



# AGENDA

## Regulatory Hearings Panel meeting Wednesday, 12 July 2023

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

**Date:** Wednesday, 12 July 2023

**Time:** 9am

**Location:** Bay of Plenty Regional Council Chambers  
Regional House  
1 Elizabeth Street  
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](http://www.tauranga.govt.nz).*

**Marty Grenfell**  
Chief Executive



# Terms of reference – Regulatory Hearings Panel

---

## Membership

---

<b>Chairperson</b>	Mary Dillon
<b>Members</b>	Puhirake Ihaka Terry Molloy Alan Tate
<b>Quorum</b>	At least two members
<b>Meeting frequency</b>	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.



## Order of Business

<b>1</b>	<b>Opening Karakia .....</b>	<b>9</b>
<b>2</b>	<b>Apologies .....</b>	<b>9</b>
<b>3</b>	<b>Declaration of conflicts of interest .....</b>	<b>9</b>
<b>4</b>	<b>Confirmation of minutes.....</b>	<b>10</b>
4.1	Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023.....	10
<b>5</b>	<b>Business.....</b>	<b>17</b>
5.1	Objection to Disqualification as dog owner - Dylan Anderson.....	17
5.2	Objection to Disqualification as Dog owner - Britney Eagle .....	30
5.3	Objection to Disqualification as Dog Owner - Tumanako Farrell.....	43
5.4	Objection to Menacing Classification - Gurmeet Johal.....	56
5.5	Objection to Menacing Classification - Dayna Osborne .....	80
<b>6</b>	<b>Closing Karakia.....</b>	<b>100</b>





- 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 4 May 2023**

**File Number:** A14839012

**Author:** Anahera Dinsdale, Governance Advisor

**Authoriser:** Anahera Dinsdale, Governance Advisor

---

### **RECOMMENDATIONS**

That the Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023 be confirmed as a true and correct record.

---

### **ATTACHMENTS**

#### **1. Minutes of the Regulatory Hearings Panel meeting held on 4 May 2023**



# **MINUTES**

**Regulatory Hearings Panel meeting  
Thursday, 4 May 2023**

UNCONFIRMED

**Order of Business**

<b>1</b>	<b>Opening karakia</b> .....	<b>3</b>
<b>2</b>	<b>Apologies</b> .....	<b>3</b>
<b>3</b>	<b>Confirmation of minutes</b> .....	<b>3</b>
	3.1 Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023.....	3
<b>4</b>	<b>Declaration of conflicts of interest</b> .....	<b>3</b>
<b>5</b>	<b>Business</b> .....	<b>4</b>
	5.1 Objection to Disqualification as Dog Owner - Tina Bowrind.....	4
<b>6</b>	<b>Public excluded session</b> .....	<b>5</b>
	6.1 Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023 .....	5
	6.2 Objection to disqualification as dog owner – Tina Bowrind .....	5
<b>5</b>	<b>Business (continued)</b> .....	<b>6</b>
	5.1 Objection to Disqualification as Dog Owner - Tina Bowrind.....	6
<b>7</b>	<b>Closing karakia</b> .....	<b>6</b>

**MINUTES OF TAURANGA CITY COUNCIL  
REGULATORY HEARINGS PANEL MEETING  
HELD AT THE GROUND FLOOR MEETING ROOM 1, 306 CAMERON ROAD, TAURANGA  
ON THURSDAY, 4 MAY 2023 AT 9.30AM**

**PRESENT:** Mrs Mary Dillon, Mr Terry Molloy, Mr Alan Tate

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

## **1 OPENING KARAKIA**

Mrs Mary Dillon opened the meeting with a karakia.

## **2 APOLOGIES**

### **APOLOGY**

#### **COMMITTEE RESOLUTION RHP3/23/1**

Moved: Mrs Mary Dillon

Seconded: Mr Alan Tate

That the apology for absence received from Mr Puhirake Ihaka, be accepted.

**CARRIED**

Mr Terry Malloy had advised the Chairperson that he was enroute to the meeting but would arrive after the commencement time.

The meeting was adjourned at 9.35am.

The meeting reconvened at 9.43am.

## **3 CONFIRMATION OF MINUTES**

### **3.1 Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023**

#### **COMMITTEE RESOLUTION RHP3/23/2**

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the minutes of the Regulatory Hearings Panel meeting held on 30 March 2023 be confirmed as a true and correct record.

