

Hearing Agenda

Dog Control - Objection to Abatement Notices

Thursday 17 October 2024

9am

Rakahuri Committee Room

215 High Street

Rangiora

Council:

Councillor Neville Atkinson

Councillor Brent Cairns

Councillor Jason Goldsworthy

WAIMAKARIRI DISTRICT COUNCIL

THE HEARING AND DELIBERATIONS OF THE DOG ABATEMENT NOTICE HEARING WILL BE HELD IN THE RAKAHURI ROOM, RANGIORA SERVICE CENTRE, 215 HIGH STREET, RANGIORA ON THURSDAY 17 OCTOBER 2024 COMMENCING AT 9AM

BUSINESS

Page No

1. APPOINT A HEARING PANEL CHAIRPERSON

2. APOLOGIES

3. CONFLICTS OF INTEREST

Conflicts of interest (if any) to be reported for minuting.

4. STAFF REPORT

4.1. David Brant: Objection to Abatement Notices – Erik de Boer – Animal Management Officer) Simon Clark – Team Leader Environmental Compliance and Billy Charlton – Environmental Services Manager

RECOMMENDATION

3 – 60

THAT the Dog Control Hearing Panel:

- (a) **Receives** Report No. 240926165633
- (b) **Upholds** the four abatement notices issued to Mr Brant on 6 September 2024 for four dogs from persistent and loud barking pursuant to Section 55 of the Dog Control Act 1996.
- (c) **Notes** that the abatement notices require Mr Brant to abate the noise nuisance immediately.
- (d) **Notes** that this report is submitted to the District Planning and Regulation Committee for information.

5. HEARING OF DOG OWNER'S SUBMISSIONS

WAIMAKARIRI DISTRICT COUNCIL**REPORT FOR DECISION**

FILE NO and TRIM NO: ANC-09 / 240926165633


REPORT TO: Dog Control Hearing Panel

DATE OF MEETING: 17 October 2024


AUTHOR(S): Erik de Boer – Animal Management Officer
Simon Clark – Team Leader Environmental Compliance
Billy Charlton – Environmental Services Manager

SUBJECT: David Brant: Objection to Abatement Notices

ENDORSED BY:
(for Reports to Council,
Committees or Boards)



General Manager



Chief Executive

1. SUMMARY

- 1.1. The purpose of this report is to inform the Hearing Panel of an objection by David Brant to four abatement notices served on Mr. Brant on 6 September 2024 to abate four dogs from persistent and loud barking pursuant to Section 55 of the Dog Control Act 1996.
- 1.2. Section 55 of the Dog Control Act 1996 gives Territorial Authorities (TA) the jurisdiction to issue a notice to abate a substantiated nuisance following a complaint or complaints and where the TA has reasonable grounds to believe that a nuisance is being created by the persistent and loud barking or howling of any dog or dogs.
- 1.3. The Abatement notices (four individual notices, one for each registered dog) were issued to Mr Brant as the registered owner of four Border Collies to abate the nuisance of persistent and loud barking.
- 1.4. Punitive actions available to Council are: to issue an abatement notice, issuing of infringements for failure to comply with the Dog Control Act 1996 or an abatement notice, prosecution and/or removal of dogs under section 56 of the Dog Control Act 1996 when compliance is not achieved.
- 1.5. The Hearing Panel may uphold, modify or rescind the abatement notices.
- 1.6. All parties have been informed that there will be a public hearing on 17 October 2024.

Attachments:

- i. List of complaints (trim number: 241001168197)
- ii. Report from afterhours Officer (trim number: 241001168241)
- iii. Copy of four Abatement Notices (trim number: 24001168415)
- iv. List of all reports by Officers (trim number: 241001168474)

2. RECOMMENDATION

THAT the Hearing Committee:

- (a) **Receives** Report No. 240926165633
- (b) **Upholds** the four abatement notices issued to Mr Brant on 6 September 2024 for four dogs from persistent and loud barking pursuant to Section 55 of the Dog Control Act 1996.
- (c) **Notes** that the abatement notices require Mr Brant to abate the noise nuisance immediately.
- (d) **Notes** that this report is submitted to the District Planning and Regulation Committee for information.

