



NOTICE OF MEETING

**Notice is hereby given that a meeting of the
Hearings Panel will be held in the Drawing Room,
Civic Theatre Invercargill on Wednesday 16 August
2023 at 10.30am**

Cr D J Ludlow (Invercargill City Council)
Cr L F Soper (Invercargill City Council)
CR T Boyle (Invercargill City Council)

MICHAEL DAY
CHIEF EXECUTIVE

Hearing Panel - Rooster Complaint

Drawing Room at the Civic Theatre

16 August 2023 10:30 AM

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BEFORE THE HEARINGS COMMITTEE

IN THE MATTER of the Invercargill City Council Bylaw 2022 – Keeping of
Animals, Poultry and Bees.

BETWEEN **Alisa Maree Cole**
Appellant

AND **INVERCARGILL CITY COUNCIL**
Respondent

IN RESPECT OF AN APPEAL TO A NOTICE TO REMOVE THE ROOSTER

APPELLANT	Alisa Maree Cole, the owner of the rooster
SITE OF INCIDENT	The area is proximate to 249 Bowmont Street. <i>Appendix 1</i> is an aerial photograph of the site where the incident occurred.
DATE OF INCIDENT	Since 19 January 2023
RESPONSIBLE OFFICER	Victoria Naboka, Environmental Compliance Officer is a warranted officer pursuant to Section 177 of the Local Government Act 2002, and an Authorised Officer pursuant to Section 174 of the Local Government Act 2002, which warrant is under the seal of the Invercargill City Council dated 11 March 2022 (Warrant No. 22022/82).
REPORTING OFFICER	Raewyn Thompson, Team Leader – Compliance is a warranted officer pursuant to Section 11 of the Dog Control Act 1996 (Warrant No. 2021/69).
PROCESS	<p>On 19 January 2023, the complainant contacted Council regarding the noise from the rooster.</p> <p>On 20 January 2023, the Environmental Compliance Officer contacted neighbours to see if they had any issues with the rooster and to confirm its location.</p> <p>On 20 January 2023, the Environmental Compliance Officer contacted the appellant for the first time through email.</p> <p>On 7 February 2023, council wrote to the appellant advising a complaint had been received, and the possible outcomes under the Invercargill City Council Bylaw 2022 - Keeping of Animals, Poultry and Bees.</p> <p>On 8 February 2023, during a site visit with Animal Control staff, the rooster could be heard.</p> <p>On 23 February 2023, the complainant completed an official complainant form detailing the nuisance.</p> <p>On 6 March 2023, ICC noise control contractor completed an early morning noise assessment.</p> <p>On 1 May 2023, the Interim Group Manager Consents & Compliance, acting under authority delegated by the Council, decided that the following actions were to be undertaken:</p> <ul style="list-style-type: none">• Order the removal the rooster from 249 Bowmont Street, Invercargill because of nuisance caused to a neighbouring property.

On 21 June 2023, council confirmed with the appellant and the complainant an agreement to reduce the nuisance to an acceptable level.

On 7 July 2023, the complainant contacted council confirming the nuisance was now back at previous levels.

On 18 July 2023, council confirmed that the removal order shall be enforced as the nuisance has returned to the previous levels.

OBJECTION

On 3 May 2023, the appellant requested a Hearing to appeal the Interim Group Manager Consents & Compliance's decision to order the removal the rooster from 249 Bowmont Street, Invercargill.

On 18 July 2023, the appellant reconfirmed the request for a hearing.

To enable the Hearings Panel to consider the objection under section 16 of the Bylaw, the appellant must inform the Hearings Panel of the specifics of what is being appealed, specifics of any defence or mitigation to support the appeal and what redress is being sort.

1. THE NUISANCE

Most mornings around 5.30am to 6.00am including weekends, the rooster from 249 Bowmont Street, Invercargill wakes up the neighbour. The rooster at 249 Bowmont Street causes the nuisance.

2. BREACHES OF THE INVERCARGILL CITY COUNCIL BYLAW 2022 – KEEPING OF ANIMALS, POULTRY AND BEES

It is my conclusion that the following offenses have occurred:

- The Council has received a complaint about the rooster as required by section 11.1(a) of the Bylaw
- The rooster was confirmed to cause a nuisance, as required by section 11.1(b) of the Bylaw.

3. THE INVESTIGATION

3.1 Evidence

3.1.1 The complainant's statement

The complainant states: "Rooster constantly crowing. I have detailed one day but this is pretty much representative of all days. There are 2 roosters across different properties that tend to have "battles" in the mornings. From talking to another neighbor it appears the owners of the rooster are related."

There is confirmation from the complainant in *Appendix 1.8* that the second rooster is not an issue due to the distance from the complainant's property.

