI would like to highlight that individuals/organisations owning and caring for dogs in boarding, breeding and training kennels, have a legal requirement to comply with

- i. the Animal Welfare Act 1999 to provide for the physical, health and behavioural needs of the animals in their care, and
- ii. with the minimum standards within relevant codes of welfare.

The code of welfare for dogs sets out the requirements for persons in charge of dogs, including minimum standards related to kennelling.

The code of welfare for temporary housing of companion animals sets out minimum standards for housing design and construction and care of animals in temporary housing facilities, including any facility that receives companion animals which require temporary housing away from their usual place of keeping.



SECTIONAL DISTRICT PLAN NOISE REVIEW

KENNELS

For

MANAWATU DISTRICT COUNCIL

N2345 Status – Draft D1

11th March 2019

ACOUSAPE CONSULTING & ENGINEERING LTD

A handwritten signature in black ink, appearing to read 'Nigel Lloyd'.

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Introduction

Manawatu District Council (**the Council**) is undertaking a District Plan review specifically in relation to the control of dog kennel noise.

Acousafe has already provided advice on Plan Change 55 that dealt with the noise control matrix for each Zone. Noise considerations for the Rural Zone have still to be reviewed.

Existing District Plan Rules

The District Plan Rural Zone noise limits (3C.4.2) were reviewed as part of Plan Change 55. These particular rules are now operative. The Operative District Plan Rules for the Rural Zone when applied at any other site in the Rural or Residential/Village Zones are as follows:

7.00 am to 7.00 pm	55 dB L_{Aeq} (15mins)
7.00 pm to 10.00 pm	50 dB L_{Aeq} (15mins)
10.00 pm to 7.00 am	45 dB L_{Aeq} (15mins) and 70 dB L_{Amax}

Dog Kennel Noise

Council is receiving an increasing number of complaints about dogs barking. The issue with dog barking noise is that it is more annoying than implied by the levels that are measured using either the L_{10} or L_{Aeq} noise descriptors. The noise tends to be characterised by a sharp onset and rapid decline in level (often on a repeated basis) and, in our opinion, while dog barking is not truly *impulsive* in character, it should still fall outside the scope of NZS6802. Incessant or repeated long-term barking of a dog, or dogs, can cause annoyance even though it complies with reasonable noise performance standards. Nuisance can occur when the kennel operator is insensitive to the level of barking that is occurring. In our experience certain operators can find it difficult to understand why a neighbour is complaining about their barking dogs.

Boarding, Breeding and Training Kennels

There are commonly “boarding” and “breeding” kennels with a number of greyhound training kennels also in the District.

1.1 Breeding and Training Kennels

Breeding kennels tend to be less of concern because the kennel operator has long-term control over the dogs, which are in their regular surroundings. The operator is normally a professional dog handler who will instil discipline. In certain circumstances, breeding kennels can cause a nuisance to neighbours, particular where large numbers of dogs are involved or the kennels are too close to noise sensitive neighbours.

A number of the greyhound kennels in the District are breeding and training kennels combined.

1.2 Boarding Kennels

Boarding kennels, on the other hand, house other peoples' dogs in strange surroundings. Annoyance is often caused by one or two excitable dogs that refuse to settle (and which bark loudly and incessantly). Boarding kennels tend to generate different levels of noise on different days (depending on the dogs being boarded at any time) which can make long-term assessment problematic.

Design and Layout to Control Noise

The good management of kennels will have a significant impact on the level of barking that is generated. Dogs can be kept in social groups, screened from outside activities that would excite them (such as other dogs arriving at the kennels) and can be attended to and exercised in a sensible fashion. Individually, noisy dogs that refuse to settle need to be controlled as the circumstances dictate or, ultimately, housed separately if this behaviour cannot be corrected.

Kennels must be designed so that night-time noise is not an issue. This requires the dogs to be properly housed in insulated and ventilated kennel spaces as required by the location.

