



AGENDA

Regulatory Hearings Panel meeting Friday, 10 March 2023

I hereby give notice that a Regulatory Hearings Panel meeting will be held on:

Date: Friday, 10 March 2023

Time: 9.30am

**Location: Ground Floor Meeting Room 1
306 Cameron Road
Tauranga**

Please note that this meeting will be livestreamed and the recording will be publicly available on Tauranga City Council's website: www.tauranga.govt.nz.

**Marty Grenfell
Chief Executive**

Terms of reference – Regulatory Hearings Panel

Membership

Chairperson	Mary Dillon
Members	Puhirake Ihaka Terry Molloy Alan Tate
Quorum	At least two members
Meeting frequency	As required

Role

- To conduct hearings and make decisions of a quasi-judicial nature on regulatory matters through specific hearings and decision making.

Scope

Regulatory matters

- To conduct hearings and make decisions of a quasi-judicial nature on behalf of the Council on any regulatory matter that the Council is legally:
 - empowered or obligated to hear and determine;
 - permitted to delegate to a subordinate decision-making body of Council under the Local Government Act 2002, or any other Act.
- To exercise this function in accordance with:
 - the applicable legislation;
 - the Council's corporate strategies, policies, plans and bylaws; and
 - the principles of administrative law and natural justice.
- Regulatory matters include (but are not limited to):
 - dog control matters;
 - matters arising from the exercise of Council's enforcement functions; and
 - regulatory matters that require a hearing under Council's policies (including, without limitation, Council's Gambling Venues Policy) and bylaws.

Matters excluded from scope

- The following are excluded from the scope of the Regulatory Hearings Panel:
 - matters relating to the sale and supply of alcohol;
 - matters under the Resource Management Act 1991; and
 - matters the Council is precluded from delegating to a subordinate decision-making body by the Local Government Act 2002, or any other Act.

Power to Act

Regulatory matters

- All powers, duties and discretions necessary to conduct hearings and make decisions of a quasi-judicial nature on behalf of the Council on any regulatory matter that the Council is legally empowered or obligated to hear and determine, including (but not limited to):
 - All powers, duties and discretions necessary to hear and make decisions on behalf of the Council in respect of any matter that the Council is empowered or obligated to hear and determine under the Dog Control Act 1996, the Local Government Act 2002, the Local Government Act 1974 and any regulatory matters that require a hearing under Council's policies and bylaws.
- For the avoidance of doubt, the above delegation includes authority to hear and make decisions on appeals under Council's Gambling Venues Policy, including to decline an application to appeal.
- The power to establish and amend hearings protocols relating to the general conduct of hearings and hearings related matters in accordance with the applicable legislation and the principles of administrative law and natural justice.
- The power to co-opt expert advice on an as required basis.

Matters excluded from power to act

- For the avoidance of doubt, the Regulatory Hearings Panel does not have the power to hear:
 - matters relating to the sale and supply of alcohol;
 - matters under the Resource Management Act 1991; or
 - matters that the Council is precluded from delegating to a subordinate decision-making body by the Local Government Act 2002, or any other Act.

Power to Recommend

- The Regulatory Hearings Panel is unlikely to need to make recommendations to the Council as it has the power to conduct hearings and make decisions of a quasi-judicial nature on behalf of Council as per its powers to act. However, the Panel may make recommendations to the Council if, in the circumstances of a matter, it considers it appropriate to do so.

Note: The Regulatory Hearings Panel is established as a subordinate decision-making body of Council and delegated the powers specified in its Terms of Reference under clauses 30 and 32 of Schedule 7 Local Government Act 2002 respectively. It is not a committee or subcommittee of Council.

Regulatory Hearings Panel

Summary of hearings procedure



Who is involved in a hearing?

- Regulatory Hearings Panel – these are independent persons who make the decision
- Tauranga City Council staff – staff who write the report and attend the hearing
- Applicant/objector or their representative – those who will present their evidence
- Witnesses/experts – called by staff or applicant/objector



What happens before the hearing?

- The applicant/objector will be given at least seven days' notice of the date, time and place of the hearing.
- An agenda with the staff report and any documents will be sent to the panel members and the applicant/objector before the hearing.
- The applicant/objector can organise evidence and call witnesses in support of their application/objection.
- If the applicant/objector can't be present at the hearing they can organise a representative to attend on their behalf.

What happens at the hearing?

- The hearings will be conducted without a lot of formality and will make sure that all parties and witnesses receive a fair hearing.
- Staff will present Council's case (including evidence and any witnesses) in support of its decision that is the subject of the application/objection.
- The applicant/objector presents their case (including any evidence and any witnesses).
- Council staff have a right of reply but can't submit any new evidence or call any further witnesses.
- The chairperson and panel members may ask questions from any party or witness.
- Other persons may ask the chairperson to put a question to any party or witness on their behalf but that is at the discretion of the chairperson as to whether the question is put.

- No cross examination is permitted.
- The chairperson's rulings on any matter is final.
- The hearing is generally open to the public unless there is good reason to have the hearing with the public excluded.

What happens after the hearing?

- The panel will usually deliberate in private immediately after the hearing and make their decision.
- The panel may, but is not required to, deliver its decision in the open section of a meeting. A notice of decision will be given (or sent) in writing to the applicant/objector as soon as practicable after the panel has made its decision.
- The chairperson will then close the hearing.
- If the chairperson has allowed further information to be provided before the hearing is closed, then the hearing will be adjourned, and the panel will reserve its decision until it has considered the further information.
- Where the applicant/objector has a right to appeal the panel's decision, that will be advised in writing.
- No discussions or communication of any kind will happen outside of the hearing between the panel, the parties or witnesses until a decision is issued, including during any site visits, adjournment or break.
- Minutes of the meeting will be kept as evidence of the hearing.

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1 OPENING KARAKIA

2 APOLOGIES

3 DECLARATION OF CONFLICTS OF INTEREST

4 CONFIRMATION OF MINUTES

4.1 Minutes of the Regulatory Hearings Panel meeting held on 24 August 2022

File Number: A14466028

Author: Robyn Garrett, Team Leader: Governance Services

Authoriser: Robyn Garrett, Team Leader: Governance Services

RECOMMENDATIONS

That the Minutes of the Regulatory Hearings Panel meeting held on 24 August 2022 be confirmed as a true and correct record.

ATTACHMENTS

1. Minutes of the Regulatory Hearings Panel meeting held on 24 August 2022



MINUTES

**Regulatory Hearings Panel meeting
Wednesday, 24 August 2022
and
Friday, 26 August 2022**

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**MINUTES OF TAURANGA CITY COUNCIL
REGULATORY HEARINGS PANEL MEETING
HELD AT THE GROUND FLOOR MEETING ROOM 1, 306 CAMERON ROAD,
TAURANGA ON
WEDNESDAY, 24 AUGUST 2022 AT 2PM, AND
FRIDAY, 26 AUGUST 2022 at 9.30AM**

PRESENT: Mrs Mary Dillon, Mr Puhirake Ihaka, Mr Terry Molloy, Mr Alan Tate

IN ATTENDANCE: Kurt Graham (Project Manager), Brendan Bisley (Director of Transport), Warren Budd (Team Leader: Transport Safety), Paula Simmonds (Community Engagement Advisor: Infrastructure Delivery), Robyn Garrett (Team Leader: Governance Services), Sarah Drummond (Governance Advisor)

Wednesday, 24 August 2022 at 2pm

1 OPENING KARAKIA

Mr Puhirake Ihaka opened the meeting with a karakia.
The Chairperson introduced the members of the Panel.

2 APOLOGIES

Nil

3 CONFIRMATION OF MINUTES

4.1 Minutes of the Regulatory Hearings Panel meeting held on 11 November 2021

COMMITTEE RESOLUTION RHP1/22/1

Moved: Mrs Mary Dillon
Seconded: Mr Alan Tate

That the minutes of the Regulatory Hearings Panel meeting held on 11 November 2021 be confirmed as a true and correct record.

CARRIED

COMMITTEE RESOLUTION RHP1/22/2

Moved: Mr Terry Molloy
Seconded: Mr Puhirake Ihaka

That the Public Excluded minutes of the Regulatory Hearings Panel meeting held on 11 November 2021 be confirmed as a true and correct record.

CARRIED

4 DECLARATION OF CONFLICTS OF INTEREST

Nil

5 BUSINESS

5.1 Bus Shelter Objection Summary

Staff Kurt Graham, Project Manager

Mr Graham briefly summarised the process so far, the numbers of objections received and advised that about 40 objections were still outstanding. Mr Graham also outlined the Panel's powers under s339 of the Local Government Act 1974 (LGA74), the decision options open to the Panel and the limits of relevant considerations.

The Chair outlined the process of the hearing, noting that the Panel could ask questions but the submitters could not. Submitters were allocated 10 minutes to make their submission to the Panel. The Chair noted that the hearing process was not an evidentiary process.

The following members of the public spoke to their objection to the proposed installation of bus shelters.

(1) June Jeffs, 130 Osprey Drive

Key points

- The objector had three main concerns. The property was raised and looked down to the road and would look right over the bus shelter, which would affect the visual amenity from the property; there were a lot of young children/teenagers in the area and there was concern that the shelter would become a hang out place and be subject to graffiti and vandalism; concerned about possible interactions with the objector's two large dogs with potential provocation and aggravation of the dogs.
- Did not want the dogs to be at risk of hurt or being antagonised or become the subject of noise complaints; considered there was potential for graffiti and vandalism and flow-on impacts on the objectors' property.
- Would like the bus shelter to be relocated from outside their house; or that the design be modified to be more attractive.
- Noted the high grass banks on Waitaha Rd before the Osprey Drive turnoff; suggested that might be a more appropriate location for a bus shelter. Suggested location would not service a very large number of streets and properties.

In response to questions

- Existing bus stop had been there some time and there had been no major incidents with the dogs, some minor issues with kids teasing the dogs with sticks on the property fence. The dogs had run of the full property which was securely fenced.
- The suggested 'grass bank' site on Waitaha Rd was about 100m away from the current bus stop.
- No objection to the shelter itself, just the proposed location.
- Complaints about vandalism/graffiti were tracked through Council's CCM system; the shelters mainly targeted were generally not outside houses. Council now had a much larger budget to make sure the shelters were better maintained and complaints could be responded to promptly.

(2) Jody Sinkinson, on behalf of Sun Pacific Villas Body Corporate, 123 Muricata Street

Key points

- Proposed shelter might provide opportunity for people to use the shelter as assistance to jump/climb over the fence.
- Noted that the proposed shelter was very close to the existing pedestrian crossing and that the street was very busy at times and that proximity could cause a problem.

- The bus tag on/off data showed no use of that bus stop during the week for which data was obtained so did not think the shelter was warranted in this location. Suggested the bus stop opposite would be more appropriate as used more frequently e.g. to get to Bayfair.
- Concerned that the shelter might entice people to hang out at night and look for distractions; the closeness to the fence could invite the shelter to be used to climb the fence.

In response to questions

- Shelters were mainly glass and steel construction so not easy to leverage off; no reports received of people climbing on to shelters.
- Sufficient clearance provided behind shelters and boundary fences for maintenance of the fence and the shelter.
- Regarding the alternate site proposed by Sun Pacific, staff noted that this round of proposed bus shelters focused on inward-bound routes heading into the CBD/Mt Maunganui.
- This bus route operated from 9am-3pm, was not fulltime.

(3) Scott and Tracey Vermeulen, 143 The Boulevard (tabled set of photographs)**Key points**

- Concerned about the attention a bus shelter attracted; lived right next to a walkway so extra concern. Property did not have a front fence but was hedged; the objectors might not have purchased the property if there was a bus shelter outside.
- The streetscape view from the property was limited and did not want that viewshaft compromised by a bus shelter.
- Noted the existing bus stop was used quickly by passengers, no lingering.
- There were already lampposts and signs outside the property, adding a bus shelter would further detract from visual amenity.
- Suggested two possible alternative sites on the street, one next to a park; one seven houses down where there was no adjacent house.
- Concerned about graffiti and vandalism, noted that a bus shelter around the corner was often tagged with graffiti.
- Concerned about impact of the bus shelter on possible resale of the house.
- Concerned about width of the berm to accommodate the shelter and the hedging, and access to maintain either.
- There was a walkway, cycle lane, turning bay and bus stop all in one spot, considered that installing a bus shelter would increase the possibility of an accident.
- Noted low usage of the current bus stop.

In response to questions

- Knew was a bus stop outside the house when purchased the house; had been told by Council that unlikely to have a shelter built there.
- The park at the end of the street was about five-six house frontages along; the other bus stop seven houses along that served the same route/same street was on the opposite side of the road.

(4) Jill Prosser, 262 Range Road**Key points**

- Used to be a fulltime bus stop which was removed; then reinstated. Had seen one person get on the bus since March this year. Shelter seemed a big expense for very low usage.
- Concerned that the shelter would create graffiti and rubbish issues, and be a focus for people to loiter.
- Not opposed to a bus stop in that location if it was being used.

- Objector had plans to subdivide the section and was concerned the shelter might unreasonably prevent access to the frontage of the land, inappropriate site for a shelter.
- Also owned the neighbouring property and had plans to develop the sites; concerned about obstruction of access by the shelter.

In response to questions

- The location currently proposed would have more impact on No. 262 rather than No. 260. Concerned about limitation of access location for future development.
- Council could shift a shelter in the future, current location would not preclude development. A future subdivision plan would be assessed and council work with the developers to identify the best location for shelters; shelters could be moved if reasonable to facilitate development.
- Under new intensification legislation, there was no requirement to provide driveway access to a development as no requirement for onsite parking. Space on the street did not belong to the property; there would be locations in the city where there is no adjacent on-street parking due to bus stops, no parking zones etc. Council could not make any guarantees around street parking.

(5) Dianne McGovern, 48 Oceanbeach Road**Key points**

- Concerned that the bus stop and shelter blocked the kerb crossing to the section. The kerb crossing had been there prior to the bus stop, considered the shelter unnecessary.
- The objector did not live fulltime at the property but had plans to renovate and move in.
- There was another legal access to the section from McDowell St. The access from Oceanbeach Rd had been there since the property was developed; the existing bus stop had been painted over the kerb crossing/access.
- Had a low front fence so considered the shelter would adversely impact on view as the property would look right into the back of the shelter.

In response to questions

- Staff advised that the kerb crossing was currently not a legal vehicle crossing, the objector would need to apply for that kerb crossing to become an additional legal access to the property; current legal access was from the side street. The location of the bus stop did not necessarily preclude a new legal access being approved, would need to check any restrictions around there being more than one legal access to a property.
- Current proposed shelter site was partly in front of this property and partly across the neighbour's property, due to the location of a water meter.

(6) Frank Szabo, 4 Emerald Shores Drive (tabled documents – plans and photos)**Key points**

- The objector was developing Emerald Shores Lifestyle Village right where the proposed shelter was, the shelter would be on the boundary of this property and the neighbouring property.
- Considered it would make more sense to relocate the bus stop and build the shelter alongside the existing retaining wall at 6 Emerald Drive, there was no access to that property from that point. If built there, the shelter would not be seen from that property due to the existing high retaining wall and fence.
- There would be a considerable amount of construction, with a total of 77 properties planned. Two had access right from Emerald Drive, the shelter would be right in the frontage of one of those properties.
- The shelter would be between two streetlights if placed in the alternative location.

In response to questions

- The distance from the proposed site to the suggested alternative site was about 15 -20

metres to the left.

- The neighbour at 6 Emerald Shores Drive had no objection to the current proposed site but was opposed to it being moved to the suggested retaining wall site.
- Noted existing vacant land which was a big section with a house, was possible the owners would do something with the back section in which case the proposed shelter could interfere with possible access.

COMMITTEE RESOLUTION RHP1/22/3

Moved: Mrs Mary Dillon

Seconded: Mr Alan Tate

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

The general subject matter 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 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
5.1 Bus shelter objections deliberations	<p>s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial</p> <p>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p>	s48(1)(a) - 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 under section 6 or section 7

CARRIED

At 3.52pm the meeting adjourned. The meeting would reconvene at 6pm via video conference to hear a submitter.

