

# **A G E N D A**

## **HEARINGS AND JUDICIAL COMMITTEE**

**Monday, 25 February 2019, 9.00am**

Council Chambers  
Council Office  
William Street  
Paeroa



## Membership

### Committee Members:

Cr P A Milner (Chairperson)  
Cr G R Leonard  
Cr A Spicer

### Staff

P Thom  
R Bierre  
W Harris  
M Muller  
M Sexton  
M Evans  
K Walton  
Council Secretary

### Public copies:

Paeroa Office  
Plains Area Office  
Waihi Area Office

### Chief Executive

L D Cavers

## Delegations: Hearings and Judicial Committee

<b>Membership</b>	Three Councillors with at least one member from each Ward
<b>Meeting frequency</b>	The second to last and fourth to last Monday of each month (if required) commencing at 9.00am
<b>Delegations</b>	<p>All delegations to this Committee are to be exercised within the framework of the Council's adopted regulatory policies, plans, strategies, policy guidelines and by-laws.</p> <p>The Council delegates to the Hearings and Judicial Committee the following powers, duties and responsibilities:</p> <ul style="list-style-type: none"><li>■ Implementation of the Resource Management Act, the Operative District Plan and other regulatory Acts and Regulations in terms of judicial and regulatory responsibilities.</li><li>■ Monitor and implement Council's regulatory service delivery functions.</li><li>■ All powers, duties and discretions under the Resource Management Act 1991 to allow the above matters to be undertaken other than:<ul style="list-style-type: none"><li>□ The consideration or hearing of any application where the Council is the applicant</li><li>□ The making of a recommendation on a requirement for a Designation or a Heritage Order where the Council is the Requiring Authority</li><li>□ Exercising the power of delegation.</li></ul></li><li>■ All Council's powers, duties and discretions in respect to the Dog Control Act 1996 in terms of judicial and regulatory responsibilities and the monitoring of the implementation of Council's regulatory service delivery functions under that Act.</li><li>■ In terms of judicial and regulatory service delivery responsibilities, and monitoring and implementation of these listed regulatory functions all:<ul style="list-style-type: none"><li>□ Powers, duties and discretions vested in the Council by the Crown Minerals Act 1991.</li><li>□ Powers, functions and discretions under Building (Pools) Amendment Act 2016.</li><li>□ Powers, duties and discretions pursuant to Section 78 232 of the Building Act 2004 with the exception of the power to set fees and charges.</li></ul></li><li>■ Determining any Appeals to a Determination made by the Chief Executive under the Council's Consolidated Part 3 (Public Safety) Clause 4 – Liquor.</li><li>■ Pursuant to Section 34 of the Resource Management Act 1991 and clause 32 of Schedule 7 of the Local Government Act 2002 the Council directs that:<ul style="list-style-type: none"><li>□ Commissioners appointed to Joint Hearings shall be the Chairman of the Hearings and Judicial Committee together with not less than one or more than two others. One of who shall, if possible, be a member representing the Ward in which the site subject to the application is located.</li></ul></li></ul>

□ Commissioners appointed to deal with all other matters shall be the Chairman of the Hearings and Judicial Committee together with not less than one other, who shall, if possible, be a member representing the Ward in which the site subject to the application is located.

■ Commissioners, except the Chairperson of the Hearings and Judicial Committee, shall attend to applications as far as practicable on a rotational basis.



NOTICE IS HEREBY GIVEN THAT A MEETING OF THE HEARINGS AND JUDICIAL COMMITTEE WILL BE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON MONDAY, 25 FEBRUARY 2019 COMMENCING AT 9.00AM

L.D. Cavers  
Chief Executive

### **Schedule of Hearings**

<b>9.05am</b>	<u>Public Excluded</u> Appeal of Section 31 of Dog Control Act (1996) Notice of Classification of Dangerous Dog
<b>9.45am</b>	<u>Public Excluded</u> Decision to disqualify dog owner under Section 25 Dog Control Act (1996)
<b>10.15am</b>	<u>Public Excluded</u> Appeal of Section 71 Retention of dog threatening public safety and decision to prosecute under Section 57 Dog Control Act (1996) Dog Attack

### **Order of Business**

**Page**

1. APOLOGIES

2. DECLARATION OF LATE ITEMS

Pursuant to Section 46A(5) of the Local Government Official Information and Meetings Act 1987, the Chairman is to call for late items to be accepted. In the event of a late item, an explanation must be given as to why the item was not on the agenda and why discussion cannot be delayed for a subsequent meeting.

3. DECLARATIONS OF CONFLICTS OF INTEREST

4. CONFIRMATION: HEARINGS AND JUDICIAL COMMITTEE MINUTES (17-09-18) (2444494)

**8**

The public be excluded from the following parts of the proceedings of this meeting.

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

<b>Item No.</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) Under Section 48(1) for the Passing of this Resolution</b>
<b>1</b>	Appeal of Section 31 of Dog Control Act (1996) Notice of Classification of Dangerous Dog (2536690, 2541383)	<b>Section 7(2)(a)</b> – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<b>2</b>	Decision to disqualify dog owner under Section 25 Dog Control Act (1996) (2522301)	<b>Section 7(2)(a)</b> – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<b>3</b>	Appeal of Section 71 Retention of dog threatening public safety and decision to prosecute under Section 57 Dog Control Act (1996) (2536676)	<b>Section 7(2)(a)</b> – Protect the privacy of natural persons, including that of deceased natural persons.	Section 48(1)(a) That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

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## **PROCEDURE FOR HEARINGS**

### **1. Chairman**

The Chairman will declare the hearing open and will advise on the procedure to be followed.

### **2. Council Secretary**

The Council Secretary will read the applications (*in the case of matters to be heard under the Resource Management Act*) and determine:

- If the applicant is in attendance, or represented;
- If there are any witnesses in support.
- If there are any submitters in attendance;
- If there are any witnesses in support.

### **3. Applicant/Appellant**

The applicant/appellant will present the application/appeal and call any witnesses in support, and answer any questions from the Councillors.

### **5. Submissions to be heard (*in the case of matters to be heard under the Resource Management Act*)**

The submitters may present their submissions, calling any witnesses in support and answering any questions from the Councillors.

### **5. Planning Officer/Animal Control Staff**

The Planning Officer/Animal Control staff will present a report and answer any questions from the Councillors.

### **6. Right of Reply**

The applicant/appellant has the right of reply.

### **7. Close of Hearing**

The Chairman will close the hearing and advise that Council's decision is reserved until it has considered the evidence presented and all relevant matters.

**HAURAKI DISTRICT COUNCIL**  
**HEARINGS AND JUDICIAL COMMITTEE**

MINUTES OF A MEETING OF THE HEARINGS AND JUDICIAL COMMITTEE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON MONDAY, 17 SEPTEMBER 2018 COMMENCING AT 9.00AM

**PRESENT** Cr P A Milner (Chairperson) and Cr G Leonard

**IN ATTENDANCE** Messrs P Thom (Group Manager Planning and Environmental Services) M Sexton (Animal Control Officer) Ms M Evans (Animal Control Officer) and Ms M Matich (Acting Council Secretary)

**APOLOGIES**

**RESOLVED**

THAT the apology of Cr A Spicer be received and sustained.

HJC18/14

Milner/Leonard

**CARRIED**

**LATE ITEMS**

There were no late items.

**CONFIRMATION OF MINUTES**

**RESOLVED**

THAT the minutes of Hearings and Judicial Committee meeting held on Monday, 9 July 2018 be confirmed and are a true and correct record.

HJC18/15

Milner/Leonard

**CARRIED**

**DECLARATION: CONFLICT OF INTEREST**

There were no conflicts of interest.

**The Chairperson opened the meeting at 9.10am**

APPLICATION TO HAVE THREE DOGS RESIDING ON AN URBAN PROPERTY AT 18 CONSOLS STREET WAIHI

Animal Control Officers Report - #2398629

Appendix A: # 2441869 – Dispensation Application

Appendix B: # 2441869 – Adjoining Neighbour (10 Silvertown Road, Waihi) (Non consent)

Appendix C: #2441869 – Adjoining Neighbour (20 Consols Street, Waihi) (Non consent)

In attendance:

Mrs Margaret Andreassen (Applicant)

Mr John Wright (Objector)

Applicant

Mrs Andreassen explained that the third dog in question actually belonged to her son, but her son had experienced a back surgery, and as they already had another dog, they were unable



to take care of the dog Bronx. Mrs Andreassen advised that because they had Bronx in their care since he was a puppy he felt like a member of the family and that is why they wanted to take Bronx on. Mrs Andreassen said she hadn't realised she could not have three dogs. Mrs Andreassen did not believe that there is an excessive barking problem. She said the dogs bark at times, but that all dogs do that. She advised that the neighbour at 20 Consols Street works so is not at home that much and also stated there were other neighbouring dogs who barked.

Mrs Andreassen presented three supporting letters, two from neighbours and one from her daughter.

Committee's questions:

Cr Leonard asked Mrs Andreassen what breed her dogs were and how old.

Mrs Andreassen stated her dogs were two Cocker Spaniels around 10 years old, and her son's dog is a Labrador cross around 11 years old and can't run much.

Cr Leonard asked Mrs Andreassen, if they would be returned Bronx to her son when he is better.

Mrs Andreassen advised, no as they (her son) have one dog already, and four children and having two dogs is too much for them, and that Bronx is like family so Mrs Andreassen wanted to look after Bronx as they don't think he will have to many years left.

Cr Leonard asked Mrs Andreassen if she had had any previous issues or complaints in relation to her dogs.

Mrs Andreassen answered, no.

Cr Leonard and Cr Milner read the supporting letters that Mrs Andreassen had brought in.

Cr Milner asked Mrs Andreassen about any other dogs in the neighbourhood. Mrs Andreassen replied that there is a woman nearby that has a Fox Terrier and when she is out it barks a lot.

Mrs Andreassen was then shown out of the Chambers, and the objector to the application was shown in.

Objector

Mr Wright, introduced himself and stated that his house is close to Mrs Andreassen's where they have the dogs out is only 1.7m from their bedroom. The objector stated there was not the space on Mrs Andreassen's property for three dogs to exercise and when the third dog is there, it barks a lot. The objector stated the neighbours across the road are 31 metres away, and not as close as they are as adjoining neighbours.

Cr Milner asked the objector of his address.

The objector answered that he lives at 10 Silverton Road, and have been there 21 years.

Cr Milner asked the objector if there are other dogs that bark in the area.

The objector advised there is a dog three doors down, but it does not bark, and has not heard any other dogs barking.

Cr Leonard asked if the objector could identify which dog was the barking dog.

The objector replied, "It's the black lab".

Cr Leonard asked the objector if one of the reasons he would not sign the consent form was that Mrs Andreassen might acquire more dogs.

The objector stated he did, and that she (Mrs Andreassen) has birds, and fish and he could see it (getting more dogs) may happen.

Cr Leonard asked the objector if he had put in any official complaint to Council in relation to the dogs barking.

The objector replied he had not, as they do not have any problem with their neighbours and did not wish to complain, but merely felt it was his right to object to the application. The objector stated, she (Mrs Andreassen) does not have a big enough area for three dogs, and he never saw the dogs exercised.

Cr Milner asked how the objector would feel if consent was granted for dispensation. The objector replied that he would go with whatever decision the Council made.

Cr Milner explained when they deliberate, they may approve, or not approve the application, or they may make conditions or may just be for this specific dog.

The objector understood, and commented again that he would go with the Council's decision.

Cr Milner asked the objector if there was anything else he would like to add. The objector did not.

The objector then left, and Mrs Andreassen was brought back into the chambers.

#### Animal Control Officer Report

Animal Control Officer, Murray Sexton explained Council Bylaws only allow two dogs per residential properties, and to have consent for more involves the dog owner making dispensation application, paying an application fee and gaining adjoining neighbour consent.

Mr Sexton outlined Mrs Andreassen's history as a dog owner, in that she is an ROL (Responsible Dog Owner Licence) holder, and has a complaint and infringement free record, and has paid registration on time. There are no official complaints recorded against Mrs Andreassen's dogs. Mr Sexton stated Mrs Andreassen meets all criteria other than the consent of the two adjoining neighbours.

Cr Leonard commented that if there were such concern you would think there would be record of complaints.

Cr Milner asked Mr Sexton how long this rule (only two dogs per residential property), had been in force. Mr Sexton replied that it had been around as long as he had been at Council, and is reviewed, and is incorporated into Council's consolidated bylaws.

Cr Milner then asked how many dog owners have dispensation. Mr Sexton replied, perhaps around 300.

Cr Milner asked if consent was granted, and then substantiated complaints were received, would the consent be revoked. Mr Sexton replied that it could be, and also the dog owners ROL status could be revoked.

Cr Milner asked Mrs Andreassen if there was anything further she would like to say. Mrs Andreassen commented that her husband is home 99% of the time, and he will tell the dogs off if they bark, and most of the time the dogs are inside. She did not believe there is an excessive barking problem, and made comment that the other objector is at work all day, and other neighbours, the 'caravaners' are away quite a bit. Mrs Andreassen also commented on the age of the dogs and once these dogs pass away, they did not want to acquire any further dogs.

Cr Milner thanked Mrs Andreassen and advised her that she would be informed of the decision in due course.

**The Chairperson closed the meeting at 9.50am and advised that Council's decision was reserved until it had considered the evidence presented and all other relevant matters.**

Deliberations commenced at 9.50am and concluded at 10.00am.

The Committee discussed that Mrs Andreassen is an ROL owner who has no complaints recorded against her dogs, and that she has a good history of dog ownership. The dogs are getting older and are at an age where they may not have many years left, so natural attrition would take place. If Mrs Andreassen was granted consent, and complaints were received (and were substantiated) then the dispensation consent could be revoked, as could Mrs Andreassen's ROL status. Due to these reasons, it was decided to grant consent.

DECISION

APPLICATION FROM MRS M. ANDREASSEN FOR DOG NUMBER DISPENSATION TO HAVE THREE DOGS ON URBAN PROPERTY AT 18 CONSOLS STREET, WAIHI

**RESOLVED**

THAT dispensation for three dogs to reside at 18 Consols Street, Waihi be granted to Mrs Andreassen.

HJC18/16

Milner/Leonard

**CARRIED**

The meeting closed at 10.00am.

CONFIRMED

P A Milner  
Chairperson

25 February 2019

Pages 12-68 have been removed