The complainant has kept up regular contact with the Environmental Compliance Officer since the complaint was lodged with council.

3.1.2 The appellant's statement

The appellant states: "I've got a rooster as do 2-3 others in the neighborhood. We got our rooster approx 18 months ago following a serious cat issue. We had cats, in particular a cat from 94 Nelson street who were taking chickens and chicks. We did approach the owner regarding this who told us the cat was 'naughty' like that an they no longer let it inside their house. The rooster protects the chickens and we have had no ongoing problems since introducing him. With the rising cost of living, egg shortage and benefits the chicken provide to our garden and reducing waste I'm sure you understand the value they have to us. As the majority of the the neighborhood does not have a problem with this I would not expect it to go any further." (*Appendix.1*)

3.1.3 The witness statement

The resident of [REDACTED] states: "Was going to complain myself appears that there might be 2 roosters but havent taken a look to see which property they are at, Sounds like it is 249 but could also be coming from directly behind them?"

I know in the past they had rosters and got rid of them there parents live around the corner on corner Nelson and Enwood lane and im sure I have heard roosters there as well in the past, 249 Bowmont were away the last few weeks returning beginning this one and during this time the rooster crowing got worse

[REDACTED] st 249 Bowmont st and [REDACTED] are all members of the same Family

If there is anything you would like me to do just ask,

Will try and take a walk around the Neighbourhood next time I hear the noise and pinpoint where it is coming from as I think 2 properties have them" (*Appendix 1.2*)

3.1.4 Officers' Observations

On 9 February 2023, two Animal Control Officers and the Environmental Compliance Officer completed a site visit of 249 Bowmont Street. The rooster was observed crowing throughout the 10 minutes on site.

On 25 February 2023, the Environmental Compliance Officer observed the noise from the rooster at 6.55 am; and assessed it was loud and irritating. The noise from the rooster could be heard from the corner of Nelson and Enwood Streets.

On 6 March 2023, ICC noise control contractors completed early morning monitoring. The noise assessment matrix was used to assess the noise levels, the total score was assessed as 9. A noise control complaint with an assessed score of 9 would normally result in an Excessive Noise Direction being served on the property.

4. THE OBJECTION

- 4.1** On 3 May 2023 the Council received correspondence from the appellant (*Appendix 4*) requesting a Hearing to be convened to consider overturning the decision by the Interim Group Manager Consents & Compliance to order the removal the rooster from 249 Bowmont Street, Invercargill.

5. HISTORY OF THE OFFENDING ROOSTER'S OWNER

5.1 Previous offences

There is a history of previous complaints regarding roosters in the general area; the location of the rooster(s) could not confirmed at the time of the complaints.

There are no previous substantiated complaints of a rooster at 249 Bowmont Street, Invercargill.

5.2 Owner's history

The appellant is reluctant to remove the rooster as it provides her chicken's with protection from cats.

On receipt of the notice ordering the removal of the rooster, the appellant contacted the Environmental Compliance Officer to discuss options other than the removal of the rooster and request a hearing to appeal the decision.

The Environmental Compliance Officer liaised with the appellant and the complainant and an agreement was reached whereby the appellant would cage and cover the rooster and keep it inside at night. The complainant was satisfied with this arrangement if it reduced the nuisance. Council confirmed this arrangement with the appellant on 21 June 2023.

On 7 July 2023, the complainant contacted council and stated: “while I was happy initially that there was attempts made to reduce the noise caused by the rooster I would say now things are back to previous levels.”

After receiving notification from council the nuisance had returned to the levels that resulted in the first complaint, the appellant re-requested a hearing to appeal the removal order.

6. CONSIDERATION OF THE INVERCARGILL CITY COUNCIL BYLAW 2022 – KEEPING OF ANIMALS, POULTRY AND BEES

Relevant sections of the Bylaw 2022 are appended as *Appendix 5*.

11.1 The Group Manager Customer and Environment may order the removal of a rooster where:

- (a) the Council has received a complaint about the rooster; and
- (b) the Group Manager Customer and Environment is satisfied that the keeping of the rooster on that property has resulted in a nuisance being caused on any neighbouring property

Comment

The investigation determined the rooster causes a nuisance to the neighbour at [REDACTED].

7. RECOMMENDATION

It is my recommendation that the decision by the Interim Group Manager Consents & Compliance to order the removal of the rooster from 249 Bowmont Street, Invercargill be upheld. The reasons for my recommendation are:

- 1. The rooster causes a nuisance to the neighbour at [REDACTED], Invercargill.
- 2. The Council continues to receive complaints from the original complainant on this issue.