At 6pm the meeting reconvened via video conference. Panel member Mr Molloy was not in attendance.

The Chairperson outlined the hearing process for the submitters and noted the decision options available to the Panel under the legislation.

(7) **Gavin and Jackie Schmidt, 268 Gravatt Rd**

Key points

- The objectors' house was one of the few that faced the road, with their lounge as well as outdoor area facing the road. Considered the proposed shelter would have a huge impact when they were using the outside living space.
- The shelter would impede the view of the road when backing out of the driveway and create a safety hazard.
- Noted impact on parking – there was no parking outside the house and the driveway was shared so was unable to be used for parking. The shelter would remove the ability to park outside the house. The objectors explained they also parked their boat on the grass berm next to the fence to load and to be able to exit onto the road safely; had to back the boat in to clean after fishing.

- Concerned about the proposed shelter leading to loitering, graffiti, antisocial behaviour, and devaluation of their property.
- Did not consider that the bus usage justified the expense of a shelter.
- It would cost the objectors \$5040 to erect a new higher fence to feel safer on their property; queried whether council would contribute to that cost.
- Would not have bought the house if had known there would be a bus shelter outside.
- Concerned about health and safety of visitors if unable to park/turn on the berm, it was too dangerous to back out directly across Gravatt Rd.

In response to questions

- There were two different shelter designs, 1.8m or 1.2m deep, and there would be sufficient space between the shelter and the fence to enable maintenance; the shelter would not be hard against the fence.
- Council would not contribute to cost if a homeowner chose to erect a fence.
- The bus service might not be well utilised currently, but there was a need to have viable public passenger transport to provide for future city growth, could not cope with increased vehicles on roads. Provision of facilities such as bus shelters would attract greater usage of the bus services by providing weather shelter.
- The objectors suggested No. 270 Gravatt Road next door (a government owned house with a streetlight outside) was a more appropriate viable option. The bus stop was outside 268 Gravatt Road and always had been.
- There was a formed driveway on the objectors' property, with planting along the boundary. The bus shelter site was at the other side of the property from the driveway.
- Clarified that the property fences were accurately on the property boundaries.

At 6.30pm the meeting adjourned and would reconvene at 9.30am Friday 26 August.

Friday, 26 August 2022 at 9.30am

PRESENT: Mrs Mary Dillon, Mr Puhirake Ihaka, Mr Terry Molloy, Mr Alan Tate

IN ATTENDANCE: Kurt Graham (Project Manager), Warren Budd (Team Leader: Transport Safety), Paula Simmonds (Community Engagement Advisor: Infrastructure Delivery), Robyn Garrett (Team Leader: Governance Services), Sarah Drummond (Governance Advisor)

At 9.30am the meeting reconvened. Mr Puhirake Ihaka opened the meeting with a karakia.

There were no apologies and no conflicts of interest declared.
Chairperson Mary Dillon explained the hearing process for the submitters.

6 BUSINESS *(continuation)*

6.1 Bus Shelter Objection Summary

(8) Yvonne Lendrum, 83 Coopers Road

Key points

- The objector was the owner of 83 Coopers Rd which was purchased in January 2022. The objector was aware of the existing bus stop but not the proposed bus shelter.
- Drew attention to the site plan; objectors owned Lot 1 which fronted the road; Lot 2 was behind with a shared accessway.

- Noted the dimensions and locations of the driveways/shared access.
- There was no turning point for cars in the house behind; had to back down the drive. Cars could not come out frontways from the rear house; would need to look through the bus shelter to reverse safely onto Coopers Rd. Concerned about safety with the diminished view from the shelter; considered the shelter would make the situation even more dangerous than it currently was.
- The proposed shelter would also block the view and outlook to green space from 83 Coopers Rd Lot 1.
- Noted there was also an existing bus stop on the same side near the Vanda Place corner on Coopers Rd. Suggested this was a more appropriate location for the shelter as there was a wider berm and the house behind the bus shelter was a two-storey building. Would be a five-minute walk between the two bus stops.
- Not opposed to the existing bus stop but to the installation of the bus shelter.

In response to questions

- The berm sloped at the proposed shelter site and installation would require some excavation. The shelters were 2.2m/2.4m high, the shelter roof would likely still be visible over 1.8m fence after any excavation required.
- Lot 2 had a different owner. Lot 1 had a separate different access from the road, but did have an accessway onto the front property from the driveway to the back house. The only access to the back property was down the driveway. The owners/occupiers of the back property were not notified of the bus shelter.

(9) Josephine Wilshire (shared frontage), 46 Oceanbeach Rd**Key points**

- Felt it was a waste of ratepayers' money; the bus very rarely picked up anyone from that stop. Area contained a lot of holiday homes and was a busy road; very low usage of the bus stop.
- Shelter would be in front of the submitter's kitchen window and would be above the fence and change the outlook from the property.

In response to questions

- The bus shelter was as much about futureproofing as well as catering for current users, need to encourage use of public transport.

(10) Garry McFarlane 50 Doncaster Drive**Key points**

- The objector was opposed to having the shelter in front of his property as it would be right outside his kitchen window and obstruct his view.
- Real estate agents had indicated to the objector that the value of the property would drop by \$150,000 with a shelter located in front of it. Suggested there should be compensation from the council.
- Suggested either moving the shelter further down the road or across the road; there was a wider berm and 1.8m fences over the road.
- Submitter had no fencing and there were generally open properties around the area.

(11) Nathan Miller, 2 Pumice Glade (tabled item)**Key points**

- The objector had been taken by surprise at the proposed bus shelter as there was already a bus shelter over the road and another further down the road. These shelters were no longer needed as the bus route had slightly changed - reduced by 800m - and now did not go past the existing shelters.

- Suggested that the bus route be put back to the original route and the existing shelters utilised, rather than another shelter being built to serve a minor route change.
- Did not consider the TCC guidelines to move/build shelters applied – no rationale, waste of ratepayers' money.
- Considered that where the bus stop currently was did not appear to allow for the right amount of room between Landing Drive, Pumice Glade and the Landing Drive crossing; the bus stopped within 6m of the intersection.
- When the bus was at the bus stop it was impossible to see down the road to see oncoming traffic and created a hazard for traffic coming out of the side street.
- The objector had seen young people climbing on top of the shelter over the road, and was concerned that this proposed shelter would provide a platform for young people to climb on and then climb over the objector's fence. Considered that the proposed shelter would create a health and safety risk, with the possibility of falls from the roof and smashed glass; would create an unsafe environment that children would be attracted to.
- TCC guidelines for selection of bus stop sited included safe design; there was no streetlight in this location; the positioning between two intersections posed a risk to road users when moving around the bus; construction of a shelter almost 4m long close to the property fence meant that the objector and his family would not feel safe. If anyone was on the roof of the shelter, they would look right into the property's living area.
- Suggested that bus shelters tended to attract anti-social behaviour not related to catching a bus.
- Returning the bus to its original route would avoid any issue.

In response to questions

- Staff would check with Bay of Plenty Regional Council regarding the route change and the rationale for the change.
- Was a high amenity high value area; across Landing Drive there were many families, children playing in the street were from within the neighbourhood.

At 10.19am the meeting adjourned.

At 11am the meeting reconvened.

(12) Peter Clarke (representing Michel and Brigitte Nardi), 178 Marine Parade**Key points**

- The proposed bus shelter was in front of the Reef Apartments, close to the corner of Clyde St.
- Considered there was a safety issue – the shelter being so close to a corner was an obvious safety hazard; obstructed the view of any vehicle trying to turn right from Clyde St into Marine Parade. Was an illogical spot for a bus shelter.
- Suggested that an area to the south of Clyde St where there was a council-owned wider road berm (200-300m towards Oceanbeach Rd away from the Mount) would be a more appropriate site.
- Mr Clarke was a real estate agent representing the Nardis.
- Suggested use of smaller buses, noted currently there were very large buses with few patrons.

In response to questions

- There was an existing bus stop that was marked with a sign on the lamppost but there was no street marking for the stop.
- Queried whether the bus stop could be moved slightly further away from the intersection; noted that there had been no complaints about safety for the existing bus stop placement. All frontage for the bus stop was outside the Reef Apartments.
- In Mr Clarke's experience as a real estate agent, a bus shelter may be viewed as a negative by some buyers, was subjective.

COMMITTEE RESOLUTION RHP1/22/4

Moved: Mrs Mary Dillon
Seconded: Mr Puhirake Ihaka

That the Regulatory Hearings Panel:

- (a) Receives the report “Bus Shelter Objection Summary” and:
- (b) In accordance with Section 339 of the Local Government Act 1974:
 - (i) considers for each objection to the installation of a bus shelter, the possible injurious affection to/obstruction of the frontage of the land, resulting from the shelter.
 - (ii) For each objection received makes a decision to either dismiss the objection, not proceed with the bus shelter, or modify the proposal.

CARRIED

The hearings closed at 11.15am and the Panel moved into public excluded session to deliberate.

7 PUBLIC EXCLUDED SESSION**RESOLUTION TO EXCLUDE THE PUBLIC****COMMITTEE RESOLUTION RHP1/22/5**

Moved: Mr Terry Molloy
Seconded: Mr Alan Tate

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

The general subject matter 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 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 – Bus shelter objections deliberations	s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	s48(1)(a) - 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 under section 6 or section 7

CARRIED

The meeting returned to open session and adjourned at 3.40pm.

Monday, 19 September 2022 at 2.10pm

PRESENT: Mrs Mary Dillon, Mr Puhirake Ihaka, Mr Terry Molloy, Mr Alan Tate

IN ATTENDANCE: Kurt Graham (Project Manager), Robyn Garrett (Team Leader: Governance Services), Sarah Drummond (Governance Advisor)

At 2.10pm on 19 September 2022 the meeting reconvened.

The Panel moved into public excluded session to continue deliberations.

RESOLUTION TO EXCLUDE THE PUBLIC

COMMITTEE RESOLUTION RHP1/22/6

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

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

The general subject matter 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 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 – Bus shelter objections deliberations	s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	s48(1)(a) - 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 under section 6 or section 7

CARRIED

8 CLOSING KARAKIA

Mr Puhirake Ihaka closed the meeting with a karakia.

The meeting closed at 4.30pm.

The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on 10 March 2023.

.....
CHAIRPERSON

5 BUSINESS

5.1 Objection to menacing Dog Classification - Denese Konowe

File Number: A14363482

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection opposing the menacing classification of the dog Fiora (Fi) – Denese Konowe

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to menacing Dog Classification - Denese Konowe".
- (b) The panel may either:
 - (i) Uphold the classification; or
 - (ii) Rescind the classification.

EXECUTIVE SUMMARY

2. Denese Konowe is the registered owner of a 5-year-old Border Collie Cross dog called Fiora, commonly known as Fi.
3. On 31 December 2022 at approximately 8:30pm Fi was being walked off lead by her owner and the owner's husband, they approached a parking area at the end of Eden Crescent adjacent to number 11. (*Attachment 1 – Aerial Photograph*)
4. The victim, an 80-year-old female was with her husband and standing by a car in the parking area when the dog owner and her husband with the dog Fi approached.
5. Fi walked past the victim's husband and lunged at the victim, biting her on the knee without provocation. It happened very quickly and when she lifted her skirt, she saw blood, she had received four puncture wounds to her knee. (*Attachment 2 – Photograph of Bite*)
6. Staff conducted an investigation and completed an "attack rating" form, it was concluded that classifying the dog Fiora as a menacing dog was the most appropriate action. A classification notice was issued on 19 January 2023 (*Attachment 3 – Attack Rating form*) (*Attachment 4 – Menacing Classification*)
7. The dog owner lodged a formal objection to the classification for this panel's consideration. (*Attachment 5 – Objection to Classification*)

BACKGROUND

8. Prior to this attack, Council had no record of aggression or any complaints about the dog Fi.
9. During the investigation, a number of people in the area said that Fi had been aggressive to them and had bitten people. Each person thought they were the only victim and therefore hadn't contacted Council preferring to preserve community harmony rather than complain about a resident's dog.

10. Once this attack became evident in the neighbourhood, the true extent of the dog's propensity to bite became more evident and Council were called upon to remove the dog from the community because of the ongoing aggression.
11. In reaching the decision to classify this dog menacing, staff only considered the circumstances of the December attack as none of the other incidents had been documented.
12. When a dog has bitten a person, there are three main provisions of the Dog Control Act apply:
 - (a) Section 33A - Classify the dog as menacing – the dog must be muzzled in a public place and neutered.
 - (b) Section 31 - Classify the dog as dangerous – the dog must be muzzled and controlled on a lead in public, neutered and contained on its property so visitors can access one door of the house without encountering the dog.
 - (c) Section 62 – The dog must be muzzled and controlled by lead when in public.
13. Council has discretion whether it classifies a dog as menacing or dangerous and the dog owner may object to any such classification.
14. Section 62 applies automatically where the owner knows the dog to be dangerous or has attacked a person or any animal. Council cannot override section 62 and the owner has no right of appeal.
15. If Council relied entirely on section 62 and there was further offending, we would have to prove the owner knew the dog had bitten or was dangerous before we could take any action for failing to muzzle or control the dog by lead.
16. A classification provides more certainty and clarity for all involved should there be any repeat incidents of aggression.
17. Two residents from the neighbourhood have now provided statements about previous aggression shown by the dog Fiora. The incident reported by Mr Foot could be dismissed because he was the one that put his hand toward the dog. However, as Mrs Konowe was aware of the incident described by Mr Hickey, she should have ensured that an attack could not happen. (*Attachment 6 – Attack statement William Foot*) (*Attachment 7 – Attack statement of James Hickey*)
18. The Dog Control Act requires all dog owners to take all reasonable steps to ensure their dog does not injure, endanger, intimidate, or otherwise cause distress to any person. "All reasonable steps" is a high threshold and means everything possible to avoid an attack which included fitting a suitable muzzle to the dog.
19. Council may classify any dog menacing where we consider the dog may pose a threat to any person because of observed or reported behaviour of the dog. The threshold to classify a dog as menacing is quite low. In this matter the dog has shown that it does pose a threat to people in the community and clearly surpasses the minimum standard required to classify the dog.

STRATEGIC / STATUTORY CONTEXT

20. N/A

OPTIONS ANALYSIS

21. N/A

FINANCIAL CONSIDERATIONS

22. N/A

LEGAL IMPLICATIONS / RISKS

23. N/A

CONSULTATION / ENGAGEMENT

24. N/A

SIGNIFICANCE

25. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
26. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
27. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.








ENGAGEMENT

28. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

NEXT STEPS

29. N/A

ATTACHMENTS

1. **Attachment 1 - Arial Photograph of Area - A14388951** [↓](#) 
2. **Attachment 2 - Photographs of Bite - A14387920** [↓](#) 
3. **Attachment 3 - Attack Rating Form - A14387919** [↓](#) 
4. **Attachment 4 - Menacing Dog Classification dated 19 Jan 2023 - Denese Konowe - A14387913** [↓](#) 
5. **Attachment 5 - Objection to Menacing - Denese Konowe - A14387916** [↓](#) 
6. **Attachment 6 - Attack statement William Foot - A14388632** [↓](#) 
7. **Attachment 7 - Attack statement of James Hickey - A14387966** [↓](#) 








Attack rating report		
CCM number:	1034725	
Name:	Lee and Denese KONOWE	
Seriousness		5 to 35 13
(This section relates to the physical seriousness of the attack.)		
Level 5	Rushing person	
Level 7	Attacked person - no visible injury	
Level 8	Animal injured	
Level 10	Worried stock	
Level 12	Animal killed	
Level 13	Attacked person causing injury	
Level 21	Serious attack but no hospitalisation	
Level 22+	Admitted to hospital and/or suffers long term effects	
Level 35	Attack caused a person to die	4 puncture
Public interest		0 to 3 2
(Public expectation of how the incident should be managed based on seriousness of incident.)		
Legislative intent		unreported history 2
(Legislative intent has been factored into the report at a constant at two points.)		
Classified (unleashed or unmuzzled)		0 or 2 0
(Classified menacing by breed - classifications by deed are captured in other aspects of the assessment.)		
Victim impact		0 to 5 2
(This section does not relate to the level of punishment sought by the victim, but the effects on the victim as a result of the attack.)		
Level 0	The victim does not suffer lasting effects following the attack	
Level 5	The victim is likely to continuously suffer as a result of the attack	
Dog surrendered/destroyed		0 to 1 1
(If a dog is surrendered after an attack it will not significantly affect the outcome. Surrendering the dog could be a way of shirking responsibility. It could be an act of taking responsibility. Either way the action was taken too late to prevent the damage done.)		
Level 0	The dog has been surrendered for destruction	
Level 1	The dog has not been surrendered for destruction	
Observed aggression		0 to 2 1
(Based on the officer's observation only. It should be noted that a dog may act aggressively under certain stimuli and show absolutely no signs of aggression without that stimuli.)		
Level 0	No signs of aggression	
Level 2	Very aggressive	growing
Negligence		0 to 6 3
(Evaluate the degree of negligence.)		
Level 0	Not the result of negligence by the owner	
Level 2	A lack of understanding of the true nature of dogs	
Level 4	The incident is the direct result of carelessness	
Level 6	The incident is a result of planning and encouragement	
Cooperation		0 to 3 1
Level 0	Cooperative and forthcoming with information	
Level 3	Uncooperative to the point that police assistance was required	

Previous history		0 to 5	0
Level 0	No history		
Level 1	History without aggression		
Level 3	History with aggression (over one year old)		
Level 4	History with aggression (under one year old)		
Level 5	Classified as dangerous		
Dog registered at the time of the incident		0 to 2	0
Level 0	The dog is currently registered		
Level 2	The dog is not currently registered		
Restraint		0 to 4	1
Level 0	The dog was under adequate restraint e.g. caged or fenced in		
	The dog was under inadequate restraint e.g. could have been accidentally approached or could have easily escaped		
Level 1			
Level 2	The dog was at large (unknown)		
Level 4	The dog was at large (known)		
Known by owner to be dangerous		0 to 4	1
Level 0	Not known by the owner to have shown previous aggression		
Level 4	Known by the owner to have previously attacked		
Recurrence likelihood		0 to 3	1
Level 0	The circumstances relating to this incident are such that a reoccurrence is highly unlikely		
Level 3	The circumstances relating to this incident are such that a reoccurrence is highly likely		
Trained to be aggressive		0 to 2	1
Level 0	Not trained at all to be aggressive		
Level 1	Encouraged to be a guard dog		
Level 2	Professionally trained guard dog		
Damages		0 to 1	1
Level 0	No damages or damages paid voluntarily		
Level 1	Did not voluntarily offer to pay/damages unpaid		
Breed characteristics		0 to 4	1
(This section is evaluated mainly based on our experience, however a reference to the Macdonald Encyclopaedia of dogs, breed use, may be used. In the case of a mixed breed, evaluate the most predominant identified breed. For example Pit Bull type dogs are renowned for their propensity to attack.)			
Level 0	Not known for its aggression		
Level 1	Known as a guard dog breed		
Level 4	Notorious for attacking		
Total			31
09 – 29 = Warning notice, menacing class & or infringement			
30 – 36 = Dangerous dog classification & or infringement			
Over 37 = Prosecution			
General comments and recommendation:			
The dog FI was being walked off lead with its owners when it bit the complainant, the dog has anxiety and can be unsure of meeting new people. Growly at ASO initially. Owners kept her on lead and did not allow the dog to approach. Neighbours say dog is known to be aggressive however have not reported it. Current rego. No history. Due to injury, recommend DG15 or menacing by deed.			

NOTICE OF CLASSIFICATION



Menacing dog classification – Section 33A, Dog Control Act 1996 (behaviour of the dog)																											
Date	19/1/2023	CCM	1034725																								
Name	DENESE DIANE KONOWE																										
Address	12 JACOB STREET BROOKFIELD TAURANGA 3110																										
		DELIVERY CONFIRMATION <div> Recipient name Signature Date Served by Signature </div>																									
Dog details <table> <tr> <td>Dog ID</td> <td>47640</td> <td>Primary breed</td> <td>BORDER COLLIE</td> </tr> <tr> <td>Microchip No</td> <td>934*0000*9020*2792</td> <td>Secondary breed</td> <td>HEADING</td> </tr> <tr> <td>Name</td> <td>FIORA (FI)</td> <td>Primary colour</td> <td>WHITE</td> </tr> <tr> <td>Sex</td> <td>FEMALE</td> <td>Secondary colour</td> <td>BLACK</td> </tr> <tr> <td>Age</td> <td colspan="3">5 yrs 6 mths</td> </tr> <tr> <td>Address where the dog is kept</td> <td colspan="3">12 JACOB STREET</td> </tr> </table>				Dog ID	47640	Primary breed	BORDER COLLIE	Microchip No	934*0000*9020*2792	Secondary breed	HEADING	Name	FIORA (FI)	Primary colour	WHITE	Sex	FEMALE	Secondary colour	BLACK	Age	5 yrs 6 mths			Address where the dog is kept	12 JACOB STREET		
Dog ID	47640	Primary breed	BORDER COLLIE																								
Microchip No	934*0000*9020*2792	Secondary breed	HEADING																								
Name	FIORA (FI)	Primary colour	WHITE																								
Sex	FEMALE	Secondary colour	BLACK																								
Age	5 yrs 6 mths																										
Address where the dog is kept	12 JACOB STREET																										
Classification details <p>This is to notify you that this dog has been classified as a menacing dog under section 33A of the Dog Control Act 1996 with effect from the date of this notice.</p> <p>This is because Tauranga City Council considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife, because of observed or reported behaviour of the dog, namely: On Saturday 31 December 2022, at approximately 8:00pm, FIORA (FI) did attack a person walking on Eden Crescent.</p> <p>A summary of this classification and your right to object is provided on the reverse. Objections must be in writing and can be sent to the addresses provided or delivered to the Tauranga City Council Service Centre.</p>																											
Classification requirements <p>Neutering: Your dog must now be neutered, and you must provide a veterinary certificate as proof thereof within one month of receipt of this notice.</p> <p>Microchip: Your dog is already microchipped; you are compliant with this requirement.</p> <p>Muzzle: Your dog must now be muzzled when it is at large or in any public place or private way, and it must be kept under control at all times.</p>																											
The required documents can be sent by mail to: Animal Services, Tauranga City Council, Private Bag 12022, Tauranga 3143, New Zealand or by email to: dog.registration@tauranga.govt.nz																											
		ADDITIONAL INFORMATION <div> Signature Name Position </div>																									
 Name Position		Dated: 19 January 2023 Animal Services Team Leader																									

EFFECT OF CLASSIFICATION AS A MENACING DOG**Sections 33E, 33F and 36A Dog Control Act 1996**

- a) You must not allow your dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction; and
- b) You must produce to Tauranga City Council within one month after receipt of this notice a certificate issued by a registered veterinary surgeon certifying:
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are certified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c) If your dog is not fit to be neutered before a specific date as mentioned above, then you must produce to Tauranga City Council within one month after that specified date, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with any of the matters in paragraphs (a) to (c) above. In addition, a dog control officer or dog ranger may seize and remove the dog from you and keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

If applicable, if not already microchipped, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Tauranga City Council in accordance with the reasonable instructions of Tauranga City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement within 2 months after this notice.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting, but to allow it to breathe and drink without obstruction.

You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.


Full details of the effect of classification as a menacing dog are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO CLASSIFICATION UNDER SECTION 33A**Section 33B, Dog Control Act 1996**

You may object to the classification of your dog as menacing by lodging with Tauranga City Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of the objection and will be notified of the time and place at which your objection will be heard.

All objections must be in writing and can be sent via email to dog.registration@tauranga.govt.nz or by mail to: **Animal Services, Private Bag 12022, Tauranga 3143, New Zealand.**

 19/1/2023

19 JANUARY 2023

**FORMAL REQUEST FOR APPEAL:
MENACING DOG CLASSIFICATION :1034725**

**DENESE KONOWE
12 JACOB STREET
BROOKFIELD**

This appeal request is being filed in regards to a January 18 mailbox drop by Chardon Daley and following a subsequent phone conversation with Chardon, and Brent Lincoln.

It is my understanding that by requesting this appeal and by taking additional actions described below, that during the appeal period, we will not be subject to any imposition of fines, nor any removal of our dog from our home.

During this period, as has been our practice "Fi" will be under lead at all times, when not on our property and has no access to public places when not on lead. We are also taking specific steps to advance a long-term training paradigm with Fi with regard to existing farm/breed appropriate "Operant Conditioning".

Fi is voice trained and will respond to verbal commands, including "Stop" and "Come" as required.

Additionally, we are seeking the vet's record on "Fi" to demonstrate that she was desexed previously, as required. We have supplied this record to you via an email from the Vet's office.

Basis For Appeal:

Dr. Konowe (Fi's owner in addition to Denese Konowe) holds a Ph.D. degree in "Learning Theory & Applications"; was the Department Chairperson at Pace University, NYC; and had responsibility for all scientific studies involving animal as subjects and behavioural learning patterns. His existing qualifications would certainly support his being qualified as a professional trainer/behaviourist.

As has been explained to Chardon when she made her site visit, Fi is now approximately six years old (3+ years in our home) and this the first instance reported.

Using a muzzle on a Border Collie can have a number of negative outcomes, including:

1. Restricting the dog's ability to pant and drink water, which can lead to overheating and dehydration.
2. Preventing the dog from performing natural behaviours such as herding, which can lead to behavioural issues.
3. Giving the impression to other people that the dog is dangerous, which can lead to fear and mistrust.
4. Creating a negative association with the muzzle in the dog's mind, which can make it difficult to train the dog in the future.
5. Creating an opportunity for the dog to be harmed if it is able to remove the muzzle or if it gets caught on something.
6. It can also have negative impact on the dog's physical and mental health by causing stress and anxiety.

It is important to understand that muzzling a dog should only be used as a last resort and only under the guidance and supervision of a professional trainer or behaviourist.

It is much better to address the root cause of the behaviour and train the dog to behave well.

NOTE:

Complete documentation and additional submissions, will be provided at the Objection Hearing and we may seek legal representation as well.

We have unilaterally begun retraining with positive reinforcement and an ultrasonic beeper and will introduce negative reinforcement (see below) if it proves necessary.



Can a high frequency beeper be used in training dog behaviour?

High frequency beepers, also known as ultrasonic or silent dog whistles, can be used in training dogs to help them understand specific commands or behaviours. These beepers emit a high-frequency sound that is inaudible to humans but can be heard by dogs. The sound of the beeper can be used as a marker or cue for the dog, to indicate that they have performed the desired behaviour correctly.

For example, a trainer can use a high-frequency beeper to signal to a dog that they have performed a specific behaviour correctly, such as sitting or coming when called. The dog will learn to associate the sound of the beeper with the desired behaviour, and will eventually respond to the command without the need for the beeper.

It is important to note that high-frequency beepers should be used in conjunction with positive reinforcement training and not as a standalone tool. It is also important to get professional guidance and supervision before using any tools like this.

END OF SUBMISSION:

Dog Control – Victim Statement of Incident

Incident: Attack on a person

Date statement taken: 2/02/23 at 13h00.

[REDACTED] Tauranga.

Officer details: Kiran Erasmus

Victims Full Name: William John Foot

[REDACTED]

I am speaking to John Foot about an incident that occurred on possibly a Friday on about the 21st of October in the afternoon (between 1pm and 3pm) to the best of his memory. The incident occurred on Eden Crescent, Bethlehem, Tauranga.

Please describe the incident from start to finish...

Denese was walking at the end of Jacob Street, and we met on the berm (in between the parking spaces) on Eden Crescent and Jacob Street. I was on Eden Crescent walking east. I said hello and paused, put my hand (balled up my fist as I always do when I'm meeting dogs) in front of me and Fi just snapped at my hand. I said, "oh that was unexpected". And Denese said nothing. The dog gave no indication that it was about to do that (bite me). It is a quiet dog, not a yappy or jumpy dog, nothing to take offense about. The dog did nothing to indicate any aggression. It was a single bite to my right index finger knuckle. The dog snapped, bit and let go. There was only one puncture wound and very little blood. No bruising. The tooth only just penetrated my skin.

I didn't see any need to take it further. I was surprised at the unexpectedness of the bite but put it down to an isolated case and I hadn't suffered any significant or lasting injury.

This statement is true and correct, I have nothing further to add at this time.

Full Name: William John Foot

Signed:



Date: 02/02/2023

Dog Control – Victim Statement of Incident

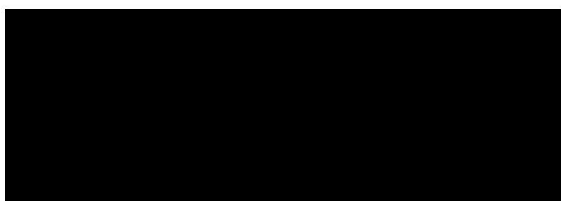
Incident: Person Attacked

Date statement taken: 07/02/2023

Place statement taken: The Strand extension – Oscar & Otto Restaurant

Officer details: Kiran Erasmus

Victims Full Name: James Milton Hickey



I am speaking to (Victim) James Hickey About an incident that occurred about a year ago – January 2022 in the late afternoon outside No. 12 Jacob Street on the road as there is not footpath.

Please describe the incident from start to finish...

So, I had literally set off for a walk. Put my earphones in and there was music playing. This blocked out background noise. I got to the section of the road outside their driveway. Looking ahead and then through the music I heard significant barking and a blur of movement to my left and I realised the dog was right there and it had come screaming down the driveway and before I had time to react pretty much, it had latched onto my left leg round the calf height. Denese was there and she quickly followed the dog (which was not on a lead) and she (combination of me kicking the dog off) telling to get off. It did stop biting me. I was shocked and angry, and I did give her an earful – alone the lines of this are unbelievable and unacceptable. Denese was very apologetic. I stormed off. I looked down afterwards and it had drawn blood. Not a huge amount and there were two puncture wounds. These concerned me as I thought I would need a tetanus shot. When I got back, I called my doctor and explained what had happened. I was up to date with my shots and did not feel like the wound need attending. I was told to monitor by the doctor's room.

The dog has lunged at me on two other occasions, but thankfully it was on a lead. I've seen lunge at a neighbour's dog and a child. All these occasions it has been on a leash.

I did not report the incident because Denese was so apologetic and because they have been good neighbours to me, and I gave them the benefit of the doubt. I'll talking now because since I've heard about nine other incidences.

This statement is true and correct, I have nothing further to add at this time.

Full Name: James Hickey

Signed:  • Date: 07/02/2023

5.2 Objection To Notice to Remove Barking Dog - Brendon Martin

File Number: A14194370

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To consider an objection from Brendon Martin to a notice to remove his dog from his property because it is causing nuisance by loud and persistent barking.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection To Notice to Remove Barking Dog - Brendon Martin"; and
 - (b) Confirms the notice to remove.
2. When considering an objection, the panel may:
 - (a) Confirm; or
 - (b) Modify; or
 - (c) Cancelthe notice to remove.

EXECUTIVE SUMMARY

3. The Dog Control Act 1996 says a dog is not allowed to cause nuisance by loud or persistent barking or howling.
4. The objector owns a female Rottweiler Cross dog named Kora.
5. Council have received complaints from 6 separate residents, that the dog Kora is regularly causing nuisance by loud and persistent barking.
6. The owner was served with an abatement notice which required the dog to wear an anti-barking collar. On two separate occasions, staff visited the property after receiving complaints and the dog was in breach of the abatement notice as it wasn't wearing the bark collar.
7. As a result of continued barking and the failure of the owner to comply with the abatement notice, a notice to remove the dog was issued and the owner has objected to this notice.
8. The situation with the dog has been further aggravated by regular roaming complaints.

BACKGROUND

9. Barking complaints are quite subjective and studies have concluded while some people will be adversely affected by a barking dog, others won't notice the noise at all.
10. Before Council can take any action in relation to a barking complaint, the officer must have reasonable grounds to believe that the barking is loud or persistent and the barking is causing nuisance.

11. Reasonable Grounds means the officer's observations of the evidence, professional training and experience leads them to believe there is a possibility (not a probability) an offence has been committed.
12. There is no definition in the Dog Control Act about what loud or persistent is.
13. Loud can be assessed as noise that can be heard outside the property from which it is coming and at such a level that it interferes with the normal quality of life of the complainant.
14. Persistent can be assessed as any barking that is repetitive either frequent barking over a short period of time or less frequent barking that continues over a longer period of time.
15. On 24 March 2022 Council received a complaint that the dog at 22 Arawata Avenue, Welcome Bay was barking loudly and causing nuisance. The caller said the dog had been causing nuisance for two months. (*Attachment 1 – Aerial photograph of area*)
16. When Council receives the first complaint about a barking dog, a letter is sent to the dog owner with a pamphlet about why dogs bark. (*Attachment 2 – Barking dog letter and pamphlet*)
17. On 30 May 2022 two different people phoned Council with further complaints about the dog barking and causing nuisance. One said it had been a nuisance for the last two months and the other said it had been barking for between 2 and 4 months and it had kept them awake during the night.
18. Staff conducted a barking survey in the neighbourhood to establish how widespread the problem is. A survey form is delivered to all houses neighbouring the problem dog, the survey does not identify where the barking dog resides but asks if there are any dogs in the neighbourhood causing nuisance with barking.
19. The last survey response was received on 17 June and in total, three people confirmed the dog from 22 Arawata was barking loudly causing nuisance. Two of these people were in addition to the complainants already identified. (*Attachment 3 – Barking Survey Results*)
20. As a result of the survey, staff visited the dog owner's property and sold them an anti-barking collar and discussed steps they could take to help mitigate further barking. The owner was also advised that if we received further complaints then a formal barking abatement notice would be issued.
21. On 12 July Council received further complaints from three separate people and as a result issued an abatement notice. The notice required the owner to:
 - (a) Use the barking collar; and
 - (b) Keep the dog indoors when no one is home; and
 - (c) Provide exercise; and
 - (d) Discourage barking; and
 - (e) Avoid long periods of separation.
22. The notice also encouraged the owner to seek the services of a qualified dog behaviourist and discuss medication options with their vet. (*Attachment 4 – Barking Abatement Notice*)
23. On 8 August, staff visited the property of 22 Arawata as the dog was not registered for the new year, registration had expired on 30 June 2022. The owner immediately registered the dog online while staff were present.
24. While at the property, they noticed the dog was not wearing its barking collar and they located it laying in the dirt. The owner was advised of the ramifications of not complying with the abatement notice.
25. On 1 October Council received another barking complaint, so on 4 October staff visited 22 Arawata and found the dog was not wearing its bark collar. As a result, a Notice to Remove (NTR) the dog was served on the owner on 12 October. (*Attachment 5 – Notice to Remove dog*)

26. An NTR requires the dog owner to rehome their dog, they have 7 days to object to the notice. Any objection suspends the Notice to Remove. On 14 October 2022, Council received an objection to the NTR from the dog owner. (*Attachment 6 – Objection to NTR*)
27. When considering an objection, the panel may:
 - (a) Confirm; or
 - (b) Modify; or
 - (c) CancelThe notice to remove.
28. Upon the determination of the objection, the panel shall give to the objector a further notice stating the decision of the panel, 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. (*Attachment 7 – Schedule of Complaints and Outcomes*)
29. It should be noted that the dog owner has incurred three infringements for failing to control the dog Kora i.e., allowed it to roam. Once these infringements have been either paid or referred to the Court for non-payment, the Act requires Council to disqualify the dog owner for a period of up to five years unless there is good reason not to.








SIGNIFICANCE

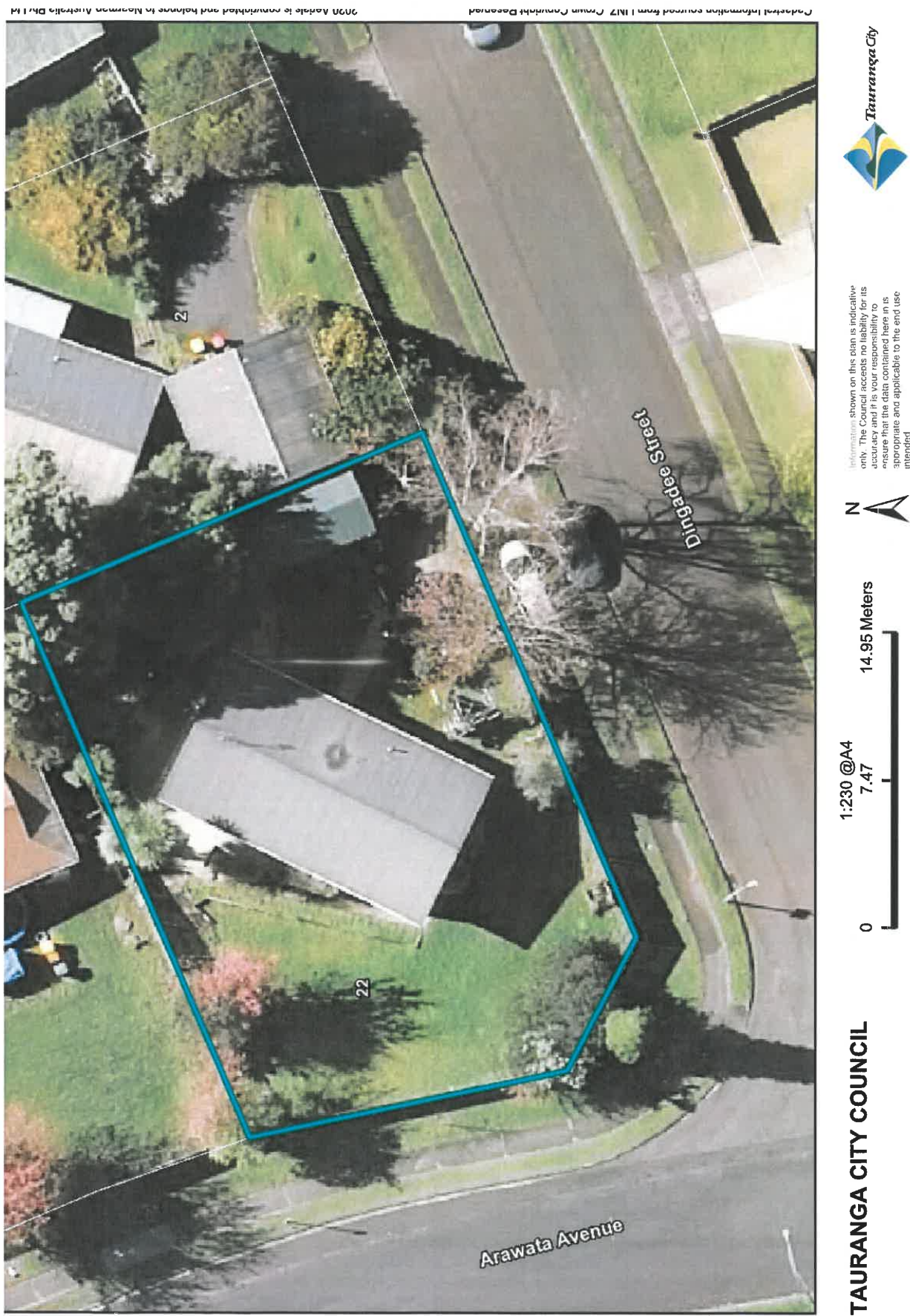
30. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
31. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
32. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

ENGAGEMENT

33. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Attachment 1 - Aerial Photo Dog Owners House and Neighbourhood - A14234050** [↓](#) 
2. **Attachment 2 - Barking Letter and Pamphlet - A14234054** [↓](#) 
3. **Attachment 3 - Barking Survey Results - A14234052** [↓](#) 
4. **Attachment 4 - Barking Abatement Notice - A14234051** [↓](#) 
5. **Attachment 5 - Notice to Remove Dog - A14234053** [↓](#) 
6. **Attachment 6 - Notice of Objection - A14234049** [↓](#) 
7. **Attachment 7 - Schedule of Complaints - A14234056** [↓](#) 





24 March 2022



BRENDON MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon

Investigation of barking dog/s - complaint number 984228

On 24 March 2022, we received a complaint alleging your dog has been causing a nuisance by persistently barking or howling loudly. The complainant alleges your dog was last heard at 12.25am, Thursday 24 March 2022. Your dog has been heard barking or howling intermittently on other occasions.

This letter is to advise you about information we have received.

As a dog owner, you are responsible under the Dog Control Act 1996 to ensure your dog is not causing a nuisance to others by persistent and loud barking. If your dog is barking, please take the necessary steps to stop this.

We've enclosed some information that may help you to manage the barking problem.

You can view our processes and helpful information at www.tauranga.govt.nz.

If you'd like to discuss this further, please contact us on 07 577 7000.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Hellier", with a long horizontal flourish extending to the right.

Pat Hellier
Animal Services team
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

encl: Barking brochure



Barking dogs




What is Council's process for managing barking complaints?

Our first step is to send the owner an information brochure and remind them of their obligations as a dog owner, so they can take steps to prevent further barking.

If further complaints are received, an animal services officer will contact the owner and arrange to visit the property and try to identify the reasons why the dog is barking.

If subsequent complaints are received a notice to correct may be issued which provides direction on what must be done.

Continued complaints may result in a formal notice to remove the dog.

Generally, we find most owners are surprised to hear that a complaint has been made, and are happy to rectify the problem.

Please note: It can take seven to 10 days to modify a dog's behaviour, so barking may continue even after an animal services officer has visited the property.

Ask for help if your dog barks

For more information contact our Animal Services team.

☎ 07 577 7000

💻 www.tauranga.govt.nz

✉ info@tauranga.govt.nz



Never reward or encourage barking



If your dog continues to bark there are other options such as purchasing a bark collar or bark proximity device.

Speak to your vet for more information if you are considering either of these options.

We have bark collars available for a reasonable cost through council. Make an enquiry today.

We do not encourage the removal of your dog's voice box.

Dogs bark, it's what they do, so don't expect a dog to never bark.

But a dog that causes a nuisance through loud and persistent barking, is not OK.

What is loud and persistent barking?

The barking must be such that it interferes with the complainants use or enjoyment of their land or premise.

Loud: clearly heard outside of the boundary of the dog's property.

Persistent: continuous barking for more than 10 minutes, or, stop-start barking for over 20 minutes.

Consideration is also given to time of day/night and how regularly the barking is occurring.

Please note: An animal services officer must be satisfied the barking is loud and persistent before any action can be taken.

It's a dog owner's responsibility to prevent their dog from causing nuisance by constantly barking. To do that, you first need to figure out what is causing the dog to bark.

Why do dogs bark?

Dogs bark as a form of communication, and it can mean different things depending on the situation. If a dog barks, there is a reason why.

Territorial/fear

- Dogs are protective of their territory, and react when they feel threatened
- A warning that someone is in their territory – often called 'alarm barking'
- A dog may become startled at a sudden noise or passing object, such as:
 - a passer-by, another dog/animal or moving vehicle can cause sight distraction
 - a house/car alarm, loud vehicle or stormy weather can cause noise distraction

Separation anxiety

- If a dog is left alone for long periods of time they can display unwanted behaviours, such as barking

Boredom/loneliness

- Lack of exercise and stimulation (physical and mental)
- Improper confinement such as restrictive tethering, being locked in a cage, or lack of shelter

Breed-specific

- Active, working dogs such as Huntaway or Border Collie tend to be more vocal than other dogs

How do you stop your dog from barking?

Getting your dog to bark less requires you to change your habits as well as your dogs.

Just like there are different reasons why a dog barks, there are a number of ways to stop the behaviour.

Territorial/fear

- A perceived threat can be lessened by restricting what your dog sees:
 - move your dog to another part of the garden
 - install a solid fence, or
 - block their view outside of your property

Separation anxiety

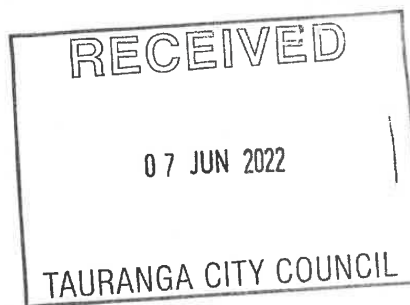
- Take your dog to doggie day care
- Arrange for a dog walker to exercise your dog
- Change your routine so your dog is not left for long periods of time unattended
- Ignore your dog when you first get home

Boredom/loneliness

- Exercise morning and night – a tired dog is a quiet dog, so make sure you've given your dog plenty of exercise before you leave it alone
- Provide food, water, toys and activities to keep your dog entertained
- Allow your dog to run free in a contained section
- Feed your dog a healthy diet by giving them quality food, and not high energy food

31 May 2022

TO THE OCCUPIER



Tauranga City

Investigation of Complaint (Barking Dog/s) No. 996423

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by **14 JUN 2022**. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address – YES / NO
22 Arawata Ave
Welcome Bay
3. Would you consider the barking/howling to be loud and persistent? YES / NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer Longer
5. Does the dog/s bark/howl more during the day or night? BOTH DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? lack of care YES / NO
9. How many dogs are on the property? 1 / 2 / 3 / 4

Record over the page description of dog/s that are causing the disturbance & any other comments.

Signed: [Redacted] Date: 31/5/22

Name: [Redacted]

Address: [Redacted]

Phone: [Redacted]

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz

320143

Dog: Rottweiler

On a chain 24/7, has never been exercised.

No Socialising skills

Outside in all weather types

Even when owner's home, still on the chain barking

Sunday night it barked all though the night: (got no sleep)

Also upsets our dogs when barking all day and night

Address:-
22 Arawata Ave
Welcome Bay

31 May 2022

RECEIVED

07 JUN 2022

TO THE OCCUPIER

TAURANGA CITY COUNCIL



Tauranga City

Investigation of Complaint (Barking Dog/s) No. 996423

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by **14 JUN 2022**. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address – YES / NO
Corner of Arawata and
dingdadee
3. Would you consider the barking/howling to be loud and persistent? YES / NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer
5. Does the dog/s bark/howl more during the day or night? DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES / NO
9. How many dogs are on the property? ? 1 / 2 / 3 / 4

Record over the page description of dog/s that are causing the disturbance & any other comments.

Signed: [Redacted] Date: 1.6.22

Name: [Redacted]

Address: [Redacted]

Phone: [Redacted]

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz

320143

31 May 2022

RECEIVED

13 JUN 2022



Tauranga City

TO THE OCCUPIER

Investigation of Complaint (Barking Dog/s) No. 996123

TAURANGA CITY COUNCIL

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by **14 JUN 2022**. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? ☒ YES ☐ NO
2. Do you know the address the dog is from?
Please identify address – YES / NO
unsure
? maybe 2 houses up on Arawata Ave from us
3. Would you consider the barking/howling to be loud and persistent? ☒ YES ☐ NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, ☒ Longer
5. Does the dog/s bark/howl more during the day or night? ☒ DAY ☐ NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? ☒ YES ☐ NO
7. Do the owners take any corrective action when the dog/s barks? ☐ YES ☐ NO ☒ UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? ☐ YES ☒ NO
9. How many dogs are on the property? ☒ 1 ☐ 2 ☐ 3 ☐ 4

Record over the page description of dog/s that are causing the disturbance & any other comments.

Signed: Date: *8/06/22*

Name:

Address:

Phone:

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz

320143

14 July 2022

BRENDON MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon

Barking abatement notice – complaint number 1001957

We have completed our investigation into a barking dog complaint involving your dog KORA.