3. BACKGROUND

- 3.1. There has been a long history of dog barking complaints located at the Brant's property being 943 North Eyre Road, dating back to 9/11/2020. These complaints are regarding the Brant family dogs barking loudly and persistently for extended periods of time throughout the evening and night, and at times during day light hours causing a nuisance. The main complaint regarding nuisance is the dogs barking continuously in the evening and through the night including barking and howling at night. There have been 28 official complaints logged up until 22 September 2024 (Attachment i).
- 3.2. Council has attended the area to monitor the bark nuisance on numerous occasions (29 times to date), which has included the deployment of recording devices. These recording devices are generally used and can be relied upon in an urban setting, however, this method of approach did not provide conclusive proof that the dogs were causing a nuisance in a rural environment.
- 3.3. The complaints have come from three separate property owners within the vicinity.
- 3.4. After careful consideration and further complaints and discussions with one set of complainants, a different method of approach was deployed to establish whether there was an issue to rectify. Staff engaged Council's after-hours contractors, Waimak Patrols to monitor the address from 7pm to 7am for 7 nights between 25 August and 31 August 2024. As this was not Council's normal practice, the instruction to undertake this monitoring was a directive from the Environmental Services Manager with the support of the General Manager Planning, Regulation, and Environment.
- 3.5. The Officer recorded their monitoring findings over the 7 nights on paper and with an audio device. The results of the written recordings can be seen in Attachment ii. This set of monitoring data confirmed that there was an issue of persistent and loud barking, which was deemed to constitute a nuisance.
- 3.6. Based on the evidence from the overnight monitoring, a decision was made to issue four abatement notices to abate the noise nuisance created by the dogs (Attachment iii). These notices were delivered to the dog owners (the Brants) by Environmental Services Unit (ESU) Team Leader Simon Clark and Animal Management Officer (AMO) Erik de Boer on Friday 6 September 2024.
- 3.7. The Abatement Notices were handed to Mr and Mrs. Brant in a meeting at their home. Mr. Brant had to be present to receive the abatement notices as the official registered owner of the four dogs. Through discussions at this meeting, between the Officers serving the abatement notices and the Brants, it was established that the most appropriate option to mitigate the nuisance was to keep the dogs within the confines of their home at night or use bark collars that worked.
- 3.8. It was agreed by Mr and Mrs Brant to keep the dogs in the confines of their house at night and to use bark collars when leaving their dogs on the property when they were not on site.

- 3.9. On 21 September 2024 further complaints were received by the Environmental Services Manager and Council's afterhours services. The two individual complaints received stated the Brant dogs were barking loud and persistently. As a result of these complaints a Waimak Patrol Officer was dispatched to the area where he confirmed a bark nuisance.

4. **ISSUES AND OPTIONS**

- 4.1. In considering the objection, the Hearing Panel may either:

- a) uphold,
- b) rescind, or
- c) make changes to the abatement instructions.

Option a) is the recommended option - to uphold all four abatement notices as the issue of persistent and loud barking has been substantiated by the investigation process and deemed a nuisance within the immediate neighbourhood.

- 4.2. The Dog Control Act 1996 indicates that the following must be considered:

55. Barking dogs

(1) Where a dog control officer or dog ranger has received a complaint and has reasonable grounds for believing that a nuisance is being created by the persistent and loud barking or howling of any dog, the dog control officer or dog ranger may—

(a) enter at any reasonable time upon the land or premises, other than a dwellinghouse, on which the dog is kept, to inspect the conditions under which the dog is kept; and

(b) whether or not the dog control officer or dog ranger makes such entry, give the owner of the dog a written notice requiring that person to make such reasonable provision on the property to abate the nuisance as shall be specified in the notice or, if considered necessary, to remove the dog from the land or premises.

(2) Any person on whom notice is served under subsection (1) may, within 7 days of the receipt of the notice, object in writing to the territorial authority against the requirements of that notice.

(3) The territorial authority shall consider the objection and may confirm, modify, or cancel the notice.

