



AGENDA

Regulatory Hearings Panel meeting Thursday, 30 March 2023

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

Date: Thursday, 30 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 10 March 2023

File Number: A14571248

Author: Sarah Drummond, Governance Advisor

Authoriser: Sarah Drummond, Governance Advisor

RECOMMENDATIONS

That the Minutes of the Regulatory Hearings Panel meeting held on 10 March 2023 be confirmed as a true and correct record.

ATTACHMENTS

1. Minutes of the Regulatory Hearings Panel meeting held on 10 March 2023



MINUTES

**Regulatory Hearings Panel meeting
Friday, 10 March 2023**

UNCONFIRMED

UNCONFIRMED

Order of Business

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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 FRIDAY, 10 MARCH 2023 AT 9.30AM**

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

IN ATTENDANCE: Brent Lincoln (Team Leader: Animal Services), Kiran Erasmus (Animal Services Officer), Sarah Drummond (Governance Advisor), Anahera Dinsdale (Governance Advisor)

1 OPENING KARAKIA

Mr Puhirake Ihaka opened the meeting with a karakia.

2 APOLOGIES

Nil

3 CONFIRMATION OF MINUTES

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

COMMITTEE RESOLUTION RHP1/23/1

Moved: Mr Alan Tate
Seconded: Mr Puhirake Ihaka

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

CARRIED

4 DECLARATION OF CONFLICTS OF INTEREST

Chairperson Mary Dillon noted that she was a resident of the area that Mrs D Konowe lived in, but did not know Mr and Mrs Konowe or have knowledge of the dog in question therefore did not consider she had a conflict of interest with the Konowe matter.

5 BUSINESS

5.1 Objection to menacing Dog Classification - Denese Konowe

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

External Robin and Alan Denith
Jacqueline Foot

Key points

- Mr and Mrs Konowe were unavailable to attend the hearing due to health conditions and provided their apology. The matter was left to lie on the table to allow further information to be

- received from the Konowes and a new hearing date would be set.
- The hearing was also attended by the victim Robin Denith and her husband Alan, with support person Jacqueline Foot, to be available to answer questions should the Panel require information.

COMMITTEE RESOLUTION RHP1/23/2

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the Regulatory Hearings Panel leaves the report to lie on the table.

CARRIED

The meeting adjourned at 9.54am

The meeting resumed at 10.15am

5.2 Objection To Notice to Remove Barking Dog - Brendon Martin

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

External Mr Brendon Martin and Ms Kahurangi Martin

Key points

- The Panel thanked Mr Martin and his partner for being able to attend the hearing earlier than their originally scheduled time.
- The Committee heard both the matters of the Notice to remove a barking dog and the Notice to rescind ownership together, and considered and deliberated both matters together.
- Staff presented a brief overview of their report and noted the legislative requirements for the owner, and the history and incidents associated with the dog Kora.
- Five notices had been served to Mr Martin and filed with the district court.
- Following the legislative process required that a disqualification notice was now issued.
- Staff noted the incidents of Kora roaming, and that this was the owner's responsibility to stop through fencing; chaining the dog had proved ineffective as the dog would slip its chain.
- As recently as February 10 2023 a complaint had been received regarding Kora roaming.
- Legislation did not provide for Council to be able to run a probationary programme for dog owners.
- Noted that Mr Martin had not been able to access the key to his letterbox and therefore had only received two of the five served notices.
- The Martins had attempted to raise fencing height themselves; however their landlord had not responded to requests to raise the fence height.
- The section was a relatively small one for a large breed of dog.
- Mr Martin exercised Kora up to five times per week, and while at home controlled her barking. However, she could spend periods alone at the property and was prone to slipping her collar and wandering.
- As a large dog people did fear her size but Mr Martin felt she was friendly to people and other dogs.
- Mr Martin also felt that as a large dog she was unfairly blamed for all barking in the area, even though other dogs also barked.

In response to questions

- It was confirmed that no one else at the property could take over ownership/registration of Kora. If the order was granted Kora would have to be rehomed but not euthanised.

- There was only one registered owner recorded in council systems.
- Panel member Mr Molloy acknowledged that these cases were difficult to hear and to make decisions on, and that most panel members were or had been dog owners themselves and understood how important dogs could become to a family.
- It was noted that Kora was one year old and was a large rottweiler dog.

COMMITTEE RESOLUTION RHP1/23/3

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

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.

CARRIED

5.3 Objection to Disqualification as Dog owner - Brendon Martin

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

External Mr Brendon Martin and Ms Kahurangi Martin

COMMITTEE RESOLUTION RHP1/23/4

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Brendon Martin".
- (b) Upholds the disqualification.

CARRIED

5.4 Objection to Disqualification as Dog Owner - Tina Bowrind

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

Key points

Ms Bowrind had informed Governance Advisor Ms Drummond that she would not be able to attend the hearing as she had just returned to New Zealand the previous evening. Ms Bowrind wished to attend a hearing in person, with a support person.

The Panel agreed to leave the report on the table to be heard at a later date when Ms Bowrind could attend.

COMMITTEE RESOLUTION RHP1/23/5

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel leaves the report to lie on the table.

CARRIED

5.5 Objection to Barking Abatement Notice - Abigail Waters

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

Key points

- Ms Waters had confirmed she would not be attending the hearing in person and agreed that the objection be decided on the papers.
- Staff provided a detailed explanation of the bark collar provided to Ms Waters and staff work with Ms Waters to assist her to reduce the number of complaints.
- It was noted that complaints had initially abated but had since started again.
- As part of the process required, staff would continue to work with Ms Waters on education and use of the anti-bark collar.
- Staff confirmed the legislative requirements for Ms Waters to follow and noted her previous history of dog ownership and interaction with Animal Services on similar matters.

COMMITTEE RESOLUTION RHP1/23/6

Moved: Mr Puhirake Ihaka

Seconded: Mr Terry Molloy

That the Regulatory Hearings Panel:

- Receives the report "Objection to Barking Abatement Notice - Abigail Waters".
- Upholds and confirms the abatement notice.

CARRIED

6 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

COMMITTEE RESOLUTION RHP1/23/7

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 - Public Excluded minutes of the Regulatory Hearings	s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the	s48(1)(a) - the public conduct of the relevant part of the proceedings of the

Panel meeting held on 24 August 2022	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	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
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CARRIED

7 CLOSING KARAKIA

Mr Puhirake Ihaka closed the meeting with a karakia.

The meeting closed at 11.42am.

The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on 30 March 2023.

.....
CHAIRPERSON

5 BUSINESS

5.1 Objection to Disqualification as Dog Owner - Tina Bowrind

File Number: A14554129

Author: Brent Lincoln, Team Leader: Animal Services

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To return the report, left on the table at the previous meeting of 10 March 2023, to the Panel for consideration
-

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tina Bowrind".
 - (b) Notes that staff recommend that the disqualification be 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.
-

ATTACHMENTS

1. **Appendix 1 - Report - Objection to Disqualification as Dog Owner - Tina Bowrind - A14554337** [↓](#) 

4.4 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.

5.2 Objection to Menacing Dog Classification - Denese Konowe.**File Number: A14553854****Author: Brent Lincoln, Team Leader: Animal Services****Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance****PURPOSE OF THE REPORT**

1. To return the report, left on the table at the previous meeting of 10 March 2023, to the Panel for consideration.
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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.
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ATTACHMENTS

1. **Appendix 1 - Report - Objection to Menacing Dog Classification - Denese Konowe - A14554341** [↓](#) 

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 10 March 2023	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