



AGENDA

Regulatory Hearings Panel meeting Monday, 23 September 2024

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

Date: Monday, 23 September 2024

Time: 9.00am

**Location: Tauranga City Council
Ground Floor Meeting Rooms 1 & 1b
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.

Order of Business

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- 1 OPENING KARAKIA**
- 2 APOLOGIES**
- 3 DECLARATION OF CONFLICTS OF INTEREST**

4 BUSINESS

4.1 Objection to Disqualification as Dog Owner - Alison Brayshaw

File Number: A16484316

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 Alison Brayshaw opposing her disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Alison Brayshaw".
- (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. Alison Brayshaw is currently the registered owner of two female Siberian Huskies. Lucy is a 12-year-old dog that is classified as a dangerous dog, Gidgit is 7 years old and is a classified menacing dog.
3. Lucy and Gidgit were classified in June 2018 along with a third dog (Ninja) which was classified as dangerous when all the dogs were in the possession of Alison when they attacked a child at a park.
4. An additional dog, Bear, a 2-year-old Siberian Huskey, also resides at the property and while registered to a third party, is normally under the care and control of Alison.
5. Since February 2023. Council has received 3 complaints about dogs in Alison's care roaming in a public place and one occasion of a dog roaming on private property. On one of these occasions, the dog Bear ran down the street and attacked another dog. On another occasion Bear and the classified Dangerous dog, Lucy were roaming and chased a dog on the street. Lucy was not muzzled as required by her classification. (*Attachment 1 – Schedule of Complaints*)
6. As a result of these offences, Alison was issued with 5 infringements over this period. Since 2017, she has been issued with 9 infringements for allowing her dogs, or dogs in her possession to either attack people, other dogs, roam or for failing to register them. (*Attachment 2 – Schedule of Infringements*)
7. 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.

8. As a result, on 23 May 2024, 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 16 January 2027. (*Attachment 3 – Notice of disqualification*)
9. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. Alison submitted an objection to the disqualification on 28 May 2024. (*Attachment 4 – Objection to disqualification*)

BACKGROUND

10. 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 may classify the owner as probationary.
11. After considering the extensive negative history associated with this dog owner, the fact that some of the offending involved a classified dangerous dog and that offending has continued after the notice of disqualification was issued, we believe the disqualification was appropriate. 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 13 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. The four infringements highlighted in yellow (see attachment one) are the ones which triggered this disqualification. An additional infringement has also been issued but has not yet been filed with the court.

19. 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*)
20. No response was received and a notice to disqualify was delivered to the home of Alison on 23 May 2024.
21. Alison has owned or been in control of 7 dogs since 2018, of these, two dogs have been classified as Dangerous, one has been classified as menacing, two have received a muzzle order for aggression, two have received a written warning for aggression. (*Attachment 6 – Record of Dog Ownership or Control*)
22. During this period, dogs in her possession have been impounded on 6 occasions.
23. The objector may appeal the decision of the panel to the District Court if dissatisfied.













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 - Schedule of Complaints - A16625987**  
2. **Attachment 2 - Schedule of Infringements Issued - A16625990**  
3. **Attachment 3 - Notice of Disqualification - A16625988**  
4. **Attachment 4 - Objection to Disqualification - A16625989**  
5. **Attachment 5 - Notice of pending disqualification - A16625986**  
6. **Attachment 6 - Record of dog ownership or control - A16625991**  

OFFENCES COMMITTED BY ALISON BRAYSHAW			
Complaint	Offence	Outcome	Dog
1141319 16 Jul 2024 05:04am	Roaming Private Property	Infringement 27776	Bear
1106637 18 Jan 2024 09:27am	Domestic Animal Attack	Infringement 27605	Bear
1071212 06 Jul 2023 06:57am	Roaming Public Place	Infringement 26969	Bear
1041491 08 Feb 2023 07:55am	Roaming Public Place	Infringement 26738 and 26739	Bear and Lucy
946096 21 Sep 2021 12:30pm	Unregistered dog	Coco and Ninja Impounded	
945520 17 Sep 2021 11:09pm	Domestic Animal Attack	Infringement 25792 - breach of Dangerous dog requirements	Lucy
910669 25 Mar 2021 01:30pm	Roaming Dog	Ninja impounded	
839240 03 Mar 2020 08:41am	Barking Dog	Educational letter sent	
830955 23 Jan 2020 04:03pm	Barking Dog	Discussed complaint with dog owner	
829817 17 Jan 2020 06:29pm	Domestic Animal Attack	Infringement 25082 and 25083	Mayo and Gidgit
825484 21 Dec 2019 04:11pm	Barking Dog	No Further Action	
727096 17 Jun 2018 04:40pm	Person Attacked	Dogs impounded. Ninja and Lucy classified dangerous dogs	
685509 09 Nov 2017 11:49am	Person and dog attacked	Infringement 24243 - Unregistered	Gidgit
655088 04 May 2017 02:03pm	Barking Dog	Educational letter sent	
609082 24 Aug 2016 01:08pm	Person Rushed at	Section 62 notice requiring Yogi to be muzzled in public	
590430 28 Apr 2016 06:35pm	Aggressive dog	Behavioural letter sent	