Raewyn Thompson
TEAM LEADER – COMPLIANCE

APPENDICES

1. Investigation Report
 - Report Appendices
 1. The first email to Alisa Cole (the owner of a rooster at 249 Bowmont Street) and our further communication.
 2. Email with the second complaint) and our further communication.
 3. The official letter to the owners of the noisy rooster at 249 Bowmont Street had been issued and emailed.
 4. A photo of the rooster taken by Victoria Naboka site visit at 249 Bowmont Street with the map showing the location of the rooster at 249 Bowmont Street.
 5. A completed form with daily details received from the complainant (the occupier at 249 Bowmont Street, Invercargill).
 6. The questionnaire filled in by the Noise Control contractor (Amourguard) with the Matrix Assessment Guideline and email from their Team Leader with confirmation of the noise.
 7. Additional. The permission from the complainant for Amourguard to check the noise from the side of his property.
 8. Correspondence with the complainant regarding the location of the second rooster.
 2. Bylaw Notice ordering removal of rooster
 3. Letter to appellant confirming agreement
 4. Appeal to Removal Order
 5. Relevant Sections of the Bylaw and Health Act 1956

INVESTIGATION REPORT

17 March 2023

Report to the Group Manager/Manager/Team Leader

Rooster at 249 Bowmont Street, Invercargill (RFS 386882)

Executive Summary

This report outlines the investigation of the rooster at 249 Bowmont Street to determine if it causes a nuisance due to loud noise in the early morning and its close proximity to the residential dwelling at

The investigation found that the rooster at 249 Bowmont Street causes a nuisance crowing in the early hours of the morning as the poultry house is located in close proximity to the complainant's bedrooms.

Investigation

What is the issue/nuisance?

Every morning around 6.00 am including weekends the rooster from 249 Bowmont Street wakes up the neighbour which lives next to this property, at . The complainant feels very tired from this noise. The nuisance is caused by the rooster at 249 Bowmont Street crowing every morning from approximately 6.00 a.m.

Timeline

19 January 2023	Complaint received from – the owner of , regarding the rooster at 249 Bowmont Street.
20 January 2023	The first email was sent to owner of rooster Alisa Cole (Appendix 1).
20 January 2023	A supportive email with another complaint from arrived (Appendix 2).
7 February 2023	The official letter to the owners of the rooster at 249 Bowmont Street had been issued and emailed (Appendix 3).
9 February 2023	The site visit at 249 Bowmont Street by Victoria Naboka, Melissa Palmer and Johan Arlar. Photos of rooster taken (Appendix 4).
23 February 2023	A completed form with daily details received from the occupier of 249 Bowmont Street, Invercargill (Appendix 5).
25 February 2023	Early morning monitoring by Victoria Naboka.

6 March 2023 Early morning monitoring by noise control contractor (Appendix 6).

Views

After the initial complaint received we had a phone conversation. explained that it is irritating to have this noise every day not only the early morning hours but regularly during the day time. In the official complaint form, mentioned that there are two roosters in the neighbourhood. During the investigation we could identify the location of only the closest one.

This neighbour from from the offending property after the first email was very collaborative and even agreed to fill in the official complaint form. However, decided not to proceed further due to changes (all emails in Appendix 2)

Alisa Cole (one of two owners of the offending property and the rooster) – 249 Bowmont Street, Invercargill

After the first email, Alisa admitted the rooster's ownership but refused to do anything with it justifying their right to have poultry and necessity to protect chickens from the cats (see the correspondences through emails in Appendix 1)

Monitoring

The following monitoring has been undertaken to establish if the rooster crowing in the early mornings can be consider a nuisance.

25 February 2023

I (Victoria Naboka) completed an early morning monitoring visit at 6.55 am. I could clearly hear the rooster from 249 Bowmont Street not only next to the complainant's place at but from the corner of . There was a slight noise from the second rooster in the distance but I could not identify the location it was coming from. The second rooster could not be considered as the issue for this property due to lack of proximity.

6 March 2023

The Noise Control contractor verified the noise from the rooster at 249 Bowmont Street. The total score is 9 which is one of the highest and considered as excessive. Screenshot of the questionnaire with the matrix guideline attached below (Appendix 6).

