



# AGENDA

## Regulatory Hearings Panel meeting Wednesday, 18 December 2024

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

**Date:** Wednesday, 18 December 2024

**Time:** 2pm

**Location:** Ground Floor Meeting Room 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](http://www.tauranga.govt.nz).*

**Marty Grenfell**  
Chief Executive

# Terms of reference – Regulatory Hearings Panel

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## Membership

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|                          |                                             |
|--------------------------|---------------------------------------------|
| <b>Chairperson</b>       | Mary Dillon                                 |
| <b>Members</b>           | Puhirake Ihaka<br>Terry Molloy<br>Alan Tate |
| <b>Quorum</b>            | At least two members                        |
| <b>Meeting frequency</b> | As required                                 |

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## 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>7</b>  |
| <b>2</b> | <b>Apologies</b> .....                                                                          | <b>7</b>  |
| <b>3</b> | <b>Declaration of conflicts of interest</b> .....                                               | <b>7</b>  |
| <b>4</b> | <b>Confirmation of minutes</b> .....                                                            | <b>8</b>  |
| 4.1      | Minutes of the Regulatory Hearings Panel meeting held on 23 September 2024.....                 | 8         |
| <b>5</b> | <b>Business</b> .....                                                                           | <b>19</b> |
| 5.1      | Objection to Retention of Impounded Dog - Danielle Heaslip .....                                | 19        |
| 5.2      | Objection Against Disqualification as Dog Owner – Harlem Te Kani .....                          | 23        |
| 5.3      | Objection to Disqualification as Dog Owner - Josie Brown .....                                  | 26        |
| <b>6</b> | <b>Public excluded session</b> .....                                                            | <b>29</b> |
| 6.1      | Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 23 September 2024..... | 29        |
| 6.2      | Objection to Retention of Impounded Dog – Danielle Heaslip .....                                | 30        |
| 6.3      | Objection Against Disqualification as Dog Owner – Harlem Te Kani .....                          | 30        |
| 6.4      | Objection to Disqualification as Dog Owner – Josie Brown .....                                  | 30        |
| <b>7</b> | <b>Closing karakia</b> .....                                                                    | <b>30</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 23 September 2024**

**File Number: A17322549**

**Author: Aimee Aranas, Governance Advisor**

**Authoriser: Anahera Dinsdale, Acting Team Leader: Governance Services**

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### **RECOMMENDATIONS**

That the Minutes of the Regulatory Hearings Panel meeting held on 23 September 2024 be confirmed as a true and correct record.

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### **ATTACHMENTS**

#### **1. Minutes of the Regulatory Hearings Panel meeting held on 23 September 2024**





# MINUTES

**Regulatory Hearings Panel meeting  
Monday, 23 September 2024**

**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>Declaration of conflicts of interest</b> .....                                                            | <b>3</b> |
| <b>4</b> | <b>Business</b> .....                                                                                        | <b>3</b> |
| 4.1      | Objection to Disqualification as Dog Owner - Alison Brayshaw .....                                           | 3        |
| <b>5</b> | <b>Public excluded session</b> .....                                                                         | <b>4</b> |
| 5.1      | Deliberations – Alison Brayshaw - Objection to disqualification as dog owner .....                           | 4        |
| <b>4</b> | <b>Business (continued)</b> .....                                                                            | <b>5</b> |
| 4.1      | Objection to Disqualification as Dog Owner - Alison Brayshaw .....                                           | 5        |
| 4.2      | Objection to Disqualification as Dog owner - Liam Newth.....                                                 | 5        |
| <b>5</b> | <b>Public excluded session (continued)</b> .....                                                             | <b>6</b> |
| 5.2      | Deliberations – Liam Newth - Objection to disqualification as dog owner .....                                | 6        |
| <b>4</b> | <b>Business (continued)</b> .....                                                                            | <b>6</b> |
| 4.2      | Objection to Disqualification as Dog owner - Liam Newth.....                                                 | 6        |
| 4.3      | Objection By Phillip Tukaokao Opposing the Menacing Classification for his<br>Dog Luna .....                 | 7        |
| <b>5</b> | <b>Public excluded session (continued)</b> .....                                                             | <b>8</b> |
| 5.3      | Deliberations – Objection by Phillip Tukaokao opposing the menacing<br>classification for his dog Luna ..... | 8        |
| <b>4</b> | <b>Business (continued)</b> .....                                                                            | <b>8</b> |
| 4.3      | Objection By Phillip Tukaokao Opposing the Menacing Classification for his<br>Dog Luna .....                 | 8        |
| <b>6</b> | <b>Closing karakia</b> .....                                                                                 | <b>9</b> |

**MINUTES OF TAURANGA CITY COUNCIL  
REGULATORY HEARINGS PANEL MEETING  
HELD AT THE TAURANGA CITY COUNCIL, GROUND FLOOR  
MEETING ROOMS 1 & 1B, 306 CAMERON ROAD, TAURANGA  
ON MONDAY, 23 SEPTEMBER 2024 AT 9.00AM**

**PRESENT:** Mrs Mary Dillon, Mr Puhirake Ihaka, Mr Alan Tate

**APOLOGIES:** Mr Terry Molloy

**IN ATTENDANCE:** Brent Lincoln (Team Leader: Animal Services), Anahera Dinsdale (Acting Team Leader: Governance Services), Aimee Aranas (Governance Advisor)

## 1 OPENING KARAKIA

Mr Puhirake Ihaka opened the meeting with a karakia.

## 2 APOLOGIES

### APOLOGY

#### COMMITTEE RESOLUTION RHP3/24/1

Moved: Mr Alan Tate

Seconded: Mr Puhirake Ihaka

That the apology for absence received from Mr Terry Molloy be accepted.

**CARRIED**

## 3 DECLARATION OF CONFLICTS OF INTEREST

Nil

## 4 BUSINESS

### 4.1 Objection to Disqualification as Dog Owner - Alison Brayshaw

**Staff** Brent Lincoln, Team Leader: Animal Services

**Objector** Alison Brayshaw via Teams

#### Key Points

- Staff spoke to the report
- Staff have been working with Ms Brayshaw to help keep her dogs from roaming.
- There was another incident recorded from one of the dogs, Bear, since the disqualification notice was given.
- Ms Brayshaw had two dogs registered under her name and another dog registered under somebody else's name. She would not be allowed to care for this extra dog if the dog owner disqualification is upheld. This extra dog did not need to be rehomed but would need to be under the supervision of somebody else if Ms Brayshaw's disqualification was upheld.
- No valid reasons were given to explain the behaviour and situation of the dogs. Most instances where a notice was given were preventable, for example, a dog jumped out of the car because the window was down.

- Staff believed that the dogs were not under her control by definition of the Dog Control Act
- Bear was owned and cared for by Ms Brayshaw but the registration had not changed the ownership over to her.
- Other people on the property fail to keep the property secure which gives Bear the opportunity to escape.
- The dogs had not escaped the property from the last two months.

#### **In response to questions**

- Ms Brayshaw claimed that the majority of the roaming notices were due to her tenants being negligent with securing the property. Ms Brayshaw confirmed that she had one tenant living with her at this time.
- Ms Brayshaw explained that the dogs were her main source of companionship as she was going through difficult times in her personal life.
- Ms Brayshaw believed that she had maintained good control over the dogs because over a two month period she had not received another roaming notice. She had improved on supervising their whereabouts when the gate was being opened.
- Ms Brayshaw had attempted to keep the dogs subdued by constant exercise but did not pursue professional training to control their behaviour.
- Does not comply with Lucy's menacing dog classification requirements during the summer as Ms Brayshaw believes that was too hot to put a muzzle on Lucy.
- Realised that the dogs need to be restrained at the back of the property rather than the front of the property.

#### **Discussion points raised**

- It was noted that Ms Brayshaw's property was well fenced and had an additional electric fence.

## **5 PUBLIC EXCLUDED SESSION**

### **Resolution to exclude the public**

**COMMITTEE RESOLUTION RHP3/24/2**

Moved: Mrs Mary Dillon  
 Seconded: Mr Puhirake Ihaka

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>5.1 – Deliberations - Alison Brayshaw – Objection to Dog Disqualification</b> | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |

**CARRIED**

At 9.58am the meeting adjourned.

At 10.55am the meeting reconvened.

#### **4 BUSINESS** *(continued)*

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

##### **4.1 Objection to Disqualification as Dog Owner - Alison Brayshaw**

**COMMITTEE RESOLUTION RHP3/24/3**

Moved: Mr Alan Tate

Seconded: Mr Puhirake Ihaka

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Alison Brayshaw".
- (b) Uphold the disqualification
  - (i) Uphold the disqualification for a period of 3 years

For the reasons below:

1. The Regulatory Hearings Panel (the Panel) gave weight to the evidence presented by the staff and their recommendation to uphold the disqualification.
2. The Panel does not believe that Ms. Brayshaw is a competent dog owner or has the ability to properly look after the dogs.
3. The Panel does not believe that Ms. Brayshaw understands that there is an issue with roaming dogs and any potential threat towards the public.

**CARRIED**

**4.2 Objection to Disqualification as Dog owner - Liam Newth**

**Staff** Brent Lincoln, Team Leader: Animal Services

**Key Points**

- Marley had escaped the morning of the Regulatory Hearings Panel meeting which resulted in Mr Newth not showing to his meeting. Attempts were made to get into contact with Mr Newth but there was no response. The Panel waited for Mr Newth to arrive for approximately 30 minutes. Therefore, the meeting proceeded without Mr Newth being present.
- The Panel made their decision regarding the information provided in the report.

**In response to questions**

- Marley should not have been in Mr Newth's possession but was found by Animal Services team members the morning of the objection hearing.

## 5 PUBLIC EXCLUDED SESSION *(continued)*

### Resolution to exclude the public

#### COMMITTEE RESOLUTION RHP3/24/4

Moved: Mr Puhirake Ihaka

Seconded: Mr Alan Tate

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

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered                      | Reason for passing this resolution in relation to each matter         | Ground(s) under section 48 for the passing of this resolution                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5.2 – Deliberations - Liam Newth – Objection to Dog Disqualification | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |

**CARRIED**

At 11.04am the meeting adjourned.

At 11.09am the meeting reconvened.

## 4 BUSINESS *(continued)*

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

### 4.2 Objection to Disqualification as Dog owner - Liam Newth

**COMMITTEE RESOLUTION RHP3/24/5**

Moved: Mrs Mary Dillon

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog owner - Liam Newth".
- (b) Uphold the disqualification
  - (i) Uphold the disqualification for a period of 3 years

Reasons for decision:

1. The Regulatory Hearings Panel (the Panel) gave weight to the evidence presented by the staff.
2. The Panel does not believe that Mr. Newth is a competent dog owner due to the numerous offences as noted in the report.

**CARRIED**

At 11.10am the meeting adjourned.

At 11.34am the meeting reconvened.

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

**Staff:** Brent Lincoln, Team Leader: Animal Services

**Objector:** Phillip Tukaokao

**Key Points**

- Staff spoke to the report and made key points including that Luna had not bitten anyone and was not desexed.
- A video was shown as evidence. It was of Luna rushing at a passing cyclist while barking and nipping. Luna was first seen waiting by the road outside of the property.
- It was confirmed that Luna has rushed at different people as well as other animals like birds. In the past, Luna had followed a cyclist 50 metres down the road and continued to nip at the heels of the cyclist.
- Luna was only two years old and Mr Tukaokao believes that the dog is wanting to play. Mr Tukaokao does not believe that his dog should be classified as menacing.
- Multiple offences were caused because of negligence as Mr Tukaokao's moko would take Luna down to the local rugby field. It is there she was let off her lead and would run back home by herself. Mr Tukaokao had taken action and told the Panel that the moko are no longer allowed to take the dog on walks by themselves.

**In response to questions**

- Mr Tukaokao understood the perspective of the public around a roaming dog.
- Mr Tukaokao had his fencing reinstated for a month. There had been no further complaints received from neighbours.
- Mr Tukaokao confirmed that Luna was primarily on a leash when he was not at home.
- Staff confirmed that Luna had been impounded twice. Once from an executed search warrant and another from a roaming case.
- Luna had been caught on previous occasions roaming without a muzzle.
- The Panel believed that Mr Tukaokao had not been taking the incidents seriously. It seemed



that it had taken a Regulatory Hearings Panel meeting for solutions to occur.

- Menacing dog classifications could be revoked but staff had never encountered a situation where a classification was revoked.

### Discussion points raised

- Staff explained that a wagging tail did not indicate a safe dog.
- Most complaints against Luna have come from cyclists
- The Panel strongly recommends that when the dog is in a public space to be always on a leash.
- The Panel strongly recommends that the property remains secure at all times.

## 5 PUBLIC EXCLUDED SESSION *(continued)*

### Resolution to exclude the public

#### COMMITTEE RESOLUTION RHP3/24/6

Moved: Mr Alan Tate

Seconded: Mr Puhirake Ihaka

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>5.3 – Deliberations - Phillip Tukaokao - Objection to menacing dog classification</b> | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |

**CARRIED**

At 12.16pm the meeting adjourned.

At 12.33pm the meeting reconvened.

## 4 BUSINESS *(continued)*

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

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

**COMMITTEE RESOLUTION RHP3/24/7**

Moved: Mr Alan Tate

Seconded: Mr Puhirake Ihaka

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection By Phillip Tukaokao Opposing the Menacing Classification for his Dog Luna".
- (b) Uphold the classification.

Reason for decision:

1. The Regulatory Hearings Panel (the Panel) weighed up the evidence presented by staff and Mr Tukaokao at the hearing.
2. The Panel accepted the evidence presented by staff and upheld the classification of as a menacing dog with the muzzling requirements in public spaces to prevent the dog from biting.

**CARRIED**

**6 CLOSING KARAKIA**

Mr Puhirake Ihaka closed the meeting with a karakia.

**The meeting closed at 12:34pm.**

**The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on 18 December 2024.**

.....  
Mary Dillon  
**CHAIRPERSON**

## 5 BUSINESS

### 5.1 Objection to Retention of Impounded Dog - Danielle Heaslip

**File Number:** A17105321

**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 Danielle Heaslip opposing the retention of her impounded barking dog Chopper

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#### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Retention of Impounded Dog - Danielle Heaslip".
- (b) It is recommended that the panel declines to release the dog to original home. The panel may:
  - (i) Release the dog to original home; or
  - (ii) Release the dog to an alternative address; or
  - (iii) Retain the dog in the pound.

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#### EXECUTIVE SUMMARY

2. Danielle Heaslip is the owner of Chopper, a male American Bull dog aged 3 years and 3 months.
3. Chopper has been impounded as the owner failed to rehome Chopper after being served with a Notice to Remove a barking dog. The dog can only be returned to its original home if the Panel is satisfied that a barking nuisance won't resume.
4. Danielle has a long history of owning a barking dog, on 14 October 2024 this culminated in Council issuing her with a Notice to Remove the dog in accordance with section 55 of the Dog Control Act 1996. (*Attachment 1 – Notice to Remove dated 14 October 2024*)
5. The notice requires the dog owner to rehome their dog from the property within 7 days of the receipt of the notice unless they lodge an objection to the Notice to Remove (NTR).
6. On 1 November 2024, staff seized Chopper as Danielle had failed to comply with the NTR and Council was still receiving complaints about Chopper causing nuisance with excessive barking.
7. On 4 November 2024 Council received an email requesting the return of Chopper, the request was declined in accordance with Section 70 of the Act, as staff are not satisfied that the barking nuisance will be abated if the dog is returned. The request to have Chopper released must now be heard by the Regulatory Hearing Panel. (*Attachment 2 – Request to Release Chopper*)

**BACKGROUND**

8. Complaints about the dog Chopper causing nuisance by loud and persistent barking started in December 2021. We have documented the Council process commencing April 2023 through to now. During this period Council received 41 formal complaints and multiple calls and texts about the nuisance being caused by Chopper.
9. When multiple complaints are received in close succession, they may be associated and resolved by one action. (*Attachment 3 – Schedule of Complaints*)
10. Barking dogs can be corrected by good ownership but it takes time and the dedication of the owner to bring about change. We generally allow up to 14 days for change to be implemented and positive results to start showing.
11. If there is a period exceeding three months with no complaints, we will often revert the complaint status and start the process again.
12. On 3 May 2023 a barking advisory letter together with a barking pamphlet was sent to the owner. No more complaints were received until March 2024. (*Attachment 4 – Barking Advisory Letter dated 3 May 2023*)
13. On 28 March 2024 another barking advisory letter together with a barking pamphlet was sent to the owner. (*Attachment 5 – Barking Advisory Letter dated 28 March 2024*)
14. Further complaints were received with little change in the behaviour of the dog, on 9 April 2024 Council issued an abatement notice to the owner requiring them to obtain and use a functioning anti-bark collar. NOTE: An abatement notice can only require changes that can occur on the property. (*Attachment 6 – Abatement Notice dated 9 April 2024*)
15. The notice also recommended other options for the owner to reduce the barking:
  - ensure the dog is kept indoors, in a garage or in an enclosure when no one is at home (the dog must have ventilation and plenty of fresh water)
  - provide adequate exercise before periods of separation.
  - seek the services of a qualified trainer or animal behaviourist.
  - consider medication (contact your local vet or animal holistic centre)
  - discourage barking at inappropriate times and for inappropriate reasons.
  - avoid long periods of separation.
16. Further complaints were received so on 6 May 2024, an amended abatement notice was issued which in addition to the bark collar, required the owner to relocate the dog kennel on its property to minimise the impact on the complainants. (*Attachment 7 – Abatement Notice dated 6 May 2024*)
17. The owner admitted that the collar they used, required them to trigger it with a remote control, so it only worked when they were home. They were advised they needed a collar that worked whether they were home or not.
18. On 23 May 2024 an inspection of the property showed the kennel had not been moved. The owner was advised that they needed to move the kennel as required by the abatement notice.
19. On 29 May 2024 Council received an email showing the kennel had been removed. At this time, we had also received complaints about another dog barking nearby. The main complainant was advised, they were certain the dog which was causing them nuisance was Chopper.
20. From July 2024 to September 2024 the prime complainant was away, and no complaints were received.
21. In September 2024 an infringement was issued as the dog Chopper had not been registered. Barking complaints commenced again, when spoken to, the owner said the collar had failed

and it was being repaired. Subsequent visits showed the dog wearing its collar and not barking.

22. Barking commenced again in October and the complainant showed staff videos of the dog, clearly barking loudly. In one video a neighbour could be heard yelling at the dog to stop.
23. As a result, a Notice to Remove the dog was issued on 14 October 2024. An owner has 7 days to object to that notice or rehome the dog. No objection was received, and the dog was not rehomed. (*Attachment 1 – Notice to Remove dated 14 October 2024*)
24. Council continued to receive phone calls and texts regarding the dog barking, with the complainant asking when it would be removed.
25. On 1 November 2024, staff seized and impounded the dog for failing to comply with the abatement notice and for failing to register the dog. We later received a text from the main complainant saying “No more barking. The relief is unimaginable”.
26. On 4 November 2024 the owner emailed Council, requesting the release of the dog. This was declined as to release the dog we must be satisfied that the barking would not recommence. Based on the dog’s history, I cannot be satisfied the barking would be reduced, so declined the initial request. (*Attachment 2 – Request to Release Chopper dated 4 November 2024*) & (*Attachment 8 – Request to Release Chopper Declined, dated 7 November 2024*)
27. A dog impounded for barking is held pursuant to Section 70 of the Dog Control Act 1996. The owner may apply for the release of the dog. If the Hearing Panel is satisfied the return of the dog will not result in a resumption of the nuisance, the dog shall be returned upon payment of any pound fees relating to the sustenance of the dog.
28. The Panel’s decision may be appealed to the District Court if the owner is not satisfied with the outcome.
29. The dog may be released if the owner arranges for it to be rehomed to another property, other than the one from which it was removed. It cannot be returned to its original address unless the Hearing Panel agrees.
30. A submission has been provided by nineteen residents of Discovery Avenue opposing the return of the dog Chopper to original home. In addition, the following comments were made:
  - fantastic to have tranquillity back.
  - so cruel to have the dog in a cage all the time.
  - don’t have to have earplugs in to sleep.
  - we can enjoy sitting on the deck again.
  - did not realise how much the barking affected me.

Accompanying the submission was an article on the effect a barking dog can have.  
(*Attachment 9 – Submission opposing Chopper’s release*) (*Attachment 10 – Effects of a Barking Dog*)

## SIGNIFICANCE











31. 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.
32. 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.
33. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

## ENGAGEMENT

34. 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 - Notice to Remove Chopper - A17327561** 
2. **Attachment 2 - Redacted - Request to Release Chopper from Pound dated - A17327488** 
3. **Attachment 3 - Schedule of Offences - A17327596** 
4. **Attachment 4 - Barking Advisory Letter dated 3 May 2023 - A17327493** 
5. **Attachment 5 - Barking Advisory Letter dated 28 March 2024 - A17327494** 
6. **Attachment 6 - Abatement Notice dated 9 April 2024 - A17327487** 
7. **Attachment 7 - Abatement Notice dated 6 May 2024 - A17327492** 
8. **Attachment 8 - Request to Release Chopper Declined - Dated 7 November 2024 - A17327489** 
9. **Attachment 9 - Submission Opposing Return of Chopper - A17327490** 
10. **Attachment 10 - Appendix to Attachment 9 - Effects of Barking Dogs - A17189087** 

## 5.2 Objection Against Disqualification as Dog Owner – Harlem Te Kani

**File Number:** A17245354

**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 Harlem Te Kani opposing his disqualification as a dog owner.
- 

### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection Against Disqualification as Dog Owner - Harlem Te Kani".
  - (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. Mr Te Kani is the owner of King, a 1 Year, 7-month-old Huntaway Cross dog which has been classified menacing because Council believes the dog poses an ongoing threat to people. (*Attachment 1 – Classification as menacing dog*)
  3. For the period 27 November 2023 to 17 October 2024, he has received four infringements for failing to register his dog and comply with the menacing classification. During this period Council has received three complaints where the dog has attacked people cycling past, and one occasion where the dog has rushed at a person. Fortunately, no serious injuries have been sustained. (*Attachment 2 – Schedule of offences*)
  4. Section 25 of Dog Control Act 1996 states Council must disqualify a person from owning a dog for up to five years if they incur three or more infringements within a 24-month period and those infringements have been paid or filed with the Court. Three infringements have been filed with the Court. The fourth is due to be filed at the end of December.
  5. Council may decide not to disqualify a person if they are satisfied the circumstances of the offences are such that disqualification is not warranted. Council is satisfied that the offences are sufficiently serious that the disqualification should stand.
  6. On 28 November 2024, Mr Te Kani was disqualified as a dog owner for a period of three years until 18 August 2027. (*Attachment 4 – Notice of disqualification*)
  7. He had 14 days to object to the disqualification and on Council received an email of objection from him. (*Attachment 5 – Objection to disqualification*)
  8. In hearing the objection, the panel 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.

9. In determining any objection, the territorial authority may:
- (a) uphold, or
  - (b) bring forward the date of termination, or
  - (c) immediately terminate the disqualification of any person
  - (d) and shall give written notice of its decision, the reasons for it.

## BACKGROUND

10. Mr Te Kani first came to our attention on 13 November 2023 when the dog King was sighted on the street and was not registered. He was given a week to get the dog registered but failed to, and an infringement was issued on 27 November 2023.
11. On the 4<sup>th</sup> of January 2024 King was off his property and chased a cyclist, biting her shoe and clothing. Fortunately, she didn't receive an injury. As King was still unregistered, he was impounded and classified as a menacing dog which required him to be muzzled in public and neutered. He was released from the pound once registered and pound fees paid.
12. On 23 January 2024, an inspection showed King had not been neutered as required and an infringement was issued.
13. In March King was once again roaming in a public place and not wearing a muzzle. He attacked another cyclist biting them on the shoe and Mr Te Kani was issued with an infringement. This being the third infringement with a 24-month period.
14. When an infringement is issued, the recipient may either pay it, defend it or do nothing. If they do nothing, a reminder notice is sent after 28 days and if they have done nothing after another 28-day period, the infringement is filed with the Court.
15. Once the third infringement has been filed in Court, we send the dog owner a letter advising them, they are likely to be disqualified as a dog owner and ask if there is anything they would like taken into account before we make a final decision. This letter was sent on 31 October 2024 and when no response was received, a disqualification notice was issued 28 November 2024. (*Attachment 3 – Notice of impending disqualification*) (*Attachment 4 – Disqualification Notice*)
16. Mr Te Kani has been given every opportunity to ensure his dog is kept under control and not causing nuisance or danger to the public. Mr Te Kani has shown that he is not a suitable dog owner, and we have an obligation under the Dog Control Act to take appropriate steps to ensure that he can no longer own a dog which is a danger to the public.
17. Should the panel uphold the disqualification then Mr Te Kani will have to rehome the dog.
18. The decision of the Panel may be appealed to the District Court.

## 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 decision is of low significance.

## ENGAGEMENT

22. 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 - Redacted - Menacing Classification Notice - A17330578** 
2. **Attachment 2 - Schedule of Offences - A17261118** 
3. **Attachment 3 - Notice of Impending Disqualification. - A17327579** 
4. **Attachment 4 - Notice of Disqualification - A17261119** 
5. **Attachment 5 - Objection to Disqualification and Council Response - A17261122** 

### 5.3 Objection to Disqualification as Dog Owner - Josie Brown

**File Number:** A17210665

**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 Josie Brown opposing her disqualification as a dog owner.
- 

#### RECOMMENDATIONS

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Disqualification as Dog Owner - Josie Brown".
  - (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. Josie Brown was the owner of Baby Girl, a Bull Terrier Cross dog that was involved in a series of attacks which culminated in a prosecution. In March 2024 she also obtained Maui, a Smooth Haired Fox Terrier. (*Attachment 1 – Schedule of Offences*)
3. On 3 October 2024 Ms Brown was convicted in the Tauranga District Court on five charges laid under the Dog Control Act 1996:
  - On 25 August 2023, owned a dog that attacked a person.
  - On 25 August 2023, owned a dog that attacked another dog.
  - On 25 August 2023, owned a classified dangerous dog and failed to ensure it was muzzled in public.
  - On 4 February 2024, owned a dog that attacked a person.
  - On 4 February 2024, owned a classified dangerous dog and failed to ensure it was muzzled in public.
4. The Court issued a destruction order for Baby Girl, and Ms Brown was:
  - Fined \$300 with 50% of this to be paid to TCC.
  - A reparation order for emotional harm of \$325 for each victim.
  - A reparation order of \$937.20 for the second victim's vet bills.
  - A reparation order of \$928.30 for the first victim's vet bills.

5. As a result of the conviction, Council is required by Section 25(1) of the Act to disqualify her for a period of up to five years. On 30 October 2024 Council delivered a notice of disqualification to her home address. (*Attachment 2 – Notice of Disqualification*)
6. A person who has been disqualified must dispose of all dogs in their possession or lodge an objection to the notice within 14 days of the receipt of the notice.
7. On 30 October 2024, Ms Brown advised by email, that she was in Australia but wished to contend the disqualification. Council accepted this email as an initial objection which must be heard by this panel. (*Attachment 3 – Notice of Objection*)

## BACKGROUND

8. An owner of a dog is responsible for the actions of their dog whether they are present or not. They must ensure that where the dog is left in the care of another person, that the person is capable of looking after the dog ensuring the dog cannot cause nuisance or danger.
9. When the first attack occurred in May 2021, the dog was impounded and the owner was issued with a notice requiring the dog to be muzzled and controlled by lead when in a public place. The dog was released upon payment of impound fees. (*Attachment 4 – Section 62 Notice – Muzzle requirement*)
10. This was followed by classifying the dog as Dangerous when the next two attacks occurred in 2023 and the dog was again impounded and released upon payment of fees. (*Attachment 5 – Dangerous Dog Classification*)
11. Council cannot hold an impounded dog once the fees have been paid unless the impound is related to a prosecution.
12. When the August 2023 attack happened, Council attempted to seize the dog Baby Girl. When staff arrived at the house the dog was inside, and the owner would not bring the dog out. Note: There is no legal obligation for them to do so.
13. Staff left and later obtained a search warrant which would allow them to seize the dog from within the house. They were unable to seize the dog as it was never there whenever they visited.
14. Attempts to interview the dog owner and her partner were also declined.
15. A prosecution was being considered when Baby Girl attacked again in February 2024. She was impounded and because of the subsequent prosecution for both the August 2023 and February 2024 attacks, she was euthanised by Court order when Ms Brown was convicted.
16. In March 2024, Ms Brown has also acquired a second dog, Maui. There have been no recorded incidents associated with Maui.
17. In October 2024 she was disqualified from owning dogs for five years from the date of the last offence and as such would have to rehome Maui. As she objected to the disqualification within the 14-day appeal period, she can retain Maui until the conclusion of this hearing process.
18. Section 25 of the Act states Council must disqualify a person from owning a dog for up to five years if they have been convicted of an offence under the Act unless Council is satisfied that the circumstances of the offences are such that a disqualification is not warranted. Because of the seriousness of the offences and the history of the offending, Council believes the disqualification is warranted.
19. Alternatively, Council may classify the person as a probationary owner. Council does not have a probationary owner scheme.
20. Ms Brown has objected to Council's decision in relation to her disqualification and that objection must be heard by this panel. In considering the objection, the panel shall have regard to:

- (a) the circumstances and nature of the offence or offences in respect of which the person was disqualified; and  
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.
20. In determining any objection, the panel may uphold, bring forward the date of termination, or immediately terminate the disqualification of any person and shall give written notice of its decision, the reasons for it, and the right of appeal (within 14 days) to the District Court if the objector is not satisfied with the decision.
21. If the Panel uphold the notice, Ms Brown will have to rehome Maui to another address.






## 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 decision is of low significance.

## ENGAGEMENT

24. 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 - A17226531** 
2. **Attachment 2 - Notice of Disqualification - A17327548** 
3. **Attachment 3 - Objection to Disqualification - A17327549** 
4. **Attachment 4 - Section 62 Notice, Muzzle Requirement - A17327551** 
5. **Attachment 5 - Dangerous Dog Classification - A17327550** 

## 6 PUBLIC EXCLUDED SESSION

### Resolution to exclude the public

#### RECOMMENDATIONS

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

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered                                                         | Reason for passing this resolution in relation to each matter                                                                                    | Ground(s) under section 48 for the passing of this resolution                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6.1 - Public Excluded Minutes of the Regulatory Hearings Panel meeting held on 23 September 2024</b> | 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 |

**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                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6.2 – Deliberations – Objection to Retention of Impounded Dog – Danielle Heaslip</b>       | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |
| <b>6.3 – Deliberations – Objection Against Disqualification as Dog Owner – Harlem Te Kani</b> | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |
| <b>6.4 – Deliberations – Objection to Disqualification as Dog Owner – Josie Brown</b>         | To enable the Panel to deliberate in private on the objections heard. | s48(1)(d)<br>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. |

**7 CLOSING KARAKIA**