INFRINGEMENTS ISSUED TO ALISON BRAYSHAW				
Infringement	Offence Date	Status	Dog	Offence
27776	16 July 2024	ENTERED	BEAR	Roaming Private Property
27605	17 January 2024	FILED WITH COURT	BEAR	Roaming public place
26969	6 July 2023	FILED WITH COURT	BEAR	Roaming public place
26739	8 February 2023	PAID	BEAR	Roaming public place
26738	8 February 2023	PAID	LUCY	Fail comply dangerous dog
25792	17 September 2021	WAIVED	LUCY	Fail comply dangerous dog
25083	17 January 2020	FILED WITH COURT	MAYO	Roaming public place
25082	17 January 2020	WAIVED	GIDGIT	Roaming public place
24243	9 November 2017	FILED WITH COURT	GIDGIT	Unregistered
3734	27 May 2003	PAID	UNKNOWN	Failed to advise change of address
3733	27 May 2003	PAID	UNKNOWN	Unregistered

DISQUALIFICATION FROM DOG OWNERSHIP



Tauranga City

17 May 2024

ALISON BRAYSHAW
85 HARRISFIELD DRIVE
HAIRINI
TAURANGA 3112

Delivery Confirmation:

Recipient name: A. BRAYSHAW

Signature: 

Date: 23/5/24 Time: 1405

Served by: P. HELLIER

Signature: **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.

This disqualification will apply from 17 January 2024 and will expire on 16 January 2027.

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

Yours sincerely,



Brent Lincoln
Animal Services: Team Leader
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 of 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 disqualification, 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 offenses, 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. Any objection heard by the Regulatory Hearings Panel is a publicly notified meeting, and members of the public, including the media, may attend. While your name and your dog's name may be published, your contact details will not be reported.



Alison Lynette Brayshaw
85 Harrisfield Drive
Hairini 3112
Tauranga.

RECEIVED BY TIMG
28 MAY 2024

To Brett

I am writing to you as you know my dogs mean the world to me. Lucy is 14yrs in August and Cidgel is mummy's girl and Mr bear he was a present from my ex partner.

I know my dogs have been in trouble but now the boarders that were letting bear out don't live with us anymore.

And with my children gone the dogs are my companions and keep my depression at bay, as they are good company and bring me much pleasure.

I have had covid and so haven't been out as much. I am also looking at moving as my son and I are going to court over the house.

I hope you see your way to let me keep my dogs. As Lucy doesn't have long to live.

And the dogs are a big part of my life

thank you for letting me answer
this notice

Al Brayshaw

A. L. Brayshaw

29 April 2024



ALISON LYNETTE BRAYSHAW
85 HARRISFIELD DRIVE
HAIRINI
TAURANGA 3112

Dear Alison,

Disqualification on third or subsequent infringement
Dog owner reference number: 270625

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 13 May 2024. 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

A handwritten signature in blue ink, appearing to be "Brent Lincoln".

Brent Lincoln
Animal Services team leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

Record of Dog Ownership or Control				
Dog	Outcome	Date	Status	Date
Lucy	Dangerous	Jul-18	Owned	Current
Gidgit	menacing	Jul-18	Owned	Current
Bear	Written warning for Aggression	Jul-24	Owned	Current
Yogi	s62	Aug-18	Died	Jun-21
Coco	Unregistered	Jun-21	Impound & destroyed	Jun-21
Ninja	Dangerous	Jul-18	Impound & destroyed	Jun-21
Arlo	Written warning for Aggression	Jan-20	Transferred	Jul-20

4.2 Objection to Disqualification as Dog owner - Liam Newth

File Number: A16493300

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 Liam Newth opposing his disqualification as a dog owner.