**CARRIED**

## **4 DECLARATION OF CONFLICTS OF INTEREST**

Nil

## 5 BUSINESS

### 5.1 Objection to Disqualification as Dog Owner - Tina Bowrind

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

#### Key points

- The hearing of the matter had been left to lie on the table twice, at the request of Ms Bowrind to reschedule the hearing to enable Ms Bowrind to be present. The Panel had advised Ms Bowrind on the last request that should she not attend the third hearing, the matter would be dealt with on the papers before them.
- The Committee Advisor, Ms Drummond, confirmed for the Panel that Ms Bowrind had been advised of the Panel's decision on her second request to reschedule the hearing, through text message and had responded in acknowledgement of the decision that should she not attend, the matter would be heard on the papers. Ms Drummond further confirmed that there had not been receipt of any other written material from Ms Bowrind.
- Staff provided the Panel a summary of their report.
- Noted that Ms Bowrind had been considered a recidivist offender who had continued to offend after the receipt of infringement notices.
- Ms Bowrind considered it acceptable for both dogs (Jasper and Rosebud) to roam at will despite her ability to keep them contained on her property. There were recorded offences of rushing aggressively and attacks on domestic animals.
- Noted Ms Bowrind had actively misled staff on a number of occasions including attempting to recover the impounded dogs using a false identity.
- Referred the Panel to paragraph 26 of the report that noted these infringements and that Ms Bowrind considered that staff had harassed her and her family over the issue of the dogs roaming and behaviour, infringement notices and impounding of the dogs.
- Noted that Ms Bowrind had not attempted to work with staff on the matter and when served notice in person of the disqualification, she had walked away and refused to engage further with staff. Ms Bowrind was advised of her appeal rights to the notice at the time the notice was served.

#### In response to questions

- The dogs subject to complaint had both been impounded and had subsequently been euthanised.
- Other persons resident at the property could be the legal owners of the dogs, however if Ms Bowrind was the only person present at the property under the Dog Control Act she was considered to be in charge of the animals, which would result in further infringement notices being served. However that could be a hard charge for staff to prove.
- There had been puppies present at the property (sired by Jasper and a third dog), those puppies had been rehomed and under other ownership and had been well cared for and controlled.
- Reports had been received that there were now other dogs present at the property. Those dogs had been observed roaming and uncontrolled. Proof of ownership of those dogs could not be confirmed and could be a matter of further investigation by staff.
- Under the Dog Control Act the maximum disqualification of ownership of a dog was five years. Staff found that a three year disqualification period had proven to be an effective deterrent and had therefore deemed that an appropriate period imposed in this matter.
- Confirmed that the Panel does not have the power to extend a period of disqualification from the date that the disqualification notice had been served. The current period of that disqualification period was three years.
- Confirmed that Ms Bowrind had served one year of this three year period (effective from service of the disqualification notice in June 2022.)

Attendance:

Brent Lincoln, Team Leader: Animal Services, and Kiran Erasmus, Animal Services Officer left the meeting at 9.50am.

The Panel deliberated in public excluded and released the decision in the public part of the meeting. Refer to the decision below.

## 6 PUBLIC EXCLUDED SESSION

### Resolution to exclude the public

#### COMMITTEE RESOLUTION RHP3/23/3

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
<b>6.1 - Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 30 March 2023</b>	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
<b>6.2 Deliberations on Objection to Disqualification as Dog Owner - Tina Bowrind</b>	To enable the Committee to deliberate on the objection to disqualification as a dog owner.	S48(1) (d) That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council/Committee to deliberate in private on its decision or recommendation in any proceedings where the local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.

**CARRIED**

The meeting resumed in the public arena.

## 5 BUSINESS (continued)

### 5.1 Objection to Disqualification as Dog Owner - Tina Bowrind (continued)

#### COMMITTEE RESOLUTION RHP3/23/4

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tina Bowrind".
- (b) Uphold the disqualification of Ms Tina Bowrind as a dog owner.

Reasons for decision:

1. The Regulatory Hearings Panel (the Panel) did not hear from the applicant who did not appear at the hearing. The Panel was satisfied that the Council had provided sufficient time and opportunity for Ms Bowrind to be heard by the Panel who had previously agreed to the request from Ms Bowrind to reschedule the hearing from 30 March 2023 and had advised Mrs Bowrind that if she was unable to attend the next hearing the matter would be decided by the Panel on the papers already before them.
2. The Panel gave weight to the evidence presented by the staff and their recommendation that the disqualification of Ms Bowrind as a dog owner be upheld.
3. The Panel took into account the recidivist nature of the offending by Ms Bowrind. complaints and offending of the dogs owned by Ms Bowrind.
4. The Panel agreed that a disqualification for three years was appropriate for the repeat infringement offences and noted that Ms Bowrind has served one year of the three year period (effective from service of the disqualification notice in June 2022.)

**CARRIED**

## 7 CLOSING KARAKIA

Mrs Mary Dillon closed the meeting with a karakia.

**The meeting closed at 9.59am.**

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

.....  
**CHAIRPERSON**



## 5 BUSINESS

### 5.1 Objection to Disqualification as dog owner - Dylan Anderson

**File Number:** A14809342

**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 Dylan Anderson opposing his disqualification as a dog owner.

---

#### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as dog owner - Dylan Anderson.
- (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 is Dylan Anderson, he is the owner of Chico, a Male Labrador Retriever Doberman Cross dog aged 2 years and 10 months.
3. Council has received six complaints over a period of 21 months, mostly about Chico either roaming with aggression or rushing at people. (*Attachment 1 – Schedule of offences*)
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 4 November 2021 to 28 April 2023, Mr Anderson received eight infringements, for five offence dates and all but one infringement has been filed with the Court. (*Attachment 2 – Schedule of Infringements and Impounds*)
6. As a result, a notice disqualifying him from owning a dog for a period of three years until 23 August 2025 was issued on 22 December 2022 (*Attachment 3 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Mr Anderson submitted an objection to the disqualification on 15 May 2023. (*Attachment 4 – Objection to disqualification and email trail*)

#### BACKGROUND

8. The "Act" provides that when a person receives three infringements within a two-year period and the infringements have been issued for separate incidents or occasions or have 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.
9. 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.
10. Mr Anderson has received the equivalent of 4 qualifying infringements and there is one further infringement which has been issued which hasn't yet been paid nor defended.
  11. After considering the nature of the offending, the associated aggression of the dog Chico and the repeat nature of offences, staff are satisfied that the disqualification is warranted. Council doesn't operate a probationary owner scheme.
  12. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
  13. 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.
  14. 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".
  15. When an infringement is issued the recipient can either:
    - Pay the infringement; or
    - Defend the infringement in Court; or
    - Do nothing.
  16. 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.
  17. 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.
  18. While not required by law, we have adopted a process whereby an advisory letter is sent to a dog owner when they have received two infringements. A letter was sent on 8 February 2022. (*Attachment 5 – Notification of second infringement*)
  19. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 14 November 2022 and no response was received. (*Attachment 6 – Notice of impending disqualification*)
  20. Mr Anderson has said he never received some correspondence because he had changed address. A dog owner is required to notify Council within 14 days of moving of their new address, we were not notified when Mr Anderson changed address. The "Act" provides that any letters or notices are deemed to be served when posted to the last known address shown on the dog register, which we did on each occasion.








## SIGNIFICANCE

21. 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.
22. 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.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

## ENGAGEMENT

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

## ATTACHMENTS

1. **Dylan Anderson - Attachment 1 - Schedule of Offences - A14837314** [↓](#) 
2. **Dylan Anderson - Attachment 2 - Schedule of Infringements and Impounds - A14837315** [↓](#) 
3. **Dylan Anderson - Attachment 3 - Notice of Disqualification - A14837316** [↓](#) 
4. **Dylan Anderson - Attachment 4 - Objection to Disqualification and Email Trail - A14837317** [↓](#) 
5. **Dylan Anderson - Attachment 5 -Notification of Second infringement - A14837318** [↓](#) 
6. **Dylan Anderson - Attachment 6 - Notice of Impending Disqualification - A14837319** [↓](#)   


<b>COMPLAINTS</b>			
<b>Complaint Date</b>	<b>Complaint</b>	<b>Outcome</b>	<b>Offence</b>
1058508 28 Apr 2023 07:46am	Person Rushed at	Infringement 26908	Rushing at person who was trying to leave her property and barking aggressively
1010828 29 Aug 2022 03:03pm	Roaming	Dog Impounded, Infringement 26292	Dog was stalking and barking at people in a reserve
1009977 24 Aug 2022 03:48pm	Person Rushed at	Infringements 26293 and 26294	6 year old rushed at while riding her bike and Unregistered
981016 09 Mar 2022 03:50pm	Roaming	Dog Impounded	Acting aggressively in complainants front garden.
954622 04 Nov 2021 11:07am	Unregistered	Infringements 25868, 25869, 25870 and 25871	Officers visited Mr Anderson at his home and advised him they were there to impound his two dogs "CHICO" and "DRE" neither dog is currently registered. Also Council had received complaints about his dogs roaming in the street the previous day at 4pm. The officer had also seen his dogs roaming in Cupples street and chased them back to his address. ANDERSON stated he would call the Police and asked for the paperwork. He then went back inside the address. The officer filled out 2 x seizure notices. They realised that ANDERSON had left the property with the two dogs by jumping over the back fence of the property. He returned a short tiime later without the dogs.Fail to provide information about dog, Obstruction of Dog Control Officer, Fail to control public place and Unregistered dog.
932866 12 Jul 2021 12:29pm	Domestic Animal Attack	Dog Classified menacing	Dogs jumped out of property and attacked complainants dog.

INFRINGEMENTS				
Infringement Number	Offence Date	Status	Dog Name	Offence
25868	4/11/21	FILED WITH COURT	CHICO	Unregistered
25869	3/11/21	FILED WITH COURT	CHICO	Fail to control public place
25870	4/11/21	FILED WITH COURT		Obstruction Dog Control Officer
25871	4/11/21	FILED WITH COURT		Fail to provide information about dog
26292	29/08/22	FILED WITH COURT	CHICO	Fail to control public place
26293	24/08/22	FILED WITH COURT	CHICO	Unregistered
26294	24/08/22	FILED WITH COURT	CHICO	Fail to control public place
26908	28/04/23	ENTERED	CHICO	Fail to control public place

IMPOUNDS			
Impound No	Date Impounded	Date Released	Dog
23091	24/03/22	24/03/22	CHICO
23468	29/08/22	2/09/22	CHICO

22 December 2022



DYLAN ANDERSON



Dear Dylan,

**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 24 August 2022 and will expire on 23 August 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 read "Brent Lincoln".

**Brent Lincoln**  
Animal Services: Team Leader  
Tauranga City Council

07 577 7000  
[info@tauranga.govt.nz](mailto:info@tauranga.govt.nz)

















## 5.2 Objection to Disqualification as Dog owner - Britney Eagle

**File Number:** A14797500

**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 Britney Eagle opposing her disqualification as a dog owner.

---

### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Britney Eagle".
- (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, Britney Eagle, was the owner of two dogs, Polo and Sadee. Polo 52922 is a Neapolitan Mastiff aged 2 years and 3 months and Sadee 52473 was a female American Pit Bull Terrier Cross dog which would be aged 2 years and 10 months.
3. In the short time Ms Eagle has owned these dogs, they have been subject to twelve complaints about the dogs roaming or rushing people while roaming. Sadee has been impounded twice and was not claimed when last impounded on the 18 October 2022 and was euthanised as unsuitable for adoption. (*Attachment 1 – Schedule of Complaints and Actions*)
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 19 November 2021 to 18 October 2022, Ms Eagle received six infringements, all of which have been filed with the Court. (*Attachment 2 – Schedule of Infringements and Impounds*)
6. As a result, on 9 February 2023, she was issued with a notice disqualifying her from owning a dog for a period of three years from the offence date of the third infringement, namely until 17 October 2025. (*Attachment 3 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Ms Eagle submitted an objection to the disqualification on 22 May 2023. (*Attachment 4 – Objection to disqualification*)
8. On 10 May 2023 staff exercised a search warrant at the residence of Ms Eagle and seized the dog Polo as she had failed to dispose of the dog in breach of the disqualification. The dog was released from the pound to a new owner nominated by Ms Eagles on 26 May 2023.

### BACKGROUND

9. Ms Eagle first came to our attention on 6 July 2022 when Council received a complaint about Sadee roaming on the street and acting aggressively to a pedestrian. At this time, Ms Eagle lived in Paeroa and was visiting her mother in Tauranga. Also present was the dog Polo, neither dog was registered, and a written warning was issued for the roaming with aggression and both dogs were required to be registered.
10. On 16 August 2021 staff visited the address after being advised, dogs from the address were roaming. Ms Eagle was present and said she now lived at the address. She was given until 25 August to register Sadee and 1 September to register Polo as she had a young baby and financial limitations. She also received another warning in relation to allowing the dogs to roam.
11. Sadee was registered on 16 September 2021 and Sadee was classified as a menacing dog on 29 September 2021 because she is an American Pit Bull Terrier and was required to be muzzled in public. Polo was registered on 13 October 2021. (*Attachment 5 – Menacing Classification*)
12. During October three more complainants were received about the dogs Sadee and Polo roaming. Staff spoke to Ms Eagle reiterating her responsibility as a dog owner and provided suggestions about how to contain the dogs.
13. Further complaints were made following the visit in October 2021 and as a result the dogs were either impounded or infringements were issued as the owner failed to control her dogs as required.
14. 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.
15. 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.
16. 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.
17. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
18. 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.
19. 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”.
20. When an infringement is issued the recipient can either:
  - Pay the infringement; or
  - Defend the infringement in Court; or
  - Do nothing.

21. 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.
22. 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.
23. While not required by law, we have adopted a process whereby we normally send an advisory letter to a dog owner when they have received two infringements. On this occasion this was not done.
24. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 23 January 2023 and no response was received. (*Attachment 6 – Notice of impending disqualification*)













## 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 issue is of low significance.

## ENGAGEMENT

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

## ATTACHMENTS

1. **Britney Eagle - Attachment 1 - Schedule of Complaints - A14837323**  
2. **Britney Eagle - Attachment 2 - Schedule of Infringements and Impounds - A14837325**  
3. **Britney Eagle - Attachment 3 - Notice of Disqualification - A14837326**  
4. **Britney Eagle - Attachment 4 - Objection to Disqualification - A14837328**  
5. **Britney Eagle - Attachment 5 - Menacing Classification - A14837329**  
6. **Britney Eagle - Attachment 6 - Notice of Impending Disqualification - A14837330**  

























### 5.3 Objection to Disqualification as Dog Owner - Tumanako Farrell

**File Number:** A14825618

**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 Tumanako Farrell opposing his disqualification as a dog owner.

---

#### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Tumanako Farrell.
- (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 is Tumanako Farrell, he has been the owner of multiple dogs as a result of one of his dogs having a number of puppies. For the purpose of this report, the dogs involved are:
  - (a) Harley, a male, 9 year 7 month Staffordshire Bull Terrier.
  - (b) Frankie Girl, a female, 1 year 10 month Staffordshire Bull Terrier Cross dog.
  - (c) Kingi, a male, 10 month Staffordshire Bull Terrier Cross dog.
  - (d) Ataahua, a male, 10 month Staffordshire Bull Terrier Cross dog.
  - (e) Hukurere, a male, 10 month Staffordshire Bull Terrier Cross dog.
3. Mr Farrell has now reduced his dog ownership to Harley and Frankie Girl but that is subject to the outcome of this hearing.
4. Council received thirteen complaints since 30 May 2022 about all or some of these dogs roaming or requiring a pick up. A roaming complaint means, the complainant has seen the dogs out but couldn't catch them. A dog "pick up" complaint means the caller has captured at least one of the roaming dogs and wants the dog collected. The dogs have not been aggressive. (*Attachment 1 – Schedule of offences*).
5. As a result of the complaints, Council have impounded dogs on 9 occasions and issued three infringements.
6. 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.
7. For the period 28 June 2022 to 9 February 2023, Mr Farrell received 3 infringements, for 3 offence dates and all infringements have been filed with the Court. (*Attachment 2 – Schedule of infringements and Impounds*)

8. As a result, a notice disqualifying him from owning a dog for a period of three years from the offence date of the third infringement, namely until 8 February 2026 was issued on 1 June 2023 (*Attachment 3 – Notice of disqualification*)
9. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Mr Farrell submitted an objection to the disqualification on 21 June 2023. (*Attachment 4 – Objection to disqualification*)

## BACKGROUND

10. The “Act” provides that when a person receives three infringements within a two-year period and the infringements have been issued for separate incidents or occasions or have 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. Mr Farrell has received 3 qualifying infringements.
13. After considering the repeat nature of the offending, together with numerous impounds, staff are satisfied that the disqualification is warranted. Council doesn’t operate a probationary owner scheme.
14. Normal practice is to disqualify an owner for 3 years when they incur three or more infringements.
15. 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.
16. In his objection Mr Farrell states he has now dog proofed his section with new fences, gates and window latches. It is noted that there has been no further complaints about his dogs since February of this year, however complaints about these dogs started in May 2022 and have caused significant disruption to the neighbourhood.
17. 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 15 above, as provided by section 26(3) of the “Act”.
18. When an infringement is issued the recipient can either:
  - Pay the infringement; or
  - Defend the infringement in Court; or
  - Do nothing.
19. 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.
20. Only infringements which have either:
  - Been paid; or

- A conviction entered (if they defended the infringement); or
- Filed with the Court

can be counted when disqualifying a person.

21. While not required by law, we have adopted a process whereby an advisory letter is sent to a dog owner when they have received two infringements. A letter was sent on 21 February 2023. (*Attachment 5 – Notification of second infringement*)
22. Once they have received 3 qualifying infringements, we send them a second letter, advising them of the consequences and asking for an explanation as to why Council should not disqualify the person as a dog owner. A letter was sent on 1 May 2023 and no response was received. (*Attachment 6 – Notice of impending disqualification*)







## SIGNIFICANCE

23. 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.
24. 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.
25. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

## ENGAGEMENT

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

## ATTACHMENTS

1. **Tumanako Farrell - Attachment 1 - Schedule of Offences - A14837336** [↓](#) 
2. **Tumanako Farrell - Attachment 2 - Schedule of Infringements and Impounds - A14837337** [↓](#) 
3. **Tumanako Farrell - Attachment 3 - Notice of Disqualification - A14837338** [↓](#) 
4. **Tumanako Farrell - Attachment 4 - Objection to Disqualification - A14837339** [↓](#) 
5. **Tumanako Farrell - Attachment 5 - Notification of Second Infringement - A14837340** [↓](#) 
6. **Tumanako Farrell - Attachment 6 - Notice of Impending Disqualification - A14837341** [↓](#) 























#### 5.4 Objection to Menacing Classification - Gurmeet Johal

**File Number:** A14817636

**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 Gurmeet Johal opposing the Menacing Classification of her dog Tiger.

---

#### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Menacing Classification - Gurmeet Johal.
- (b) It is recommended that the panel uphold the menacing classification, however the panel may either:
  - (i) Uphold the classification; or
  - (ii) Rescind the classification.

---

#### EXECUTIVE SUMMARY

2. Gurmeet Johal is the owner of Tiger, a two-year-old male Rottweiler.
3. On 24 January 2023 the complainant was walking his two dogs on leads in Wairakei Reserve, Papamoa. As he came around a corner, he saw two people with a Rottweiler. The Rottweiler (Tiger) charged straight toward the complainant and his dogs. It stopped about three metres away.
4. Tiger was on a longline lead and stood there with its hackles up. The owner came up and said the dog is friendly. Tiger then lunged forward, sniffed the dog Bob and then growled and grabbed Bob by the ear. The dogs were now tangled together with their leads.
5. As a result, Bob had a torn ear with a puncture wound and another puncture wound to his neck. The veterinary cost was \$428.26
6. Council initially classified Tigger as Dangerous and issued an infringement for failing to control the dog. The dog owner objected to the classification and after reviewing the matter, this was substituted with a Menacing classification. (*Attachment 1 – Objection to dangerous Classification*) (*Attachment 2 – Council Review and Notice of Menacing Classification*)
7. The infringement was not challenged and has been filed with the Court as unpaid. The charge is deemed to be proved as a result.
8. The owner has then objected to the menacing classification. (*Attachment 3 – Menacing Classification*) (*Attachment 4 – Objection to Menacing Classification*)

#### BACKGROUND

9. The dog Tiger was known to Council as prior to the incident on the 24 January 2023, we had received a complaint that on 26 November 2022 Tiger had rushed from its property growling aggressively at the complainant's dog however did not attack.
10. On this occasion Tiger was free to leave its property as the door was left open. The complainant said this is the fourth time this has happened however this was the first



complaint council has received. The owner was issued with a written warning but seemed in denial that Tiger was an issue.

11. In relation to the attack of 24 January 2023, Tiger was being walked with an extendable or longline type lead. It was estimated that the lead allowed Tiger to be up to 15 metres away from his owner. By definition, a lead must be no longer than 2 metres for the dog to be deemed to be under effective lead control.
12. When it comes to the actual attack there is a difference between explanations provided by the victim and the dog owner. The victim stated:
  - (a) Tigger ran approximately 10 to 15 metres up to the victim dog which was on a short lead and was standing by the victim.
  - (b) The dog owner said her dog was friendly, but the victim was concerned because the Rottweiler's hackles were up.
  - (c) Tigger then growled and lunged at the victim dog causing injuries.

*(Attachment 5 – Victim Interview)*
13. The dog owner, Gurmeet Johal, said:
  - (a) Tiger saw the victim dog and ran 15 to 20 metres toward it.
  - (b) Gurmeet's husband had hold of the lead but slipped and the lead unwound.
  - (c) Tigger sat about three metres from the victim, I ran up to Tigger and grabbed him by the collar.
  - (d) The complainant asked me if Tigger was friendly and I said yes, he said his dog was friendly too.
  - (e) The complainant asked if the dogs could meet, and I said yes and released Tiggers collar. The victim dog showed its teeth and went for Tiggers ear and neck and was growling.
  - (f) Tigger tried to back away but the leads were tangled, he growled and nipped the other dogs ear. The dogs were separated and I could see some blood on the victims ear.
  - (g) In explanation she believed Tigger was being protective and the whole incident was an unfortunate incident with no one to blame.

*(Attachment 6 – Gurmeet Johal Interview)*
14. At the conclusion of an investigation, staff complete an attack rating form. This form is used as a guide and aids when assessing what is the most appropriate action to take.
15. In this matter the attack rating totalled 35 points, this placed it in the threshold of classifying the dog as Dangerous, however, as discussed above, the classification was reduced to menacing on review. *(Attachment 7 – Attack rating)*.
16. When considering an objection against a menacing classification, the panel may uphold or rescind the classification, and in making its determination must have regard to:
  - (a) the evidence which formed the basis for the classification; and
  - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
  - (c) the matters relied on in support of the objection; and
  - (d) any other relevant matters.
17. The Act requires every owner to take all reasonable steps to ensure their dog cannot cause nuisance or danger to any person or other animal.
  - (a) The victim in this matter had his dogs on lead and standing beside him.

- (b) Gurmeet's dog was on a longline and therefore deemed not to be under control, it approached the victim from up to 15 metres away and then an attack happened.
  - (c) Tigger has a history of showing aggression to other dogs.
  - (d) The victim dog, a Labrador Retriever has no history of any sort.
  - (e) It is the assessment of Animal Services that the owner Gurmeet Johal, failed to control dog Tigger and that this was the cause of the attack. The infringement issued for failing to control Tigger was not defended and now is regarded as being proven.
  - (f) The classification of menacing is appropriate in the circumstances.
18. The Court has ruled past behaviour is the best predictor of future behaviour. In other words, once a dog has attacked once it will be assumed it will attack again unless there are compelling reasons justifying an alternative view based on whether the circumstances were sufficiently exceptional that the risk is remote.
  19. There was nothing exceptional about this attack, it could have easily been prevented by the owner ensuring the dog was secure on a short lead and needed to take extra precautions, knowing that their dog had previously rushed at a dog. A muzzled dog is a safe dog.
  20. I note in Ms Gurmeet's statement at question 10, when asked if she had any previous letters from Council, she replied "yes, a previous letter but I don't remember what it was about".








## SIGNIFICANCE

21. 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.
22. 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.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

## ENGAGEMENT

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

## ATTACHMENTS

1. **Gurmeet Johal - Attachment 1 - Objection to Dangerous Classification - A14837279**  [↓](#)
2. **Gurmeet Johal - Attachment 2 - Council Review and Notice of Menacing Classification - A14837280**  [↓](#)
3. **Gurmeet Johal - Attachment 3 - Menacing Classification - A14837282**  [↓](#)
4. **Gurmeet Johal - Attachment 4 - Objection to Menacing Classification - A14837284**  [↓](#)
5. **Gurmeet Johal - Attachment 5 - Victim Interview - A14837286**  [↓](#)
6. **Gurmeet Johal - Attachment 6 - Gurmeet Johal Interview - A14837288**  [↓](#)
7. **Gurmeet Johal - Attachment 7 - Attack Rating - A14837290**  [↓](#)















































## 5.5 Objection to Menacing Classification - Dayna Osborne

**File Number:** A14815229

**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 Dayna Osborne opposing the Menacing Classification of her dog Spud.

---

### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Menacing Classification - Dayna Osborne.
- (b) It is recommended that the panel uphold the menacing classification, however the panel may either:
  - (i) Uphold the classification; or
  - (ii) Rescind the classification.

---

### EXECUTIVE SUMMARY

2. Dayna Osborne is the owner of Spud, a 6-year-old male American Bull Dog Cross. Apart from barking complaints Spud had not had any adverse history with Council until he bit a person on 27 March 2023.
3. Records show Dayna obtained Spud when he was 6 months old while in Christchurch, she moved to Wellington in 2018 and then to Tauranga in 2022.
4. As a result of the investigation, Council classified the dog as menacing, which means the owner must not allow the 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. (*Attachment 1 – Notice of Menacing Classification*)
5. The owner of a dog may object to that classification within 14 days of receiving the notice. The notice was issued on 23 May 2023, an objection to the classification was received on 29 May 2023. (*Attachment 2 – Initial Objection to Menacing Classification*).
6. On 19 June 2023 I responded to Dayna's objection, concluding that Council felt the menacing classification was appropriate and offering to forward her objection to this panel. (*Attachment 3 – Council Response to Objection*).
7. Dayna responded on the 19 June 2023 requesting that her objection be forwarded to this panel. (*Attachment 4 – Confirmation of Objection from Dayna Osborne*).

### BACKGROUND

8. On 27 March 2023 a person visited the residence of the dog owner as they were collecting an item they had purchased on Facebook.
9. When she arrived, she was walking up to the house when Spud came shooting out of the house through an open door and onto the deck barking. Spud jumped off the deck and attacked her, biting her hand causing punctures to her hand, bruising and swelling. She had



- to take a week off work. She said she was just standing there when the attack happened. (*Attachment 5 – Victim Interview*).
10. The dog was subsequently secured by a male person called Max and taken inside.
  11. When Dayna was spoken to by staff, she said:
    - (a) She was inside the house with a person called Max. Max was waiting for a person to arrive to collect an item he had sold on Facebook.
    - (b) The dog was also inside but the door was open onto the deck.
    - (c) The dog has had a lot of trauma in his past life with people trying to pat him through the fence and being attacked by dogs.
    - (d) He is fearful and we have been trying to train him and get him better. He doesn't like strangers.
    - (e) When the victim arrived, Spud ran outside to smell her, she tried to pat Spud and he bit her hand. (*Attachment 6 – Dayna Osborne Interview*).
  12. At the conclusion of an investigation, staff complete an attack rating form. This form is used as a guide and aids when assessing what is the most appropriate action to take.
  13. In this matter the attack rating totalled 30 points, this placed it in the threshold of classifying the dog as Dangerous, however, as the dog had no documented history of aggression, staff classified the dog as menacing by deed. (*Attachment 7 – Attack rating*).
  14. When considering an objection against a menacing classification, the panel may uphold or rescind the classification, and in making its determination must have regard to:
    - (a) the evidence which formed the basis for the classification; and
    - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
    - (c) the matters relied on in support of the objection; and
    - (d) any other relevant matters.
  13. The essence of the attack is agreed to by both parties in that, the dog was unsecured in the house and ran outside when the visitor arrived and bit her on the hand. There is disagreement over whether the victim tried to pat the dog or not, however, that has no relevance in law.
  14. The owner knew the dog was fearful and not good with strangers but didn't secure the dog before the visitor arrived.
  15. The only matter provided in Spud's defence is included in the objection email dated 29 May 2023 "*Spud does not have anything against his name in regards to any other incidents involving bites in the 6 years I have had him*". I have checked with both Wellington and Christchurch Councils and the only previous complaints relate to barking.
  16. When a dog bites a person, and the owner knows the dog has bitten then section 62 of the Act also applies. Section 62 is an automatic provision and there is no right of objection. We prefer to also classify a dog as Dangerous or Menacing as this is clearer for the Court should there be further reoffending. Section 62 has the same requirements as a menacing classification but also requires the owner to control the dog by way of a leash when in public.
  17. The Court has ruled past behaviour is the best predictor of future behaviour. In other words, once a dog has attacked once it will be assumed it will attack again unless there are compelling reasons justifying an alternative view based on whether the circumstances were sufficiently exceptional that the risk is remote.
  18. There was nothing exceptional about this attack, it could have easily been prevented by the owner ensuring the dog was secure in the house. A muzzled dog is a safe dog.








## SIGNIFICANCE

19. 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.
20. 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.
21. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of low significance.

## ENGAGEMENT

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

## ATTACHMENTS

1. **Dayna Osborne - Attachment 1 - Notice of Menacing Classification - A14837255** [↓](#) 
2. **Dayna Osborne - Attachment 2 - Initial Objection to Menacing Classification - A14837256** [↓](#) 
3. **Dayna Osborne - Attachment 3 - Council Response to Objection - A14837257** [↓](#) 
4. **Dayna Osborne - Attachment 4 - Confirmation of Objection Dayna Osborne - A14837258** [↓](#) 
5. **Dayna Osborne - Attachment 5 - Victim Interview - A14837259** [↓](#) 
6. **Dayna Osborne - Attachment 6 - Dayna Osborne Interview - A14837261** [↓](#) 
7. **Dayna Osborne - Attachment 7 - Attack rating - A14837262** [↓](#) 







































**6 CLOSING KARAKIA**