Assessments of various kennels have indicated that nuisance can result from a large kennels that is within about 200 metres of a neighbour (with line of sight) and that separation distances of at least 500 metres are required before noise effects become well mitigated.

It is a complex matter to define "large kennels". The intention is to capture those facilities that are appropriately dealt with using District Plan provisions rather than domestic situations. Dog barking noise from domestic situations (or from the keeping of working dogs) is best controlled using animal control bylaws. We consider that the keeping six or more dogs is a reasonable criterion beyond which special arrangements need to be made for the care and exercise of the animals and where the likelihood for noise nuisance increases significantly. That is not to say that the keeping of five or less dogs would not result in noise nuisance arising but that situation is more akin to a domestic scale, with a commensurate response.

Six or more dogs (excluding puppies) are more likely to result in special housing and exercise arrangements being necessary (which are appropriately controlled using District Plan mechanisms). This definition would be appropriate to boarding and breeding (and training) kennels.

It is recommended that kennels of six or more dogs (excluding puppies) be a discretionary activity with the following matters to be assessed:

- The maximum numbers of dogs in the kennels at any time (including puppies);
- The separation distances and any topographical screening between nearby dwellings and other noise sensitive activities, particularly those within 500 metres of the dog kennel site;
- The existing noise levels in the area;
- The operating hours and times when dogs will be exercised and times when dogs will be enclosed inside the kennels at night (if necessary);

- The design of the kennel buildings and the extent to which that design insulates against night-time noise of barking dogs to ensure that they do not impact on noise sensitive neighbours in a manner that would adversely affect outdoor amenity or cause indoor sleep disturbance;
- The manner in which the kennel is designed in accordance with best practice. An example of determining best practice would be a report from a dog behavioural specialist setting out the measures for controlling dog barking noise. The design shall incorporate (but not be limited to) the following matters:
 - The extent to which the design and layout of the kennels will prevent dogs in their normal runs from becoming visually and acoustically excited by activities either associated with the kennels (e.g. the use of exercise areas or the arrivals of other animals) or from outside stimuli from neighbouring land;
 - group housing for compatible dogs (where practical);
 - allow staff to intercede with barking dogs e.g. to allow staff to have access to spend time with the dogs to prevent boredom;
- That a noise management plan be prepared and accompany the application that describes in adequate detail (but is not limited to) the following matters:
 - To provide a plan that identifies noisy dogs and develop techniques to manage those dogs including locating those dogs in a less sensitive or better screened part of the kennels with respect to the neighbours or, ultimately, by removing noisy dogs from the kennels altogether if this is required;
 - Maintain communication with neighbours to allow the identification of activities that generate annoyance or particularly sensitive times to be identified and for noise to be managed accordingly.

In Acousafe’s experience the worst instances of complaints from kennels are where communications break down between parties.

District Plan Recommendations

We consider that the housing of five or less dogs in the Rural Zone is akin to a domestic scale activity which is appropriately controlled by permitted activity standards, including the setbacks for *Pens Housing Animals*.

We recommend that the housing of six dogs or more be a Discretionary Activity with the assessment criteria as set out above. This would apply to breeding, boarding or training kennels (or any combinations of the three). The rules would not apply to working dogs where the numbers do not exceed those reasonably necessary for the specific farming activities or to puppies. These rules would also apply to dog day care only facilities.

While the noise rules 3C.4.2 would be applicable, other control measures would more appropriately apply where dog barking nuisance arises. These would include the animal control bylaws or noise nuisance controls. The issue is that compliance with the District Plan noise rules does not guarantee that dog barking noise will not be a nuisance.

Conclusions

This review of the Operative District Plan considers noise specifically from kennels. There are a number of kennel operations in the District (including greyhound kennels) and Council receives a significant number of complaints about dog barking noise and about kennels. Kennels pose various levels of potential nuisance and challenges with the noise assessment and control which are discussed.

Dog kennel noise may not be appropriately controlled by reference to District Plan Rural Zone noise limits. Separate recommendations are made for the matters that need to be assessed for Dog Kennels as discretionary activities.