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Liam Newth".
- (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. Liam Newth was the owner of Marli, a 4-year-old entire female Mastiff Cross dog which he has owned since July 2023. During this period, he has amassed six infringements for failing to control or register the dog.
3. There have been ten complaints about the dog roaming both in public and on private property and two complaints relating to aggression where the dog attacked another dog and rushed at a person in a separate event. (*Attachment 1 – Schedule of Offences*)
4. Five infringements have been filed with the Court and one is due to be filed by 7 September 2024. (*Attachment 2 – Schedule of Infringements*)
5. 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.
6. As a result, on 12 July 2024, Liam 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 until 24 March 2027. (*Attachment 3 – Notice of disqualification*)
7. A disqualified owner may object to the disqualification and that objection shall be heard by the Hearings Panel. On 30 July 2024 Liam came into Council to register his dog and query his disqualification and the enquiry was documented and forwarded to Animal Services. (*Attachment 4 – Correspondence and Objection to disqualification*)
8. Council responded by email on 31 July 2024 and subsequent verbal discussions his message of 30 July was accepted as an objection to the disqualification.

BACKGROUND

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. We believe the disqualification is appropriate as staff have engaged with Liam on many occasions to encourage and assist him to stop his dog roaming. Despite this there have been a significant number of complaints, which include aggression, and have occurred within a short period of time.
11. 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 12 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. There are four qualifying infringements as the two infringements dated 14 December 2023 are regarded as one for the purpose of the disqualification. An additional infringement has been issued but has not yet been filed with the court.
19. Although not legally required, we write to a dog owner when they have received two infringements warning them of the consequence of incurring further infringements.
(Attachment 5 – Notification of potential disqualification)
20. Prior to disqualifying a person, we also write to the dog owner and advise them that the "Act" requires them to be disqualified. They are invited to write to Council with any information they

would like to be taken into consideration before we make a final decision. (*Attachment 6 – Notification of pending disqualification*)

21. No response was received and a notice to disqualify was delivered to the home of Mr Newth on 12 July 2024.
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.
24. The dog is not currently registered, Mr Newth has rehomed the dog pending the outcome of this hearing.






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.

ATTACHMENTS

1. **Attachment 1 - Schedule of Offences - A16626214** [↓](#) 
2. **Attachment 2 - Schedule of Infringements - A16626213** [↓](#) 
3. **Attachment 3 - Disqualification from Dog ownership - A16451049** [↓](#) 
4. **Attachment 4 - Correspondence and Accepted Objection - A16626256** [↓](#) 
5. **Attachment 5 - Notice of Second Infringement - A16626268** [↓](#) 
6. **Attachment 6 - Notification of Pending Disqualification - A16626270** [↓](#) 

OFFENCES COMMITTED BY LIAM NEWTH		
Complaint	Offence	Outcome
1141369 16 Jul 2024 11:38am	ROAMING DOG	DOG IMPOUNDED
1141366 16 Jul 2024 11:26am	ROAMING DOG	INFORMATION NOTED
1140768 11 Jul 2024 02:32pm	CUSTOMER MESSAGE	HAND DELIVERED DISQUALIFICATION LETTER
1138900 30 Jun 2024 12:39pm	CUSTOMER MESSAGE	INFRINGEMENT ISSUED
1126610 18 Apr 2024 02:49pm	PERSON RUSHED AT	INFRINGEMENT ISSUED
1122466 26 Mar 2024 11:25am	ROAMING DOG	INFRINGEMENT ISSUED
1118922 08 Mar 2024 05:48pm	ROAMING DOG	NO FURTHER ACTION
1101214 14 Dec 2023 07:09pm	DOMESTIC ANIMAL ATTACK	INFRINGEMENT - UNREGISTERED
1082296 06 Sep 2023 06:07pm	ROAMING DOG	INFRINGEMENT - UNREGISTERED
1033541 19 Dec 2022 11:03am	ROAMING DOG	ROAMING LETTER
1033537 13 Dec 2022 04:46pm	ROAMING DOG	ROAMING LETTER

INFRINGEMENTS ISSUED TO LIAM NEVILL				
Qualifying Infringements	Infringement	Offence Date	Status	Dog
1	27093	13/09/2023	FILED WITH COURT	MARLI
2	27575	14/12/2023	FILED WITH COURT	MARLI
	27576	14/12/2023	FILED WITH COURT	MARLI
3	27671	25/03/2024	FILED WITH COURT	MARLI
4	27692	18/04/2024	FILED WITH COURT	MARLI
	27744	30/06/2024	SENT REMINDER	MARLI

NTH
Offence
Failure to Register
Failure to Register
Roaming public place
Failure to control on private property
Roaming public place
Roaming public place

DISQUALIFICATION FROM DOG OWNERSHIP



11 July 2024

LIAM NEWTH
31 TOM MUIR DRIVE
GATE PA
TAURANGA 3112

Delivery Confirmation:

Recipient name: *Liam Newth*
Signature: *Hand delivered/advised outcome*
Date: *12/7/24* Time: *14:51 pm*
Served by: *A. Tewari*
Signature: *Alt*

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.

This disqualification will apply from 25 March 2024 and will expire on 24 March 2027.