Legislation/Bylaw

Invercargill City Council Bylaw 2022 – Keeping of Animals, Poultry and Bees

11. KEEPING OF POULTRY

- 11.1 The Group Manager Customer and Environment may order the removal of a rooster where:
- (a) the Council has received a complaint about the rooster; and
 - (b) the Group Manager Customer and Environment is satisfied that the keeping of the rooster on that property has resulted in a nuisance being caused on any neighbouring property.
- 11.3 The Group Manager Customer and Environment may impose a limit on the number of poultry which may be kept on private land, such limit being no more than twelve head of poultry, where:
- (a) the Council has received a complaint about the number of poultry kept on the private land and;
 - (b) the number of poultry is creating a nuisance or is likely to create a nuisance; and
 - (c) the person keeping the poultry fails to comply with any reasonable request of an Authorised Officer to abate or prevent the nuisance.
- 11.4 The Group Manager Customer and Environment may order the relocation or removal of poultry or a poultry house, where:
- (a) the Council has received a complaint about the location of the poultry or poultry house and;
 - (b) the Council's Group Manager Customer and Environment is satisfied that the location or number of the poultry or location of the poultry house has resulted in a nuisance being caused on any neighbouring property.
- 11.5 The Invercargill City Council recommends owners of poultry exercise good husbandry practices as this is crucial to the health and welfare of poultry and less likely to receive environmental complaints from neighbours. Council further recommends the keeping of no more than twelve head of poultry on any private property.

Action since Investigation Started

No action has been taken by the owner of the rooster to mitigate the issue.

Conclusion

The nuisance has been established.

The owner is not willing to co-operate.

One neighbour complained to the council regarding the nuisance created by the rooster.

Monitoring completed by councils noise control contractor established the noise to be excessive.

Options

Option 1: Order the removal of the rooster

Order the removal of the rooster under Section 11.1 of the bylaw as a result of the nuisance caused to the neighbouring property.

Option 2: Status Quo

If the Group Manager Customer and Environment is not satisfied that the keeping of the rooster on that property has resulted in a nuisance being caused on any neighbouring property.

Recommendation

My recommendation is option 1, order the removal of the rooster as the location of the rooster has created a nuisance for neighbouring properties.



Victoria Naboka

ENVIRONMENTAL COMPLIANCE OFFICER

I agree with the recommendation for Option one



Jonathan Shaw

Interim Group Manager Consents & Compliance

Appendices

1. The first email to Alisa Cole (the owner of a rooster at 249 Bowmont Street) and our further communication.
2. The email with the second complaint from
and our further communication.
3. The official letter to the owners of the noisy rooster at 249 Bowmont Street had been issued and emailed.
4. A photo of the rooster taken by Victoria Naboka site visit at 249 Bowmont Street with the map showing the location of the rooster at 249 Bowmont Street.
5. A completed form with daily details received from the complainant (the occupier at 249 Bowmont Street, Invercargill).
6. The questionnaire filled in by the Noise Control contractor (Amourguard) with the Matrix Assessment Guideline and email from their Team Leader with confirmation of the noise.
7. Additional. The permission from the complainant for Amourguard to check the noise from the side of his property.
8. The correspondence with the complainant regarding the location of the second rooster.

1. The first email to Alisa Cole (the owner of a rooster at 249 Bowmont Street) and our further communication.

On Fri, 20 Jan 2023, 14:10 Victoria Naboka, <Victoria.Naboka@icc.govt.nz> wrote:

Kia ora Alisa and Robert,

The City Council received a complaint about the noisy roosters from Bowmont Street. We would appreciate any relevant information you have regarding this issue.

Ngā mihi

From:

Sent: Friday, January 20, 2023 4:43 PM

To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>

Subject: Re: Noisy roosters in the neighborhood from Bowmont Street

Hi, I've got a rooster as do 2-3 others in the neighborhood. We got our rooster approx 18 months ago following a serious cat issue. We had cats, in particular a cat from 94 Nelson street who were taking chickens and chicks. We did approach the owner regarding this who told us the cat was 'naughty' like that and they no longer let it inside their house. The rooster protects the chickens and we have had no ongoing problems since introducing him. With the rising cost of living, egg shortage and benefits the chicken provide to our garden and reducing waste I'm sure you understand the value they have to us. As the majority of the neighborhood does not have a problem with this I would not expect it to go any further.

Feel free to contact me on
Alisa Cole

Good morning Alisa,

Thank you so much for your full response. There is no issue in having chickens (probably need to find some better solution for their protection) but there are already several of your neighbors complaining about the noise from the roosters. If you know the location of other roosters we will investigate those cases as well.

Best regards, Victoria

Morning, how many is several complaints? We have regular contact with at least 10 households in the neighborhood and none of them have a problem with the rooster. I'm sure you would understand that a rooster crows with daylight hours and as we have passed the longest day this will reduce now. I assume the problem is morning and evening crowing? As for other methods of protection what would you suggest?

2. The conversation with the second complaint from [REDACTED] (the Property Owner at [REDACTED]) and our further communication.

On 20/01/2023, at 11:34 AM, Victoria Naboka <Victoria.Naboka@icc.govt.nz> wrote:

Hi

The City Council received a complaint about the noisy roosters from 249 Bowmont Street. We would appreciate any relevant information you have regarding this issue.

Best regards,

Victoria

From:

Sent: Friday, January 20, 2023 12:54 PM

To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>

Subject: Re: Noisy roosters in the neighborhood potentially from 249 Bowmont Street

Hi Victoria,

Was going to complain myself appears that there might be 2 roosters but havent taken a look to see which property they are at,

Sounds like it is 249 but could also be coming from directly behind them?

I know in the past they had rosters and got rid of them there

and im sure I have heard roosters there as well in the past, 249

Bowmont were away the last few weeks returning beginning this one and during this time the rooster crowing got worse

If there is anything you would like me to do just ask,

Will try and take a walk around the Neighbourhood next time I hear the noise and pinpoint where it is coming from as I think 2 properties have them

Kind regards

On 20/01/2023 13:48 NZDT Victoria Naboka <victoria.naboka@icc.govt.nz> wrote:

Hi ,

Thank you so much for the information you provided. It is a real help. We will contact the owners now. Yes, the clarification of the rooster's location would be great as well.

Best regards

From:

Sent: Wednesday, February 1, 2023 11:44 AM

To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>

Subject: RE: Noisy roosters in the neighborhood potentially from 249 Bowmont Street

Hi There

Rooster going nuts today

Sound's like it is coming from

It has been crowing since 5am this morning and it gets answered by another one somewhere in the distance, Cannot hear any roosters across road at

Regards

Sent from my iPad

Hi

The investigation showed that there is a rooster at 249 Bowmont Street and the city council is awaiting the confirmation of the noise level from our contractor. We have a special form with the time records for this kind of noise. Potentially could be used in a court as a piece of evidence. Would you be interested to fill it in, please? It can be emailed or post-delivered to you. Thank you.

Best regards,

Victoria

From:

Sent: Wednesday, March 1, 2023 3:46 PM

To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>

Subject: Re: FW: Noisy roosters in the neighborhood potentially from 249 Bowmont Street

Thanks yes email to me a Form, did look on Councils website for a Form but could not find any, The roster at 249 Bowmont has been quiet she is locking it up in a shed when they are not home, I could count at least 5 separate rosters crowing from Properties in a 3 block radius from My Address, Will start filling out form once you send me one, I use to be the Councils Afterhours warrented Noise Complaint Contractor so Definattly know how the process works,

Regards

On Mar 14, 2023 12:56 PM, Victoria Naboka <Victoria.Naboka@icc.govt.nz> wrote:

Hi

If there is any update regarding the noisy birds? We gained some information for the group manager and it would be nice to add your records please. Thank you.

Best regards

From:
Sent: Tuesday, March 14, 2023 1:21 PM
To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>
Subject: Re: Rooster/s

I currently work when they are noisy. Only hear them for about 30 mins each morning before I leave for work so until they are not an issue. Will note times next week when I'm off.

Regards

3. The official letter to the owners of the noisy rooster at 249 Bowmont Street had been issued and emailed.



Request No: 386882

7 February 2023

Alisa Maree Cole
249 Bowmont Street
INVERCARGILL 9812

Dear Property Owner

**NOISE NUISANCE FROM CROWING ROOSTER – 249 Bowmont Street,
Invercargill**

Concerns have been raised with the City Council regarding the above issue. The noise seems to be happening at night and very early hours of the morning.

If the rooster is uncaged at night, a solution that we have found that may work is caging and covering the bird at night which seems to stop it from crowing at all hours.

According to the INVERCARGILL CITY COUNCIL BYLAW 2022 – KEEPING OF ANIMALS, POULTRY AND BEES the Group Manager Customer and Environment may order the removal of a rooster where:

- (a) the Council has received a complaint about the rooster; and
- (b) the Group Manager Customer and Environment is satisfied that the keeping of the rooster on that property has resulted in a nuisance being caused on any neighbouring property.

If you have any questions regarding this issue please call on 021 499 491 during office hours or contact me via email victoria.naboka@icc.govt.nz

Yours sincerely

A handwritten signature in black ink, appearing to be 'Victoria Naboka'.

Victoria Naboka
ENVIRONMENTAL COMPLIANCE OFFICER





5. A completed form with daily details received from the complainant [REDACTED]



Request No: 386882

ROOSTER COMPLAINT FORM

This log is to help you provide the necessary information for us to proceed with your complaints. Please complete and return this log to our office by the date indicated so that we may establish the duration and nature of the problem. Be aware that you may be asked to make a sworn statement or to give evidence in support of this information if Council has to take legal action against the rooster owner, so accurate information would be appreciated.

1. **COMPLAINANT'S NAME:** *(in full)* _____

SIGNATURE

ADDRESS: ..

PHONE

2. **OUTLINE COMPLAINT:** *Brief factual account of situation which describes the nature of the complaint e.g: rooster crows to excess, rooster wanders freely, or any other appropriate information.*

- Rooster constantly crowing
- I have detailed one day but this is pretty representative of all days
- There are 2 roosters across different properties that tend to have "battles" in the morning
- From talking to another neighbour it appears the owners of the roosters are related.