We have received multiple complaints about your dog KORA barking and causing a nuisance to others.

I, Pat Hellier a Dog Control Officer have reasonable grounds to believe that your dog KORA is causing nuisance by persistent and loud barking or howling and as such **you are now required** to undertake or complete the following actions to abate the dog barking:

- Obtain and use a functioning anti-barking collar ensuring the anti-bark collar is fitted correctly as per manufacturer's instructions. (Available for purchase from us at \$35 or your local vet)
- ensure the dog is kept indoors, in a garage or in an enclosure when no one is at home that will minimise noise (the dog must have ventilation and plenty of fresh water)
- provide adequate exercise before periods of separation
- discourage barking at inappropriate times and for inappropriate reasons
- avoid long periods of separation.

You may also consider one or more of the following to reduce the barking to an acceptable level:

- seek the services of a qualified trainer or animal behaviourist
- consider medication (contact your local vet or animal holistic centre)

If there are any further complaints a new notice could be issued, the requirements of which will apply in addition to the requirements set out above and any objection to that notice will not suspend the requirements set out above.

Your right of objection to the requirements

- You may, within seven days of the receipt of this notice, object in writing to Tauranga City Council against the requirements of this notice.
- Tauranga City Council will consider the objection and may confirm, modify, or cancel the notice.
- You are entitled to seven days notification of the date, time, and place at which Tauranga City Council will consider your objection. You are entitled to be represented and to be heard. You may submit evidence and call witnesses in support of your objection.
- Tauranga City Council shall give written notice to the objector of their decision.
- This notice will be suspended while pending the determination of the objection.

You must either comply with this notice, or object to the requirements. You must also comply with any notice confirmed or modified by us. If you do nothing, you may be subject to legal proceedings and will be liable to a fine not exceeding \$1500.

Note: In the event of a council hearing, all documentation and correspondence may become public.

Your dog is your responsibility – as a dog owner, you have certain obligations under the Dog Control Act 1996. These obligations require you to take all reasonable steps to ensure your dog does not cause a nuisance to any other person, by persistent and loud barking/howling.

Removal of barking dog causing distress

If at any time after this notice has been issued, we receive a further complaint and have reasonable grounds to believe that a nuisance is continuing to cause distress to any person, a dog control officer may enter the property or premises on which the dog is kept and remove and impound the dog or serve a notice requiring you to permanently remove your dog from your property.

Yours sincerely



Pat Hellier

Animal Services team
Tauranga City Council

07 577 7000

info@tauranga.govt.nz

10 October 2022

BRENDON MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon,

**Notice to remove dog – complaint number: 1017283
Pursuant to section 55 of the Dog Control Act 1996**

A further complaint has been received alleging that your dog is continuing to create a nuisance by barking loudly or howling.

You have been given opportunities to take all reasonable steps to ensure your dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means.

Pat Hellier being a dog control officer has reasonable grounds to believe your dog named Kora is causing a nuisance by persistent and loud barking.

As a result, you are now required to remove Kora from 22 Arawata Avenue.

We regret having to taking this action, however all steps to resolve this issue appear to have been exhausted.

Your right of objection

- 1) You may, within seven days of the receipt of this notice, object in writing to Tauranga City Council against the requirements of this notice.
- 2) We will consider the objection and may confirm, modify, or cancel the notice.
- 3) You are entitled to seven days' notification of the date, time, and place at which we will consider your objection. You are entitled to be represented and to be heard. You may submit evidence and call witnesses in support of your objection.
- 4) We will give written notice to the objector of their decision.
- 5) This notice will be suspended while pending the outcome of the objection.

You must either comply with this notice, or object to the requirement within seven days. You must comply with any notice confirmed or modified by us, if you do nothing you may be subject to legal proceedings and will be liable on summary conviction to a fine not exceeding \$1500.

In the event of a council hearing, all documentation and correspondence may become public.

Note: In the event of a council hearing, the council report and minutes of the hearing will be posted on our website. Other documentation and correspondence may also be made available to the public upon request and after considering any legal obligations.

Removal of barking dog causing distress

If at any time after this notice has been issued an animal services officer receives a further complaint and has reasonable grounds for believing that the nuisance is continuing and is causing distress to any person, the animal services officer may enter upon the land or premises on which the dog is kept and remove and impound the dog.

Where a dog is removed, the animal services officer shall give written notice to the owner of the dog.

Custody of dog removed for barking

The owner of the dog, which will be kept in custody, can apply to Tauranga City Council at any time for its return.

Yours sincerely



Pat Hellier
Animal Services team
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

12/10/2022

RECEIVED

14 OCT 2022

TAURANGA CITY COUNCIL

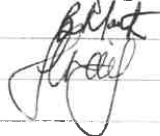
To whom it may concern,

On the 12/10/2022, we received a notice in regards to people making complaints about our dog Kora barking. We wish to object to this notice as she has not barked excessively for the past few months & no proof has been provided from complainants that it is Kora barking. She does tend to bark when a cat or stranger comes onto our property just like many other dogs as she is territorial. But with her territorial barking, we are able to maintain & settle her barking. We believe that the complainants have mistaken her barking for another dog. There are plenty of dogs along our street that bark but Kora does not bark to the extent of these other dogs anymore. Truthfully, the first 2 complaints Kora did bark excessively but with the help of the Tauranga Council, we were able to obtain a barking collar which worked and have now removed it because she does not bark often anymore. Kora is fed & given water regularly, we walk her regularly up to an hour a day, we take her to Tye Park often for her to run & make energy off, and we are always playing with her in our back yard. A few of the complaints we have received, I have explained to the animal officers that we had taken Kora for a walk at the time of the complaints to which he said he will sort it. Kora is very much apart of our family and we love her just as much as we love our children, we would hate for her to be taken from us. I understand the frustration the council has faced due to the number of complaints against Kora but it is not fair that we don't get to explain ourselves and have her taken from us just because people think it's her barking when it is not, she is quiet majority of the time which is why we ask complainants to provide proof that it is Kora.

If there are any further complaints, we wish that you would ask the complainants to communicate with us prior to complaining to the council. We take very good care of Kora, she is our children's pride & joy as she is apart of our family & we always ensure that she does not continuously disturb the neighbourhood. We hope that you accept this letter & allow us to keep Kora because our family will be torn apart if this was to happen under false, unproven accusations. Thank you for your time!

Kind regards,
Brendon Martin &
Tahurangi Craig.

Signed:



SCHEDULE OF COMPLAINTS AND ACTION		
Complaint	Event	Outcome
984228 24 Mar 2022	Barking Complaint	Barking 1 letter
20-May-22	ROAMING DOG	Dog impounded roaming
996423 30 May 2022	Barking Complaint	Barking Survey to 12 addresses.
996525 30 May 2022	Barking Complaint	
17-Jun-22	Barking Surveys Returned	3 affirmative responses recieved. 2 respondants are additional to the complainants.
17-Jun-22		Visited dog owner and sold them an anti-bark collar. Showed them how to use it. Suggested exercising dog more. Advised any further complaints and we would issue abatement notice.
1001957 12 Jul 2022	Barking Complaint	Barking Abatement Notice (BAN) to be issued.
1001978 12 Jul 2022	Barking Complaint	
1001991 12 Jul 2022	Barking Complaint	
14-Jul-22		Visited dog owner and served barking abatement notice
8-Aug-22		Visited dog owner as dog unregistered. Barking collar was not on dog. Found collar in dirt on ground.
21-Aug-22	ROAMING DOG	Infringement Issued
1012884 08 Sep 2022	Person Attacked	Infringement Issued
1016384 27 Sep 2022	ROAMING DOG	Infringement Issued
1017283 01 Oct 2022	Barking Complaint	Notice to Remove (NTR) to be issued
4 Oct 2022		Officer Visit address, Bark collar not on dog in breach of BAN
4 Oct 2022		Officer re-visited and advised owner he witll receive NTR
1018014 05 Oct 2022	ROAMING DOG	NFA
12-Oct-22		NTR hand delivered and explained.
1022385 27 Oct 2022	ROAMING DOG	NFA

5.3 Objection to Disqualification as Dog owner - Brendon Martin

File Number: A14414247

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Brendon Martin opposing his disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Brendon Martin".
- (b) It is recommended that the panel uphold the disqualification, however the panel may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.

EXECUTIVE SUMMARY

2. The objector, Brendon Martin is the registered owner of Kora, a Rottweiler Cross dog aged 1 year 7 months.
3. In the short time Mr Martin has owned this dog, it has been subject to eight complaints about the dog roaming, the dog has been impounded twice and on one occasion was seen to try and attack another dog. (*Attachment 1 – Schedule of Roaming Complaints and Action*)
4. Section 25 of the Dog Control Act 1996 ("the Act") requires Council to disqualify a person from owning a dog if they receive three or more infringements within a two-year period and the infringements have either been paid or filed with the Court.
5. For the period 21 August 2022 to 23 November 2022 Mr Martin received five infringements, three of which so far have been filed with the Court.
6. As a result, on 31 January 2023, he was issued with a notice disqualifying him from owning a dog for a period of three years from the offence date of the third infringement, namely 27 September 2022. (*Attachment 2 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Mr Martin submitted an initial objection to the disqualification on 8 February 2023 and this was followed by a supporting email on 13 February 2023. (*Attachment 3 – Objection to disqualification*)

BACKGROUND

8. The dog Kora was entered onto the TCC dog register in February 2022. On 19 May 2022 it was found roaming in Welcome Bay and taken to the pound and subsequently released upon payment of pound fees the next day. A warning letter was also sent to the owner. (*Attachment 4 – Roaming Warning Letter*)

9. Kora was then reported roaming on seven other occasions. Once an owner has received a warning letter for roaming, our policy is to issue an infringement fine for each occasion the dog subsequently roams unless there is good reason not to. (Refer attachment 1)
10. The “Act” provides that when a person receives three infringements within a two-year period and the infringement has either been paid or filed with the Court, then Council must disqualify that person from owning a dog for a period of up to 5 years.
11. Council doesn’t have to disqualify the person if they are satisfied the circumstances of the offence are such that:
 - (a) The disqualification is not warranted; or
 - (b) Council will classify the owner as probationary.
12. After considering the extensive negative history associated with this dog owner, we believed the disqualification was appropriate. Council doesn’t operate a probationary owner scheme.
13. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
14. In considering any objection under this section, the territorial authority shall have regard to:
 - (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.
15. It is not the purpose of this panel to rule on the legality of each infringement, that is a matter for the Court should the dog owner chose to defend each infringement. Once the infringement has been paid or filed with the Court, the offence is deemed to have been proved. This panel must consider the objection in the terms of paragraph 14 above, as provided by section 26(3) of the “Act”.
16. When an infringement is issued the recipient can either:
 - Pay the infringement; or
 - Defend the infringement in Court; or
 - Do nothing.
17. If the person does nothing, a reminder will be sent in 28 days and then after a further 28 days the infringement will be filed with the District Court.
18. Only infringements which have either:
 - Been paid; or
 - A conviction entered (if they defended the infringement); or
 - Filed with the Courtcan be counted when disqualifying a person.
19. The three infringements highlighted in green (see attachment one) are the ones which triggered this disqualification. Since that time two further infringements have been issued and the dog has been roaming on three other reported occasions. On two of these occasions, infringements weren’t issued while an objection to the barking abatement notice was processed and on one occasion on 10 February 2023 as the victim did not report the incident. Infringements could have been issued but Council chose not to on these occasions.
20. Prior to disqualifying a person, we have created a process whereby we write to the dog owner and advise them that the “Act” requires them to be disqualified however before we

make a final decision, they may write to Council with any information they would like to be taken into consideration. (*Attachment 5 – Notification of pending disqualification*)

21. No response was received and a notice to disqualify (attachment 2) was delivered to the home of Mr Martin on 31 January 2023.
22. In considering this objection the panel may either:
 - Uphold the disqualification; or
 - Bring forward the date of termination; or
 - Immediately terminate the notice.
23. The objector may appeal the decision of the panel to the District Court if dissatisfied.

STRATEGIC / STATUTORY CONTEXT

24. N/A

OPTIONS ANALYSIS

25. N/A

FINANCIAL CONSIDERATIONS

26. N/A

LEGAL IMPLICATIONS / RISKS

27. N/A

CONSULTATION / ENGAGEMENT

28. N/A











SIGNIFICANCE

29. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
30. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
31. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

ENGAGEMENT

32. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Attachment 1 - Schedule of Roaming Complaints and Action - A14425674**  
2. **Attachment 2 - Notice of Disqualification - A14425676**  
3. **Attachment 3 - Objection to Disqualification - A14425675**  
4. **Attachment 4 - Roaming Warning Letter - A14425671**  
5. **Attachment 5 - Notification of Pending Disqualification - A14425672**  

SCHEDULE OF ROAMING COMPLAINTS		
Complaint	Event	Dog Activity
994959 19/05/2022	ROAMING DOG	Dog found roaming on street
1009226 21/08/2022	ROAMING DOG	Found roaming on street and private property
1012884 08 Sep 2022	ROAMING DOG	Dog roaming and tried to jump in car with callers child.
1016384 27 Sep 2022	ROAMING DOG	Roaming in middle of street
1018014 05 Oct 2022	ROAMING DOG	Roaming in middle of street
1022385 27 Oct 2022	ROAMING DOG	Roaming in middle of street
1027899 23 Nov 2022 03:28pm	ROAMING DOG	Roaming on private property
1042280 10 Feb 2023 07:50pm	Dog Roaming -Witness to attack	Witness observed dog roaming and try and attack a family and their dog walking on the street.
17-Jan-23	Notification of pending d	
31-Jan-23	Disqualification notice	
8-Feb-23	Initial objection to disqualif	

3 AND ACTION	
Outcome	Filed in Court
Dog impounded roaming. Released and written warning issued	
Infringement 26257 Issued	2 November 2022
Infringement 26318 Issued	30 November 2022
Infringement 26365 Issued	21 December 2022
NFA as Notice To Remove issued for barking	
NFA as Notice To Remove issued for barking	
Dog Impounded and Infringement 26569 issued for roaming and 26568 for failing to comply with barking abatement notice.	Reminder sent
NFA as victim has not reported incident.	
Disqualification	
Notice delivered	
Information received	

17 January 2023



BRENDON MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon,

Notice of disqualification from dog ownership
Section 25, Dog Control Act 1996

This is to inform you that you have been disqualified under section 25(1)(a) of the Dog Control Act 1996 from owning any dog.

This follows:

- three or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 27 September 2022 and will expire 26 September 2025.

A summary of the effect of the disqualification and your right to object is provided below.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Brent Lincoln", written over a light blue circular stamp.

Brent Lincoln
Animal Services: Team Leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Effect of disqualification**Section 28, Dog Control Act 1996**

You are required to dispose of every dog owned by you within 14 days of the date of this notice. However, you may not dispose of a dog:

- to a person who resides at the same address as you
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only for the purpose of:

- preventing it from causing injury, damage, or distress
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you:

- fail to dispose of every dog owned by you within 14 days of this notice
- at any time while disqualified, become the owner of any dog
- dispose of a dog owned by you:
 - to a person who resides at the same address as you
 - in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended. You will also commit an offence and be liable on conviction to a fine not exceeding \$3000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

Right of objection to disqualification**Section 26, Dog Control Act 1996**

You may object to the disqualification by lodging a written objection with Tauranga City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard.

No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until Tauranga City Council has determined the objection.

There is a further right of appeal to a District Court if you are dissatisfied with the decision of Tauranga City Council on your objection.

Note: In the event of a Council hearing, the council report and minutes of the hearing will be posted on the council's website. Other documentation and correspondence may also be made available to the public upon request and after considering any legal obligations.

Brent Lincoln

To: brendon martin
Subject: RE: Re Disqualification

CAUTION: External Email.

I object to this and we hope we can keep Kora

On Wed, 8 Feb 2023 at 4:30 PM, Brent Lincoln <Brent.Lincoln@tauranga.govt.nz> wrote:

Hi Brendon

As discussed, last year you lodged an objection to having to a Notice to Remove Kora because she was causing nuisance because of her barking. You objected to this notice and the Hearing Panel can hear your objection at 11:00am on Wednesday 15 February 2023. You can bring your partner with you.

I also note you have been now disqualified as a dog owner because of the number of infringements issued to you in the last two years.

You have two choices:

1. Either agree to rehome Kora; or
2. Object to the disqualification.

If you want to object, can you please reply to this email so I can prepare your file. Please include any reason why you should not be disqualified and add any reason to support this.

Thanks

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

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1/2/23

RECEIVED

8 FEB 2023

TAURANGA CITY COUNCIL

To whom it may concern,

We received a letter from a dog control officer regarding disqualification of ownership. To this, we object whole heartedly!! We have objected once before & still haven't heard anything back from the previous letter. So I find this very unfair receiving a new letter when the previous one hasn't been settled. We are supposedly disqualified due to infringement fees caused by our dog barking. We have not received an infringement letter as I have told the dog control officer numerous times that we aren't able to access our letterbox & to have all letters emailed or hand delivered. AGAIN I ask for proof or evidence from these complainers that it is our dog (Kora) that they hear barking continuously because we know for a fact it is not Kora. Yes, she make bark at animals passing by, cats or hedgehogs coming onto our property, or strangers coming onto our property as any dog would. Dogs barking is normal behaviour, it is their way of communicating, expressing emotion or being territorial. Kora does not bark excessively at all, she is very much a calm & friendly dog. We have followed all advice given from dog control officers such as a barking collar to which it worked so we don't feel the need to use it anymore. This is very heart breaking to our family especially our children, she is apart of our family & always will be. Please accept this letter of objection because she shouldn't be taken just for barking, that is ridiculous! If we need to pay these infringement fees to keep her, we're fine with that but please contact us via email, phone or face to face. Thank you!

— Brendon Martin

(P.) Please don't take her from us over something natura

26 May 2022



BRENDON MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon

Investigation of Complaint (Roaming Dog/s) No. 994959

On 20 May 2022 Council released your dog named Kora to you from the Dog Pound after it had been picked up roaming.

The purpose of this letter is to remind you of your responsibilities.

Your dog must be under the direct control of a person or confined in a manner that it cannot freely leave your property. This requires the need to use or carry a leash at all times while with a dog in a public place. Please ensure that your dog is kept under proper control and take the necessary steps to prevent it from causing a nuisance.

Please note: If your dog is found roaming again it is likely to be impounded. In addition to any impound fees Council may also issue a **\$300** infringement for failing to control your dog.

If you wish to discuss this matter, please contact our Customer Service team on 5777 000 or email info@tauranga.govt.nz.

Enclosed is a pamphlet containing further information about roaming dogs that you may find useful or visit our website www.tauranga.govt.nz.

Yours sincerely
Animal Services team
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

320030

17 January 2023



BRENDON PIRIPI JUNIOR MARTIN
22 ARAWATA AVENUE
WELCOME BAY
TAURANGA 3112

Dear Brendon,

Disqualification on third or subsequent infringement
Dog owner reference number: 600291

Our records show you have committed three or more infringement offences against the Dog Control Act 1996.

These offences were committed:

- within a continuous 24-month period
- each incident was on a separate occasion
- each was for a separate incident.

Section 25 of the Dog Control Act 1996 states you must be disqualified from owning a dog for a period not exceeding five years unless Tauranga City Council is satisfied that the circumstances of the offences are such that the disqualification is not warranted.

If there is any information you would like to be taken into consideration regarding your possible disqualification please submit this in writing by 12 January 2023. If a submission is not received by this date, a decision will be made based on the facts before council at the time.

Yours sincerely

Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

5.4 Objection to Disqualification as Dog Owner - Tina Bowrind

File Number: A14116840

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection by Tina Bowrind opposing her disqualification as a dog owner for a period of 3 years.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tina Bowrind".
- (b) Staff recommend that the disqualification is upheld.
- (c) The Dog Control Act provides that, in determining any objection, the panel may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.

EXECUTIVE SUMMARY

2. When a dog owner receives three or more qualifying infringements within a 24-month period, Section 25 of the Dog Control Act 1996 requires Council to disqualify that person from being a dog owner for up to 5 years. On 17 May 2022 the objector was issued with a notice disqualifying her as a dog owner until 5 February 2025.
3. A disqualification will not be mandatory if the Territorial Authority:
 - (a) Is satisfied that the circumstances of the offence or offences do not warrant a disqualification; or
 - (b) The person is classified as a probationary owner.
4. Staff assessment is that neither of these provisions apply to the objector.

BACKGROUND

5. Tina Bowrind was the owner of two dogs, Rosebud and Jasper, both Bull Terrier Cross dogs.
6. She obtained Rosebud in July 2020 and Jasper in July 2021
7. In January 2021 Animal Services started receiving complaints about the dog Rosebud roaming on the street, this then progressed into Rosebud rushing at people and then, complaints that both dogs were involved in attacks on domestic animals and roaming. (*Attachment 1 - Schedule of offences*)
8. Despite staff visiting the dog owner, issuing both verbal and written warnings, the offending continued which led to infringements being issued together with further discussions with the dog owner, requesting her to maintain control of her dogs.

9. When a person is disqualified, they have the right to object against that disqualification. Section 26 of the Act provides that in considering any objection under this section, the territorial authority shall have regard to—
 - (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and
 - (b) the competency of the person objecting in terms of responsible dog ownership; and
 - (c) any steps taken by the owner to prevent further offences; and
 - (d) the matters advanced in support of the objection; and
 - (e) any other relevant matters.
10. In determining any objection, the territorial authority may:
 - (a) Uphold the disqualification; or
 - (b) Bring forward the date of termination; or
 - (c) Immediately terminate the disqualification of any person, and shall give written notice of its decision, the reasons for it, and the right of appeal to the District Court if they are not satisfied with the panel's decision.
11. The panel is not required to review the legality of the infringements, that is the realm of the Court. For the purpose of the disqualification process, an infringement offence is deemed to be complete once it has been either paid or filed with the Court. All the infringements relied on by Council in this matter have been filed with the Court. (*Attachment 2 - Schedule of Infringements – Tina Bowrind*)
12. The process associated with the issuing of infringements is prescribed for by the Summary proceedings Act 1957. When an infringement is issued, the recipient has 28 days to either dispute or pay the infringement. If they do nothing a reminder notice will then be sent after the 28 day period has expired. At the expiry of a further 28 days the infringement will be filed with the Court if not disputed or paid.
13. While not required by legislation, Animal Services has introduced a process whereby we send a dog owner an advisory letter when they have received two qualifying infringements. On 3 February 2022 we hand delivered to the objector a letter dated 1 February 2022 (*Attachment 3 - Notification of Second Infringement*)
14. Once a person has received three qualifying infringements' we send the dog owner a letter advising them that Council must disqualify them as a dog owner unless we are satisfied the disqualification is not warranted. We ask them to provide Council with any information they would like us to take into consideration. On 2 May 2022 we sent the objector one of these letters (*Attachment 4 – Notice of Pending Disqualification, Request for Explanation – Tina Bowrind*)
15. On 17 May 2022 Council generated a disqualification notice for Tina Bowrind, disqualifying her from owning a dog for a period of three years. This was because:
 - (a) We had not received any explanation from the objector; and
 - (b) The circumstances of the offences were such that a disqualification was warranted; and
 - (c) It was not appropriate to classify the objector as a probationary owner.(*Attachment 5 – Notice of Disqualification – Tina Bowrind*)
16. A three year disqualification is the standard period adopted for repeat infringement offences.
17. As it is important the dog owner is fully aware of the disqualification and implications, staff always, hand deliver these notices. The disqualification letter was not delivered until 1 June 2022 as staff could not locate the dog owner. While the officer was trying to discuss the disqualification with Bowrind, she turned and walked away and refused to discuss the matter.

18. Before she walked away, she was informed that she had 14 days to lodge an appeal against the disqualification or she must dispose of all her dogs. As she had walked away, the disqualification notice was placed in her letterbox.
19. Tauranga does not operate a probationary owner classification status as this requires engagement by the dog owner to be successful. A person who has been disqualified as a dog owner has had ample opportunity to voluntarily take proactive steps such as engage a dog trainer and take advantage of assistance from staff.
20. On 25 July 2022 the dog Rosebud was out roaming and caught in a Council trap and impounded. On 28 July 2022 the objector arrived at the pound and gave staff a false name in an attempt to release Rosebud. The dog Jasper was seen in the car and when staff realised she was actually Tina Bowrind, they seized the dog because of the disqualification.
21. The dogs were later released to a new owner.
22. On 4 August 2022 Council received an email from Tina Bowrind objecting to her disqualification from dog ownership. This was followed up by a second email on 1 September 2022. (*Attachment 6 – Objection to Disqualification – Tina Bowrind*)
23. On 5 September 2022 Council responded to the objection with an email, outlining the reason for the disqualification and asking for Tina to advise whether she wished to continue with the objection. (*Attachment 7 – Response to Objection to Disqualification – Tina Bowrind*)
24. On 3 October 2022 Council received confirmation from Tina that she wanted her objection to proceed and included her reasons for the objection. (*Attachment 8 – Confirmation of Objection – Tina Bowrind*)
25. On 28 October 2022 staff visited Tina Bowrind at her home, they found her in the possession of two dogs, Tina claimed the owner was asleep but wouldn't wake them. No evidence of a second person was established. Tina wouldn't accept that she couldn't be in charge of the dogs while someone was asleep. She then admitted that she was looking after one of the dogs for a third person who she said was at a funeral. She then said that being disqualified for receiving excess infringements wasn't a good enough reason to disqualify her.
26. The dog owner in this matter denies her offending and does not accept that her dogs are a problem and that she could see no reason why her dogs could not go for a walk on the street on their own. She doesn't accept that the disqualification should apply to her.

STRATEGIC / STATUTORY CONTEXT

27. N/A

FINANCIAL CONSIDERATIONS

28. There are none

LEGAL IMPLICATIONS / RISKS

29. The Panel is required to consider the objection and may either:
 - (i) Uphold the disqualification; or
 - (ii) Bring forward the date of termination; or
 - (iii) Terminate the disqualification.
30. The objector may appeal the decision of the panel to the District Court.

CONSULTATION / ENGAGEMENT

31. N/A

SIGNIFICANCE

32. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
33. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
34. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.









ENGAGEMENT

35. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

NEXT STEPS

36. N/A

ATTACHMENTS

1. **Attachment 1 - Schedule of Offences - Tina Bowrind - A14161623** [↓](#) 
2. **Attachment 2 - Schedule of Infringements - Tina Bowrind - A14161619** [↓](#) 
3. **Attachment 3 - Notice of Second Infringement - Tina Bowrind - A14165397** [↓](#) 
4. **Attachment 4 - Notice of Pending Disqualification, Request for Explanation - Tina Bowrind - A14165395** [↓](#) 
5. **Attachment 5 - Notice of Disqualification - Tina Bowrind - A14161616** [↓](#) 
6. **Attachment 6 - Objection to Disqualification - Tina Bowrind - A14165398** [↓](#) 
7. **Attachment 7 - Response to Objection to Disqualification - Tina Bowrind - A14165400** [↓](#) 
8. **Attachment 8 - Confirmation of Objection to Disqualification - Tina Bowrind - A14165396** [↓](#) 

SCHEDULE OF OFFENCES AND OUTCOMES - TINA E		
Complaint and Date	Details	Dog
1022576 28 Oct 2022 11:12am	Customer message that 2 other people living at 22 Collingwood have registered dogs but Tina is the owner	
1004632 28 Jul 2022 05:09pm	Disqualified owner Tina Bowrind arrives at pound with jasper in car. Initially provided false name. Jasper seized and impounded.	Jasper
25-Jul-22	Rosebud captured by dog Trap and impounded	Rosebud
1002615 16 July 2022	ROAMING DOG - Rosebud impounded	Rosebud
1002428 15 Jul 2022 12:08pm	DOMESTIC ANIMAL ATTACKED	Rosebud
1002010 13 Jul 2022 09:27am	DOMESTIC ANIMAL ATTACKED	Rosebud and Jasper
1-Jul-22		
999478 15 Jun 2022 11:19am	Witness to Roaming dogs	
998710 10 Jun 2022 07:49pm	DOMESTIC ANIMAL ATTACKED	
998574 10 Jun 2022 10:56am	ROAMING DOG	
1192 24 Jun 2022 10:42am	ROAMING DOG	
591 21 Jun 2022 07:44am	ROAMING DOG	Rosebud and Jasper
121 17 Jun 2022 10:33pm	CUSTOMER MESSAGE - general complaint about dogs roaming and aggression.	Rosebud and Jasper
996715 31 May 2022 09:06am	ROAMING DOG	Rosebud and Jasper
996686 31 May 2022 03:45am	ROAMING DOG	

996489 30 May 2022 10:44am	ROAMING DOG	
17-May-22		
992653 10 May 2022 01:23am	ROAMING DOG	Rosebud and Jasper
991854 05 May 2022 11:38am	WITNESS TO ATTACK DOMESTIC ANIMAL	Rosebud and Jasper
2-May-22		
987739 11 Apr 2022 10:23am	ROAMING DOG	Rosebud
987674 10 Apr 2022 07:14pm	DOMESTIC ANIMAL ATTACKED	Rosebud
978293 25 Feb 2022 09:36am	ROAMING DOG	Rosebud and Jasper
9-Feb-22		
973797 06 Feb 2022 07:49pm	ROAMING DOG	Rosebud
1-Feb-22		
970058 19 Jan 2022 12:27pm	DOMESTIC ANIMAL ATTACKED	Rosebud
958544 21 Nov 2021 03:56pm	DOMESTIC ANIMAL ATTACKED	Rosebud and Jasper
945500 17 Sep 2021 06:41pm	Witness to Domestic Animal Attack	Rosebud
942057 30 Aug 2022 09:20am	Animal Rushed at	Rosebud
935356 22 Jul 2021 09:42pm	PERSON RUSHED AT	Rosebud
928134 23 Jun 2021 10:30am	ROAMING DOG	Rosebud

911838 06 Apr 2021 08:22am	PERSON RUSHED AT	Rosebud
893028 08 Jan 2021 04:33pm	ROAMING DOG	Rosebud

BOWRIND
Outcome
Under Action
Dog released to new owner Damion Jansen. Released on 9 August 2022.
Rosebud Impounded
Tina Bowrind arrived at pound and provided false name trying to release Jasper. Dog released to new owner Damion Jansen. Released on 9 August 2022. Infringement 26235 - fail to comply with Disqualification notice issued
infringement 26236 and 26237 - fail to control private property
Tina advised dogs had been rehomed to Ngawai Borrell aka Anahera Kohu
Complaints received about dogs at Objectors property and roaming. Dog(s) unable to be located or prove offence, witnesses unwilling to come forward. Increase patrols - no further action
Officers with Police attend property Dogs not located. Owner states she has rehomed them.
Working through process of removing dogs. Obtaining search warrant to enter house.
NFA - Owner has 14 days to remove dogs after disqualification.

Disqualification Notice issued in person to Tina
No Further Action as complainant did not wish to pursue complaint
infringement 26160 - fail to control jasper and 26161 fail to comply with menacing classification Rosebud
Notification of three Infringements - Request Explanation
infringement 26080 - fail to control
infringement 26093 - fail to comply with menacing classification
infringement 25985 and 25986 - fail to control
Menacing Classification served on owner for Rosebud
Verbal warning - Roaming
Notification of Second Infringement given.
Rosebud classified menacing by deed. Infringement 25963 - fail to control
Infringement 25905 and 25906 - fail to control as witness unsure which dog attacked.
Victim not identified - Spoke to Tina and cautioned her that she should obtain training for dog and herself. Dog should be muzzled in public and lead control. Must ensure dog cannot leave property.
Section 62 Notice - Requirement to muzzle and control on lead.
Written Warning - Aggression
infringement 25679 - fail to control

Written warning - Roaming
Verbal warning - Roaming

SCHEDULE OF INFRINGEMENTS - TINA BO			
Infringement Number	Offence Date	Filed With Court	Dog
25679	23/06/2021	20/10/2021	ROSEBUD
25905	21/11/2021	23/02/2022	ROSEBUD
25906	21/11/2021	23/02/2022	JASPER
25963	19/01/2022	27/04/2022	ROSEBUD
3 February 2022 - Notification of second infringement			
25985	25/02/2022	12/05/2022	JASPER
25986	25/02/2022	12/05/2022	JASPER
26080	11/04/2022	27/06/2022	ROSEBUD
26093	10/04/2022	5/06/2022	ROSEBUD
2 May 2022 - Notice of pending disqualification and request for			
26160	4/05/2022	4/08/2022	JASPER
26161	4/05/2022	4/08/2022	ROSEBUD
1 June 2022 - Disqualification notice served			
26235	16/07/2022	27/10/2022	ROSEBUD
26236	13/07/2022	27/10/2022	ROSEBUD
26237	13/07/2022	27/10/2022	JASPER

OWRIND
Offence
Fail Control Public Place
Fail Control Public Place
Fail Control Public Place
Fail Control Public Place
ent delivered
Fail Control Public Place
Fail Control Public Place
Fail Control Public Place
Fail to Comply Menacing Dog
for explanation delivered
Fail Control Public Place
Fail to Comply Menacing Dog
ved
Fail Comply with Disqualification
Fail Control Private Property
Fail Control Private Property

1 February 2022

TINA BOWRIND
22 COLLINGWOOD STREET
JUDEA
TAURANGA 3110

Dear Tina

Notification of second infringement: dog owner reference 579918

Our records show you have, within a 24-month period, committed a second infringement offence against the Dog Control Act 1996.

This letter is to advise you that section 25 of the Dog Control Act 1996 states if you commit a third or subsequent infringement offence you must be disqualified from owning a dog for a period not exceeding five years. We have the discretion not to invoke this clause if we are satisfied that the circumstances of the offences are such that the disqualification is not warranted.

The letter is to inform you of the possible outcome of further offending and urge you to look at how you manage your dog to avoid further infringements.

If you need help or advice call us on 07 577 7000.

Yours sincerely



Brent Lincoln
Animal Services team
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

2 May 2022

TINA BOWRIND
22 COLLINGWOOD STREET
JUDEA
TAURANGA 3110

Dear Tina,

Disqualification on third or subsequent infringement
Dog owner reference number: 579918

Our records show you have committed three or more infringement offences against the Dog Control Act 1996.

These offences were committed:

- within a continuous 24-month period
- each incident was on a separate occasion
- each was for a separate incident.

Section 25 of the Dog Control Act 1996 states you must be disqualified from owning a dog for a period not exceeding five years unless Tauranga City Council is satisfied that the circumstances of the offences are such that the disqualification is not warranted.

If there is any information you would like to be taken into consideration regarding your possible disqualification, please submit this in writing by 16 May 2022. If a submission is not received by this date, a decision will be made based on the facts before council at the time.

Yours sincerely



Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

17 May 2022



TINA BOWRIND
22 COLLINGWOOD STREET
JUDEA
TAURANGA 3110

Dear Tina,

Notice of disqualification from dog ownership
Section 25, Dog Control Act 1996

This is to inform you that you have been disqualified under section 25(1)(a) of the Dog Control Act 1996 from owning any dog.

This follows three or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 25 February 2022 and will expire 24 February 2025.

A summary of the effect of the disqualification and your right to object is provided below.

Yours sincerely

A handwritten signature in black ink, appearing to be "Brent Lincoln", written over a horizontal line.

Brent Lincoln
Animal Services: Team Leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Effect of disqualification**Section 28, Dog Control Act 1996**

You are required to dispose of every dog owned by you within 14 days of the date of this notice. However, you may not dispose of a dog:

- to a person who resides at the same address as you
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only for the purpose of:

- preventing it from causing injury, damage, or distress
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you:

- fail to dispose of every dog owned by you within 14 days of this notice
- at any time while disqualified, become the owner of any dog
- dispose of a dog owned by you:
 - to a person who resides at the same address as you
 - in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended. You will also commit an offence and be liable on conviction to a fine not exceeding \$3000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

Right of objection to disqualification**Section 26, Dog Control Act 1996**

You may object to the disqualification by lodging a written objection with Tauranga City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard.

No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until Tauranga City Council has determined the objection.

There is a further right of appeal to a District Court if you are dissatisfied with the decision of Tauranga City Council on your objection.

Note: In the event of a Council hearing, the council report and minutes of the hearing will be posted on the council's website. Other documentation and correspondence may also be made available to the public upon request and after considering any legal obligations.

OBJECTION TO DISQUALIFICATION – TINA BOWRIND

From: Tina Jae <[REDACTED]>

Date: Thu, Aug 4, 2022 at 3:02 PM

Subject: Dispute disqualification ...

To: <animal.admin@tauranga.govt.nz>

To whom it may concern,

I would like to please formally request a hearing to have the disqualification informally given to me revoked .

Tina Bowrind

Email received via infoline 01/09/22.

Can someone please advise on my request under section 21 of the dog control act 1996 my objection to the classification of Rosebud and Jasper as menacing dogs as well as my calssification as a disqualified dog owner.

I also request a copy of the files pertaining both Rosebud and Jasper and any incidents which have been reported.

I request this be actioned under urgency as both dogs are currently being held by the animal control and they are a risk of losing there lifes.

hese dogs are companion animals for my children who suffer from PTSD as a result of past trauma.

Please feel free to contact me on [REDACTED]

Kind regards,

Tina

RESPONSE TO OBJECTION TO DISQUALIFICATION - TINA BOWRIND

BL by email 5 Sept 2022

Document request forwarded for LGOIMA

Hi Tina

Thank you for your request for copies of your files and the objection against your disqualification and the menacing classification for the dog Rosebud.

Your files will be copied and provided to you, this should be completed by next week.

In relation to your objection to the disqualification, the following applies:

1. The Dog Control Act 1996 (section 25) requires Council to disqualify an owner where they have received 3 or more infringements in a period of 24 months.

Section 25 - A territorial authority must disqualify a person from being an owner of a dog if

(a) the person commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months; or

2. The disqualification shall not apply if Council is satisfied that the circumstances of the offence or offences are such that the disqualification is not warranted.

3. Before an infringement can be used for a disqualification, the infringement must have been paid or referred to the Court. Infringements are referred to the Court if not paid after a minimum of 56 days has elapsed from when the date of issue.

4. In relation to your objection to the disqualification:

a. Disqualification was issued on 17 May 2022 for infringements up to 19 January 22. Prior to that you were issued with a letter on 1 February 2022 advising that you had received two infringements and if you received a third then you would be subject to disqualification.

b. Since being disqualified you have had a further 9 infringements issued. Below is a schedule of the infringements that have been issued to you.

c. Considering the large number of infringements, please advise whether you wish to continue with your objection to the disqualification.

Infringement Number	Offence	Date	Status	Dog
25679	Fail to Control - Public place	23/06/21	FILED WITH COURT	ROSEBUD
25905	Fail to Control - Public place	21/11/21	FILED WITH COURT	ROSEBUD
25906	Fail to Control - Public place	21/11/21	FILED WITH COURT	JASPER
25963	Fail to Control - Public place	19/01/22	FILED WITH COURT	ROSEBUD
25985	Fail to Control - Public place	25/02/22	FILED WITH COURT	JASPER

25986 Fail to Control - Public place 25/02/22 FILED WITH COURT JASPER
26080 Fail to Control - Public place 11/04/22 FILED WITH COURT ROSEBUD
26093 Fail to comply with Menacing Classification 10/04/22 FILED WITH COURT ROSEBUD
26160 Fail to Control - Public Place 4/05/22 FILED WITH COURT JASPER
26161 Fail to comply with Menacing Classification 4/05/22 FILED WITH COURT ROSEBUD
26235 Fail to comply with Disqualification 16/07/22 ENTERED ROSEBUD
26236 Fail to Control - Private Property 13/07/22 ENTERED ROSEBUD
26237 Fail to Control - Private Property 13/07/22 ENTERED JASPER

Brent Lincoln

Team Leader: Animal Services

CONFIRMATION OF OBJECTION TO DISQUALIFICATION – TINA BOWRIND

Email response dated 11 October 2022

Hi Tina

Thank you for your message below objecting to the disqualification as a dog owner for multiple infringements.

I apologise for the delay as I have been away but will lodge an application with the Hearing Panel who will hear your objection. The panel will arrange a suitable time for your objection to be heard and notify you of this and provide you with a copy of the Council submission in opposition to your objection.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

Tauranga City Council | 07 577 7000 | www.tauranga.govt.nz

Details:

email received via info line on 3/10 at 2.14am

previous CCM: 1011617 - Relates to this.

"Hi,

I have still heard nothing from animal control . We are living without our dogs who are loved members of our family. I was told i would get an opportunity to have this case heard. Animal control have taken all the dogs including 2 puppies from our street or property on friday . These dogs are not mine but belong to a close friend nearby as i am disqualified simply because i objected to the classification of my dog as menacing. I feel like this has become blatant harassment and am afraid for my dogs life despite him not having done anything more wrong than roam. I have continuously asked for disclosure of the events resulting in an insane number of fines for nothing other than seen walking down the street. If my dogs had bit somebody i would understand but they nor myself and my daughters who use them as companion dogs due to previous trauma deserve such relentless and disturbing destruction of our family life because our dogs are on the street from time to time. Various accusations have been made but i have seen no proof despite numerous requests and do not understand how one persons word can be taken over anothers without some form of proof. At the pound we are treated like virtual leppers and no one seems to care about the impact this is having on my girls who love and have had to let go of there companions. the pound have lied to me about what would happen if i cooperated which I have.

Please i would like to formally request a stay of execution on Jasper immediately and the release of whiria and her 2 pups to there appropriate owners untill the hearing as taken place so we can all get a fair say and hopefully independent and fair decision.

I would also like to make a formal complaint against the staff and procedures undertaken by the animal control team. They have been heavy handed and over zealous in the pursuit of my dogs and have caused serious

unnecessary hurt to my 3 girls and there dogs.

Tina Bowrind

5.5 Objection to Barking Abatement Notice - Abigail Waters

File Number: A14343049

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To hear an objection from Abigail Waters opposing a barking dog abatement notice.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Barking Abatement Notice - Abigail Waters".
- (b) It is recommended that the panel upholds the abatement notice. The panel may:
 - (i) Confirm; or
 - (ii) Modify; or
 - (iii) Cancelthe notice.

EXECUTIVE SUMMARY

2. The objector is the registered owner of two registered dogs, Delta and Loki.
3. Between October and December 2022, Council received four complaints from two people alleging the dogs were causing nuisance by loud and persistent barking.
4. Staff discussed the complaints with the dog owner on two occasions in early October, but the complaints continued.
5. A survey of the neighbourhood in mid-October resulted in five people identifying the objector's dogs as causing nuisance by loud and persistent barking.
6. As a result, an abatement notice was issued in November 2022, requiring the objector to abate the nuisance caused by the dogs by:
 - (a) Using an anti-barking collar on the dogs; and
 - (b) Installing material on a gate to block the dogs view of the street.
7. The dog owner complied with the notice but has lodged an objection to the notice as she disputes the accuracy of the complaints and disputes that her dogs cause nuisance.

BACKGROUND

8. The Dog Control Act provides that where a Dog Control Officer has reasonable grounds to believe that a dog is causing nuisance by loud and persistent barking, then the officer may issue a notice:
 - (a) Requiring the owner to abate the nuisance; or
 - (b) Remove the dog
9. Any person issued with a notice may, within 7 days, object to the notice. The objection shall be heard by this panel.

10. In hearing any objection, the panel may either confirm, modify, or cancel the notice.
11. The objector has a long history of owning dogs which have caused nuisance by loud and persistent barking and has previously been required to remove a dog because of this.
12. Complaints originally started in March 2017 and concluded in January 2019 when a Notice to Remove the dogs Tigger and Lupin were issued to the objector.
13. There were no further complaints until 3 October 2022 when a complaint was received about two dogs at 16 Nicole Place barking and had been for the last two weeks, the owner does nothing to stop it.
14. On 5 October an officer visited the property and spoke to the objector, who said she was familiar with our barking dog process as she had previously had to rehome a dog for barking. She was asked to minimise the barking and try moving the dogs on her property to see if that helped.
15. A further complaint was received on 6 October 2022 and the officer visited the property again. The objector said she has a difficult neighbour who complains about everything. The dogs sleep inside at night, she has been keeping the dogs away from the neighbour's fence.
16. On 14 October 2023 another complaint was received followed by an email saying the dogs had been "going to town for the past hour" and it was 8:41pm on a Saturday. As a result of the ongoing complaints, the neighbourhood was surveyed to see if others were also being affected by the barking. (*Attachment 1 – Barking Survey Forms*)
17. Survey forms were delivered to 12 properties, the form doesn't identify which property we are investigating and asks a series of questions to identify if the person has an issue with any barking dogs in their community.
18. Six forms were returned with all stating barking dogs were causing nuisance, 5 of which identified the objector's property, and one was unsure where the dogs lived.
19. The survey provided sufficient grounds for the officer to issue a notice to abate the barking which is the subject of this objection. The notice gives the dog owner 7 days to object. The notice was served on the objector on 22 November 2022 and an initial objection was notified to Council on 29 November 2022. (*Attachment 2 – Barking Abatement Notice*), (*Attachment 3 – Initial Objection to Abatement Notice*)
20. On 19 December 2022 the objector was responded to, and she confirmed that she wished to proceed with the objection. (*Attachment 4 – Council response to initial objection*), (*Attachment 5 – Confirmation of Objection – Abigail Waters*)
21. On 20 December 2022 the objector purchased two anti-barking collars.
22. The last complaint about barking dogs was received on 4 December 2022.

STRATEGIC / STATUTORY CONTEXTD

23. Nil

SIGNIFICANCE

24. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
25. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the .






- (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.

26. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

ENGAGEMENT

27. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

ATTACHMENTS

1. **Attachment 1 - Barking Survey Forms - A14344353** [↓](#) 
2. **Attachment 2 - Barking Abatement Notice - A14344354** [↓](#) 
3. **Attachment 3 - Initial Objection to Abatement Notice - A14344356** [↓](#) 
4. **Attachment 4 - Council Response to Initial Objection - A14344355** [↓](#) 
5. **Attachment 5 - Confirmation of Objection - Abigail Waters - A14344352** [↓](#) 

18 October 2022



Tauranga City

TO THE OCCUPIER

Investigation of Complaint (Barking Dog/s) No. 1020060

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by 1 November 2022. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address – YES / NO
16 NICOLE PLACE
PAPAMOA 3118
3. Would you consider the barking/howling to be loud and persistent? YES / NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer Longer
5. Does the dog/s bark/howl more during the day or night? DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? SOMETIMES → YES / NO
7. Do the owners take any corrective action when the dog/s barks? YES / NO / NOT HOME / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES / NO
- WHEN HOME ALONE
- ANY VISITOR TO 12/14/16 NICOLE PLACE
SOMETIMES JUST BARK FOR NO APPARENT REASON
9. How many dogs are on the property? 1 / 2 / 3 / 4

Record over the page description of dog/s that are causing the disturbance & any other comments.

Signed

Date:

19/10/22

Name

Address

Phone

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz



18 October 2022



Tauranga City

TO THE OCCUPIER

Investigation of Complaint (Barking Dog/s) No. 1020060

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by 1 November 2022. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address – YES / NO
Had sure but to the south
down 21 Golden South property - tel
3. Would you consider the barking/howling to be loud and persistent? YES / NO
mainly at night
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer Longer
5. Does the dog/s bark/howl more during the day or night? DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO
don't know
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES / NO
9. How many dogs are on the property? 1 / 2 / 3 / 4
Had sure - sounds like 1.

Record over the page description of dog/s that are causing the disturbance & any other comments.

Signed: ...

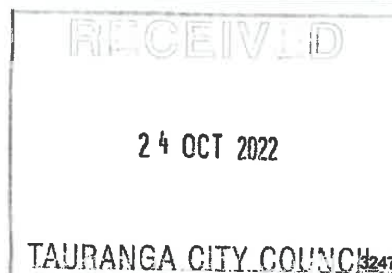
Name: ...

Address: ...

Phone: ...

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz



18 October 2022

TO THE OCCUPIER

RECEIVED

28 OCT 2022



Tauranga City

Investigation of Complaint (Barking Dog/s) No. 1020060

TAURANGA CITY COUNCIL

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by 1 November 2022. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address -
16 Nicole Place
3. Would you consider the barking/howling to be loud and persistent? YES / NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer
5. Does the dog/s bark/howl more during the day or night? Both → DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES / NO
9. How many dogs are on the property? 1 / 2 / 3 / 4

Record the disturbance & any other comments.

Signature: _____

Name: _____

Address: _____

Phone: _____

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz

324789

Tauranga City Council Private Bag 12022, Tauranga 3143, New Zealand ☎ +64 7 577 7000 ✉ info@tauranga.govt.nz 🌐 www.tauranga.govt.nz

18 October 2022



Tauranga City

TO THE OCCUPIER

Investigation of Complaint (Barking Dog/s) No. 1020060

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by 1 November 2022. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES / NO
2. Do you know the address the dog is from?
Please identify address - YES / NO
16 Nicole Place
3. Would you consider the barking/howling to be loud and persistent? YES / NO
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer All night
5. Does the dog/s bark/howl more during the day or night? DAY / NIGHT
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES / NO
9. How many dogs are on the property? 1 / 2 / 3 / 4

Record the name, description of dog/s that are causing the disturbance & any other comments.

Signed: _____

Date: 23-10-22

Name: _____

Address: _____

Phone: _____

Yours sincerely

Pat Hellier
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz

RECEIVED

31 OCT 2022

TAURANGA CITY COUNCIL

18 October 2022



Tauranga City

TO THE OCCUPIER

Investigation of Complaint (Barking Dog/s) No. 1020060

Several complaints have been received by the Animal Services team, alleging that a nuisance is being caused by a dog or dogs' persistent loud barking or howling from an address in your neighbourhood.

To help with our investigation could you please answer the following questions by circling your answer (where appropriate) and returning this form to us by **1 November 2022**. Your details and the information you provide will remain confidential.

Please note, this survey is intended to make the process fair for everyone. We are not asking for further complaints, but instead trying to determine if a genuine nuisance exists for some people. Please complete and return the survey, even if you have previously lodged a complaint regarding a neighbourhood dog.

1. Is there a dog in the neighbourhood causing a problem with barking/howling? YES ☒ NO ☐
2. Do you know the address the dog is from?
Please identify address - YES ☐ NO ☒

Not sure but think it's near
the Nicole Place
3. Would you consider the barking/howling to be loud and persistent? YES ☒ NO ☐
4. Duration of Barking: 1-2 minutes, 5-10 minutes, 30 minutes, Longer Longer ☒
5. Does the dog/s bark/howl more during the day or night? DAY / NIGHT ☒
6. Are the owners of the dog/s home when the barking/howling occurs? YES / NO / Not Sure ☒
7. Do the owners take any corrective action when the dog/s barks? YES / NO / UNKNOWN ☒
8. Have you noticed a pattern to the barking/howling or something which maybe setting the dog/s off? YES ☐ NO ☒
9. How many dogs are on the property? 1 ☒ 2 ☐ 3 ☐ 4 ☐ ? ☒ Unsure

Record over [redacted] the disturbance & any other comments.

Signed: [redacted] 26 Oct 2022

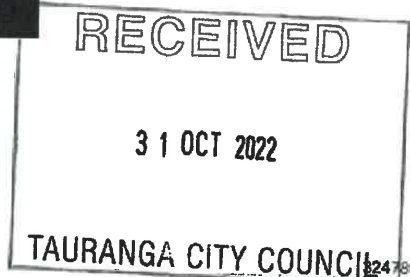
Name: [redacted]

Address: [redacted]

Phone: [redacted]

Yours since [redacted]

Pat Heller
Animal Services team
Tauranga City Council
07 577 7000 - info@tauranga.govt.nz



From: TaurangaCityCouncil <INFO@TAURANGA.GOV.T.NZ>
Sent: Monday, 17 October 2022 3:59 AM
To: Animal.Admin <Animal.Admin@tauranga.govt.nz>
Subject: FW: Re: Animal complaint from website [#7F51FH]

This email has been forwarded to you by Faryn Te Atatu in the Contact Centre from Info.Afterhours.

-----Original Message-----

From:

Sent: Saturday, 15 October 2022 10:48:32 pm
To: info@tauranga.govt.nz
Subject: Re: Animal complaint from website [#7DEC7E]

CAUTION:External Email.

Hi,

Can you please provide me with a written update via this email trail (not a phone call) on what progress has been made to speak to this owner about her dogs? They are home alone again for the last two nights and they have been barking from 5.30 to now (10.40pm) ... both barking tonight. and still going strong. These things are miserable and the owner is unable to care for them Adequately. You guys drove to my house to ask me [REDACTED] and if so to pay my dog registration fee .. so I know you have the available resource to put in to this.

Sent from my iPhone

16 November 2022



ABIGAIL WATERS
16 NICOLE PLACE
PAPAMOA BEACH
PAPAMOA 3118

Dear Abigail

Barking abatement notice – complaint number 1020060

We have completed our investigation into a barking dogs complaint involving your dogs DELTA and LOKI.

As the result of a further complaint received by the Animal Services team, on 14 October 2022 regarding your dogs DELTA and LOKI barking, a survey was carried out with residents in your area. Five people have indicated that a nuisance is being caused by loud and persistent barking.

I, Patrick Hellier a Dog Control Officer have reasonable grounds to believe that your dog's DELTA and LOKI are causing nuisance by persistent and loud barking or howling and as such **you are now required** to undertake or complete the following actions to abate the dogs barking:

- Use a functioning anti-barking collar ensuring the anti-barking collar is fitted correctly as per manufacturers instructions for Delta and Loki.
- Place shade cloth (or similar material) over the metal side gate/fence to block the dog's view.

You may also consider one or more of the following to reduce the barking to an acceptable level:

- ensure the dogs are kept indoors, in a garage or in an enclosure when no one is at home that will minimise noise (the dogs must have ventilation and plenty of fresh water)
- seek the services of a qualified trainer or animal behaviourist
- consider medication (contact your local vet or animal holistic centre)
- Provide adequate exercise before periods of separation.
- discourage barking at inappropriate times and for inappropriate reasons
- avoid long periods of separation.

If there are any further complaints a new notice could be issued, the requirements of which will apply in addition to the requirements set out above and any objection to that notice will not suspend the requirements set out above.

Your right of objection to the requirements

- You may, within seven days of the receipt of this notice, object in writing to Tauranga City Council against the requirements of this notice.
- Tauranga City Council will consider the objection and may confirm, modify, or cancel the notice.
- You are entitled to seven days notification of the date, time, and place at which Tauranga City Council will consider your objection. You are entitled to be represented and to be heard. You may submit evidence and call witnesses in support of your objection.
- Tauranga City Council shall give written notice to the objector of their decision.
- This notice will be suspended while pending the determination of the objection.

You must either comply with this notice, or object to the requirements. You must also comply with any notice confirmed or modified by us. If you do nothing, you may be subject to legal proceedings and will be liable to a fine not exceeding \$1500.

Note: In the event of a council hearing, all documentation and correspondence may become public.

Your dogs are your responsibility – as a dog owner, you have certain obligations under the Dog Control Act 1996. These obligations require you to take all reasonable steps to ensure your dog does not cause a nuisance to any other person, by persistent and loud barking/howling.

Removal of barking dog causing distress

If at any time after this notice has been issued, we receive a further complaint and have reasonable grounds to believe that a nuisance is continuing to cause distress to any person, a dog control officer may enter the property or premises on which the dogs are kept and remove and impound the dogs or serve a notice requiring you to permanently remove your dogs from your property.

Yours sincerely



Patrick Hellier
Animal Services team
Tauranga City Council

07 577 7000

info@tauranga.govt.nz

File Number:	480-3	Request #:	1029304
Request Type:	ANIMAL*CUSTOMER MESSAGE N	Priority:	ROUTINE
Complainant: Address:	ABIGAIL WATERS 16 NICOLE PLACE PAPAMOA BEACH PAPAMOA 3118	Offender: Address:	
Phone:	[REDACTED]	Phone:	
Temp Phone Complainant ID:	411261	Offender ID: Dog Alert:	

Dog Registration Details						
Tag #	Name	Breed	Colour	Dangerous/ Menacing?	Sex	Age
/						

Complaint Received			
Date:	29 Nov 2022	Time:	08:56pm
Received By:	Liana Morgan	Issued To:	Brent Lincoln
Method:	EMAIL		

Complaint Details	
Location:	
Details:	
Email received on 29/11/22	
Email address-	[REDACTED]
Email reads-	

Objection to abatement complaint 1020060

Animal Control Department.

I am writing to object to the abatement notice served on 22/11/2022 at 11.15 am by officer Patrick Hellier at 16 Nicole Place, Papamoa Beach.

I understand a barking survey was carried out around the surrounding streets and area that has come back as positive for barking dogs at this address however I do not believe my dogs bark in a disruptive manner. I study full-time from home and also parent 4 children from this address. I am home almost all day every day and the dogs are inside with me the only time they bark is when someone comes to the door or if a courier van drives up the shared driveway, they do not bark at the neighbours' cars at all as they know the vehicles that belong to the houses up our drive. Two animal services officers have come to the house and confirmed that the dogs only bark to alert and then stop straight away. When I was served this notice there were workers working on the roof of the house next door and the dogs did not bark at them once all day - if they were persistently barking at things this would definitely be a trigger.

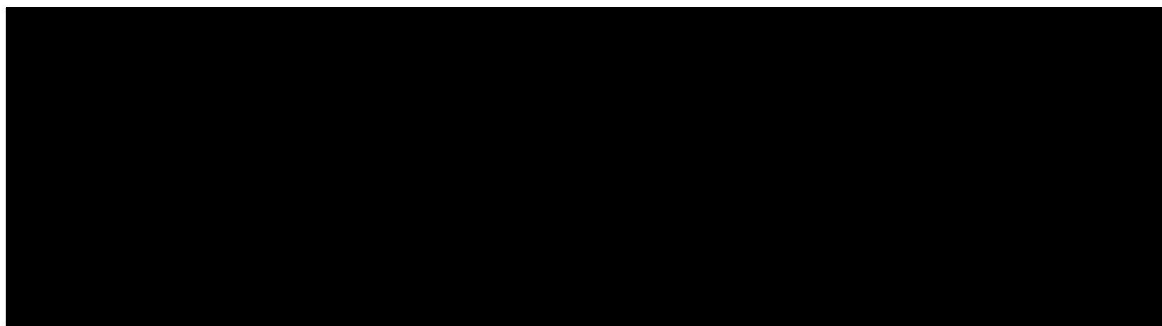
Delta is kept inside when I am out therefore it is impossible she is barking and causing a problem. I have spoken to the neighbour at number 10 Nicole place who works from home a lot she has confirmed that she does not hear them barking during the day with the exception of a courier van sitting in the drive. I have also spoken to a neighbour who backs onto our shared driveway on Wairakei ave who also works from home and she said she does not hear them at all she hears other dogs from surrounding houses. There are large dogs at number 14 and number 8 and also a number of large dogs along Wairakei ave, all which bark from time to time I believe loud barking cannot be pinpointed to this address. I would like to know the dates and times of the complaints to see whether there is any truth to this as like I said I am home 90 percent of the time, I have had years of trouble with the neighbour at number [REDACTED] Nicole place so have the feeling its another one of those scenarios.

I have however complied with the notice in terms of fixing my fencing blocking off visibility and also extended the fence up in height to stop Loki from being able to look over the top.

Please get back to me and if needed I can request the neighbours I have spoken to to put this in writing.

Kind Regards

Abigail



BL by email 19 Dec 22

Sorry about the delay in responding to your request for further information about the allegations that your dogs are causing nuisance with loud and persistent barking.

As requested I have included copies of the most recent complaints together with the results from the barking survey conducted in your neighbourhood. Some information has been redacted to protect the privacy of those who have participated in this process.

As previously advised we have had five people confirm that your dogs are causing nuisance, this is a high response rate, normally we have only one or two. Our goal with our processes is to help you achieve a situation whereby your dogs no longer bark excessively so you can continue to keep your dogs and your neighbourhood no longer feels like their life is being negatively affected by your dogs. Ultimately, it is the dog owners responsibility to ensure dogs can't cause nuisance by excessive barking. Even if cats are the cause of some of the barking, a short period of bark collar use should quickly curb their response to a cat in or near your yard.

Barking dogs can affect people differently and while one neighbour may not notice a dog barking, another will find the barking to be a nuisance. This can also apply to dog owners, who often don't notice the extent that their dogs are barking.

The abatement notice required the installation of a visual barrier for your gate and fence and you have stated that you have already installed this. The second requirement was for your dogs to wear bark collars, this is normally a quick and effective way to modify and reduce the barking.

You have indicated, you wish to object to the abatement notice, I would ask that you review the information provided and consider that as a number of people have identified your dogs as the cause of the barking, that perhaps there is a real issue here that you weren't fully aware of and take the necessary steps to minimise the impact the dogs are having.

If you wish to continue with the objection, please advise me, what aspect of the abatement notice you are objecting to and on what grounds. Any objection will be heard by a panel who will also have access to the complaints that have been made about your dogs.

Kind Regards

Previous History							
ID	Problem Type	Complainant	Rec Date	Com Date	Completed Action	Referral	Linked

Results (Officers to Complete)			
Type	Date	Action	Officer

File Number:	480-3	Request #:	1032974
Request Type:	ANIMAL*CUSTOMER MESSAGE N	Priority:	ROUTINE
Complainant: Address:	ABIGAIL WATERS 16 NICOLE PLACE PAPAMOA BEACH PAPAMOA 3118	Offender: Address:	
Phone:	[REDACTED]	Phone:	
Temp Phone Complainant ID:	411261	Offender ID: Dog Alert:	

Dog Registration Details						
Tag #	Name	Breed	Colour	Dangerous/ Menacing?	Sex	Age
/						

Complaint Received			
Date:	19 Dec 2022	Time:	03:27pm
Received By:	Stephen Potter-Shanks	Issued To:	Brent Lincoln
Method:	EMAIL		

Complaint Details	
Location:	16 NICOLE PLACE, WB/PAP E
Details:	Email received in Info queue on 19/12 Email forwarded to brent.lincoln Email as below:

Yes I would like to continue with the objection, I have read through those and they simply are not accurate. I walk my dogs multiple times a week. I can prove that if need be, I do not treat them like shit at all they are very much loved family pets and like I say they live inside with me and my children and they sleep in my room. I'm home 90% of the time so then barking 5+ 10+ hours a day is totally crazy! I notice only 2 of those complaint identified my address and I know exactly who all the complaints are from and I've had constant issues with [REDACTED] from [REDACTED] for years and I also know number 14 delta has jumped out before however that is fixed now and I have personally spoken to them about this. Also the information is not accurate there is no dog here that has been required to wear a barking collar for years as he has stated.

As stated I have improved my property there is no risk of the dogs getting out and I have just purchased collars from Pat however I'm feeling pretty annoyed as I know this information is so far from accurate.

If my dogs we're aggressive I would not be walking them off lead multiple times a week down the beach. I also would like to know how a person can be watching a property enough to accurately state I don't walk my dogs?

Let me know how to proceed.

Thanks
Abby

6 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

RECOMMENDATIONS

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

The general subject matter 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 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 - Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 24 August 2022	s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	s48(1)(a) - 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 under section 6 or section 7

7 CLOSING KARAKIA