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 "P. Hellier".

Pat Hellier
Animal Services: Team Leader (Acting)
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 of 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 disqualification, 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 offenses, 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. Any objection heard by the Regulatory Hearings Panel is a publicly notified meeting, and members of the public, including the media, may attend. While your name and your dog's name may be published, your contact details will not be reported.

PH 12/7/24

RE: Re: Re Disqualification as a dog owner - Liam Newth ref 1143750

To: liaynewth13@gmail.com
1/08/2024 11:35am

Hi Liam

If your dog was unregistered at the time they spoke to you I would accept they may have said you will need to register the dog before Council could consider not disqualifying you. However, Council must also take into account whether you controlled your dog and stopped it roaming. Our records showed you registered Marli on 31 March 2024 and since then we have had four complaints of Marli roaming and rushing at people on the street.

On two of these occasions the complainant had to take evasive action to avoid your dog which endangered them with other traffic.

The current situation is, as I have outlined in my previous email. You are currently disqualified, you must immediately dispose of any dogs owned by you or in your possession.

You may object to the disqualification but cannot own or possess dogs until your objection has been heard.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

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



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

From: liaynewth13@gmail.com

Sent: Wednesday, 31 July 2024 1:30:18 pm

To: "Info" <info@tauranga.govt.nz>

Subject: Re: Re Disqualification as a dog owner - Liam Newth ref 1143750

CAUTION: External Email.

I was told by a nice young lady that worked for city council that if I registered my dog her record will start new and I wouldn't be disqualified

On Wed, Jul 31, 2024, 10:36 Info <info@tauranga.govt.nz> wrote:

Hi Liam

On 12 July 2024 you were served with a notice disqualifying you as a dog owner for a period of three years until 24 March 2027.

On the rear of the disqualification notice was the effect of the disqualification and your right to object.

In summary the Dog Control Act states Council must disqualify a person for up to five years if they receive three or more infringements within a 24 month period.

Our records show that you have received six infringements since September 2023. For the purpose of the disqualification the two infringements issued on 14 December are regarded as one, and the infringement issued on 30 June isn't counted as yet as it hasn't been filed with the Court.

Infringement	Date	Status	Dog	Offence
27093	13 September 2023	FILED WITH COURT	MARLI	Unregistered
27575	14 December 2023	FILED WITH COURT	MARLI	Unregistered
27576	14 December 2023	FILED WITH COURT	MARLI	Roaming Public place
27671	25 March 2024	FILED WITH COURT	MARLI	Roaming private property
27692	18 April 2024	FILED WITH COURT	MARLI	Roaming Public place
27744	30 June 2024	ENTERED	MARLI	Roaming Public place

I received your message below on the 30 July 2024 which is 17 days after the notice was served on you. The conditions of the disqualification state you had 14 days to lodge a written objection, being that you hadn't objected on time you must now dispose of all dogs in your possession or ownership. The dogs cannot be given to another person living at the same address as you.

Dogs owned by other people at the address do not have to be removed, but you cannot be left in charge of those dogs.

You may still lodge a written objection to the disqualification which must include the reasons why you should not be disqualified. While your objection is being processed you must still rehome your dogs until it has been resolved.

Kind Regards

Brent Lincoln | Team Leader: Animal Services

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

Details:

Customer has come in and paid for his dogs registration. He has asked if someone could contact him and give him clarity around whether or not he is still deemed a disqualified owner, and if possible, have this removed from his record. - Anthony

Parcel: [31 TOM MUIR DRIVE](#)

Contact: LIAM NEWTH

Phone: cel 0064 022 3928269

This message was automatically generated by the Origen Contact Centre

WF/25/0/0/0/AFTER/R/REFER/ORG/2AS200

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15 March 2024

LIAM JOSEPH NEWTH
31 TOM MUIR DRIVE
GATE PA
TAURANGA 3112

Dear Liam,

Notification of second infringement: dog owner reference 611597

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 leader
Tauranga City Council

07 577 7000
info@tauranga.govt.nz

21 June 2024

LIAM JOSEPH NEWTH
31 TOM MUIR DRIVE
GATE PA
TAURANGA 3112

Dear Liam,

**Disqualification on third or subsequent infringement
Dog owner reference number: 611597**

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 8 July 2024. 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

4.3 Objection By Phillip Tukaokao Opposing the Menacing Classification for his Dog Luna

File Number: A16625349

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 Phillip TuKaokao opposing the menacing classification for his dog Luna

RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection By Phillip Tukaokao Opposing the Menacing Classification for his Dog Luna".
- (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. Phillip Tukaokao is the owner of the registered dog Luna, a 3-year-old female Shar Pei Cross.
3. The property is fenced but there was no gate and Luna has been allowed to frequent the berm and road immediately in front of 97 Kingswood Street, Brookfield. (*Attachment 1 – Schedule of complaints*)
4. As a result, she has developed an aggressive defensive attitude around this area and frequently roams and rushes at passers-by. This type of aggression is a common development of dogs that are allowed to roam and is likely to evolve into an actual attack as the dog becomes more possessive of this area.
5. For the period 3 June 2023 to 14 July 2024 Council has received 7 formal complaints about Luna rushing people and 8 formal complaints about her roaming. Staff have also received many calls and texts advising that the dog was out roaming. The dog has been impounded on three occasions and five infringements have been issued.
6. In addition, a section 62 notice, requiring the dog to be muzzled and under lead control was issued on 5 July 2023 and Luna was subsequently classified as a menacing dog on 1 August 2024 which has resulted in this hearing. (*Attachment 2 – Section 62 notice and Attachment 3 – Notice of Menacing Classification*)
7. The owner of a dog may object to that classification within 14 days of receiving the notice. On 5 and 6 August 2024 Council received an e-text and an email from Phillip contesting the classification. (*Attachment 4 – Objection to Menacing Classification*).
8. The classification requires the owner to neuter the dog and ensure the dog is muzzled when in a public place. The panel may either uphold the classification or revoke the classification.

BACKGROUND

9. On 3 June 2023 Luna ran from the property and chased a father and his two children who were cycling past the address. They had to stop cycling and used their bikes as a barrier. The dog then chased a passing car down the road and the complainant, and his children were able to leave the area.
10. 13 June 2023 Luna ran from her property and chased a cyclist for 50 metres, growling and nipping at the cyclist. As a result, Phillip was issued with an infringement and a notice pursuant to Section 62 of the Dog Control Act 1996. The notice issued on 5 July 2023, required Luna to be muzzled and under lead control in a public place.
11. On 10 July 2023, Luna was seen sitting on the berm outside its property and rushed at another person as he cycled past. The dog chased him for approximately 50 to 100 metres, and he felt he would have been attacked if he wasn't on an e-bike and able to get away. Council issued Phillip with an infringement.
12. On 30 May 2024 Luna was sitting on the berm in front of its property, the complainant said *"in the past fortnight, it has chased me down the road twice when I ride past to work on a motorcycle. its running straight up towards my boots barking and clearly agitated. Today it ran me onto the opposite side of the road, and I had to push it away with my foot. I am becoming very concerned about riding to work."* Council issued Phillip with an infringement.
13. On 24 June 2024 a cyclist was walking with her push bike along the edge of the Kingswood Road. As she approached 97 Kingswood, she saw Luna, sitting outside the property boundary. Luna rushed at her, barking, and growling aggressively and circling her before returning to its property. She had encountered the dog before so videoed the incident. (*Attachment 5 – Video*)
14. An attack rating report was completed. This is a guide to assist staff when deciding the most appropriate outcome. The report totalled 31 which placed incident in the category of classifying the dog as dangerous. As the dog hadn't made physical contact with the complainant, it was decided to classify the dog as menacing instead. (*Attachment 6 – Attack Rating*)
15. Despite this classification, Luna was out again, and a witness saw her stopping a cyclist on 15 July and rushing a mother and her children on the 22 July 2024. Luna was also unregistered, and staff executed a search warrant at 97 Kingswood and seized and impounded Luna.
16. During this period, staff have engaged with Mr Tukaokao on numerous occasions encouraging him to control the dog and suggested options to do so. He has been in denial that his dog is aggressive and has been slow to respond.
17. In March 2024 we began the process to disqualify him as a dog owner because of the number of infringements issued. As a result of a discussion with Mr Tukaokao and his undertaking to control the dog, we did not proceed with that disqualification.
18. Even though the dog has been required to be muzzled since July 2023, Luna has never been seen wearing a muzzle and has not been under lead control in any of the reported events.
19. 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.

20. Section 33A of the Act provides that Council may classify a dog as menacing if they consider the dog may pose a threat to any person, stock, poultry, domestic animal or wildlife because of any observed or reported behaviour.
21. While there have been no further incidents since 14 July 2024, Luna has demonstrated a high level of aggression to many people. Today's process is about whether Luna poses a threat to any person, and it is our view that she does. There is no doubt that the next opportunity that Luna is off her property, she will rush at another person.
22. Mr Tukaokao is in denial that his dog acts aggressively.
23. Rushing can have significant consequences and there is currently a matter from New Plymouth where a prosecution was initiated after a dog (with a history of roaming and rushing) rushed from a property causing cyclists to crash. One person suffered a collapsed lung, broken ribs and complications associated with the crash. A destruction order for the dog has been issued by the Court.