NUISANCE RECORD

BE ACCURATE

Request # 386882

DATE	NUISANCE STARTED	NUISANCE STOPPED	TYPE OF NUISANCE	IMPACT
Diary Example				
Monday 14/01/2014	4:00am 8:12pm	4:45am 9:35pm	Rooster wandering freely Rooster crowed in short burst 30 seconds apart.	Rooster was wandering and causing nuisance Had to shut windows and turn TV up.
14/02/23	0600	0630	Constantly crowing. 2 x roosters!	
	0700	0800	Intermittant crowing	
↓	Z		@ work	
↓	2030	2100	Intermittant crowing	

6. The questionnaire filled in by the Noise Control contractor (Amourguard) and email from their Team Leader with confirmation of the noise.

From:

Sent: Monday, March 13, 2023 9:21 AM

To: Raewyn Thompson <Raewyn.Thompson@icc.govt.nz>; Victoria Naboka <Victoria.Naboka@icc.govt.nz>

Subject: Re: Rooster at 249 Bawmont Street RFS 389136

Hi Raewyn had done this on the 6th March at 530am-545am, rooster was clearly heard from . I apologise as I've been on nights and haven't been in office todo emails past week.

Regards

Invercargill Assistant Operation Manager

Request Number	389136
Request Type	EN02 Noise Complaint
^ Questionnaire	
Questionnaire	1 Complaint Information
Date Last Modified	3/17/2023 11:19:13 AM
User Identifier	ARMOURGUARD
^ Questions	
1. Was this complaint substantiated?	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Undecided
2. Was any equipment seized	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Undecided
3. Were the Police involved?	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Undecided
4. Where you on site for longer than 1/2 hour	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Undecided
5. Was an Excessive Noise direction served	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Undecided
6. Description of Problem	0 Other
7. Time	4 4
8. Volume	3 3
9. Tone	2 2
10. Total Score	9
11. Time Officer on Site (24hr)	
16. Attending officer	6

Matrix assessment guideline – Residential and rural areas (outside the City Centre Sub Area)		
		Score
Volume	Barely audible	1
	Clearly audible	2
	Loud noise	3
	Extremely loud noise	4
Time	Monday to Saturday	
	7.00am to 8.00pm	1
	8.00pm to 10.00pm	2
	10.00pm to 7.00am	4
	Sunday and Public Holidays	1
	9.00am to 6.00pm	2
6.00pm to 10.00pm	4	
10.00pm to 9:00am		
Tone	Slight bass	1
	Heavy bass	2

7. The permission from the complainant for Amourguard to check the noise from the side of his property.

On Fri, 24 Feb 2023, 7:00 pm Victoria Naboka, <Victoria.Naboka@icc.govt.nz> wrote:

Hi

Thank you so much for filling in the form. We are engaging our noise control contractor to verify the level of it. Would you mind them coming from the side of your property around 6.30 am Sunday or during next week please or maybe you think it would be loud enough even to check from the street?

Here on this map, I showed **R** – the location of the poultry house and **A** – potentially the position for the noise control officer to confirm the noise is excessive.

From:
Sent: Friday, February 24, 2023 7:26 PM
To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>
Subject: Re: A check point for the Amourguard _ rooster's noise control

Hi Victoria,

They are welcome to come on the property anytime. We don't have any dogs so no issue.

I am not home till sun arvo so if you meant this Sunday that is fine too.

Cheers

8. The correspondence with the complainant regarding the location of the second rooster.

On Mon, Apr 3, 2023 at 9:52 AM Victoria Naboka <Victoria.Naboka@icc.govt.nz> wrote:

Hi

I just received a comment on my investigation report regarding the rooster. The group manager asked if the second roster (the one is in competition with the closest in 249 Bowment street) is a part of the issue and if you know it's location?

I could hear the further one from the distance while my morning visit but could not identify the location. We need or exclude this part or find the source of the remote problem as well. Thank you.

Best regards,

Victoria

From:
Sent: Monday, April 3, 2023 10:11 AM
To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>
Subject: Re: A check point for the Amourguard _ rooster's noise control

Hi Victoria,

No I don't know where the other one resides but it does sound distant and nowhere near as frequent as the one I have complained about. I just heard from another neighbour that the other rooster belongs to

Cheers

On Mon, 3 Apr 2023, 10:40 am Victoria Naboka, <Victoria.Naboka@icc.govt.nz> wrote:

Shall we consider that the previous problem had been resolved so far?
we still would need to know an exact address to start another investigation if it creates a nuisance.

Cheers

From:
Sent: Monday, April 3, 2023 11:20 AM
To: Victoria Naboka <Victoria.Naboka@icc.govt.nz>
Subject: Re: A check point for the Amourguard _ rooster's noise control

Yeah at this point I would just like to resolve the original issue/rooster



1 May 2023

Alisa and Robert Cole
249 Bowmont Street
INVERCARGILL 9812

Dear Alisa and Robert

Keeping of Animals, Poultry and Bees Bylaw 2022 Notice – 249 Bowmont Street, Invercargill

Council has completed an investigation of a complaint regarding a noisy rooster at the above address. The investigation has determined that the rooster causes a nuisance to your neighbours as per section 11 Keeping of Poultry of the Keeping of Animals, Poultry and Bees Bylaw 2022.

The Council is therefore issuing you with a Notice under the Keeping of Animals, Poultry and Bees Bylaw 2022, which requires the removal of the rooster from 249 Bowmont Street, Invercargill

Your property will be inspected on 8 May 2023 to confirm the rooster has been removed. Please contact me at the Council by emailing compliance@icc.govt.nz, if you require any clarification with regard to this notice.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Victoria Naboka', is written over a light grey circular stamp.

Victoria Naboka

ENVIRONMENTAL COMPLIANCE OFFICER

RFS376064

NOTICE UNDER INVERCARGILL CITY COUNCIL – BYLAW 2022 KEEPING OF ANIMALS, POULTRY AND BEES

28 April 2023

TO: Alisa and Robert Cole
249 Bowmont Street
INVERCARGILL 9812

1. The Invercargill City Council gives Notice that you must take the following actions:
 - **Remove the rooster from 249 Bowmont Street, Invercargill as a result of nuisance being caused to neighbouring properties.**
2. The location in respect of which this Notice applies is:
 - **249 Bowmont Street, Invercargill.**
3. You must comply with this Notice within the following period:
 - **Within 7 days from the date of this notice. This means that you must comply by 8 May 2023**
4. This Notice is issued under Clause 11.1 of the Invercargill City Council Keeping of Animals, Poultry and Bees Bylaw 2022.
5. The reasons for this Notice are:
The activity is in breach of the Invercargill City Council Keeping of Animals, Poultry and Bees Bylaw 2022.
6. Failure to comply with this notice may result in council prosecuting the matter in the courts. Upon conviction a person may be liable to a fine not exceeding \$500.00 and in the case of continuing offence, to a further fine not exceeding \$50.00 for every day on which the offence has continued, pursuant to Section 66 of the Health Act 1956,
7. Appeals
An owner of any animal, poultry or bees covered by this bylaw has the right to object to a decision or order made by Council within 14 days of the decision being made. Objections are required to be made in writing and either emailed, posted or delivered to the Civic Administration Building or Bluff Service Centre. All appeals should include the appellants contact information, specifics of what is being appealed, specifics of any defence or mitigation to support the appeal and what redress is being sort. If applicable, there is a Hearing Lodgement Fee that you may be required to pay before the appeal can be heard. Please refer to Council's [Fees & Charges](#) for further information.

Email to: service@icc.govt.nz, attention Manager – Environmental Services

RFS376064

Post or deliver: Manager – Environmental Services
Invercargill City Council
101 Esk Street
Private Bag 90104
Invercargill 9840

Deliver: Manager – Environmental Services
Invercargill City Council – Bluff Service Centre
98 Gore Street
Bluff

In the event of an objection the matter will be referred to Council's Hearings Panel for determination

The Enforcement Officer is acting under the following authorisation:

Warrant appointing Victoria Naboka an Enforcement Officer pursuant to Section 177 of the Local Government Act 2002, and an Authorised Officer pursuant to Section 174 of the Local Government Act 2002, which warrant is under the seal of the Invercargill City Council dated 11th March 2022.



1 May 2023

Signature of Enforcement Officer



Request No: 386882

21 June 2023

Alisa and Robert Cole
249 Bowmont Street
INVERCARGILL 9812

Dear Alisa and Robert

After the Bylaw Notice regarding your rooster has been issued you introduced a solution to eliminate the nuisance caused earlier. The complainant is satisfied with the outcome and The City Council made a decision to leave everything in the current state. However, if there is the same issue would reappear for more than 3 days during one week the rooster will be removed compulsory.

Please contact me at the Council by emailing compliance@icc.govt.nz, if you require any clarification with regard to this notice.

Yours faithfully

A handwritten signature in black ink, appearing to read "Victoria Naboka", is positioned above a circular, textured grey stamp.

Victoria Naboka

ENVIRONMENTAL COMPLIANCE OFFICER

From: [Alisa Cole](#)
To: [Victoria Naboka](#)
Subject: Alisa Cole Appeal
Date: Tuesday, 2 May 2023 9:44:03 AM

Morena, as per our phone conversation yesterday 1/5/23 I am wanting information regarding the fees and charges associated with appealing the removal of my rooster.

I am also wanting information about the noise control report that was carried out. As I have previously mentioned I am willing to make changes to get the noise to an acceptable level but due to the protection the rooster provides for the flock I am extremely reluctant to remove him. If I was able to be advised on what is a acceptable level during what hours then I can make changes accordingly. I am disappointed that I wasn't informed of the report giving me opportunity to make amendments to the keeping of the rooster to come in line with this.

It would also be helpful if I could be given some direction of where the complaint was coming from as I could create extra sound proofing in their particular direction. On looking through the bylaw I see that it states 'a nuisance being caused on any neighbouring property' and as a neighbouring property is a property that is adjoining to ours then unless the complaint is at either 245 Bowmont St or 24 Enwood Ln I don't believe I am in breach or this bylaw. I reached out to both these neighbors, one has let us know that they DO NOT have an issue with the rooster and the other I have not been able to contact. If you could direct me to any information I may have missed or miss read regarding this please do.

As you can see I am willing to make changes to work though this problem but I need to be given the chance.

Looking forwards to hearing from you so we can resolve this.

Alisa Cole.

From:
To: [Victoria Naboka](#)
Subject: Re: Rooster going off early mornings again
Date: Tuesday, 18 July 2023 10:24:20 AM
Attachments: [Test-C2_16ac23d1-728d-4b89-abd1-c4f9f8ebb9cb1.png](#)

As I've previously told you I'm wanting to appeal the complaint as I do not believe I am in breach of the by law.

I have seen no evidence that I am in fact in breach you have refused to show me any proof of a sound test being carried out, you have refused to give me any direction of who/where the complaint is coming from so further sound control can be put in place, you have yet to give me any guidelines of what an acceptable level of noise is during what hours, and as I've explained to you and would happily talk through in an appeal process but unless it is one of my two neighbouring properties then the complaint doesn't seem to put me in breach of the by law.

I've also explained to you that it is not my rooster, there are several in the area none which make excessive noise, and none that at least 11 of my neighbours (including one neighbouring property, the other neighbouring property hasn't opened the door when we have approached them) have any issue with.

Futhermore feel that this has been incredibly unfair towards us, the lack of support in what I believe have been reasonable requests through the year. In fact it would appear that all my request have been ignored or refused (sound report/guidance around what a acceptable noise level is, direction of complaint, appeal etc).

I am willing to make changes if I am in fact in breach of the by law, which is up to an appeal panel to decide is it not? To be able to make any changes I need to be given information around what level of noise is acceptable at the very least.

Alisa Cole

On Tue, 18 Jul 2023, 09:38 Victoria Naboka, <Victoria.Naboka@icc.govt.nz> wrote:

Good morning Alisa,

Unfortunately, we started to receive complaints again. Did you stop taking the rooster inside?

I am really sorry personally, but the noise around 5-5.30 am is a real nuisance.

We have to stop this issue.

Would you prefer to relocate the rooster from Urban Area by yourself or shall we come with the Animal Control team to pick it up?

Best regards,

Victoria



Victoria Naboka

Environmental Compliance Officer

Victoria.Naboka@icc.govt.nz

Phone: 032111777 • DDI: 032118399 • Mobile: 021499491

www.icc.govt.nz

101 Esk Street, Invercargill, 9810 • Private Bag 90104

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Relevant Sections of the Invercargill City Council Bylaw 2022 – Keeping of Animals, Poultry and Bees

5. Interpretation

Nuisance shall have the meaning assigned to it by the Health Act 1956 and any amendments to it.

8. General Provisions

- 8.1. No person shall knowingly or recklessly allow the keeping of any animal, poultry or bees, which causes, or is likely to cause, a nuisance by, including but not limited to, noise, odour, dust or through the attraction of flies or vermin.
- 8.2. No person shall knowingly or recklessly allow the keeping of any animal, poultry or bees, in a manner that is or is likely to become offensive to the occupier of an adjoining property, a threat to public health or an endangerment to neighbouring animals.

11. Keeping of Poultry

- 11.1. The Group Manager Customer and Environment may order the removal of a rooster where:
 - (a) the Council has received a complaint about the rooster; and
 - (b) the Group Manager Customer and Environment is satisfied that the keeping of the rooster on that property has resulted in a nuisance being caused on any neighbouring property.
- 11.2. No person shall keep any poultry on any private land in the Urban Area except in a properly constructed poultry house or secure enclosure. Further, no person shall keep any poultry on any land unless they have the means to contain them within that property.

Relevant Sections of the Health Act 1956

29. Nuisances defined for purposes of this Act

Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:

- (k) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:
- (ka) where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health: