

WAIMAKARIRI DISTRICT COUNCIL

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

PRESENT

Councillor J Goldsworthy (Chair), Deputy Mayor N Atkinson and Councillor B Cairns.

IN ATTENDANCE

B Charlton (Environmental Service Manager), S Clark (Team Leader Environmental Compliance), M Heap (Animal Management Officer) and K Rabe (Governance Advisor).

There were three members of the public present.

K Rabe opened the meeting and called for nominations for a Chairperson for the Hearing Panel.

1. APPOINTMENT OF A HEARING PANEL CHAIRPERSON

Moved: Deputy Mayor Atkinson

Seconded: Councillor Cairns

THAT Councillor Goldsworthy be appointed as Chairperson of the Dog Control – Objection to Abatement Notices Hearing Panel

CARRIED

At this time, Councillor Goldsworthy assumed the Chair for the duration of the hearing and deliberations.

2. APOLOGIES

Moved: Councillor Goldsworthy

Seconded: Councillor Cairns

Apologies were received and accepted from D Brand, registered owner of the dogs and E de Boer, Animal Control Officer.

CARRIED

3. CONFLICTS OF INTEREST

There were no conflicts recorded.

4. DAVID BRANT: OBJECTION TO ABATEMENT NOTICES – E de Boer – Animal Management Officer) S Clark – Team Leader Environmental Compliance and B Charlton – Environmental Services Manager

B Charlton spoke to the report which informed the Panel of an objection by D Brant to four abatement notices served on Mr Brant on 6 September 2024 to abate four Border Collies from persistent and loud barking pursuant to section 55 of the Dog Control Act 1996.

There was a long history of dog barking and howling complaints by neighbours of the property owned by Mr Brant at 943 North Eyre Road dating back from November 2020 to

September 2024. Through discussions at a 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 and use bark collars that worked during the day. Staff were asking the Hearing Panel to uphold the Abatement Notices without change.

Councillor Cairns queried whether the Brant's were informed that their property was being monitored and B Charlton replied that there was no duty of disclosure for monitoring as if people were made aware of monitoring, they could take steps to mitigate the issues thereby skewering the monitoring of the nuisance factor. Councillor Cairns questioned if B Charlton believed there were reasonable grounds for the abatement notices to be issued and B Charlton replied that he believed so. In response to the query why four abatement notices had been issued, B Charlton replied that there were four dogs registered to the property and if only one abatement notice was issued it would only cover issues if all four dogs were barking however if each dog was issued an abatement notice it would cover each dog meaning that enforcement could be carried out when one or more of the dogs were barking.

Deputy Mayor Atkinson asked if the monitoring was always carried out at the boundary of properties. B Charlton replied that the monitoring could be carried out anywhere that was deemed suitable, and staff had the discretion on where the most useful location would be. In response to a query regarding noise readings at the boundary in the District Plan by Deputy Mayor Atkinson, B Charlton stated that there was no provision in the District Plan for dog control.

5. HEARING OF DOG OWNER'S SUBMISSIONS

Ms J Brant spoke on behalf of her husband D Brant who was not in attendance due to ill health. She spoke to her tabled submission (Trim Ref: 241017180473), which covered inconsistencies in the way the dogs were monitored, rural living and rural environment, responses made to mitigate complaints and the neighbour's wandering dog. Ms Brant noted that the last four years had been stressful and affected their mental wellbeing to the point where her husband, D Brant had suffered a heart attack in 2023.

Ms Brant noted that, in her opinion the monitoring of the dogs was flawed given the placement of the recorders and later with the physical monitoring on their property's boundary which unsettled the dogs, especially their youngest dog who was under a year old. When discussing the complaints from the Wards, Ms Brant believed that the Brant family provoked her dogs to bark at times by using a spotlight at night, riding motorcycles along the boundary, revving engines loudly and she believed by using whistles.

Ms Brant also stated that if you lived rurally then you should expect to hear rural sounds as animals behaving naturally in a rural setting. She stated that the Ward's had complained on the noise made by llamas, cows and cats as well as barking dogs.

The Brand's took several steps to mitigate the complaints. They erected a one hectare area for the dogs 30 metres from the Ward's boundary in October 2023, however they noted that a spotlight was used at night to disturb the dogs after they had been put to bed in their kennels. Ms Brand stated that she had felt intimidated by the Ward's especially when putting the dogs in their kennels at night and related an incident when the Ward's son had driven his motorcycle straight at her when she was out walking making her jump out of the way. She also noted that complaints were made about their dogs barking when in fact it was other neighbourhood dogs barking.

Ms Brant also stated that the Ward's beagle often wandered all over the neighbourhood and had been found within the Brant's property on several occasions. She also stated that the Ward's used a silent whistle to call the beagle when they could not find it which often set her dogs to barking. They had also noted the Ward's on the Brant property and when

questioned had been told they were looking for their dog. Ms Brant stated that she had not complained about the beagle as she felt it would escalate an already tense situation.

Ms Brant noted that her dogs were well loved and looked after and after the abatement notice had been issued the dogs had been housed inside at night and bark collars used when they were out during the day. Since they had received complaints, they had started monitoring the dogs via cameras and she did not agree that the dogs barked or howled for long periods of time given their own recordings. She believed that her dogs were provoked to bark on occasion. She noted it was up to the Council to prove the dogs were a nuisance and had breached the Act, which she believed it had not done as there was no video or audio evidence and the monitoring had not been taken with any accuracy given the written notes included words such as about and approximately when recording times and length of barking of the dogs.

Ms Brant tabled significant material in support of her submission (Trim Ref: 241017180475) which included photos, letters of support, times and dates of her own monitoring. Ms Brant was notified that this was a public hearing and therefore all tabled information would be publicly available. Ms Brant noted that some of the people who had written in support may not want their details known. The Panel decided to adjourn the meeting to obtain advice regarding this matter.

The meeting adjourned at 9.52am and reconvened at 10.02am.

K Rabe described the process regarding confidential documentation. Any confidential information was to be redacted prior to being given to the Panel to protect the resident's identity.

The Chairperson also clarified the terms being used to ensure everyone understood the process. The Brants were objecting to the abatement notices rather than appealing the notices.

Deputy Mayor Atkinson noted that Ms Brant had stated that the lights of the security team vehicle had disturbed the dogs and surely the lights of the vehicle had been turned off once the vehicle had stopped. However there had been 24 instances that night that were noted when the dogs were barking. Ms Brant agreed that the lights had been turned off however the dogs must have picked up the movement or sounds made by the security guard during the night which unsettled them especially the younger dog.

Councillor Cairns queried if the dogs barking had been reduced since the use of the bark collars. Ms Brant agreed that there had been a reduction however she believed that when they did bark it was due to being provoked.

The Chair thanked everyone for their attendance and adjourned the meeting to enable the Panel to deliberate the matter further.

The meeting was adjourned at 10.16am and the Panel members moved to the Councillor's Lounge to debate the matter and come to a decision.

6. DELIBERATIONS

The Panel first considered the matter of whether fundamentally they believed that there was a nuisance factor, and there was agreement that was the case. All evidence, including Ms Brant's, indicated there was an issue with the dogs barking.

There was a brief discussion regarding B Charlton's response regarding the District Plan as the District Plan made provision for noise control and therefore what was the definition

of barking if not noise. This led to a discussion on control and if barking fell under the definition for control or if control only referred to physical control.

The Panel then looked at the spreadsheet of the complaints over the four years noting there was no pattern to the complaints and the complaints were at different times and dates from different parties. This seemed to indicate there was no complicity between neighbours when laying complaints and was supported by the monitoring evidence.

The Panel then considered whether they believed that the abatement notice had been complied with and believed that the Brant's had gone above and beyond the abatement notice in trying to mitigate any nuisance barking, by removing the dogs from the boundary section of the property and by installing cameras and monitoring the dogs behaviour, by purchasing bark collars and by housing the dogs in the home at night, all of which were costly interventions.

The Panel therefore believed that there was no need for any further restrictions being placed and decided to uphold the current abatement notices.

To clarify the Panel's decision, they requested that the whole of Section 5, of the Dog Control Act 1996 be included in the decision with special emphasis on clauses (e) and (i).

7. DECISION

The Panel first noted that the Brant's were conscientious dog owners who registered, and micro chipped their dogs and did not allow the dogs to wander outside their property. The Brant's had also gone above and beyond in building a fence to keep their dogs from the boundary of the property in an effort to mitigate the complaints received by neighbours.

On 6 September 2024 abatement notices were issued to Mr Brant for four dogs due to persistent and loud barking pursuant to Section 55 of the Dog Control Act 1996. Abatement notices were issued to four border collies, Porshe (274080), Lola (261863), Rocky (266201) and Kiara (268683).

The Hearing Panel decided that there were reasonable grounds to uphold the abatement notices issued to the owners of the dogs concerned as there was no evidence to suggest that the dogs were not considered a nuisance to the neighbours. They also agreed that no further restrictions be placed on the notices and therefore the current notices were unchanged.

5. Obligations of dog owners

- (1) The obligations imposed on dog owners by this Act require every owner of a dog—
 - (a) to ensure that the dog is registered in accordance with this Act, and that all relevant territorial authorities are promptly notified of any change of address or ownership of the dog;
 - (b) to ensure that the dog is kept under control at all times;
 - (c) to ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter;
 - (d) to ensure that the dog receives adequate exercise;
 - (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;
 - (f) to take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person;
 - (g) to take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife;

- (h) to take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person:
 - (i) to comply with the requirements of this Act and of all regulations and bylaws made under this Act.
- (2) Nothing in this Act limits the obligations of any owner of a dog to comply with the requirements of any other Act or of any secondary legislation regulating the control, keeping, and treatment of dogs. *Section 5(2): amended, on 28 October 2021, by [section 3](#) of the Secondary Legislation Act 2021 (2021 No 7).*

Therefore, Section 55 of the Dog Control Act 1996, 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.

There being no further business the Hearing closed 11.05am

CONFIRMED



J Goldsworthy
Chairperson

29 October 2024
Date