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 - Schedule of Complaints - A16625372** [!\[\]\(e492b5d52ab457a7a3c2826c4091dfee_img.jpg\)](#) [!\[\]\(1d9440fab1f214291ce1c26a75f9c2cd_img.jpg\)](#)
2. **Attachment 2 - Section 62 letter - Phillip Tukaokao - A16625369** [!\[\]\(6be2e1cb461308cfbb51376f893366b1_img.jpg\)](#) [!\[\]\(9d1c9e561b4c39f4d970a841cbc526df_img.jpg\)](#)
3. **Attachment 3 - Menacing Dog Classification - A16625370** [!\[\]\(638c4e65afbf8f3994df6311f702c5cb_img.jpg\)](#) [!\[\]\(ac8167fe1d77dc734374ed4531294f8f_img.jpg\)](#)
4. **Attachment 4 - Objection to Menacing Classification - A16625371** [!\[\]\(fff2f1ab464b6499fbd670c53975d01d_img.jpg\)](#) [!\[\]\(81d285ad7149d05e4bfce88826a8e29e_img.jpg\)](#)
5. **Attachment 6 - Attack Rating - A16625494** [!\[\]\(7b15c50d99dd17d24287fa3462c0eca8_img.jpg\)](#) [!\[\]\(bd11cf6cf489dc15cf9338e623a26e31_img.jpg\)](#)

Note: Attachment 5 is a video and therefore not shown here

OFFENCES COMMITTED BY PHILLIP TUKAOKAO			
Complaint	Offence	Outcome	Comment
1141254 14 Jul 2024	Person Rushed at	DOG IMPOUNDED - Unregistered - Search warrant executed	Dog ran across road at victim agressively
1141225 22 Jul 2024	Witness to Rushed at		22 July saw dog rush mother and her two children. 15 July saw dog stop a cyclist on the road
1139380 03 Jul 2024	ROAMING DOG	MENACING CLASSIFIED BY DEED and infringement 27752	Aggressively barking
1138426 24 Jun 2024	Person Rushed at		Rushed at person barking agressively
1134791 07 Jun 2024	ROAMING DOG	Requested owner installed a gate	
1133659 30 May 2024	Person Rushed at	INFRINGEMENT 27751 ISSUED	Forced motorcyclist onto opposite side of the road
1124103 05 Apr 2024	ROAMING DOG	NO FURTHER ACTION	
1122394 26 Mar 2024	ROAMING DOG	NO FURTHER ACTION	Owner claimed neighbour took dog for walk and let it go.
1116092 26 Feb 2024	ROAMING DOG	NO FURTHER ACTION	Complainant withdrew
1100385 11 Dec 2023	ROAMING DOG	DOG IMPOUNDED and infringement 27557	Staff found dog roaming and impounded it.
1087521 05 Oct 2023	ROAMING DOG	INFORMATION NOTED	
1071909 10 Jul 2023	Person Rushed at	INFRINGEMENT 26984 ISSUED	vicious dog Chased cyclist 100 meters down road
1068117 20 Jun 2023	ROAMING DOG	DOG IMPOUNDED	Staff found dog roaming and impounded it.
1067819 19 Jun 2023	ROAMING DOG	SECTION 62 LETTER , Require to muzzle and infringement 26959	
1066769 13 Jun 2023	Person Rushed at		Luna crossed road and chased cyclist 50 metres barking and nipping at heels.
1066676 3 Jun 2023	Person Rushed at		Chased a father and his children on their bikes.

5 July 2023

PHILLIP TUKAOKAO
97 KINGSWOOD ROAD
BROOKFIELD
TAURANGA 3110

Dear Phillip

Investigation of complaint number 1066769 - attack on a person.

We have completed an investigation into the incident in which the complainant alleged that at 7:15am on Tuesday 13 June 2023 a Shar pei type dog did chase and attack a person while riding a bike.

Based on the information obtained, Council is satisfied that your Shar pei cross named Luna was the dog in question.

Section 62 of the Dog Control Act 1996 provides that the owner or person in charge of a dog that has attacked or endangered any person; or any stock; or poultry; or domestic animal; or property; must not allow that dog to be at large or in a public place or private way without being muzzled and controlled on a leash.

This is an automatic consequence of this incident. It is not a restriction imposed by Council and is not subject to an objection reviewable by Council. It would be considered an aggravating factor if your dog was to attack again, or endanger a person or animal, and was not controlled by a lead and muzzled at the time.

In addition to the above, on this occasion Council has considered that

Although this type of offence is considered to be serious, it was agreed that this particular case did not warrant prosecution.

Whilst we believe that prosecution isn't warranted, in this case we do need to advise you that any further justified complaint of this nature may lead to a recommendation for a prosecution or may lead to a fine not exceeding \$3000 or other consequences.

In view of the circumstances, we have also enclosed an infringement notice for \$300 for failing to keep your dog under proper control.

The following are important provisions from the Dog Control Act information that you should also be aware of as a dog owner:

Section 5: Obligations of dog owners

- 1) The obligations imposed on dog owners by the Dog Control Act require every owner:
 - to ensure that the dog is kept under control at all time
 - to take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person
 - to take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife
 - to take all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person.

Section 52A: Control of dog on owner's property

The owner of a dog must, at all times, ensure that either:

- a) the dog is under the direct control of a person; or
- b) the dog is confined within the land or premises in such a manner that it cannot freely leave the land or premises.

You can be fined up to \$3000 and an Animal Services officer may seize and impound the dog.

Section 57 & 58: Dogs attacking persons or animals / Dogs causing serious injury

The owner or any person in charge of a dog, which attacks, can be fined up to \$20,000 and imprisoned for three years. The court is likely to make an order for the dog's destruction unless the circumstances of the attack are exceptional.

Section 57A: Dogs rushing at persons, animals or vehicles

The owner or any person in charge of a dog which rushes at a person, animal or vehicle in a public place can be fined up to \$3000. The court may make an order for the dog's destruction.

Section 60: Seizure or destruction of dog running at large among stock or poultry

The owner of any stock or poultry may forthwith either seize or destroy any dog running at large among that stock or poultry.

Section 61: Orders relating to dog seen worrying stock

Where a complaint is made to a District Court by the owner of any stock or poultry that any dog has been seen at large among that stock, or poultry, the court, if it is satisfied as to the grounds of the complaint, may order the owner to keep the dog under proper restraint or make an order for the destruction of the dog.

Section 63: Owner liable for damage done by dog

The owner of a dog is liable for any damage done by their dog.

As you can see, the penalties that may be imposed under the Act are severe. Therefore, it is important that you understand the need to keep Luna under proper control at all times.

Thank you for your cooperation and assistance with this investigation.

If you would like to discuss the matter further, please contact us on 07 577 7000.


Yours sincerely

A handwritten signature in black ink, appearing to read 'Kiran Erasmus'.

Kiran Erasmus
Animal Services team
Tauranga City Council

07 577 7000

info@tauranga.govt.nz


Tauranga City

NOTICE OF CLASSIFICATION

Menacing dog classification – Section 33A, Dog Control Act 1996 (behaviour of the dog)

Date	04/07/2024	CCM	1138426
Name	PHILLIP TUKAOKAO		
Address	97 KINGSWOOD ROAD BROOKFIELD TAURANGA 3110		

DELIVERY CONFIRMATION
Recipient name
Signature
Date 11/8/24 Time 4:15
Served by Bree Byrd
Signature

Dog details

Dog ID	54439	Primary breed	SHAR PEI
Microchip No	990*0000*0342*9349	Secondary breed	CROSS
Name	LUNA	Primary colour	BLUE
Sex	FEMALE (Entire)	Secondary colour	
Age	2 yrs 8 mths		
Address where the dog is kept	97 KINGSWOOD ROAD		

Classification details

This is to notify you that this dog has been classified as a menacing dog under section 33A (1)(b)(i) of the Dog Control Act 1996 with effect from the date of this notice.

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 Monday the 24 of June 2024 at Approximately 5:00pm Luna did rush at person walking a bike on Kingswood Road and aggressively barked at that person.

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.

Classification requirements


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.

Microchip: Your dog is already microchipped; you are compliant with this requirement.

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.

ADDITIONAL INFORMATION

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

Signature		Dated: 4/07/2024
Name	Brent Lincoln	
Position	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.**

Note: Any objection heard by the Regulatory Hearings Panel is a publicly notified meeting and members of the public, including the media may attend. The details of the Council report and the hearing, including your name and your dog's name, may be published. Your contact details will not be reported.

RECORD OF OBJECTION TO MENACING CLASSIFICATION**PHILIP TUKAOKAO**

01/08/24 1614hrs - TUKAOKAO signed menacing classification for LUNA upon her release from the pound.

05/08/24 1210hrs - Sent ETXT - "TCC - Hi Phillip. You are required to get LUNA desexed by the end of August to ensure you meet the requirements of her menacing dog classification. When this is complete, please send proof to animal.admin@tauranga.govt.nz to avoid receiving an infringement".

05/08/24 1416hrs - TUKAOKAO replies to ETXT stating "Call me please 0278129172. Don't agree about menacing".

06/08/24 0544hrs - TUKAOKAO replies to ETXT stating "I have 6 neighbours willing to vouch for Luna and some of the dog pound keepers thanks".

06/08/24 - Associate CCM 1145130 generated due to TUKAOKAO emailing info@tauranga.govt.nz - email states; "Will get references from neighbours. Plus complaints have come from two new neighbours the other neighbours have told me and have told them their view of Luna are incorrect. Yes might have run at people but with her tail wagging intending she only wants to play and being a big dog doesn't help. Arohamai for any wrong but I still believe Luna is harmless".

ATTACK RATING REPORT		
CCM No	1138426	
NAME:	Phillip TUKAOKAO	
	5 to 35	5
<i>(This section relates to the physical seriousness of the attack).</i>		
Level 5 - 7	Rushing person or domestic animal	
Level 7	Attack person - no visible injury.	
Level 8 - 11	Animal injured	
Level 10 - 16	Stock Worried	
Level 13 - 20	Attack person Causing Injury (person)	
Level 17	Animal Killed	
Level 21	Serious but not hospitalised (person)	
Level 22+	Admitted to Hospital and/or suffers long term effects	
Level 35	Death of a person.	
PUBLIC INTEREST	0 to 3	3
<i>Public expectation of how the incident should be managed based on seriousness of incident</i>		
LEGISLATIVE INTENT		2
<i>(Legislative intent has been factored into the report and remains constant @ 2 points).</i>		
CLASSIFIED (unleashed or unmuzzled)	0 or 3	0
Classified menacing by Breed (Classifications by deed are captured by other aspects of the assessment.)		
VICTIM IMPACT	0 to 5	3
<i>(This section does not relate to the level of retaliation sought by the victim, rather the effects on the victim as a result of the attack.</i>		
Level 0	The victim is not concerned about the outcome.	
Level 5	The victim is likely to continuously suffer as a result of the attack	
DOG SURRENDERED/DESTROYED	0 to 1	1
<i>The fact the dog has been surrendered for destruction has some influence on decision however would be inevitable outcome if prosecution pursued.</i>		
Level 0	The dog has been surrendered for destruction or destroyed.	
Level 1	The dog has not been surrendered for destruction.	
OBSERVED AGGRESSION	0 to 2	0
<i>(Based on the Officers observation only. It should be noted that a dog may act aggressively under certain stimuli and show absolutely no signs of aggression in the absence of that stimuli).</i>		
Level 0	No signs of aggression	
Level 2	Very aggressive	
NEGLIGENCE	0 to 6	4
<i>(Evaluate the degree of negligence).</i>		
Level 0	Not the result of negligence of 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 connivance	
CO-OPERATION	0 to 2	1
Level 0	Co-operative and forthcoming with information	
Level 2	Unco-operative to the point that Police assistance was required	

PREVIOUS HISTORY		0 to 5	4
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	2
Level 0	The dog was under adequate restraint ie caged or fenced in.		
Level 1	The dog was under inadequate restraint ie could have been accidentally approached or could have easily escaped		
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	3
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	0
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	0
Level 0	No damages or damages paid voluntarily.		
Level 1	Did not voluntarily offer to pay/Damages unpaid.		
BREED CHARACTERISTICS		0 to 4	2
<i>This section is evaluated mainly based on our experience. In the case of a mixed breed, evaluate the most predominant identified breed. Example – Pit Bull type dogs are renowned for their propensity to attack.</i>			
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			
RECOMMENDATION: <i>I was working with TUKAOKAO to install a gate at his address due to a seperate rushed at complaint (1133659) when this CCM came through. A gate was installed on both driveways on 01/07/2024. Since the gate was installed there has been another 2x roaming complaints, showing the gate is not fit for the purpose of containing a dog. Due to the frequent roaming/rushed ats my recommendation is a DG15 for dog LUNA and infringe TUKAOKAO for failing to control dog. JM</i>			
BL 3 July 2024 - Infringement fail to control s20 public place. Classify as menacing behaviour by deed.			

5 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
4.1 – Deliberations - Alison Brayshaw – Objection to Dog Disqualification	To enable the Panel to deliberate in private on the objections heard.	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 to deliberate in private on its decision or recommendation in any proceedings before a Council where the Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.
4.2 – Deliberations - Liam Newth – Objection to Dog Disqualification	To enable the Panel to deliberate in private on the objections heard.	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 to deliberate in private on its decision or recommendation in any proceedings before a Council where the Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.
4.3 – Deliberations - Phillip Tukaokao – Objection to Menacing Dog Classification	To enable the Panel to deliberate in private on the objections heard.	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 to deliberate in private on its decision or recommendation in any proceedings before a Council where the Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.

6 CLOSING KARAKIA