(4) No objection under this section shall be considered unless 7 days' notice of the date and time when and the place at which it is to be considered have been given to the objector, who shall be entitled to be represented and to be heard and may submit evidence and call witnesses in support of his or her objection.

(5) Upon the determination of the objection, the territorial authority shall give to the objector a further notice stating the decision of the authority, and, if the effect of the decision is to modify the requirements of the dog control officer or dog ranger, shall set out those requirements as so modified.

(6) As from the lodging of an objection with the territorial authority and pending the receipt of a further notice upon the determination of the objection, the notice setting out the requirements that are the subject of the objection shall be deemed to be suspended.

(7) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,500 who, having been served with a notice under this section, —

(a) fails or neglects to comply with that notice (not being a notice that has been suspended under subsection (6)) within 7 days of its receipt by that person:

(b) fails or neglects to comply with any notice as modified or confirmed by a territorial authority under subsection (3) within the time specified by the territorial authority.

Implications for Community Wellbeing

There are implications on community wellbeing by the issues and options that are the subject matter of this report. Continuous barking from neighbouring dogs disturbs the peace and wellbeing of those effected. There is a duty for all dog owners to prevent their dogs from causing any type of nuisance within their communities.

Council has a responsibility to impose on the owners of the dogs' obligations designed to ensure that the dogs do not cause a nuisance to any person or cause distress to any person.

- 4.3. The Management Team has reviewed this report and support the recommendations.

5. COMMUNITY VIEWS

5.1. Mana whenua

Te Ngāi Tūāhuriri hapū are not likely to be affected by, or have an interest in the subject matter of this report.

5.2. Groups and Organisations

There are no groups and organisations likely to be affected by, or to have an interest in the subject matter of this report.

5.3. Wider Community

The wider community is not likely to be affected by, or to have an interest in the subject matter of this report.

6. OTHER IMPLICATIONS AND RISK MANAGEMENT

6.1. Financial Implications

There are financial implications of the decisions sought by this report. The continued responses, monitoring and afterhours callouts have a direct cost to Council. The cost of the Hearing process is an unforeseen budget cost which will be absorbed by the Animal Management budgets, which is primarily funded through dog registration fees.

6.2. Sustainability and Climate Change Impacts

The recommendations in this report do not have sustainability and/or climate change impacts.

6.3 Risk Management

There are no risks arising from the adoption/implementation of the recommendations in this report.

6.4 Health and Safety

There are no health and safety risks arising from the adoption/implementation of the recommendations in this report for staff. However, sleep deprivation is a health and safety risks arising from continued disturbance of sleep.

7. **CONTEXT**

7.1. **Consistency with Policy**

This matter is not a matter of significance in terms of the Council's Significance and Engagement Policy.

7.2. **Authorising Legislation**

The Dog Control Act 1996 – in particular, section 55 outlines the procedure for the abatement process for barking dogs.

7.3. **Consistency with Community Outcomes**

The Council's community outcomes are relevant to the actions arising from recommendations in this report. In context of this report, community outcomes are in place to promote social and environmental well-being. Persistent and loud barking dogs detracts from the rationale for these community outcomes

7.4. **Authorising Delegations**

The Hearing Panel, which will be convened has the following members of Council: Cr. Jason Goldsworthy, Cr. Brent Cairns and Cr. Neville Atkinson, has the delegation S-DM1028:

Authority to (5.2) Hear objections to abatement notices in terms of the Dog Control Act 1996 Sections 55 (3)

Dog Control Act 1996:

Section 4 (a) (iii) and Section 5 (e) of the of the Dog Control Act 1996

Section 4 - Objects

The objects of this Act are—

- (a) to make better provision for the care and control of dogs—
 - (i) by requiring the registration of dogs; and
 - (ii) by making special provision in relation to dangerous dogs and menacing dogs; and
 - (iii) imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person; and
 - (iv) by imposing on owners of dogs obligations designed to ensure that dogs do not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife; and
- (b) to make provision in relation to damage caused by dogs

Section 5 - Obligations of dog owners

- (e) to take all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means: